

THE
CONSTITUTIONS
OF THE
STATES AT WAR
1914-1918

EDITED BY
HERBERT F. WRIGHT



WASHINGTON
GOVERNMENT PRINTING OFFICE
1919

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OF THE
STATES AT WAR

1914-1918

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PREFACE.

This collection of Constitutions comprises the Constitutions of only those States at war in 1914–1918 which were independent or quasi-independent (that is, under “the sphere of influence” of strictly sovereign States) prior to 1 August 1914. And among these States have been included not only those which formally declared war, but also those whose territory has been the scene of military operations, albeit against their will.

In each case the constitutional document published is the most recent available one, whether it was framed or amended prior to the war or thereafter, provided, of course, that the war was not directly responsible for it. The documents for each State are preceded by a brief historical *mise en scène*. Original texts of documents appear only when drawn up in English; where the original is in some language other than English, it has been printed here in translation. Some of these translations have been based upon previously published translations; some are presented in English here for the first time. And, although due credit is given in the footnotes to the source from which the translation is derived, the editor has not hesitated to compare translations with the original texts and to freely revise them whenever necessary in the interest of greater clearness and uniformity of expression. Nor has he hesitated to modify or add footnotes, where such procedure seemed necessary or expedient for a proper understanding of the text. For all such revision he assumes full and sole responsibility. However, he must plead the lack of time and the unavailability of material as excuses for any unevenness in the matter of footnotes.

An effort has been made to supply at least one reference in the footnotes to a French text or translation of each document, but where other sources have been immediately available in fairly accessible works, these likewise have been indicated. For this purpose, use has been made of collections of Constitutions rather than of individual prints or annotated texts, and the following works are the ones which have been most frequently used:

Annuaire de législation étrangère, vols. 1–44.

British and Foreign State Papers, vols. 1–108.

DARESTE, F. R., ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), 2 vols.

DODD, W. F., *Modern Constitutions* (Chicago, 1909), 2 vols.

POSENER, PAUL, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909).

RODRIGUEZ, J. I., *American Constitutions* (Washington, 1906), 2 vols.

As bibliographies of texts and commentaries appear in Dareste's and Dodd's collections, it has not been deemed necessary to print such lists here. For the various treaties referred to in the prefatory historical notes the reader is referred to Tétot, Ribier and similar treaty catalogues.

Finally, the editor wishes to express his great indebtedness and grateful appreciation to his friend and former colleague, Prof. Francis J. Hemelt, of the Catholic University of America, for the valuable cumulative and analytical index; to Miss Alice M. Ball and Miss Ruth E. Stanton, for their invaluable assistance in matters of accuracy and nicety of translation as well as for their generous aid in expediting the work through the press; and to the Government Printing Office, for its prompt and whole-hearted cooperation from beginning to end.

HERBERT F. WRIGHT.

WASHINGTON, *28 March 1919.*

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THE CONSTITUTIONS
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THE STATES AT WAR
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ALBANIA.

The independence of Albania, a former province of Turkey, was proclaimed at Avlona on 28 November 1912,¹ and a provisional government was then formed under the leadership of Ismail Kemal Bey. On 20 December 1912, the London Conference of Ambassadors agreed that there should be an autonomous Albania² and later approximately defined the frontiers of the new country. This Conference also appointed Prince William of Wied sovereign (*M'pret*), to be supported and advised by an International Commission of Control of six members. Prince William, having accepted the crown of the new country from an Albanian deputation which offered it to him at Neuwied 21 February 1914, arrived at Durazzo on 7 March 1914, but after the outbreak of the European War fled from the country with most of the members of the Commission. An attempt made by Essad Pasha to set up a military form of government failed (5 October 1914) and Albania fell into a state of anarchy. On 25 December 1914, the Italians captured Avlona. No written Constitution has yet been drafted.³

¹ *Annual Register*, 1912, p. 356.

² Official statement issued by the British Foreign Office and published in the *London Times*, 21 December 1912.

³ These paragraphs are based upon *The Statesman's Year-book* (1918) and W. M. PETROVITCH, *Albania*, in *The Encyclopedia Americana*, vol. I (New York, 1918), pp. 324-326.

AUSTRIA-HUNGARY.

Austria-Hungary, which presents a peculiar condition of political organization, may perhaps be more conveniently treated under three headings: 1. The Dual Monarchy, 2. Austria, and 3. Hungary.

1. THE DUAL MONARCHY.

The unity of the Austro-Hungarian Monarchy had its origin in the Pragmatic Sanction of 19 April 1713, whose principal object was to outline the rules for succession to the throne of the Hapsburgs, but the measure of Hungary's independence from Austrian control was a source of continual disturbance, and it was only in 1867 that the establishment of the Dual Monarchy was made possible by Austria's defeat at the hands of Prussia and its exclusion from Germany and Italy. This event brought about a more conciliatory policy toward Hungary's insistent demands for entire independence in the management of its internal affairs, and on 17 February 1867 the laws of 1848, which recognized Hungary as an independent monarchy joined with Austria only by the bonds of a common ruler, were restored in force by imperial order. To the Hungarian Diet was left the final adoption of measures of compromise with Austria. This question was covered by the Hungarian Law 12 of 1867 and the Austrian Law of 21 December 1867, both of which also made provision for ten-year treaties relating principally to a uniform customs tariff for the two countries, the monetary system and Hungary's quota of expenses of the joint Austro-Hungarian government.

In 1878 when Bosnia and Herzegovina were taken from Turkey and placed under the control of Austria-Hungary in accordance with Article 25 of the Treaty of Berlin,¹ identical laws were adopted in the two parts of the Empire for the administration of these territories, which were finally annexed by the Imperial Proclamation of 7 October 1908.²

¹ French text in the *British and Foreign State Papers*, 69: pp. 749-767; English translation in EDWARD HERTSLET, *Map of Europe by Treaty*, vol. IV (London, 1891), pp. 2759-2799.

² These introductory paragraphs are based upon W. F. DODD, *Modern Constitutions* (Chicago, 1909), vol. I, pp. 113-114, and F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. I, pp. 391-394.

AUSTRIAN LAW OF 21 DECEMBER 1867.¹LAW CONCERNING THE AFFAIRS COMMON TO ALL OF THE COUNTRIES OF THE AUSTRIAN MONARCHY, AND THE MANNER OF MANAGING THEM, SUPPLEMENTARY TO THE CONSTITUTIONAL LAW ON THE REPRESENTATION OF THE EMPIRE.²

ARTICLE 1. The following affairs are declared common to Austria and Hungary:

a. Foreign affairs, including diplomatic and commercial representation abroad, as well as measures relating to international treaties, reserving the right of the representative bodies of both parts of the Empire (Reichsrat and Hungarian Diet) to approve such treaties, in so far as such approval is required by the Constitution.³

b. Military and naval affairs; excluding the voting of contingents and legislation concerning the manner of performing military service, the provisions relative to the local disposition and maintenance of the army, the civil relations of persons belonging to the army, and their rights and duties in matters not pertaining to the military service.

c. The finances, with reference to matters of common expense, especially the establishment of the budget and the examination of accounts.

ART. 2. Besides these, the following affairs⁴ shall not indeed be administered in common, but shall be regulated upon uniform principles to be agreed upon from time to time:

1. Commercial affairs, especially customs legislation.⁵

2. Legislation concerning indirect taxes which stand in close relation to industrial production.

3. The establishment of a monetary system and monetary standards.

4. Regulations concerning railway lines which affect the interests of both parts of the empire.

5. The establishment of a system of defense.

ART. 3. The expenses of affairs common to both Austria and Hungary shall be borne by the two parts of the Empire in a proportion to be fixed from time to time by an agreement between the two legis-

¹ Translation based upon DODD, *op. cit.*, pp. 114-122. German text in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 736-741. French translation in DARESTE, *op. cit.*, pp. 394-403.

² The Hungarian Law 12 of 12 June 1867 contains provisions applicable to Hungary which are practically identical with those of this law. On this account it is not thought necessary to give the text of the Hungarian law, although there are some contradictory dispositions in the two laws. A German translation of the Hungarian Law appears in POSENER, *op. cit.*, pp. 741-752, and French translation in DARESTE, *op. cit.*, pp. 403-423.

³ The attributions of the Minister of Foreign Affairs are fixed by the imperial decision of 12 April and 27 May 1852.

⁴ Articles 52 *et seq.* of the Hungarian Law do not carry this obligation.

⁵ See DARESTE, *op. cit.*, p. 395, note 3.

lative bodies (Reichsrat and Diet), approved by the Emperor.* If an agreement can not be reached between the two representative bodies, the proportion shall be fixed by the Emperor, but for the term of one year only.¹ The method of defraying its quota of the common expense shall belong exclusively to each of the parts of the Empire.²

Nevertheless, joint loans may be made for affairs of common interest; in such a case all that relates to the negotiation of the loan, as well as the method of employing and repaying it, shall be determined in common.³

The decision as to whether a joint loan shall be made is reserved for legislation by each of the two parts of the Empire.

ART. 4. The contribution towards the expense of the present public debt shall be determined by an agreement between the two parts of the Empire.⁴

ART. 5. The administration of common affairs shall be conducted by a joint responsible ministry, which is forbidden to direct at the same time the administration of the joint affairs and those of either part of the Empire.

The regulation of the management, conduct, and internal organization of the joint army shall belong exclusively to the Emperor.

ART. 6. The legislative power⁵ belonging to the legislative bodies of each of the two parts of the Empire (Reichsrat and Hungarian Diet) shall be exercised by them, in so far as it relates to joint affairs, by means of delegations.

ART. 7. The delegation from the Reichsrat shall consist of 60 members, of whom one third shall be taken from the House of Lords and two thirds from the House of Representatives.⁶

ART. 8. The House of Lords shall choose its 20 members of the delegation from among its own members by a majority vote.

¹ This phrase is omitted in the Hungarian Law (Article 21).

² By Section 36 of this law agreement regarding the distribution of the expense of affairs administered in common is reached by means of deputations from the Austrian Reichsrat and the Hungarian Diet. Each deputation is composed of 15 members. By a law of 24 December 1867 the ratio was fixed for 10 years as 70 per cent for Austria and 30 per cent for Hungary. New ten-year agreements were made by Laws of 27 June 1878 and 21 May 1887. No new agreement has been made since 1897, and the quota of the two parts of the monarchy has been annually fixed by the Emperor as 66 $\frac{2}{3}$ per cent for Austria and 33 $\frac{1}{3}$ per cent for Hungary. A new agreement, signed on 8 October 1907, and approved by the Hungarian Diet and Austrian Reichsrat, fixes Hungary's quota of common expenses as 36.4 per cent.

³ No loan of this kind has yet been contracted.

⁴ By a law of 24 December 1867 Hungary made a permanent agreement to pay 29,188,000 florins annually toward the interest of the public debt; this was in 1867 nearly 24 per cent of the total joint debt and 30 per cent of the interest after the deduction of 25,000,000 florins of the debt, for which Hungary refused to assume any responsibility.

⁵ This power is expressly refused to the delegations by the Hungarian Law (Article 37).

⁶ By Hungarian Law 30 of 1868 5 members of the Hungarian delegation must be chosen from among the Croatian members of the Hungarian Diet, 4 from the House of Representatives, and 1 from the Table of Magnates. The Hungarian delegation is also composed of 60 members.

The 40 members to be chosen by the House of Representatives shall be so elected that the deputies from each provincial diet may elect, in conformity with the following apportionment, a certain number of delegates, who may be chosen from among themselves or from the House at large.

By majority vote the deputies from the Kingdom of Bohemia shall elect 10; the Kingdom of Dalmatia, 1; the Kingdom of Galicia and Lodomeria, with the Grand Duchy of Cracow, 7; the Archduchy of Lower Austria, 3; the Archduchy of Upper Austria, 2; the Duchy of Salzburg, 1; the Duchy of Styria, 2; the Duchy of Carinthia, 1; the Duchy of Carniola, 1; the Duchy of Bukowina, 1; the Margravate of Moravia, 4; the Duchy of Upper and Lower Silesia, 1; the Princely County of Tyrol, 2; the Territory of Vorarlberg, 1; the Margravate of Istria, 1; the Princely County of Görz and Gradiska, 1; the city of Trieste with its territory, 1.

ART. 9. In the same way each house of the Reichsrat shall elect substitutes of delegates, of whom 10 shall be chosen by the House of Lords and 20 by the House of Representatives.

The number of substitutes to be chosen by the House of Representatives shall be so apportioned that there shall be one substitute for every one to three delegates, and two substitutes for every four or more delegates. The election of each substitute shall take place separately.

ART. 10. Delegates and their substitutes shall be elected annually by the two houses of the Reichsrat.

The delegates and substitutes shall retain their functions until the new election.

Members of the delegation are eligible for reelection.

ART. 11. The delegations shall be convened annually by the Emperor, who shall determine the place of their meeting.

ART. 12. The delegation from the Reichsrat shall elect a president and vice president from among its own members, and choose also its secretary and other officers.

ART. 13. The powers of the delegations shall extend to all matters concerning common affairs.

All other matters shall be beyond their power.

ART. 14. The projects of the government shall be submitted by the joint ministry to each of the delegations separately.

Each delegation shall also have the right to submit projects concerning affairs which are within its competence.

ART. 15. For the passage of a law concerning matters within the power of the delegations the agreement of both delegations shall be necessary, or in default of such agreement, a vote of the full assembly of the two delegations sitting together; in either case the approval of the Emperor shall be necessary.

ART. 16. The right to hold the joint ministry to its responsibility shall be exercised by the delegations.

In case of the violation of a constitutional law in force regarding common affairs, either of the delegations may present charges to the other against the joint ministry or against any one of its members.

The impeachment shall be legally effective when resolved upon separately by each of the delegations, or in a joint meeting of the two.

ART. 17. Each delegation shall propose, from among the independent and legally trained citizens of the country which it represents, but not from among its own members, 24 judges, of whom 12 may be rejected by the other delegation. The accused, or all of them when there are several, shall have the right to reject 12 of those named by the two delegations, but only in such a manner that an equal number of judges be rejected from the lists proposed by each delegation.

The remaining judges shall form a court for the trial of the impeachment.

ART. 18. A special law on the responsibility of the joint ministry shall regulate the details concerning the impeachment, the procedure of trial, and the judgment.¹

ART. 19. Each delegation shall act, deliberate and vote in separate session. Article 31 indicates an exception to this rule.

ART. 20. The decisions of the delegation of the Reichsrat shall require for their validity the presence of not less than 30 members besides the president, and every decision shall require the vote of a majority of those present.

ART. 21. The delegates and substitutes from the Reichsrat shall receive no instructions from their electors.

ART. 22. The delegates from the Reichsrat shall personally exercise their right to vote; Article 25 determines when a substitute shall take the place of a delegate.

ART. 23. The delegates from the Reichsrat² shall enjoy in that capacity the same immunity which they have as members of the Reichsrat by virtue of Article 16 of the fundamental law concerning the representation of the Empire.

If the Reichsrat is not in session, the above-mentioned rights shall be enforced by the delegation itself with respect to its members.

ART. 24. One who ceases to be a member of the Reichsrat shall cease at the same time to be a member of the delegation.

ART. 25. If a vacancy occurs in the delegation or among the substitutes a new election shall be held.

If the Reichsrat is not in session the substitute shall take the place of the retiring delegate.

¹ This law has not been passed.

² The omission of all mention of the Hungarian delegation in this article should be attributed to an error in editing; see Article 37 of the Hungarian Law.

ART. 26. When the House of Representatives is dissolved the powers of the delegation of the Reichsrat shall come to an end. The newly assembled Reichsrat shall elect a new delegation.

ART. 27. The session of the delegation shall be closed, after the completion of its work, by the president with the consent of the Emperor or by his order.

ART. 28. The members of the joint ministry shall have the right to take part in all the deliberations of the delegation, and to present their projects personally or through a deputy.

They shall be heard whenever they desire.

The delegation shall have the right to address questions to the joint ministry or to any one of its members, to require answers and explanations and to appoint committees to whom the ministers shall furnish all necessary information.

ART. 29. The sessions of the delegation shall as a rule be public.

Exceptionally the public may be excluded if it is so decided by the assembly in secret session, upon the request of the president or of not less than five members.

Every decision, however, shall be made in public session.

ART. 30. Each delegation shall communicate to the other its decisions and, if the case requires it, the reasons therefor.

This communication shall take place in writing, in German on the part of the delegation of the Reichsrat, in the Hungarian language on the part of the delegation of the Diet; in each case there shall be annexed a certified translation into the language of the other delegation.

ART. 31. Each delegation shall have the right to propose that a question be decided by a vote in joint session, and this proposal can not be declined by the other delegation after the exchange of three written communications without result.

The two presidents shall agree upon the time and place of the joint meeting of the two delegations for the purpose of voting together.

ART. 32. In the joint sessions the presidents of the delegations shall preside alternately. It shall be determined by lot which of the two presidents shall preside in the first place.

In all subsequent sessions the presidency at the first joint meeting shall belong to the president of the delegation which has not had the presidency at the meeting immediately preceding.

ART. 33. In order to transact business in joint session the presence of not less than two thirds of the members of each delegation shall be necessary.

Decisions shall be reached by a majority vote.

If one delegation has more members present than the other, so many members shall abstain from voting as shall be necessary to establish an equality of the number of voters from each delegation.

It shall be determined by lot which members shall abstain from voting.

ART. 34. The joint sessions of the two delegations shall be public.

The minutes shall be kept in the two languages by the secretaries of the two delegations and attested by both.

ART. 35. Further details regarding the procedure of the delegation of the Reichsrat shall be regulated by an order of business to be adopted by the delegation itself.¹

ART. 36. Agreement concerning matters which, though not managed in common, yet are to be regulated upon the same principles, shall be reached in one of the following ways: (1) The responsible ministries by an agreement between themselves shall prepare a project of law which shall be submitted to the representative bodies of the two parts of the Empire and the project agreed upon by the two representative bodies shall be submitted for the approval of the Emperor. (2) Each representative body shall elect from its members a deputation composed of an equal number of members, which shall prepare a project upon the initiative of the respective ministries; such project shall be submitted to each of the legislative bodies by the ministries, shall be regularly considered, and the identical law of the two assemblies shall be submitted for the approval of the Emperor. The second procedure shall be followed especially in reaching an agreement concerning the distribution of the cost of affairs administered in common.²

AUSTRIAN LAW OF 22 FEBRUARY 1880.³

LAW CONCERNING THE ADMINISTRATION OF BOSNIA AND HERZEGOVINA, ENTRUSTED TO AUSTRIA-HUNGARY BY THE TREATY OF BERLIN OF 13 JULY 1878.⁴

ARTICLE 1. In conformity with existing laws concerning the common affairs of the Monarchy, the ministry is authorized and directed, under its constitutional responsibility, to take charge of the provisional administration of Bosnia and Herzegovina, which shall be directed by the joint ministry.

¹ Internal regulation for the delegation of the Reichsrat of 21 January 1868. See F. MOREAU ET J. DELPECH, *Les Règlements des Assemblées législatives*, vol. 1 (Paris, 1906), p. 381.

² Article 37 of this law is omitted; it related to the time when the law became effective.

³ Translation based upon DODD, *op. cit.*, pp. 122-123. French translation in DARESTE, *op. cit.*, pp. 423-425.

⁴ Hungarian Law 6 of 1880 is identical.

ART. 2. The determination of the general spirit and principles of this provisional administration and the construction of railways shall, in particular, be regulated by agreement between the governments of the two parts of the Austro-Hungarian Monarchy.

ART. 3. The administration of these lands shall be so regulated that its expenses may be met from its own revenue.

If and in so far as this result can not be immediately attained, projects for raising revenue to cover ordinary expenses shall be decided upon by agreement between the governments of the two parts of the Monarchy, in the manner provided by existing laws for the regulation of common affairs.

Nevertheless, in so far as the administration of Bosnia and Herzegovina may require expenditures for permanent establishments, which do not belong within the scope of the current administration, such as railways, public buildings and similar extraordinary expenses, which should be assumed by the Monarchy, subsidies therefor shall only be granted by virtue of identical laws passed by the two parts of the Monarchy.

ART. 4. In the same manner the principles shall be established according to which the following affairs shall be regulated and administered in Bosnia and Herzegovina:

1. The customs system.
2. The indirect taxes which are regulated upon similar principles in the two parts of the Monarchy.
3. The monetary system.

ART. 5. Any alteration of the relations existing between these lands and the Monarchy shall require an identical authorization from the legislatures of the two parts of the Monarchy.

2. AUSTRIA.

The first attempt at a common representation of all the Austrian countries dates from 1848, when revolutions broke out in almost all parts of the Austrian dominions, but it was not until the Imperial Diploma of 20 October 1860 was issued that the way was finally paved for the establishing of lasting reforms. This Diploma was practically superseded by the Patent of 26 February 1861,¹ which governed the representation of the Empire in the Reichsrat and gave to each Austrian province a special constitution and an electoral law. This Constitution of 1861 proved a signal failure, and the Emperor finally determined to recognize the principle of dualism, and to reach an agreement with Hungary upon that basis. On 20 September 1865, he suspended the Patent of 1861, and negotiations were immediately begun with Hungary which ended in the *Compromis* of 1867. The changed relations with Hungary made necessary changes in the Austrian Constitution; the fundamental laws of 1867 recast the Austrian government upon more liberal principles than had hitherto existed. Since that date important changes have been introduced with regard to the suffrage qualification, and at the present time it seems that the problem of the diverse races contained in the Empire is about to receive its natural solution.²

FUNDAMENTAL LAWS OF 21 DECEMBER 1867.³

LAW CONCERNING THE GENERAL RIGHTS OF CITIZENS.

ARTICLE 1. For all natives of the various kingdoms and countries represented in the Reichsrat there exists a common right of Austrian

¹ English translation in *British and Foreign State Papers*, 52: pp. 1218-1221.

² This introductory paragraph is based upon W. F. DODD, *Modern Constitutions* (Chicago, 1909), vol. I, pp. 69-70, and F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. I, pp. 428-430.

³ Translation based upon DODD, *op. cit.*, pp. 71-89. German text of the second and last laws in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 753-760. French translation in DARESTE, *op. cit.*, pp. 431-451.

citizenship. The law shall determine under what conditions Austrian citizenship is gained, exercised and lost.

ART. 2. All citizens are equal before the law.

ART. 3. Public offices shall be equally open to all citizens. The admission of foreigners to public office is dependent upon their acquisition of Austrian citizenship.

ART. 4. The freedom of passage of persons and property, within the territory of the State, shall be subject to no restrictions.

All citizens who live within a commune and pay therein a tax on real property, business, or income shall have the right to vote for members of the communal assembly (*Gemeindevertretung*) and shall be eligible to that body under the same conditions as natives of the commune.

Freedom of emigration is limited by the State only by the obligation to serve in the army.

Taxes on emigration shall be levied only as a measure of retaliation.

ART. 5. Property is inviolable. Forced expropriation shall take place only in the cases and according to the forms determined by law.

ART. 6. Every citizen may dwell temporarily or establish his residence in any part of the territory of the State, acquire real property of any kind and freely dispose of the same, and may also engage in any form of business, under legal conditions.

In the matter of mortmain the law may, for reasons of public policy, restrict the right of acquiring and of disposing of real property.

ART. 7. Every relation of vassalage or dependence is forever abolished. Every burden or charge resting upon the title to real property is redeemable, and in future no land shall be burdened with an irredeemable charge.

ART. 8. Liberty of person is guaranteed. The Law of 27 October 1862 (*Reichsgesetzblatt*, No. 87) on the protection of individual liberty is hereby declared an integral part of the present fundamental law.¹ Every arrest ordered or prolonged in violation of law imposes an obligation upon the State to indemnify the injured party.

ART. 9. The domicile is inviolable. The Law of 27 October 1862 (*Reichsgesetzblatt*, No. 88) for the protection of the domicile is hereby declared an integral part of this fundamental law.²

ART. 10. The secrecy of letters shall not be violated; the seizure of letters, except in case of a legal arrest or search, shall take place only in time of war or by virtue of a judicial order issued in conformity with the law.³

¹ This law contains the provisions regarding arrest, hearing and bail.

² This law regulates the issuance and execution of orders for the search of houses.

³ Law of 6 April 1870

ART. 11. The right of petition is free to everyone. Petitions under a collective name should emanate only from legally recognized corporations or associations.

ART. 12. Austrian citizens shall have the right to assemble together and to form associations. The exercise of these rights is regulated by special laws.¹

ART. 13. Everyone shall have the right, within legal limits, freely to express his thoughts orally, in writing, through the press, or by pictorial representation.²

The press shall not be placed under censorship nor restrained by the system of licenses. Administrative prohibitions of the use of the mail are not applicable to matter printed within the country.

ART. 14. Full freedom of religion and of conscience is guaranteed to all. The enjoyment of civil and political rights is independent of religious belief; however, religious belief shall in no way interfere with the performance of civil duties.

No one shall be forced to perform any religious rite or to participate in any religious ceremony, except in so far as he is subject to another who has legal authority in this matter.³

ART. 15. Every legally recognized church and religious society has the right publicly to exercise its religious worship; it regulates and administers its internal affairs independently, remains in possession and enjoyment of its establishments, institutions and property held for religious, educational and charitable purposes; but is subject, as other societies, to the general laws of the State.⁴

ART. 16. Adherents of a religious confession not legally recognized are permitted to worship privately, in so far as their religious services are not illegal or contrary to public morals.⁴

ART. 17. Science and its teaching shall be free. Every citizen whose capacity has been established in conformity with law shall have the right to establish institutions of instruction and education and to give instruction therein. Private instruction shall be subject to no such restriction. Religious instruction in the schools shall be left to the church or religious society to which the school is attached.⁵ The State shall have the right of superior direction and superintendence over the entire system of education and instruction.⁶

ART. 18. Everyone shall be free to choose his occupation and to prepare himself for it in such place and in such manner as he may wish.

¹ Two laws of 15 November 1867.

² Law of 17 December 1862.

³ Law of 25 May 1868.

⁴ Law of 7 May 1874.

⁵ Laws of 25 May 1868 and 20 June 1872.

⁶ Law of 14 May 1869, amended and completed by Law of 2 May 1883.

ART. 19. All the races of the State shall have equal rights, and each race shall have the inviolable right of maintaining and cultivating its nationality and language.

The State recognizes the equality of the various languages in the schools, public offices, and in public life.

In the countries populated by several races, the institutions of public instruction shall be so organized that each race may receive the necessary instruction in its own language, without being obliged to learn a second language.¹

ART. 20. A special law shall determine the right of the responsible governing power to suspend temporarily and in certain places the rights mentioned in Articles 8, 9, 10, 12 and 13.²

LAW ALTERING THE LAW OF 26 FEBRUARY 1861 CONCERNING IMPERIAL REPRESENTATION.

ARTICLE 1. The Reichsrat is the common representative body of the Kingdoms of Bohemia, Dalmatia and Galicia and Lodomeria with the Grand Duchy of Cracow, of the Archduchies of Lower and Upper Austria, of the Duchies of Salzburg, Styria, Carinthia, Carniola and Bukowina, of the Margravate of Moravia, of the Duchy of Upper and Lower Silesia, of the Princely County of Tyrol and the territory of Vorarlberg, of the Margravate of Istria, of the Princely County of Görz and Gradiska, and of the City of Triest with its territory. The Reichsrat is composed of a House of Lords (*Herrenhaus*) and a House of Representatives (*Haus der Abgeordneten*).

Persons appointed members of the House of Lords in conformity with Articles 3 and 5 may be elected to the House of Representatives. In case of the acceptance of such an election, the membership in the House of Lords ceases for the period during which such office is held.³

Should a representative be appointed to the House of Lords in conformity with Articles 3 or 5, his membership therein shall not begin until after he ceases to be a representative.³

ART. 2. Princes of the imperial family who have attained full age are by birth members of the House of Lords.

ART. 3. Chief of the indigenous noble families, of full age, who possess extensive landed property within the Austrian States, are hereditary members of the House of Lords, if such dignity has been conferred upon them by the Emperor.

ART. 4. All archbishops and all bishops enjoying princely rank, within the Austrian States, shall be members of the House of Lords by virtue of their high ecclesiastical rank.

¹ Cf. Law of 28 February 1882.

² Law of 5 May 1869.

³ As amended 26 January 1907.

ART. 5. The Emperor shall have the right to call into the House of Lords as life members eminent men from the kingdoms and countries represented in the Reichsrat, who have rendered distinguished services to the State or church, to science or art.

The number of such members shall not exceed 170 nor fall below 150.¹

ART. 6. The House of Representatives shall be composed of 516 members, apportioned to and elected in the several kingdoms and countries as follows:

Kingdom of Bohemia.....	130
Kingdom of Dalmatia.....	11
Kingdom of Galicia and Lodomeria with the Grand Duchy of Cracow.....	106
Archduchy of Lower Austria.....	64
Archduchy of Upper Austria.....	22
Duchy of Salzburg.....	7
Duchy of Styria.....	30
Duchy of Carinthia.....	10
Duchy of Carniola.....	12
Duchy of Bukowina.....	14
Margravate of Moravia.....	49
Duchy of Upper and Lower Silesia.....	15
Princely County of Tyrol.....	25
Territory of Vorarlberg.....	4
Margravate of Istria.....	6
Princely County of Görz and Gradiska.....	6
City of Trieste and its territory.....	5

The apportionment to the several election districts of the members of the House of Representatives, to be chosen in accordance with this list, shall be determined by the election law of the Reichsrat.²

ART. 7. Every male person who has attained the age of 24 years, possesses Austrian citizenship, is not excluded from the right to vote by the provisions of the election law of the Reichsrat, and who at the time the election is ordered has resided for at least one year in the Austrian commune in which the right to vote is to be exercised, is qualified to vote for representatives.³

Every male person who has been in the possession of Austrian citizenship for at least three years, has attained the age of 30 years, and is not excluded from the right to vote by the provisions of the election law of the Reichsrat, is eligible as a representative.

In case the election law of the Reichsrat should provide for the election of substitutes of representatives, the foregoing provisions concerning eligibility are also applicable to such substitutes.

¹ This paragraph added by amendment of 26 January 1907.

² This article was amended on 26 January 1907, increasing the membership of the House of Representatives from 425. The new election law bears the same date.

³ Art. 66, Sect. 1 of the Law of 1 August 1895.

The election law of the Reichsrat contains the further regulations concerning the exercise of the right to vote and concerning the conduct of elections.¹

ART. 8. Public officers and functionaries who may be elected to the House of Representatives do not need a leave of absence in order to attend the meetings of that body.

ART. 9. The Emperor appoints the president and vice-president of the House of Lords from among its members, and for the term of the session. The House of Representatives elects from its own members its president and vice president. Each of the houses chooses its other officers.

ART. 10. The Reichsrat shall be convened annually by the Emperor, during the winter months when possible.

ART. 11. The competence of the Reichsrat extends to all matters which relate to the rights, obligations and interests common to the countries represented therein, in so far as these matters are not to be handled in common, in consequence of the agreement of the countries of the Hungarian crown with the other countries of the monarchy.

Thus, the competence of the Reichsrat extends to:

a. The examination and approval of commercial treaties and of those political treaties which place a financial burden upon the Empire or upon any part thereof, which place obligations upon individual citizens, or which have as a consequence a change of the territory of the kingdoms and countries represented in the Reichsrat.

b. All matters which relate to the form as well as to the regulation and term of military service²; particularly the annual grant of military forces, and the general provisions regarding the furnishing of relays and the maintenance and quartering of troops.

c. The establishment of the budget, and particularly the annual grant of taxes and duties to be levied; the examination of the accounts and of the results of the financial administration, the final approval of such accounts; the issue of new loans, the conversion of the existing State debt, the alienation, transformation, or burdening

¹ The text here given is that introduced by amendment of 26 January 1907. Before this change there were five classes of electors: (1) The great landowners, comprising those who paid a certain land tax, varying in the several Provinces from 50 to 250 florins; this class elected 85 representatives. (2) The cities, where the electoral franchise was extended to all males of 24, who paid a tax of 5 florins; this class elected 99 representatives. (3) Chambers of commerce and of industry; this class alone elected 21 representatives and together with the second class chose 19 others. (4) Rural communes, in which the qualifications for voting were the same as in the cities; this class elected 129 representatives. (5) A fifth class created by law of 14 June 1896 included all males who had attained the age of 24 years; this class chose 72 representatives.

The amendment of 1907 abolishes the class system of voting, and establishes universal suffrage for all representatives. The election law of the Reichsrat of 26 January 1907 makes the further provisions for elections under the new system of universal suffrage; each Province is divided into election districts, most of which choose only one representative; each commune forms a voting precinct.

² Laws of 11 April 1889 and 6 June 1886.

of the public domain; legislation concerning monopolies and seigniorial rights, and in general all financial affairs which are common to the kingdoms and countries represented in the Reichsrat.

d. The regulation of the monetary system and of banks of issue, of customs and commercial affairs, of the telegraph, post, railways, navigation, and of other means of communication within the Empire.

e. Legislation concerning credits, banks, patents of invention, industry,¹ with the exception of legislation concerning the monopoly of liquor; weights and measures, the protection of trade-marks and of industrial models.

f. Legislation concerning public health and for protection against epidemics and epizootics.

g. Legislation concerning citizenship and domicile, the police control of foreigners, the system of passports and the taking of the census.

h. Concerning confessional relations, the rights of assembly and of association; concerning the press and the protection of literary and artistic property.

i. The establishment of the principles of the educational system in the primary² and secondary schools, and legislation concerning the universities.

k. Legislation concerning criminal justice and police penalties³; the civil law, with the exception of legislation concerning the details of the systems of public registries and concerning such matters as, in the terms of the provincial constitutions and of this fundamental law, belong within the competence of the provincial diets; legislation concerning commercial law and commercial paper,⁴ maritime law, mines⁵ and feudal rights.

l. Legislation concerning the principles of the judicial and administrative organization.

m. The laws to be passed in execution of the fundamental laws concerning the general rights of citizens, the imperial court, the judicial power and the administrative and executive power.

n. Legislation concerning the matters which relate to the duties and relations of the particular countries among themselves.

o. Legislation concerning the manner of handling matters which, through the agreement with Hungary, are recognized as common to the two parts of the Empire.

ART. 12. All matters of legislation other than those expressly reserved to the Reichsrat by the present law belong within the power

¹ Law of 20 December 1859, amended 15 March 1883 and 8 March 1885.

² Law of 14 May 1869, amended 2 May 1883.

³ Code of Criminal Procedure of 23 May 1873; Penal Code of 27 May 1852.

⁴ Commercial Code of 17 December 1862.

⁵ Law of 23 May 1854.

of the provincial diets of the kingdoms and countries represented in the Reichsrat and are constitutionally regulated by such diets.¹

In matters which, according to the principles of the provincial constitutions and of this fundamental law, belong within the competence of provincial legislation, the provinces in the regulation of such affairs may also adopt necessary measures in the fields of criminal justice, police justice and civil law.²

Within the field of provincial legislation belongs also the regulation of the organization of public administrative offices which are created by the exercise of the power of provincial legislation to organize autonomous administrative departments, the activities of which are based upon the principles reserved to imperial legislation by Article 27 of this fundamental law.²

However, should a provincial diet decide that a matter committed to it ought to be discussed and decided in the Reichsrat, such matter, for this particular case and with reference to this diet, shall come within the power of the Reichsrat.

ART. 13. Projects of laws may be submitted to the Reichsrat by the government. The Reichsrat shall also have the right to propose laws upon matters within its competence.

Every law requires the agreement of the two houses and the approval of the Emperor.

If it should happen that, in certain items of an appropriation act or with reference to the size of the contingent, in a recruiting act, no agreement can be reached between the two houses after repeated deliberation, the lowest figure shall be considered as granted.

ART. 14. If urgent circumstances should render necessary some measure constitutionally requiring the consent of the Reichsrat when that body is not in session, such measure may be taken by imperial ordinance, issued under the collective responsibility of the ministry, provided it makes no alteration of the fundamental law, imposes no lasting burden upon the public treasury, and alienates none of the domain of the State. Such ordinances shall have provisionally the force of law, if they are signed by all of the ministers, and shall be published with an express reference to this provision of the fundamental law.

¹ The 17 divisions of the Empire form 15 provincial governments, the city of Trieste, the county of Görz and Gradiska, and the Margravate of Istria being combined into a division called Coastland. Each division establishes its own *Landesordnung* or provincial constitution; each has a provincial diet, which exercises the legislative power, and a provincial committee, which exercises the executive power in local affairs. The Emperor convenes the diets annually, appoints their presidents, and may dissolve them at any time; every provincial law requires his approval. The principal executive and administrative officer of the province is the *Statthalter* or *Landespräsident*, who is appointed by the Crown and is independent of local control.

² This paragraph added by Law of 26 January 1907.

The legal force of such an ordinance shall cease, if the government neglects to present it for the approval of the Reichsrat at its next succeeding session, and indeed first to the House of Representatives, within four weeks after its convention, or if one of the two houses refuses its approval thereto.

The ministry shall be collectively responsible for the withdrawal of such ordinances as soon as they have lost their provisional legal force.

ART. 15. For the validity of any decision of the Reichsrat there is necessary in the House of Representatives the presence of 100 members, in the House of Lords of 40 members, and in each house the vote of a majority of those present.

Modifications in the present fundamental law and in the fundamental laws on the general rights of Austrian citizens, on the establishment of the imperial court, on the judicial power, and on the exercise of administrative and executive power, shall be made only by a majority of not less than two thirds of the members present and with the presence of not less than half of the members of the House of Representatives.¹

ART. 16. Members of the House of Representatives shall receive no instructions from their electors.

Members of the Reichsrat shall not be held responsible on account of any vote given, and for any utterances made by them in the exercise of their office they may be held responsible only by the house to which they belong.

No member of the Reichsrat shall be arrested or proceeded against judicially during the time of a session, on account of any criminal act, without the consent of the house, unless he were apprehended in the very act.

Even when the member is taken in the very act, the court shall give immediate notice of the arrest to the president of the house.

If the house requires it, the arrest must be suspended or the proceedings postponed during the session. The house shall have the same right with respect to an arrest or judicial proceeding instituted against a member when the Reichsrat is not in session.

ART. 17. All members of the Reichsrat must personally exercise their right to vote.

ART. 18. Members of the House of Representatives are elected for a period of six years.²

At the expiration of this period, as also in the case of the dissolution of the House of Representatives, a new election shall be held.

¹ "And with . . . Representatives" added 2 April 1873.

² As amended 2 April 1873. By the original text no limitation was placed upon the life of the Reichsrat, which came to an end only by dissolution.

The retiring representatives shall be eligible for reelection.

During the intervals between general elections supplementary elections shall be held when a member ceases to be eligible, dies, resigns, or for any other legal reason ceases to be a member of the Reichsrat, in case a substitute should not have been elected for such representative. In the latter case the election law of the Reichsrat shall contain provisions concerning the management of the new election.¹

ART. 19. The adjournment of the Reichsrat or the dissolution of the House of Representatives shall take place by decree of the Emperor. In case of dissolution a new election shall be held in conformity with Article 7.

ART. 20. Ministers and chiefs of the central administration are entitled to take part in all deliberations and to present their proposals personally or through representatives. Each house may require the presence of a minister. Ministers shall be heard whenever they desire. They shall have the right to vote only when they are members of one of the houses.

ART. 21. Each of the two houses of the Reichsrat may interpellate the ministers upon all the matters within the scope of their powers, may investigate the administrative acts of the Government, demand information from the ministers concerning petitions presented to the houses, may appoint commissions, to which the ministers shall give all necessary information, and may give expression to its views in the form of addresses or resolutions.

ART. 22. A special law shall provide how the control of the public debt shall be exercised by the representative bodies.²

ART. 23. The sessions of both houses of the Reichsrat shall be public.

Each house shall have the right, in exceptional cases, to exclude the public, upon the demand of the president or of at least 10 members, by a decision taken behind closed doors.

ART. 24. The law regarding the order of business of the Reichsrat shall contain detailed provisions concerning the reciprocal and external relations of the two houses.³

LAW CONCERNING THE ESTABLISHMENT OF AN IMPERIAL COURT.

ARTICLE 1. For the decision of conflicts of jurisdiction and of disputed questions of public law an Imperial Court (*Reichsgericht*)

¹ As amended 26 January 1907.

² Law of 10 June 1868, amended 13 April 1870.

³ Laws of 12 May 1873, 25 January 1875 and 2 March 1875. Cf. F. MOREAU ET J. DELPECH, *Les Règlements des Assemblées législatives*, vol. I (Paris, 1906), pp. 426 and 446.

shall be established for the kingdoms and countries represented in the Reichsrat.¹

ART. 2. The Imperial Court shall decide finally concerning conflicts of jurisdiction:

a. Between the judicial and the administrative authorities, concerning the question whether a matter should be decided judicially or by administrative procedure, in the cases determined by law.

b. Between the provincial diet of a particular country and the higher governmental authorities, when each of them claims the right to regulate or to decide an administrative matter.

c. Between the independent public authorities of the several countries in the affairs of which they have the direction and administration.

ART. 3. The Imperial Court shall also decide finally:

a. Concerning claims of a particular kingdom or country against the Empire, and vice versa; claims of one of the kingdoms or countries against another; claims of a commune, corporation, or individual against any one of the kingdoms or countries or against the Empire, if such claims can not be decided by the regular courts.

b. Concerning complaints of citizens on account of the violation of political rights guaranteed to them by the constitution, after the matter shall have been the object of an administrative decision, in accordance with the law.

ART. 4. Concerning the question whether the decision of a particular case is within its jurisdiction, the Imperial Court alone decides; its decisions exclude any further appeal or judicial proceedings.

If a matter is referred by the Imperial Court to a regular court or to an administrative authority, the latter can not refuse to decide such a matter on the ground of incompetence.

ART. 5. The Imperial Court shall sit at Vienna, and shall be composed of a president and president substitute, appointed by the Emperor for life, and of 12 members and 4 substitutes, also appointed for life by the Emperor, upon the nomination of the Reichsrat; 6 members and 2 substitutes shall be nominated by each house.

The nominations should be made in such a way that there shall be three properly qualified candidates for each place to be filled.

ART. 6. A special law shall determine the detailed provisions concerning the organization of the Imperial Court, its procedure, and the execution of its decisions and orders.²

¹ By a decision of 20 January 1897, the Imperial Court held that it was not competent to decide controversies between the legislature and the executive authorities.

² The Imperial Court was organized by a law of 18 April 1869.

LAW CONCERNING THE JUDICIAL POWER.

ARTICLE 1. All judicial power of the State shall be exercised in the name of the Emperor.

Judgments and sentences shall be executed in the name of the Emperor.

ART. 2. The organization and jurisdiction of courts shall be established by law.

Special tribunals may be established only in the cases previously determined by law.

ART. 3. The jurisdiction of military courts shall be determined by special law.

ART. 4. The jurisdiction with reference to violations of the police and tax laws shall be regulated by law.

ART. 5. The judges shall be appointed for life by the Emperor or in his name.

ART. 6. The judges shall be independent in the execution of their judicial office.

They shall be deprived of their office only in the cases provided by law, and by virtue of a formal judicial sentence; they shall be suspended only by the order of the president of the court or of a higher judicial officer, the matter being at the same time referred to the proper court; the transfer of a judge to another place or his retirement against his will shall take place only by judicial decision in the cases and in the manner provided by law.¹

However, these provisions do not apply to displacements or retirements which are made necessary by changes in the judicial organization.

ART. 7. The courts shall not have power to decide as to the validity of laws properly promulgated. However, the courts may determine the validity of ordinances (*Verordnungen*) which are involved in cases before them.

ART. 8. All judicial officers, in taking the oath of office, shall swear to an inviolable observance of the fundamental laws.

ART. 9. Independently of the other means provided by the judicial procedure, an action may be brought against the State or its judicial officers, because of wrongs committed by the latter in the exercise of their functions. This right of action shall be regulated by a special law.²

ART. 10. Proceedings before the judges in civil and criminal cases shall be oral and public.

Exceptions to this rule shall be determined by law. In criminal proceedings the system of public prosecution shall be in force.³

¹ Law of 21 May 1868.

² Law of 12 July 1872.

³ Code of Criminal Procedure of 23 May 1873.

ART. 11. For all offenses punished by severe penalties, which shall be determined by law, as well as for all political crimes and misdemeanors and offenses committed by the press, a jury shall decide concerning the guilt of the accused.

ART. 12. The Supreme Court of Justice and Cassation sitting at Vienna shall be maintained for all of the kingdoms and countries represented in the Reichsrat.

ART. 13. The Emperor shall have the right of amnesty; he shall also have the right to remit or to reduce the penalties imposed by the courts as well as to relieve the convicted person of the legal consequences of his condemnation, with a reservation of the restrictions contained in the law concerning ministerial responsibility.

It is reserved to the law of criminal procedure to provide a legal rule as to the cases in which a punishable act shall not be subject to a criminal proceeding, and that a trial begun in such a case shall be discontinued.

ART. 14. Justice shall be separated from administration in every case.

ART. 15. In every case where an administrative authority, under present or future laws, has to decide a contest between individuals, the party injured in his rights by such decision shall be free to proceed against the other party in the regular courts.

Moreover, if anyone asserts that through a decision or order of an administrative authority his rights have been violated, he shall have the right to make his claim against a representative of the administrative authority before the administrative court in public oral procedure.

The cases in which the administrative court shall have jurisdiction, the composition of the court and the procedure therein shall be regulated by a special law.¹

LAW CONCERNING THE EXERCISE OF ADMINISTRATIVE AND EXECUTIVE POWER.

ARTICLE 1. The Emperor is sacred, inviolable, and irresponsible.

ART. 2. The Emperor shall exercise governmental power through responsible ministers and officers and agents subordinate to them.

ART. 3. The Emperor shall appoint and dismiss ministers and, upon the proposal of the respective ministers, appoint all officers in all branches of the public service, in so far as the law does not otherwise provide.

ART. 4. The Emperor shall confer titles, orders and other public distinctions.

¹ Law of 22 October 1875, amended 19 March 1894 and 21 September 1905.

ART. 5. The Emperor shall have supreme command of the armed force, shall declare war and conclude peace.

ART. 6. The Emperor shall conclude political treaties. The consent of the Reichsrat is necessary for the validity of any treaties of commerce or political treaties which impose obligations upon the Empire, upon any part thereof, or upon any of its citizens.

ART. 7. The right to coin money shall be exercised in the name of the Emperor.

ART. 8. Before assuming the government the Emperor shall take a solemn oath in the presence of both houses of the Reichsrat:

To maintain inviolable the fundamental laws of the kingdoms and countries represented in the Reichsrat, and to govern in conformity with them, and in conformity with the laws in general.

ART. 9. The ministers shall be responsible for the constitutionality and legality of governmental acts done within the sphere of their powers.

This responsibility, the organization of a court to try impeachments of ministers, and the procedure to be observed in such a court shall be regulated by a special law.¹

ART. 10. The publication of the laws shall take place in the name of the Emperor, with a note of their passage by the representative bodies in the constitutional manner and under the signature of a responsible minister.²

ART. 11. The public authorities are empowered, within the sphere of their respective duties, to issue decrees and orders in execution of the laws, and to enforce the observance of such regulations and of the laws by all those to whom they are applicable.

Special laws shall regulate the powers of the administrative authorities, and the powers of the armed force which is permanently organized or called out in a particular case for the maintenance of public safety, peace and order.

ART. 12. All the officers of the State shall be responsible for the observance of the fundamental laws and of the imperial and provincial laws in the performance of their official duties.

To make such responsibility effective it shall be the duty of the organs of the executive power to exercise a disciplinary control over the above-mentioned public officials.

The civil liability of public officers for injury caused by illegal use of their powers shall be regulated by law.

ART. 13. All members of the public administration, in their oath of office, shall swear to an inviolable observance of the fundamental laws.

¹ Law of 25 July 1867.

² Law of 10 June 1869.

3. HUNGARY.

The constitutional development of Hungary has frequently been compared with that of England, for the Constitution is not embodied in any one instrument, but is contained in numerous laws which may be altered by the regular legislative processes. However, in Hungary the Constitution has been embodied in written laws to a much greater extent than in England.

The most important of the earlier constitutional documents of Hungary is the Bulla Aurea of Andreas II, which was issued in 1222¹ and which bears a striking resemblance to the English Magna Carta of 1215. Bulla Aurea is now chiefly of historical interest, but is of importance as one of the first steps in a long and continuous constitutional development.

Ferdinand I of Austria was chosen King of Hungary in 1526, after the Hungarian forces had been signally defeated by the Turks at the battle of Mohács. The Hapsburgs constantly endeavored to reduce Hungary to the position of a province of the Empire, and to abolish its independent national institutions. However, by the Pragmatic Sanction, which was embodied in three Hungarian laws of 1722-23, the rights of Hungary were guaranteed.

Notwithstanding the guaranty of Hungarian institutions the efforts to weaken or destroy them continued, and it was only in 1848 that the revolutionary movement finally enabled the liberal members of the Diet to carry their measures. Thirty-one laws, embodying among other things the Hungarian demands for a separate responsible ministry and for annual sessions of the Diet, were enacted and were approved by the Emperor on 11 April 1848. Under these laws Hungary became practically independent, uniting with Austria by a personal union. An attempt on the part of Hungary to secure complete independence resulted in the surrender of the Hungarians at Vilagos on 13 August 1849.

After Vilagos Hungary was governed for 10 years as a subject province. The Diploma of 20 October 1860 recognized the rights of the Hungarian Diet, but the Patent of 26 February 1861 established a central legislature at Vienna. Hungary refused to join in

¹ French translation in F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. 1, pp. 470-476.

such a legislature or to be content with any arrangement which should not give her absolute control over her local affairs. In 1865 negotiations were entered into upon the basis of Hungary's right to an independent government, and the agreement of 1867 guarantees the "laws, constitution, legal independence, freedom, and territorial integrity of Hungary and its subordinate countries." The laws of 1848 again came into full force, and the parliamentary institutions of the country were reestablished upon a firm basis.

Under the terms of the agreement of 1867 Hungary was left to deal as it thought best with the races within its territory. With Croatia alone did Hungary find it necessary to make special terms. By a law of 1868, which has been several times amended, an arrangement¹ was made between Hungary and Croatia similar in many respects to that between Austria and Hungary.²

LAW 10 OF 1791.³

ON THE INDEPENDENCE OF THE KINGDOM OF HUNGARY AND ITS DEPENDENCIES.⁴

On the proposal of the estates and orders of the Kingdom, His Sovereign Majesty has been graciously pleased to recognize that, although the female succession of the august house of Austria, established by Laws 1 and 2 of 1723 in the Kingdom of Hungary and its dependencies, attaches to the same prince as in the other Kingdoms and hereditary States situated in Germany and outside of Germany, which must be possessed inseparably and indivisibly in accordance with the established order of succession, nevertheless, Hungary with its dependencies is a free kingdom, and independent in all that concerns the legal form of the government (with all its dicasteries⁵), that is to say, that it is subject to no other kingdom or people, but that it has its own existence and constitution, and that it must be governed and administered by its hereditary King, legally crowned, and, consequently, by His Sovereign Majesty and his successors, the Kings of Hungary, in accordance with its own laws and customs and not on the model of other provinces, conformably to Laws 3 of 1715 and 8 and 11 of 1741.

¹ French translation of the Compromis in DARESTE, *op. cit.*, pp. 505-520.

² These introductory paragraphs are based upon W. F. DODD, *Modern Constitutions* (Chicago, 1909), vol. I, pp. 91-93, and DARESTE, *op. cit.*, pp. 464-470 and 504-505.

³ Laws 10, 12 and 19 of 1791 and 8, 18 and 20 of 1848 have been translated by RUTH E. STANTON from the French translation in DARESTE, *op. cit.*, pp. 476, 477, 478, 487 and 488.

⁴ *Leopoldi II Regis Decreti A. 1791, Art. 10 (De independentia Regni Hungariæ parti-umque eidem annexarum)*. The expression *partes annexæ* served to designate the countries beyond the Drave (Croatia-Slavonia-Dalmatia).

⁵ Government authorities.

LAW 12 OF 1791.

ON THE EXERCISE OF THE LEGISLATIVE AND EXECUTIVE POWER.¹

His Sovereign Majesty voluntarily and of his own accord recognizes that the power to make, abrogate and interpret the laws in this Kingdom of Hungary and its dependencies belongs, save for the provisions of Law 8 of 1741, to the lawfully crowned Prince and to the estates and orders of the Kingdom lawfully assembled in Diet, and he has been graciously pleased to declare that he would preserve intact this right of the States, and would transmit it inviolate to his august successors as he had received it from his illustrious ancestors, guaranteeing to the estates and orders of the Kingdom that the Kingdom and its dependencies shall never be governed by edicts or by what are known as patents, which can in no case be received by any of the tribunals of the Kingdom, the deliverance of patents being reserved only in the case where, on points in other respects conforming to the law, the publication can be effectively obtained only in this way. In consequence:

The organization of tribunals, established or to be established by the law, can not be modified by royal authority; the execution of lawful sentences can not be prevented by orders of the King, nor can he in person be permitted to prevent it; the lawful sentences of the tribunals shall not be altered or yielded to the revision of the King or any political administrative authority, but the judgments shall be rendered conformably to the laws at present existing or subsequently to be made, and to the recognized custom of the Kingdom, by judges chosen without religious distinction, and the executive power shall be exercised by His Royal Majesty only in the meaning of the laws.

LAW 19 OF 1791.

ON SUBSIDIES AND CONTRIBUTION.²

His Sovereign Majesty has also been graciously pleased to guarantee fully to the estates and orders of the Kingdom and the dependencies that no subsidies, under any name whatsoever, either in money, in kind or in recruits, shall be imposed by the royal will either upon the estates and orders or upon persons not of the nobility, nor shall they be solicited, under the pretext of a free gift or for any other reason, outside of the diet, save in so far as concerns the provision of Law 8 of 1715 confirmed by Law 22 of 1741.³ The

¹ *Leopoldi II Regis Decreti*, Art. 12 (*De legislativæ et executivæ potestatis exercitio*).

² *Leopoldi II Regis Decreti*, Art. 19 (*De subsidiis et contributione*).

³ These laws provide that in case of an unexpected war or a war of invasion the diet must be convoked in a place in the interior of the Kingdom in order to deliberate upon an extraordinary imposition (tax).

amount of the contribution appropriated for the maintenance of the permanent army shall always be determined from one diet to the other in the comitia of the Kingdom; save for the other provisions of Law 8 of 1715 above cited, which are, presumably, confirmed.¹

LAW 3 OF 1848.²

ON THE FORMATION OF A RESPONSIBLE HUNGARIAN MINISTRY.³

ARTICLE 1. The person of His Majesty the King is sacred and inviolable.

ART. 3. His Majesty shall exercise the executive power in conformity with law, through the independent Hungarian ministry, and no ordinance, order, decision, or appointment shall have force unless it is countersigned by one of the ministers residing at Budapest.

ART. 4. Each member of the ministry shall be responsible for all of his official actions.

ART. 5. The official seat of the ministry is Budapest.

ART. 6. In all matters which have heretofore been within the power of the Royal Hungarian Chancellery, of the Royal Council of the Regency and of the Royal Council of the Treasury, including therein mining, and especially in all civil, ecclesiastical, financial and military affairs, and in general in all matters relating to national defense, His Majesty shall henceforth exercise the executive power exclusively through the Hungarian ministry.

ART. 7. It shall be within the immediate power of His Majesty, in every case with the countersignature of the proper responsible Hungarian minister, to appoint archbishops, bishops, priors, and abbots, as well as standard bearers, to exercise executive clemency, to grant noble rank, titles and orders.

ART. 10. The ministry shall be composed of a president and of eight other ministers, if the president does not himself assume one of the portfolios.

ART. 12. His Majesty shall appoint the ministers upon the nomination of the president of the ministry.⁴

ART. 13. One of the ministers shall always be in attendance upon the person of His Majesty and shall take part in all affairs which

¹ This refers to the provisions of Law 8 of 1715 relative to the military service of the nobility and to the maintenance of the permanent army by means of a contribution to be determined in accord with the diet.

² Translations of Laws 3, 4 and 5 of 1848, 33 of 1874, and 7 of 1885 are based upon those in DODD, *op. cit.*, pp. 93-111. French translations of Laws 3 and 4 of 1848 and 7 of 1885 appear in DARESTE, *op. cit.*, pp. 479-487 and 493-501.

³ Articles 2, 9, 11 and 38 of this law were repealed and Articles 3, 17, 19 and 24 were modified by Law 7 of 1867, which suspended the office of Palatin. Article 8 related to military affairs which are now conducted by the Austro-Hungarian Government.

⁴ As amended by Law 8 of 1867.

are common to Hungary and the hereditary Provinces, and in such affairs he shall, under his responsibility, represent Hungary.¹

ART. 14. Besides the member attached to the person of the King for the affairs mentioned in Article 13, the ministry shall be divided into the following departments:

- a.* Interior.
- b.* Finance.
- c.* Commerce.²
- d.* Agriculture.²
- e.* Religion and education.
- f.* Justice and pardons.
- g.* National defense.³

ART. 15. A separate minister shall be at the head of each department and of the official personnel thereof, which shall be under the direction of the respective chiefs of division.

ART. 16. The manner of conducting business within the departments shall be regulated by the ministry itself.

ART. 17. The president of the ministry shall preside over the Council of Ministers in the absence of the King, and he may convene the Council of Ministers as often as he considers it necessary.

ART. 18. Each minister shall be responsible for the orders which he signs.

ART. 19. For the consideration of the public affairs of the country under the presidency of His Majesty or of the president of the ministry, a Council of State shall be established at Budapest, which shall be permanently organized by the next Diet.⁴

ART. 20. In addition to the necessary staff of officers, two councilors of state shall be assigned to the minister in attendance upon the person of the King, such councilors to be selected for the present from among the active councilors of the Royal Hungarian Chancellery upon the nomination of the above-mentioned minister.

ART. 21. The affairs enumerated in Article 7 as reserved immediately to His Majesty shall be administered by the responsible Hungarian minister in attendance upon the person of the King, together with the councilors of state and officers associated with him.

ART. 22. The other active councilors of the Royal Hungarian Chancellery shall be transferred to the Council of State mentioned in Article 19.

¹ Affairs common to the two countries are now handled by the joint ministry.

² As amended by Law 18 of 1889. These two ministries were formerly called "Public Works, Means of Communication and Navigation" and "Agriculture, Industry and Commerce," respectively.

³ For the representation of the interests of Croatia-Slavonia-Dalmatia, there is also appointed a separate Croatian minister who is without portfolio. This minister is entitled to vote in the Council of Ministers and is responsible to the Hungarian House of Representatives.

⁴ The Council of State has never been organized; hence Articles 19-24 are not really in force.

ART. 23. The Royal Hungarian Council of the Regency and the Royal Council of the Treasury shall be divided among the respective departments of the ministry in pursuance of the provisions of Law 58 of 1791,¹ which shall also be taken into consideration in the organization of the Council of State.

ART. 24. The presidents of the government offices mentioned in Article 6 shall have seats in the Council of State designated by Article 19, and shall preside therein in the absence of the King and the ministers.

SEC. 25. All officers and employees of the government offices mentioned in Article 6, not only those who receive new appointments but also those who can not be given places in the above-mentioned departments of the ministry, shall retain their present salaries until other provision is made.

ART. 26. The legal powers of all local governing bodies of the country shall remain in full force.²

ART. 27. The legally established courts shall preserve their legal independence and shall retain their present organization until further provided by law.³

ART. 28. The ministers shall have seats in the two houses of the Diet and must be heard therein when they wish to speak.

ART. 29. Ministers shall be bound to attend in either house of the Diet when requested, and to give proper explanations.

ART. 30. Upon demand of either house of the Diet the ministers shall be bound to submit their official papers for examination by the house itself or by a committee appointed by the house.

ART. 31. Ministers shall have a vote in the Diet only in case they are legal members of the Table of Magnates or have been elected as representatives in the House of Representatives.

ART. 32. Ministers may be held responsible:

a. For every act committed or order executed by them in their official capacity which violates the independence of the country, the guaranties of the Constitution, the provisions of existing laws, personal liberty, or the inviolability of property.

b. For misapplication or illegal use of money or other property entrusted to them.

c. For failure to execute the laws or to maintain public peace and order, in so far as such neglect could have been avoided by the use of means placed at their disposal by the law.

¹ This law provides that the attributions of the Council of the Regency be extended to Croatia-Slavonia, which consequently should have a fixed number of representatives therein.

² See DARESTE, *op. cit.*, p. 482, note 1.

³ See DARESTE, *ibid.*, note 2.

ART. 33. The Lower House may impeach ministers by a majority vote.

ART. 34. Jurisdiction in such a case shall be vested in a court, chosen by means of secret ballot by the Upper House from among its own members; the procedure shall be public, and the penalty shall be fixed in proportion to the offense.

Thirty-six members in all shall be elected, of whom 12 may be rejected by the impeachment commission of the Lower House, 12 by the ministers under impeachment. The court thus composed of 12 persons shall try the impeached ministers.

ART. 35. With respect to a convicted minister royal pardon may be granted only in case of a general amnesty.

ART. 36. For other criminal offenses committed by ministers in an unofficial capacity, they shall be amenable to the ordinary laws.

ART. 37. The ministry is bound to submit to the Lower House for its examination and approval an annual statement of the income and needs of the country, and the account of the income administered by it during the past year.

LAW 4 OF 1848.

ON THE ANNUAL SESSIONS OF THE DIET.

ARTICLE 1. As the Diet will in future hold annual sessions at Pest, His Majesty shall annually assemble the Estates of the country, and whenever circumstances permit, during the winter months.

ART. 2. Hereafter the laws to be promulgated may also be approved by His Majesty during the course of the annual session.¹

ART. 3. Representatives shall be elected to a Diet to continue for five years, and for all the annual sessions of such a Diet.²

ART. 4. After 1848 the new election of representatives shall take place throughout the country at the expiration of each fifth year, — within six weeks before the opening of the first annual session of the new Diet; members elected during the interval between general elections retain their seats in the next Diet only by means of a new election and so retain them for each of the five annual sessions of a Diet.²

ART. 5. His Majesty shall have the right to extend or to adjourn the assembled annual session and even to dissolve the Diet before the expiration of five years, and in such a case to order a new election of representatives; but in the latter case His Majesty shall order the meeting of the new Diet in such a manner that it shall assemble within three months after the dissolution of the former Diet.²

ART. 6. As the establishment of the budget by the Diet is always effective for only one year and as no tax may be imposed or collected

¹ Cf. Laws 66 and 67 of 1881.

² Law 1 of 1886 extended the life of a Diet from 3 to 5 years.

without a new establishment and grant, in case His Majesty for any reason shall dissolve the Diet before the regular time, adjourn or close its sessions before the ministry has submitted the final accounts and the estimates for the next year, and before the Diet could reach a decision concerning these matters, the Diet must be convened before the end of the year and within sufficient time for the final accounts and the estimates for the succeeding year to be considered therein before the close of the year.¹

ART. 7. His Majesty shall appoint the president and vice-president of the Table of Magnates from the members of that house; the secretaries shall be elected by the house from among its own members by secret ballot.²

ART. 8. As the Royal Table³ henceforth ceases to be an integral part of the House of Representatives, this house shall elect from among its own members, by secret ballot, a president, two vice-presidents and the secretaries.

The presidents of the two houses shall be chosen for the entire legislative period of the Diet; the other officials shall be chosen annually in the first sitting; in such sitting the oldest member of the Diet shall preside.

ART. 9. The presidents of the two houses shall receive salaries from the public treasury, the amount of which shall be fixed in the first annual session of the new Diet.²

ART. 10. The sittings of the two houses shall continue to be public. Each house shall make the regulations for the maintenance of the necessary peace and order in its deliberations, and of silence among those listening to its proceedings; the president is charged with the strict enforcement of such rules.

ART. 11. In this regard it is hereby provisionally directed that the audience shall in no way disturb the deliberations.

ART. 12. Should the audience or one of the persons present disturb the deliberations and the first warning of the president be without effect, the president may upon the second occasion, referring to the present law, order the expulsion of the audience or of a member thereof and the closing of the galleries.

ART. 13. After this is done the deliberations shall be continued upon the same day or later, as the majority decides, but always publicly.

ART. 14. Peace and order shall be maintained by sergeants-at-arms, with the assistance of the national guard if necessary.⁴

¹ As amended by Law 10 of 1867. The old Article 6 forbade the dissolution of the Diet before the budget had been voted.

² This point is now governed by Article 15 of Law 7 of 1885.

³ The Supreme Court of Hungary, which before 1848 formed part of the House of Representatives, its president presiding in that body.

⁴ The national guard has now been replaced by the regular army, organized by Laws 40 and 41 of 1868 and 6 of 1889.

ART. 15. In addition to the regulations contained in the foregoing sections, each house shall, in its first annual session, immediately adopt an order of business, in which the manner and form of deliberating and of voting and in general the internal affairs of the house shall be regulated. The part of this order of business which relates particularly to the order of deliberating may be altered only at the end of the annual session, after the close of the consideration of bills.¹

LAW 5 OF 1848.

ON THE ELECTION OF REPRESENTATIVES ON THE PRINCIPLE OF THE REPRESENTATIVE SYSTEM.²

ARTICLE 5. The House of Representatives shall consist of 453 members, who shall enjoy equal voting power, and who shall be elected in accordance with the apportionment made on the basis of population, territory and economic conditions.³

The Diet of the Kingdom of Croatia, Slavonia and Dalmatia shall elect 40 representatives.⁴

LAW 8 OF 1848.

ON EQUALITY IN REGARD TO TAXATION.

All the inhabitants of Hungary and its dependencies are subject without distinction, equally and proportionately, to all public charges.⁵

LAW 18 OF 1848.

ON THE PRESS.

The previous censorship being abolished forever, and the freedom of the press having been reestablished, the guaranty of this freedom shall be provisionally assured by the following stipulations:

ARTICLE 1. Every person can freely express and circulate his thoughts through the medium of the press. * * *

¹ French translation of the regulations of the two houses appears in F. MOREAU ET J. DELPECH, *Les Règlements des Assemblées législatives*, vol. 1 (Paris, 1906), pp. 482 and 515.

² See Law 33 of 1874 (p. 34).

³ As amended to 1881. The remainder of this law has been repealed. Law 24 of 1901 provides that a member of the House of Representatives shall not occupy any office or accept any position which is dependent upon the nomination or appointment of the Crown, the government, or the organs of government, and which carries with it a salary or compensation. From this rule are excepted the royal Hungarian ministers, undersecretaries of State and occupants of some other less important positions.

⁴ The Croatian members sit in the Hungarian Diet only for the consideration of matters common to Hungary and Croatia; these matters are principally finance, defense and the monetary system; in other matters the Croatian Diet legislates independently.

⁵ The rest of the law contains only transitory provisions.

LAW 20 OF 1848.

ON THE RELIGIOUS CULTS.¹

ART. 2. Absolute equality and reciprocity are established without distinction in what concerns all the religious confessions legally recognized in this country.

LAW 33 OF 1874.

ON THE MODIFICATION AND AMENDMENT OF LAW 5 OF 1848, AND OF THE TRANSYLVANIAN LAW 2 OF 1848.

CHAPTER I.—QUALIFICATIONS OF VOTERS.²

ARTICLE 1. With the exception of females, the right to vote in the election of representatives may be exercised by all native or naturalized citizens who have attained the age of 20 years and who possess the qualifications mentioned in Articles 1 and 2 of Law 5 of 1848 and in Articles 3 and 4 of the Transylvanian Law 2 of 1848 and more particularly specified in the subsequent articles.

ART. 2. In future the right to vote may no longer be exercised upon the basis of the privileges existing before the year 1848; however, those who were registered upon such basis in one of the lists of voters for representatives prepared between 1848 and 1872, inclusive, in conformity with Law 5 of 1848 and the Transylvanian Law 2 of 1848, shall personally remain in the exercise of this right.

ART. 3. In the royal free cities and in cities with an organized administration the right to vote shall belong to those who possess alone or jointly with their wives and minor children:

a. A house which, even if temporarily exempt from taxation, consists of at least three different parts, subject to the household tax; or

b. Land which is assessed on the basis of a net income of 16 florins.

ART. 4. In those sections of the country in which Law 5 of 1848 is effective, the right to vote shall belong to those who in the larger or smaller communes possess one fourth of an urbarial share³ or other land of an equal area either alone or jointly with their wives and

¹ Only Article 2 has been translated here, because it establishes a principle which may be regarded as constitutional. This principle has been developed by Law 53 of 1868. See DARESTE, *op. cit.*, p. 488, note 2.

² Only the first thirteen articles of this law have been given; the other articles (14-121) relate to proof of qualifications and to electoral procedure.

³ The urbarial system is a remnant of the older land tenures; it refers to lands released by the lords and cultivated by the peasants on their own account; the area of the urbarial share varies for different parts of the country.

minor children, it being immaterial in whose name this property is registered.

Lands upon which the tax imposed is equal to that of the most lightly taxed one-fourth urbarial share in the same commune shall be regarded as equal in size to one fourth of an urbarial share.

In case the urbarial system does not exist in a given commune, the most lightly taxed one-fourth urbarial share of any neighboring commune resembling the given commune most nearly in land values shall be taken as the standard.

In those parts of the provincialized military border which have been incorporated in the counties of Bács-Bodrogh, Temes, Torontal, and Krasso, and in the county of Szoerény, 10 joch of cultivated land, each of 3,200 square yards, shall be equal to one fourth of an urbarial share; in the counties of Middle Szolnok, Kraszna, and Zarand, in the Koevár district, in Jazygia and Cumania 8 joch of 2,400 square yards shall equal one fourth of an urbarial share.

Bottom land, gardens, vineyards, arable land and meadows shall be regarded as cultivated ground.

ART. 5. In those parts of the country in which the Transylvanian Law 2 of 1848 is in force, the right to vote may be exercised by those who in the larger or smaller communes:

a. Pay land taxes according to the present land-tax valuation on a net income of 84 florins, but if they own a house belonging in the first class of taxable property, on an income of 79 florins, 80 kreuzer, and if the house be rated in the second or a higher class, on an income of 72 florins, 80 kreuzer.

In case of the correction of the present valuation or of the adoption of a new valuation, the above-mentioned amounts of income shall be changed to agree with the change in ratio between the present assessments of apparent total net income from land in the Transylvanian districts and those of the altered valuation.

b. Or pay the public tax on a net annual income of not less than 105 florins, subject either to the land or house tax, or to the income tax of the first or third class.

In addition to those qualified in accordance with Law 12 of 1791, every commune which has at least 100 homesteads may also take part in the election of representatives through two informally chosen electors, smaller communes, however, having one elector.

ART. 6. The right to vote shall belong also to those:

a. Who possess a house, either alone or jointly with their wives and minor children, in the manner provided by Article 4, upon which the house tax has been assessed on an annual income of not less than 105 florins.

b. Who pay the public-land tax mentioned under *a*, or a tax on capital or on both land and capital, upon a net annual income of not less than 105 florins.

c. Who as merchants or manufacturers are taxed upon an annual income of not less than 105 florins.

d. Who in the royal free cities or in cities with an organized administration are taxed as artisans upon an annual income of not less than 105 florins.

e. Who in the larger or smaller communes pay the income tax for not less than one employee.

ART. 7. The right to vote shall belong also to those who pay the income tax on an annual income of not less than 105 florins, which, according to Law 26 of 1868, is rated in the first class; or who pay this tax on an annual income of not less than 700 florins under the provisions of the second class; moreover, those State, municipal, and communal officers may vote who pay the income tax on an annual income of not less than 500 florins under the provisions of the second class.

ART. 8. In cases covered by Articles 6 and 7, it is required that electors, to be entered on the voting lists in accordance with the provisions there mentioned, must have already been taxed in the preceding year upon an income not less than that fixed above.

ART. 9. Without regard to income, the following may vote in the electoral districts in which they have their fixed residence: The members of the Hungarian Academy of Sciences, professors, members of academies of fine arts, physicians, lawyers, notaries public, engineers, surgeons, druggists, graduates of agricultural schools, foresters and mining engineers, clergymen, chaplains, communal notaries, teachers and licensed kindergarten teachers.

It is required, however, that pastors and chaplains in order to exercise the right to vote shall actively officiate as such in some officially established congregation.

Professors, school teachers, kindergarten teachers and communal notaries, on the other hand, shall have the right to vote only in case they have been legally appointed or elected to their position or have been confirmed therein.

ART. 10. Persons under paternal authority, under guardianship, or under employers' authority, even though they possess one of the qualifications mentioned in the preceding section, shall not have the right to vote.

The apprentices of merchants and artisans and those employed in public or private service as servants or domestics shall be regarded as being under employers' authority.

Overseers of estates are not regarded as under such authority.

ART. 11. The right to vote shall not be exercised:

1. By soldiers in the army, sailors and members of the national guard, whether on active duty or temporarily on leave during their term of enlistment, but reservists and members of the national guard summoned in conformity with Article 36 of Law 40 of 1868 and Law 32 of 1873 for military inspection and temporary service are not included within this provision.

2. By members of the finance, customs and revenue police.

3. By members of the armed police.

4. By members of the State, municipal and communal police.

Therefore they shall not be registered in the lists of voters.

ART. 12. The right to vote shall not be exercised by those:

1. Who have been condemned to imprisonment on account of some crime or misdemeanor, or of some violation of the press laws mentioned in Articles 6 to 12 of Law 18 of 1848, during the continuance of such imprisonment.

2. Who, on the basis of a valid judicial finding, are being held for trial because of some crime or misdemeanor.

3. Who have been disqualified as voters by a regular judicial proceeding, during the time fixed by the judicial sentence.

4. Who have become bankrupt, until they are discharged.

Such persons shall, therefore, not be registered in the list of voters, even if otherwise entitled to vote.

The electors mentioned in Clauses 1, 2, 3 and 4, if otherwise entitled to vote, shall be registered in special lists and may by way of exception exercise the right to vote on proof of acquittal or of their discharge from bankruptcy by a valid judicial decision, or if they can furnish evidence by certificate from the competent authorities that they have served the full term of their sentence, or upon proof, by reference to the original judgment, that the term of their disabilities has expired; such evidence to be submitted to the commission charged with the preparation and correction of the lists of voters or, finally, to the president of the election.

ART. 13. Every elector who has reached his twenty-fourth year shall be eligible as a representative, provided he is registered in the list of voters and is qualified in the Hungarian language, which in accordance with law is the legislative language.

Those sentenced after the present law has become operative by a regular judicial proceeding on account of murder, robbery, arson, larceny, concealment, forgery, fraud, fraudulent bankruptcy, or perjury shall not be eligible.

LAW 7 OF 1885.

ALTERING THE ORGANIZATION OF THE TABLE OF MAGNATES.¹

CHAPTER I.—THE ORGANIZATION OF THE TABLE OF MAGNATES.

ARTICLE 1. Members of the Table of Magnates shall be those who have the right to sit and vote therein by virtue:

a. Of hereditary right.

b. Of their high rank or office.

c. Of their appointment for life by His Majesty the King.

d. Of election by the Diet of Croatia-Slavonia² in accordance with Law 15 of 1881.

ART. 2. By virtue of hereditary right the following shall be members of the Table of Magnates:

a. The archdukes of the royal family who are of full age.

b. All male members of 24 years of age of families which have heretofore had the right of membership in the Hungarian Table of Magnates or which had received from the Hungarian King the title of count or baron in Transylvania before the union of that principality with Hungary, if they alone or together with the wives and minor children living in a common household with them possess and enjoy or have a life interest or a family interest in trust in real estate within Hungarian territory, assessed upon the new cadaster of 1885 for the direct national land tax to an amount of not less than 3,000 florins, Austrian value, including therein the house taxes upon residences and industrial establishments attached to such real property.

With reference to families of magnates whose members, besides their rights in the Hungarian Upper House, have by birth or in some other manner a seat and vote in the legislature of another State of the monarchy or of any other country, it is provided that, if they possess the property qualification mentioned in Clause *b* of this Article by virtue of their real property located in Hungarian territory, their rights in the Hungarian Upper House shall not be exercised unless they deliver once for all to the president of the Royal Hungarian Ministry a declaration that they for themselves will exercise such right only in the Hungarian Upper House; this declaration shall be made within six months after the completion of the twenty-fourth year, and if such age has already been reached, before 1 July 1885.

The president of the ministry shall transmit this declaration to the president of the Table of Magnates within eight days after its

¹ Chaps. 2, 3 and 4 of this law are omitted; they contain provisions regarding the appointment of officers, order of business and other matters of less importance.

² Croatia-Slavonia elects 3 members of the Table of Magnates.

receipt, if the Diet is in session, and if it is not in session, within eight days after its assembling.

c. Hungarian citizens by birth and their legitimate male descendants in a direct line, upon whom His Majesty, upon the proposal of the Council of Ministers, has especially conferred the right of hereditary membership in the Table of Magnates, in addition to the corresponding title (duke, count, or baron).

Hungarian citizens who are not such by birth may be granted membership in the Upper House upon the proposal of the Council of Ministers only by means of legislation.

In either case the Council of Ministers may propose only Hungarian citizens of merit who have attained the age of 24 years, are of age and possess the property qualifications provided by this article.

ART. 3. If a member of one of the families designated in Clauses *b* and *c* of Article 2 does not possess the required property qualification, or loses it later, his right shall cease from that time but shall be revived if he afterward regains this qualification.

In the latter case the right may be exercised in the session following the one in which the qualification is established.

ART. 4. By virtue of their high rank or office, and during the continuance thereof, the following shall be members of the Table of Magnates:

A. *a.* The standard bearers of the Kingdom and the Count of Pozsony (Pressburg).

b. The two curators of the Crown.

c. The governor of Fiume.

d. The president and vice-president of the Supreme Court and the president of the Court of Appeals of Budapest.

B. Also by virtue of their high rank and of their offices the following shall be members of the Table of Magnates during the continuance of their ecclesiastical offices:

a. The Roman Catholic Church dignitaries of the Latin and Greek rite in the lands of the Hungarian Crown, viz., the Prince Primate of Hungary and the other archbishops, the bishops of dioceses, and the likewise royally appointed suffragans of Belgrade and Tinnin (Knin), and finally, the Archabbot of Pannonhalma (Martinsberg), the Provost of Jászó and the Prior of Aurantien.

b. The dignitaries of the Oriental Greek Church: the Servian Patriarch, the Roumanian Metropolitan and the bishops of dioceses.

c. The three senior bishops of the Evangelical Reformed Church and of the Evangelical Church of the Augsburg Confession; the three senior superintendents of the Evangelical Reformed Church, taking into account the religious district of Transylvania, especially

the senior superintendent; the inspector general and the two senior direct inspectors of the Evangelical Church of the Augsburg Confession; and finally, one of the senior presidents, either bishop or superintendent, of the Unitarian Church.

ART. 5. Those whom His Majesty the King appoints, upon the proposal of the Council of Ministers, from among the citizens of all the countries of the Crown of St. Stephen, in recognition of merit and to increase the prestige of the Upper House thereby, shall be life members of the Table of Magnates.

As soon as the upper house is organized in accordance with the present law, the number of members appointed for life shall not exceed 30. In future such appointments shall take place gradually, and in no case shall more than five appointments be made in one year. The total number of life members shall never exceed 50.

ART. 6. The fact that a person is engaged in military service, is in the active performance of a civil or religious office, or is appointed to such a position, imposes no obstacle to the exercise of a right of membership in the Table of Magnates belonging to him, or to his being named a hereditary or life member thereof.

ART. 7. Should new offices or positions of high rank be created or should new bishoprics or ecclesiastical districts be established by the religious confessions mentioned in Article 4, such offices and positions shall not carry with them the right to a seat in the Table of Magnates, unless this is expressly provided by law.

ART. 8. The members designated by Article 1, Clause *d*, shall have the right to take part in the deliberations and voting only with reference to the matters common to the countries and provinces of the Hungarian Crown.

ART. 9. Without prejudice to the provision of Article 59 of Law 30 of 1868,¹ no person shall be a member of the Table of Magnates who does not satisfy the provisions of Article 1 of Law 44 of 1868, according to which Magyar is the only language of legislation.

ART. 10. Members of the Table of Magnates shall lose their membership in the following cases:

a. A member by virtue of his high rank or office, when he ceases to hold such office or position, because of voluntary resignation or of legal disciplinary or judicial proceedings.

b. A life member, when his resignation is accepted by His Majesty, upon the proposal of the Council of Ministers.

c. A member elected by the Diet of Croatia-Slavonia, when his term of election expires.

¹ The law which permits the members from Croatia-Slavonia to use their own language in the Hungarian Diet.

d. Any member, without reference to the legal basis of his membership, who may be condemned by the regular courts to prison or to imprisonment at hard labor, or for a crime or misdemeanor committed for the purpose of gain, or who has lost his citizenship.

ART. 11. The right is not lost but its exercise is suspended:

a. During the time for which a member has been condemned by the regular courts to a suspension of political rights on account of a crime or misdemeanor not coming within Article 10, Clause *d.*

b. During the period of bankruptcy of those who become bankrupt.

c. During the continuance of guardianship of those who have been placed under guardianship, except in cases of guardianship because of prodigality or absence.

d. For hereditary members, during the session in the course of which it is decided, in accordance with Article 19 of this law, that they have lost the property qualification of membership.

ART. 12. When a person, who is a member of the Table of Magnates by virtue of Article 4, Section A or Section B, Clauses *a* and *b*, or of Article 5, is elected a representative and accepts such election, he shall cease to be a member of the Table of Magnates: but as soon as the office of a representative is ended, those mentioned in Article 4, Section B, Clauses *a* and *b*, shall at once regain their membership in the Table of Magnates and may exercise it in the next session. The other members of the Table of Magnates mentioned in this paragraph may recover their membership in accordance with Articles 4 and 5.

Should the ecclesiastical and lay dignitaries mentioned in Article 4, Section B, Clause *c*, be elected as representatives and accept such election, the senior one of their colleagues who is not already a member of the Upper House shall take the place and hold it, while he lives and fills the office, even though the person, whose place he occupies, ceases to be a representative.

Should a hereditary member of the Table of Magnates be elected a representative and accept such election, he shall not exercise his rights of membership in the Table of Magnates during the term of his office as representative, and should he resign the office of representative during the course of a session, his membership in the Table of Magnates does not revive until the following session.

Every member of the Table of Magnates who is elected a representative is bound, after the verification of his election, to inform the president of the Table of Magnates whether or not he has accepted such election; the president shall bring this information to the knowledge of the House.

BELGIUM.

The Protocol of 21 June 1814¹ united Belgium with Holland, and the Constitutional Law of the Netherlands, promulgated on 27 August 1815,² was therefore common to the two countries until the Belgian Revolution of 25 August 1830. A National Congress of Belgians was convened on 10 November 1830, but even before it met, the provisional government of Brussels, by decrees of 6, 7, 8, 9 and 14 October 1830, named a committee of twelve to prepare an outline of a Constitution. This committee declared itself in favor of the adoption of a constitutional monarchy as the form of government. The National Congress proclaimed the independence of Belgium on 18 November,³ and adopted the monarchical form of government and the bicameral system of representation on 22 November. The Constitution was drafted on the basis of the outline adopted by the committee of twelve and was passed in its entirety on 7 February 1831, which is the date officially given to it, although it was not promulgated until 11 February.⁴ Leopold of Saxe-Coburg became King in June of the same year. The Belgian Constitution of 1831 remained unaltered for over 60 years, and proposals for its revision were rejected by large majorities in 1871, 1883 and 1887.

In 1892, however, the three powers of the State united in asking for the revision of 13 articles of the constitution, the special object of the reform being the electoral system of the two houses. New houses were elected on 14 June following, in conformity with Article 131 of the Constitution. A series of decrees, all dated 7 September 1893, promulgated the text of the revised articles.⁵

In accordance with a treaty signed at Brussels on 28 November 1907,⁶ the administration of Congo Free State was taken over by Belgium, and, by a royal decree of 4 November 1908, 15 November was fixed as the date for the actual assumption of the exercise of the sovereign rights. On 18 October 1908⁷ a separate Constitutional Law for the Congo was sanctioned by the King.⁸

¹ Signed at Vienna on 14 June and approved at Paris on 21 June. French text in MARTENS, *Nouveau Recueil*, supp., 1: p. 330; English translation in HERTSLET, *Map of Europe by Treaty*, vol. 1 (London, 1875), p. 40.

² French text in *British and Foreign State Papers*, 3: pp. 16-43, with Proclamation on pages 43-45.

³ French text of the Proclamation in *British and Foreign State Papers*, 17: p. 1241.

⁴ French text of the Proclamation in *British and Foreign State Papers*, 18: p. 1052.

⁵ French text of the decrees, each of which contains one revised article, in *British and Foreign State Papers*, 85: pp. 783-788.

⁶ French text in *British and Foreign State Papers*, 100: pp. 705-706.

⁷ French text of the Law of 18 October 1908 in *British and Foreign State Papers*, 101: pp. 733-742, and F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (Paris, 1910), vol. 1, pp. 98-104.

⁸ These introductory paragraphs are based on DARESTE, *op cit.*, pp. 73 and 96-97.

CONSTITUTION OF 7 FEBRUARY 1831, WITH AMENDMENTS OF 7 SEPTEMBER 1893.¹

TITLE I.—THE TERRITORY AND ITS DIVISIONS.

ARTICLE 1.² Belgium is divided into provinces.

These provinces are: Antwerp, Brabant, West Flanders, East Flanders, Hainaut, Liège, 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 defense shall be recruited only by voluntary enlistment.

ART. 2. Subdivisions of the provinces shall not be made except by law.

ART. 3. The boundaries of the State, of the provinces and of the communes shall not be changed or rectified except by law.

TITLE II.—BELGIAN CITIZENS AND THEIR RIGHTS.

ART. 4. Belgian nationality is acquired, retained and lost according to regulations established by the civil law.

The present Constitution and the other laws relating to political rights determine what other conditions are necessary for the exercise of these rights.

ART. 5. Naturalization is granted by the legislative power.

Full naturalization alone admits foreigners to equality with Belgians in the exercise of political rights.³

ART. 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.

ART. 7. Individual liberty is guaranteed.

No one may be prosecuted except in cases provided for by law and in the form therein prescribed.

¹ Translation based upon W. F. DODD, *Modern Constitutions* (Chicago, 1909), vol. I, pp. 126-148, which is based in part on the translation of J. M. VINCENT and A. S. VINCENT in the *Supplement to the Annals of the American Academy of Political and Social Sciences*, May, 1896 (Philadelphia, 1896), pp. 309-333. English translation (by Francis B. Lee) of the Constitution of 1831 without the amendments of 1893 appears in *Foreign Constitutions* [*The Convention Manual of the Sixth New York State Constitutional Convention*, 1894, part 2, vol. 3] (Albany, 1894), pp. 35-54. French translation in DARESTE, *op. cit.*, pp. 74-95, and PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 2-16.

² As amended 7 September 1893. The boundaries of the Kingdom of Belgium were definitively fixed by the treaty of 19 April 1839. The provision regarding colonies was introduced in 1893 to give the government power to administer the Congo Free State when it should become a Belgian possession.

³ Laws of 6 August 1881 and 25 March 1894.

Except when one is taken in the commission of an offense 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 24 hours thereafter.¹

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

ART. 9. No penalty shall be established or enforced except by virtue of a law.

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

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

ART. 12. Punishment by confiscation of property shall not be established.

ART. 13. Total deprivation of civil rights (*mort civile*) is abolished and shall not be reestablished.²

ART. 14. Religious liberty and the freedom of public worship, as well as free expression of opinion in all matters, are guaranteed, with the reservation of power to suppress offenses committed in the use of these liberties.

ART. 15. No one shall be compelled to join in any manner whatever in the forms or ceremonies of any religious denomination, nor to observe its days of rest.

ART. 16. The State shall not interfere either in the appointment or in the installation of the ministers of any religious denomination whatever, nor shall it forbid them to correspond with their superiors or to publish their proceedings, subject, in the latter case, to the ordinary responsibility of the press and of publication.

Civil marriage shall always precede the religious ceremony, except in cases to be established by law if found necessary.

ART. 17. Private instruction shall not be restricted; all measures interfering with it are forbidden; the repression of offenses shall be regulated by law.

Public instruction given at the expense of the State shall likewise be regulated by law.³

ART. 18. The press is free; no censorship shall ever be established; no security shall be exacted of writers, publishers, or printers.⁴

¹ Law of 20 April 1874, amended 30 May 1889.

² *La mort civile* is abolished as a punishment by itself. The condition follows as a secondary consequence of condemnation to death, hard labor, or transportation for life.

³ Laws of 20 September 1884 and 15 September 1895 on primary instruction; Law of 1 June 1850 on secondary education, amended 15 June 1881; Laws of 27 September 1835 and 15 July 1849 on higher education; and Laws of 10 April 1890 and 3 July 1891 on the conferring of academic degrees.

⁴ See also Articles 96 and 98 which relate to trials of offenses of the press.

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

ART. 19. Belgians have the right, without previous authorization, to assemble peaceably and without arms, conforming themselves to the laws which regulate the exercise of this right.

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

ART. 20. Belgians have the right of association; this right shall not be restricted by any preventive measure.

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

Legally organized bodies alone have the right to petition under a collective name.

ART. 22. The privacy of correspondence is inviolable. The law shall determine who are the agents responsible for the violation of the secrecy of letters entrusted to the post.

ART. 23. The use of the 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.¹

ART. 24. No previous authorization is necessary to bring action against public officials for the acts of their administration, except as provided for ministers.²

TITLE III.—CONCERNING POWER.

ART. 25. All powers emanate from the people.

They shall be exercised in the manner established by the Constitution.

ART. 26. The legislative power shall be exercised collectively by the King, the House of Representatives and the Senate.

ART. 27. Each of the three branches of the legislative power shall have the right of initiative.

Nevertheless, all laws relating to the revenues or expenditures of the State or to the army contingent must be voted first by the House of Representatives.

ART. 28. The authoritative interpretation of the laws shall belong only to the legislative power.

ART. 29. The executive power is vested in the King, subject to the regulations of the Constitution.

ART. 30. The judicial power shall be exercised by the courts and the tribunals.

Decrees and judgments shall be executed in the name of the King.

¹ Laws and royal decrees are published in French in the *Moniteur*; the French text is the only official text. Flemish may be used in some official documents (see DARESTE, *op. cit.*, p. 77, note 1).

² See below, Articles 63, 90 and 134.

ART. 31. Exclusively communal or provincial affairs shall be regulated by the communal or provincial councils, according to the principles established by the Constitution.

CHAPTER I.—THE HOUSES.

ART. 32. The members of the two houses shall represent the nation, and not the province alone, nor the subdivision of the province which elected them.

ART. 33. The sessions of the houses shall be public.

Nevertheless each house may resolve itself into a secret committee upon the demand of its president or of 10 members.

It shall then decide by vote of an absolute majority whether the session shall be resumed in public upon the same subject.

ART. 34. Each house shall judge of the qualifications of its own members, and shall decide all contests which arise upon that subject.

ART. 35. No person shall at the same time be a member of both houses.

ART. 36. Any member of either of the two houses, who shall be appointed by the government to any other salaried office except that of minister, and who accepts the same, shall vacate his seat immediately, and may resume his duties only by virtue of a new election.¹

ART. 37. At each session, each of the houses shall elect its president, its vice president, and shall form its bureau.²

ART. 38. An absolute majority of the votes shall be necessary to pass any resolution except as otherwise established by the rules of the houses in regard to elections and nominations.³

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.

ART. 39. The votes shall be *viva voce* or by rising and sitting; the vote on a law as a whole shall always be by roll call and *viva voce*. The election and nomination of candidates shall be by secret ballot.

ART. 40. Each house has the right to investigate the conduct of public affairs.⁴

ART. 41. A proposed law shall not be passed by either of the houses unless it has been voted upon article by article.

ART. 42. The houses have the right to amend and to divide the articles and amendments proposed.

¹ As amended 7 September 1893. By the original article ministers were also required to seek reelection. The principle laid down in this article is developed in Articles 238 and 239 of the Electoral Law (1894).

² The term "bureau" is used to refer to all other officers of the legislative body, e. g., secretaries, etc.

³ For questions requiring a two-thirds vote, see Articles 61, 62 and 131.

⁴ Law of 3 May 1880 to regulate the form of parliamentary investigations.

ART. 43. To present petitions in person to the houses is forbidden.

Each house has the right to send to the ministers the petitions which are addressed to it. The ministers are obliged to give explanations upon the contents of such petitions whenever the house demands.

ART. 44. No member of either house shall be arrested or prosecuted on account of opinions expressed or votes cast by him in the performance of his duties.

ART. 45. No member of either house shall during the continuance of the session be prosecuted or imprisoned after trial, except by the authority of the house of which he is a member, unless he be apprehended in the commission of an offense.

No member of either house shall be 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.

ART. 46. Each house shall determine by its own rules the manner in which it is to exercise its powers.¹

SECTION 1.—THE HOUSE OF REPRESENTATIVES.

ART. 47.² The members of the House of Representatives shall be chosen by direct election under the following regulations:

One vote is allotted to citizens who have reached the age of 25 years, resident for at least one year in the same commune, and who are not otherwise excluded by law.

One additional vote is allotted in consideration of any one of the following conditions:

1. Having reached the age of 35 years, being married or a widower with legitimate offspring, and paying to the State a tax of not less than 5 francs as a householder, unless exempt on account of his profession.

2. Having reached the age of 25 years and being the owner either of real estate of the value of at least 2,000 francs, said value to be rated on the basis of the cadastral assessment, or possessing income from land corresponding to such valuation, or being inscribed in the great book of the public debt, or possessing obligations of the Belgian government savings bank bearing at least 100 francs interest.

These inscriptions and bank books must have belonged to the holder for at least two years.

¹ See F. MOREAU ET J. DELPECH, *Les Règlements des Assemblées législatives*, vol. I (Paris, 1906), pp. 617 and 637.

² As amended 7 September 1893. Elections of representatives are regulated by Laws of 12 April and 28 June 1894, as modified by Laws of 11 June 1896, 31 March 1898, 29 December 1899, and 18 April 1902. Proportional representation was introduced by the Law of 29 December 1899.

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 allotted to citizens who have reached the age of 25 years and who fulfill the following conditions:

a. Holding a diploma from an institution of higher instruction, or an indorsed certificate showing the completion of a course of secondary education of the higher degree, without distinction between public or private institutions.

b. Filling or having filled a public office, holding or having held a position, practicing or having practiced a private profession which presupposes that the holder possesses at least the knowledge imparted in secondary instruction of the higher degree. These offices, positions, and professions, likewise the time during which they must have been held or practiced, shall be determined by law.

No one shall have more than three votes.

ART. 48.¹ The constitution of the electoral colleges shall be regulated by law for each province.

Voting is obligatory; it shall take place in the commune, when not otherwise determined by law.

ART. 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.

ART. 50. To be eligible it is necessary:

1. To be a Belgian citizen by birth, or to have received full naturalization.

2. To enjoy civil and political rights.

3. To have reached the age of 25 years.

4. To be a resident of Belgium.

No other condition of eligibility shall be required.

ART. 51.² The members of the House of Representatives shall be elected for a term of four years; one half being elected every two years, in the order determined by the electoral law.

In case of dissolution, the House shall be entirely renewed.

ART. 52. Each member of the House of Representatives shall receive an annual compensation of 4,000 francs.

He shall have, in addition, the right of free transportation upon all State and concessionary railways from the place of his residence to the city where the session is held.

¹ As amended 7 September 1893. The obligation of voting is sanctioned by Article 223 of the Electoral Code. In the legislative elections of 1900, the proportion of absentees averaged 6 per cent.

² As amended 7 September 1893.

SECTION II.—THE SENATE.

ART. 53.¹ The Senate shall be composed:

1. Of members elected according to the population of each province, conformably to Article 47; though the law may require that the electors shall have reached the age of 30 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.

ART. 54.² The number of senators to be elected directly by the voters shall be equal to one half the number of members of the House of Representatives.

ART. 55. Senators shall be elected for a term of eight years; one half being elected every four years in the order determined by the electoral law.

In case of dissolution, the Senate shall be entirely renewed.

ART. 56.³ In order to be elected and to remain a senator, it shall be necessary:

1. To be a Belgian citizen by birth, or to have received full naturalization.

2. To enjoy civil and political rights.

3. To be a resident of Belgium.

4. To be at least 40 years of age.

5. To pay into the treasury of the State at least 1,200 francs of direct taxes, including licenses.

Or to be either the proprietor or the usufructuary of real estate situated in Belgium, the assessed income 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 5,000 inhabitants, the list shall be completed by the addition of as many of the highest taxpayers of the province as may be necessary to make this proportion. The citizens on this supplementary list are eligible only in the province where they reside.

ART. 56 *bis*.⁴ The senators elected by the provincial councils shall be exempt from all property qualification; they shall not be members

¹As amended 7 September 1893. The election of senators by the provincial councils is an innovation of the reform of 1893. According to the electoral lists for 1906–1907, the number of senatorial electors was 1,356,542, and that of the supplementary votes was 887,250.

²As amended 7 September 1893. The Law of 18 April 1902 raised the number of senators directly elected by the electoral body to 83 and of those elected by the provincial councils to 27.

³As amended 7 September 1893.

⁴Added 7 September 1893.

of the assembly which elects them, nor have been members of it during the year of the election nor during the two preceding years.

ART. 57. Senators shall receive neither salary nor emolument.

ART. 58.¹ The sons of the King, or if there be none, the Belgian princes of the branch of the royal family designated to succeed to the throne, shall be by right senators at the age of 18 years. They shall have no deliberate vote until the age of 25.

ART. 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.

ART. 60.² The constitutional powers of the King are hereditary in the direct descendants, natural and legitimate, of His Majesty Leopold George Christian Frederick of Saxe-Coburg, from male to male, in the order of primogeniture, and to the perpetual exclusion of females and of their descendants.

The prince who shall marry without the consent of the King, or of those who in his absence exercise his authority as provided by the Constitution, shall forfeit his rights to the crown.

Nevertheless, with the consent of the two houses, he may be relieved of this forfeiture by the King or by those who, in his absence, exercise his authority according to the Constitution.

ART. 61.³ In default of male descendants of His Majesty Leopold George Christian Frederick of Saxe-Coburg, the King may name his successor, with the consent of the houses expressed in the manner prescribed by the following article.

If no nomination has been made after the manner described below, the throne will be vacant.

ART. 62. The King shall not at the same time be the head of another State, without the consent of the two houses.⁴

Neither of the houses shall deliberate upon this matter unless two thirds, at least, of the members who compose it are present, and the resolution must be adopted by at least two thirds of the votes cast.

ART. 63. The person of the King is inviolable; his ministers are responsible.

ART. 64. No decree of the King shall take effect unless it is countersigned by a minister, who, by that act alone, renders himself responsible for it.

¹ As amended 7 September, 1893.

² Paragraphs 2 and 3 were added 7 September 1893.

³ As amended 7 September 1893. Only the form of this article was changed.

⁴ King Leopold II was authorized by the House of Representatives (28 April 1885) and the Senate (30 April 1885) to be the sovereign of the Congo Free State.

ART. 65. The King appoints and dismisses his ministers.

ART. 66. He confers the grades in the army.¹

He appoints the officers of the general administration and for foreign relations, except as otherwise established by law.

He appoints other governmental officials only by virtue of an express provision of law.

ART. 67. He shall issue all regulations and decrees necessary for the execution of the laws, without power to suspend the laws themselves, or to dispense with their execution.

ART. 68. The King commands the forces both by land and sea, declares war, makes treaties of peace, of alliance and of commerce. He shall give information to the two houses of these acts as soon as the interests and safety of the State permit, adding thereto suitable comments.

Treaties of commerce, and treaties which may burden the State, or bind Belgians individually, shall take effect only after having received the approval of the two houses.

No cession, exchange, or addition of territory shall take place except by virtue of a law. In no case shall the secret articles of a treaty be destructive of those openly expressed.

ART. 69. The King approves and promulgates the laws.²

ART. 70. The houses shall assemble each year, the second Tuesday in November, unless they shall have been previously summoned by the King.

The houses shall remain in session at least 40 days each year.

The King pronounces the closing of the session.

The King shall have the right to convene the houses in extraordinary session.

ART. 71. The King shall have the right to dissolve the houses either simultaneously or separately. The act of dissolution shall order a new election within 40 days, and summon the houses within two months.

ART. 72. The King may adjourn the houses. In no case shall the adjournment exceed the term of one month, nor shall it be renewed in the same session, without the consent of the houses.

ART. 73. He shall have the right to remit or reduce the penalties pronounced by the judges of courts, except such as are fixed by law in the case of ministers.

ART. 74. He shall have the right to coin money, in accordance with the law.

ART. 75. He shall have the right to confer titles of nobility, but without the power of attaching to them any privilege.

¹ The rules for military advancement are contained in the Laws of 16 June 1836. See below, Article 124.

² Law of 18 April 1898.

ART. 76. He may confer military orders in accordance with the provisions of the law.

ART. 77. The civil list shall be fixed by law for the duration of each reign.¹

ART. 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.

ART. 79. At the death of the King the houses shall assemble without a summons, at the latest on the tenth day after his decease. If the houses shall have been previously dissolved, and if in the act of dissolution the reassembling had been fixed for a day later than the tenth day, the former members shall resume their duties until the assembling of those who should replace them.

If only one house shall have been dissolved, the same rule shall be followed with regard to that house.

From the date of the death of the King and until the taking of the oath by his successor to the throne, or by the agent, the constitutional powers of the King shall be exercised, in the name of the Belgian people, by the ministers united in council, and upon their responsibility.

ART. 80. The King is of age when he shall have completed the age of 18 years.

He shall not take possession of the throne until he shall have solemnly taken, before the united houses, the following oath:

I swear to observe the Constitution and the laws of the Belgian people, to maintain the national independence and the integrity of the territory.

ART. 81. If, at the death of the King, his successor is a minor, the two houses shall unite in one assembly, for the purpose of providing for the regency and guardianship.

ART. 82. If the King becomes incapacitated to reign, the ministers, after having ascertained this incapacity, shall immediately convene the houses. The houses shall provide for the regency and guardianship.

ART. 83. The regency shall be conferred upon only one person.

The regent shall enter upon his duties only after having taken the oath prescribed by Article 80.

ART. 84. No change in the Constitution shall be made during a regency.

ART. 85. In case there is a vacancy of the throne, the houses deliberating together shall arrange provisionally for the regency, until the first meeting of the houses after they have been wholly renewed.

¹ The civil list of the present King, Albert, was fixed by law of 30 December 1909 at 3,300,000 francs.

That meeting shall take place at the latest within two months. The new houses deliberating together shall provide definitely for the vacancy.

SECTION II.—THE MINISTERS.

ART. 86. No person shall be a minister unless he is a Belgian by birth, or has received full naturalization.

ART. 87. No member of the royal family shall be a minister.

ART. 88. Ministers shall have no deliberative vote in either house unless they are members of it.

They shall have admission to either house, and are entitled to be heard when they so request.

The houses shall have the right to demand the presence of ministers.

ART. 89. In no case shall the verbal or written order of the King relieve a minister of responsibility.

ART. 90. The House of Representatives shall have the right to accuse ministers and to arraign them before the Court of Cassation, which, sitting in full bench, alone shall have the right to judge them, except in such matters as shall be established by law respecting a civil suit by an aggrieved party and respecting crimes and misdemeanors 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.¹

ART. 91. The King shall not have power to grant pardon to a minister sentenced by the Court of Cassation except upon request of one of the two houses.

CHAPTER III.—THE JUDICIAL POWER.

ART. 92. Actions which involve questions of civil right belong exclusively to the jurisdiction of the courts.

ART. 93. Actions which involve questions of political rights belong to the jurisdiction of the courts, except as otherwise determined by law.

ART. 94. No tribunal nor contentious jurisdiction shall be established except by virtue of a law.² No commissions or extraordinary tribunals under any title whatever shall be established.

ART. 95. There shall be a Court of Cassation for the whole of Belgium.³

¹ See below, Article 134.

² Law of 18 June 1869 on the organization of the judiciary, amended 1 April 1879.

³ The composition of the Court of Cassation is governed by the Law of 18 June 1869. Its principal attributions are fixed by the Laws of 7 July 1865 and 25 March 1876.

This court shall not consider questions of fact except in the trial of ministers.

ART. 96. The sessions of the courts shall be public, unless this publicity is declared by a judgment of the court to be dangerous to public order or morals.

In cases of political offenses and offenses of the press closed doors shall be enforced only by a unanimous vote of the court.

ART. 97. Every judgment shall be pronounced in open court, and the reasons therefor stated.

ART. 98. The right of trial by jury shall be established in all criminal cases and for all political offenses and offenses of the press.

ART. 99. The justices of the peace and the judges of courts shall be appointed directly by the King.

The members of the courts of appeal and the presidents and vice presidents of the courts of original jurisdiction shall be appointed by the King from two double lists, presented the one by these courts and the other by the provincial councils.

The members of the Court of Cassation shall be appointed by the King from two double lists presented one by the Senate and one by the Court of Cassation.

In both cases the candidates named upon one list may be named also upon the other.

All the names shall be published at least 15 days before the appointment.

The courts shall choose their presidents and vice presidents from among their own number.

ART. 100. Judges shall be appointed for life.

No judge shall be deprived of his office or suspended until after trial and judgment.

The removal of a judge from one place to another shall take place only by means of a new appointment and with his consent.

ART. 101. The King appoints and removes the State officials serving in the courts and tribunals.

ART. 102. The salaries of the members of the judiciary shall be fixed by law.

ART. 103. No judge shall accept from the government any salaried office, unless he perform the duties thereof gratuitously, and not then if it is contrary to the law of incompatibility.¹

ART. 104. There shall be three courts of appeal in Belgium.

Their jurisdiction and the places where they shall be held shall be determined by law.

ART. 105. Special laws shall govern the organization of military tribunals, their powers, the rights and obligations of the members of these tribunals and the duration of their functions.²

¹ Laws of 26 May 1848 and 18 June 1869.

² Law of 15 June 1909.

There shall be commercial courts in places which shall be designated by law. Their organization, powers, the method of appointment of their members, and the duration of their term of office shall also be determined by law.

ART. 106. The Court of Cassation shall decide conflicts of jurisdiction, according to the method prescribed by law.

ART. 107. The courts and tribunals shall enforce executive decrees and ordinances, whether general, provincial, or local, only so far as they shall conform to the laws.

CHAPTER IV.—PROVINCIAL AND COMMUNAL INSTITUTIONS.

ART. 108. Provincial and communal institutions shall be regulated by law.

The law shall establish the application of the following principles:

1. Direct election, except in the cases which may be established by law with regard to the chiefs of the communal administration and government commissioners acting in the provincial councils.

2. The relegation to provincial and communal councils of all provincial and communal affairs, without prejudice to the approval of their acts in the cases and according to the procedure determined by law.

3. The publicity of the sittings of the provincial and communal councils within the limits established by law.

4. The publicity of budgets and of accounts.

5. The intervention of the King or of the legislative power to prevent provincial and communal councils from exceeding their powers and from acting against the general welfare.

ART. 109. The keeping of the civil register is exclusively the duty of the communal authorities.

TITLE IV.—FINANCES.

ART. 110. No tax for the benefit of the State shall be imposed except by law.

No provincial charge or tax shall be imposed without the consent of the provincial council.

No communal charge or tax shall be imposed without the consent of the communal council.

The law shall determine the exceptions which experience shall show to be necessary in regard to provincial and communal taxes.

ART. 111. Taxes for the benefit of the State shall be voted annually.

The laws which impose such taxes shall remain in force for one year only unless they are reenacted.

ART. 112. No privilege shall be established with regard to taxes. No exemption or abatement of taxes shall be established except by law.

ART. 113. Beyond the cases expressly excepted by law, no payment shall be exacted of any citizen other than taxes levied for the benefit of the State, of the province, or of the commune. No change shall be made in the existing system of *polders*¹ and *wateringen*² which remain subject to ordinary legislation.

ART. 114. No pension or gratuity shall be paid out of the public treasury without the authority of law.

ART. 115. Each year the houses shall enact the law of accounts and vote the budget.

All the receipts and expenditures of the State shall be contained in the budget and in the accounts.

ART. 116. The members of the Court of Accounts shall be appointed by the House of Representatives, and for a term fixed by law.

This court shall be entrusted with the examination and settlement of the accounts of the general administration and of all persons accountable to the public treasury. It shall see that no item of the expenditures of the budget is overdrawn and that no transfer takes place. It shall audit the accounts of the different administrative organs of the State, and shall gather for this purpose all information and all necessary vouchers. The general accounts of the State shall be submitted to the House with the comments of the Court of Accounts.

This court shall be organized by a law.³

ART. 117. The salaries and pensions of the ministers of religion shall be paid by the State; the sums necessary to meet this expenditure shall be entered annually in the budget.⁴

TITLE V.—THE PUBLIC FORCE.

ART. 118. The method of recruiting the army shall be determined by law. The laws shall also regulate the promotion, the rights and the duties of soldiers.⁵

¹ Polders are lands reclaimed from the sea by dikes. The owners of these lands are grouped into associations for the maintenance of the dikes and are required by law to bear the expense of such maintenance.

² Wateringen are associations formed for the purpose of irrigating and draining lands reclaimed from the sea. They have power to raise funds by taxing the lands affected by such improvements.

³ Law of 29 October 1846.

⁴ This clause is interpreted to apply only to the denominations recognized by law in Belgium in 1830; these are the Catholic, Protestant Evangelical, Anglican and Jewish; almost the whole of the Belgian population is Catholic. No minister is entitled to a salary (1) if he must receive license from a person practicing a profession without legal authorization, (2) if, being a foreigner, he performs the ministerial functions without the permission of the government.

⁵ The organization of the Belgian army is governed by the Laws of 5 April 1868, 3 June 1870, 16 August 1873 and 21 March 1902.

ART. 119. The army contingent shall be voted annually. The law which fixes it shall remain in force for one year only, unless re-enacted.

ART. 120. The organization and the attributions of the armed police shall be regulated by a law.¹

ART. 121. No foreign troops shall be admitted into the service of the State, to occupy or to cross its territory except by virtue of a law.

ART. 122. There shall be a citizen militia, the organization of which shall be regulated by law.²

The officers of all grades, at least as high as that of captain, shall be chosen by the militia, with such exceptions as may be judged necessary for accountants.

ART. 123. The militia shall not be brought into active service except by virtue of a law.

ART. 124. Soldiers shall not be deprived of their grades, honors, or pensions except in the manner prescribed by law.³

TITLE VI.—GENERAL PROVISIONS.

ART. 125. The Belgian nation adopts for its colors, red, yellow and black, and for the coat of arms of the Kingdom, the Belgian lion, with the motto, "Union Gives Strength."

ART. 126. The city of Brussels is the capital of Belgium and the seat of government.

ART. 127. No oath shall be imposed except by virtue of law. The form of the oath shall also be determined by law.

ART. 128. Every foreigner within the territory of Belgium shall enjoy protection of his person and property, except as otherwise established by law.

ART. 129. No law, ordinance, or regulation of the general, provincial, or communal government shall be obligatory until after having been published in the manner prescribed by law.⁴

ART. 130. The Constitution shall not be suspended, either in whole or in part.

TITLE VII.—THE REVISION OF THE CONSTITUTION.

ART. 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.

¹ This law does not exist; the old regulations are still in force.

² Law of 9 September 1897.

³ Three Laws of 16 June 1836.

⁴ See Article 69.

Two new houses shall then be summoned, in conformity with Article 71.

These houses, with the approval of the King, shall then act upon the points submitted for revision.

In this case the houses shall not deliberate unless at least two thirds of the members of each are present, and no amendment shall be adopted unless it is supported by at least two thirds of the votes.

TITLE VIII.—TEMPORARY PROVISIONS.

ART. 132. For the first choice of a head of the State the first provision of Article 80 may be neglected.

ART. 133. Foreigners established in Belgium before 1 January 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 authorization.

ART. 134. Until further provision by law, the House of Representatives shall have discretionary power to accuse a minister, and the Court of Cassation to try him, find the offense and fix the penalty.

Nevertheless the penalty shall not extend farther than removal from office, without prejudice to the cases expressly provided for by the penal laws.¹

ART. 135. The personnel of the courts shall be maintained as it now exists, until further provision has been made by law.

Such a law shall be enacted during the first legislative session.

ART. 136. A law, passed during the first legislative session, shall provide for the manner of the first nomination of members of the Court of Cassation.²

ART. 137. The fundamental law of 24 August 1815 and the provincial and local statutes are abolished. However, the provincial and local authorities shall retain their powers until a law shall make other provision.

ART. 138. As soon as this Constitution goes into effect, all laws, decrees, orders, regulations and other instruments contrary thereto are abrogated.

¹ This transitory legislation is still in force, no organic law having determined the cases of ministerial responsibility.

² Article 99 provides for subsequent appointments.

SUPPLEMENTARY PROVISION.

ART. 139. The National Congress declares that it is necessary to provide for the following objects, by separate laws and as soon as possible:

1. The press.¹
2. The organization of the jury.²
3. The finances.³
4. Provincial and communal organization.⁴
5. The responsibility of ministers ⁵ and of other officers.
6. The judicial organization.⁶
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 organization of the army, the rights of advancement and of retirement and the military penal code.⁷
11. The revision of the codes.⁸

¹ Decree of 20 July 1831, amended by the Penal Code in many of its provisions.

² See above, Article 94.

³ Law of 15 May 1846 on the compatibility of the State.

⁴ See above, Article 108.

⁵ See above, Article 134.

⁶ See above, Article 94.

⁷ Military Penal Code of 27 May 1870. See above, Article 118.

⁸ Penal Code of 8 June 1867. Code of French Commerce has been revised entirely by successive laws, the last of which bears the date of 25 August 1891. Title I of the preliminary book of the new Code of Civil Procedure was promulgated on 25 March 1876. The Law of 17 April 1878 contains the preliminary title of the new Code of Penal Procedure. Rural Code of 7 October 1886.

BRAZIL.

Until 1815 Brazil was a Portuguese colony. The invasion of Portugal by Napoleon in 1807 forced the royal family to seek refuge in Brazil, which continued for several years to be the seat of government of the Kingdom. By decree of 16 December 1815, Brazil ceased to be a colony and became an integral part of the "Kingdom of Portugal, Brazil and Algarves." The revolution which broke out in Portugal in 1821 forced King John VI to return to Lisbon, leaving his son, Dom Pedro, as regent. The sentiment in favor of separation had been growing for some time, and when orders were sent to Dom Pedro to return to Portugal he declared his intention of remaining in Brazil. Brazilian independence was declared, Dom Pedro became Emperor on 12 October 1822 and an imperial Constitution was promulgated on 25 March 1824.¹ Portugal recognized the independence of Brazil in 1825.

The movement for the establishment of a republic began to gain strength after 1870, but was held in check by the popularity of Dom Pedro II. In 1889, however, the republicans felt strong enough for action. On 15 November of that year a bloodless revolution occurred, the Republic of the United States of Brazil was proclaimed, and the imperial family was sent to Portugal. The revolution was essentially a military movement and for several years Brazil remained under the control of a military party. A republican Constitution was adopted on 24 February 1891, which established a federal government and erected the former Provinces into States. This Constitution is still in force and has never been amended.²

CONSTITUTION OF 24 FEBRUARY 1891.³

[PREAMBLE.]

We, the representatives of the Brazilian people, assembled in constitutional convention for the purpose of organizing a free and demo-

¹ English translation by J. C. BRANNER in *Foreign Constitutions* [*The Convention Manual of the Sixth New York State Constitutional Convention, 1894*, part 2, vol. 3] (Albany, 1894), pp. 72-105.

² These introductory paragraphs are based upon W. F. DODD, *Modern Constitutions* (Chicago, 1909), vol. I, p. 149, and F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. I, pp. 624-626.

³ Official Portuguese text published in the *Diário Oficial* of 25 February 1891. Portuguese text and English translation in parallel columns, followed by a Spanish translation in J. I. RODRIGUEZ, *American Constitutions*, vol. 1 (Washington, 1906), pp. 134-190. French translation in DARESTE, *op. cit.*, pp. 626-655. German translation in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 1022-1045. English translation in DODD, *op. cit.*, pp. 150-181; *British and Foreign State Papers*, 83: pp. 487-510; and *Foreign Constitutions* (see above, note 1), pp. 113-138. The translation given here is based on the one in RODRIGUEZ.

cratic government, do hereby establish, decree and promulgate the following Constitution for the Republic of the United States of Brazil.

TITLE I.—THE FEDERAL ORGANIZATION.

PRELIMINARY PROVISIONS.

ARTICLE 1. The Brazilian nation adopts for its government the federal republican representative form, as proclaimed on 15 November 1889, and constitutes itself, by the perpetual and indissoluble union of its former provinces, into the United States of Brazil.

ART. 2. Each of the former provinces shall constitute a State,¹ and the former neutral municipal district shall form the Federal District,² and shall continue to be the capital of the Union until the provisions of the following article shall be put into effect.

ART. 3. A zone of fourteen thousand four hundred square kilometers, situated in the central plateau of the Republic, which shall be hereafter marked off, shall be set apart, as property of the Union, and on this site the future federal capital shall be established.

SOLE §. When the transfer of the capital has been effected, the present Federal District shall constitute a State.

ART. 4. The States may become incorporated one with another, may subdivide or dismember themselves to annex themselves to others or to form new States, if the respective legislative assemblies consent thereto in two successive annual sessions, and if the National Congress gives its approval.

ART. 5. Each State shall, at its own expense, provide for the needs of its own government and administration; the Union, however, shall lend aid to a State which asks for assistance in case of public calamity.

ART. 6. The federal government shall not interfere in matters pertaining peculiarly to the States, save:

1. To repel foreign invasion, or the invasion of one State by another.

2. To maintain the federal republican form of government.

3. To reestablish order and tranquillity in the States, upon the requisition of their respective governments.

4. To secure the execution of the federal laws and judgments.

ART. 7. It is the exclusive prerogative of the Union to decree:

¹ See the list of twenty States (not including the Federal District), p. 66, note under Article 28, Section 1.

² The District here referred to, embracing 540 square miles on the southeastern coast, is still the capital of the Union.

1. Duties on imports from foreign countries.

2. Entry, clearance, and port dues of vessels; but the coastwise trade shall be free to domestic and foreign merchandise which has already paid an import duty.

3. Stamp duties, save the restriction mentioned in Article 9, § 1, no. 1.

4. Federal postal and telegraph taxes.

§ 1. The Union shall also have exclusive power:

1. To establish banks of issue.

2. To create and maintain custom-houses.

§ 2. Taxes levied by the Union shall be uniform for all the States.

§ 3. The laws of the Union and the acts and decrees of its authorities shall be executed throughout the whole country by federal officials; but the execution of the federal laws may be entrusted to the governments of the States, if they consent thereto.

ART. 8. The federal government is forbidden to make distinctions and preferences in any way whatever in favor of the ports of one State as against those of another.

ART. 9. The States shall have exclusive power to decree taxes:

1. On the exportation of merchandise produced in their own territory.

2. On rural and city real estate.

3. On the transfer of property.

4. On industries and professions.

§ 1. The States shall also have the exclusive right to decree:

1. Stamp taxes affecting acts emanating from their respective governments and concerning their internal affairs.

2. Contributions relating to their postal and telegraph service.

§ 2. The products of one State are exempted from imposts in any other State from which they may be exported.

§ 3. A State is permitted to levy duties on imports of foreign goods only when such goods are intended for consumption within its own territory, the proceeds of the duty reverting, however, to the federal treasury.

§ 4. The States have the right to establish telegraph lines between different points of their own territories, and between these points and those of other States which are not provided with a federal telegraph service, the Union reserving the right to acquire such lines when the general interest may require it.

ART. 10. It is prohibited to the States to levy taxes on federal property or revenue, or on services in charge of the Union, and vice versa.

ART. 11. It is forbidden to the States, as well as to the Union :

1. To impose duties on the products of a State, or of a foreign country, when in transit through the territory of another State, or going from one State to another, or on the vehicles, whether by land or water, by which they are transported.

2. To establish, subsidize or interfere with the exercise of religious worship.

3. To enact retroactive laws.

ART. 12. In addition to the sources of revenue set forth in Articles 7 and 9, it shall be lawful for the Union, as well as for the States, cumulatively or otherwise, to create any others whatsoever, provided that they are not in contravention of the terms of Articles 7, 9 and 11, No. 1.

ART. 13. The right of the Union and of the States to legislate in regard to railways and navigation of internal waters shall be regulated by a federal law.¹

SOLE §. Coastwise navigation shall be carried on by national vessels.

ART. 14. The land and naval forces are permanent national institutions, intended for the defense of the country from foreign attack and for the maintenance of the laws of the land.

Within the limits of the law, the armed forces are from their nature bound to obey their superiors in rank, and to support the constitutional institutions.

ART. 15. The legislative, executive and judicial powers are organs of the national sovereignty, harmonious with each other, and independent among themselves.

SECTION I.—THE LEGISLATIVE POWER.

CHAPTER I.—GENERAL PROVISIONS.

ART. 16. The legislative power shall be exercised by the National Congress, subject to the approval of the President of the Republic.

§ 1. The National Congress shall be composed of two branches: the Chamber of Deputies and the Senate.

§ 2. The elections for senators and for deputies shall be held simultaneously throughout the country.

§ 3. No person shall be senator and deputy at the same time.

ART. 17. The Congress shall, without being convoked, assemble in the federal capital on the third day of May of each year, unless another day is designated by law, and shall continue in session four months from the date of the opening, and may be prorogued, adjourned, or convoked in extraordinary session.

¹ Law of 14 October 1892 (No. 109).

§ 1. The Congress alone shall have the right to prorogue and adjourn its sessions.

§ 2. Each legislature shall last three years.

§ 3. When a vacancy occurs in the Congress on account of resignation or for any other reason, the respective State shall order immediately the election of a new member.

ART. 18. The Chamber of Deputies and the Senate shall meet separately and, unless otherwise determined by a majority vote, their sessions shall be public. A majority of votes shall be required to pass any measure in either house, provided there is present an absolute majority of the total number of its members.

SOLE §. Each house shall have power:

To verify and accept the powers of its members.

To choose its officers.

To make the rules of its proceedings.

To provide for its own police service.

To appoint its clerks.

ART. 19. Deputies and senators can not be held to account for their opinions, expressions or votes in the discharge of their mandate.

ART. 20. Deputies and senators, from the time they have received their credentials until the new election, shall not be arrested or prosecuted criminally without the previous permission of the house to which they belong, except in the case of an unbailable crime *in flagrante delicto*. In the latter case, the court shall collect all the evidence and submit it to the house concerned, which shall decide whether or not an indictment is to be made, unless the accused shall choose to be tried immediately.

ART. 21. The members of the two houses, on taking their seats, shall take a formal oath, in public session, to perform their duties faithfully.

ART. 22. During the sessions the senators and deputies shall receive a salary, the same for members of both houses, and traveling expenses, said emoluments to be fixed by the Congress at the close of each legislature, for the succeeding one.

ART. 23. No member of Congress shall, from the day of his election, enter into contracts with the executive power, or receive from the same any salaried office or commission.

§ 1. From this prohibition are excepted:

1. Diplomatic missions.

2. Military commands and commissions.

3. Legal promotions.

§ 2. No deputy or senator shall, however, accept missions, commissions, or commands, indicated under Nos. 1 and 2 of the preced-

ing section, without first obtaining the permission of the house to which he belongs, when the acceptance precludes the member from exercising his legislative functions, except in case of war or in cases in which the honor and integrity of the Union are involved.

ART. 24. No deputy or senator shall be president or director of a bank, company, or enterprise which enjoys favors from the federal government defined by law.

SOLE §. Failure to observe the provisions contained in this and the preceding article shall entail the loss of the mandate.

ART. 25. The office of senator or deputy is incompatible with the exercise of any other functions during the sessions.

ART. 26. The following are the conditions of eligibility to the National Congress:

1. To enjoy the rights of a Brazilian citizen and be entitled to be registered as an elector.

2. For the Chamber of Deputies, to have been a Brazilian citizen for more than four years; for the Senate, Brazilian citizenship of more than six years.¹

This provision does not apply to the citizens mentioned in No. 4 of Article 69.

ART. 27. The Congress shall define, by a special law, the cases of ineligibility to Congress.

CHAPTER II.—THE CHAMBER OF DEPUTIES.

ART. 28. The Chamber of Deputies is composed of representatives of the people elected by the States and the Federal District, by direct suffrage, provided the representation of the minority is guaranteed.²

§ 1. The number of deputies shall be fixed by law and shall not exceed one for every 70,000 inhabitants, but each State shall have at least four deputies.³

¹ The draft of the Constitution proposed by the provisional government required seven and nine years respectively.

² The law regulating elections bears the date of 26 January 1892 (No. 35). The Law of 7 December 1896 deals with the procedure to be followed in federal elections. The electoral laws were codified by a decree of 7 February 1894 (No. 1668).

³ The present division of deputies between the 20 States and the Federal District is as follows:

Alagoas	6	Parana	4
Amazonas	4	Pernambuco	17
Bahia	22	Piauhv	4
Ceara	10	Rio de Janeiro	17
Distrito Federal	10	Rio Grande do Norte	4
Espirito Santo	4	Rio Grande do Sul	16
Goyaz	4	Santa Catharina	4
Maranhão	7	São Paulo	22
Matto Grosso	4	Sergipe	4
Minas Geraes	37		
Para	7	Total	212
Parahyba	5		

§ 2. For this purpose the federal government shall order a census of the population of the Republic to be taken at once, which shall be renewed every 10 years.

ART. 29. To the Chamber belongs the initiative for the adjournment of the legislative session and of all tax laws, of laws fixing the land and naval forces, in the discussion of recommendations made by the executive power, and in the decision of the question whether the President of the Republic should or should not be impeached, under the provisions of Article 53, and whether the cabinet ministers should or should not also be impeached for crimes committed by them jointly with the President of the Republic.

CHAPTER III.—THE SENATE.

ART. 30. The Senate is composed of citizens eligible under the terms of Article 26, who are over 35 years old. There shall be three senators for each State and three for the Federal District, all of them elected in the same way as the deputies.¹

ART. 31. The term of service of the senators shall be nine years, one third of the Senate being renewed every three years.

SOLE §. The term of a senator elected in place of another shall continue during the remainder of the term of the senator replaced.

ART. 32. The Vice-President of the Republic shall be the president of the Senate, where he shall have only the vote of rank (*voto de qualidade*).² and shall be replaced, in case of absence or disability, by the vice-president of that house.

ART. 33. The Senate alone has the power to try and pass sentence on the President of the Republic and the other federal officers designated by the Constitution, under the conditions and in the manner which it prescribes.

§ 1. The Senate, when sitting as a court of justice, shall be presided over by the president of the Federal Supreme Court.

§ 2. It shall not pass sentence of condemnation unless by two thirds of the members present.

§ 3. It shall not impose other penalties than the loss of office and disqualification to hold any other, without prejudice to the action of ordinary justice against the condemned.

CHAPTER IV.—POWERS OF THE CONGRESS.

ART. 34. The National Congress shall have exclusive power:

1. To estimate the revenue and fix the expenditures of the federal government annually, and to examine the accounts of the receipts and expenditures of each financial year.

¹ The governmental draft proposed the election of senators by the legislatures of the States.

² That is, the right of voting in case of tie.

2. To authorize the executive power to contract loans and conduct other operations of credit.

3. To legislate concerning the public debt and provide for its payment.

4. To control the collection and distribution of the federal revenue.

5. To regulate international commerce as well as that of the States with each other and with the Federal District, to establish custom-houses, to create or abolish warehouses of deposit.

6. To legislate concerning navigation of rivers running through more than one State or extending into foreign territory.

7. To determine the weight, value, inscription, type and denomination of coins.

8. To create banks of issue, to legislate thereon and to levy taxes thereon.

9. To fix the standard of weights and measures.

10. To determine definitively the boundaries of the States, the Federal District, and the national territory.

11. To authorize the government to declare war, when arbitration has failed or can not take place, and to make peace.

12. To decide definitively with regard to treaties and conventions with foreign nations.

13. To change the capital of the Union.¹

14. To grant subsidies to the States in the case referred to in Article 5.

15. To legislate concerning the federal postal and telegraph service.

16. To adopt the measures proper for the protection of the frontiers.

17. To fix annually the land and naval forces.

18. To legislate concerning the organization of the army and navy.

19. To grant or refuse the passage of foreign forces through the territory of the country for the purpose of military operations.

20. To mobilize and make use of the national guard or militia in the cases provided for by the Constitution.

21. To declare a state of siege at one or more points in the national territory, in the emergency of an attack by foreign forces or of internal disturbance, and to approve or suspend the state of siege declared by the executive power or its responsible agents during the recess of Congress.

22. To establish the conditions and methods of elections for federal offices throughout the country.

¹ See above, Article 3.

23. To legislate concerning the civil, commercial and criminal laws of the Republic, and the law of federal procedure.

24. To establish uniform laws on naturalization.

25. To create and abolish federal public offices, to fix the duties of the same and to designate their salaries.

26. To organize the federal judicial system in accordance with Articles 55 and following of Section III.

27. To grant amnesty.

28. To commute and remit penalties imposed upon federal officers in cases of impeachment.

29. To legislate concerning the lands and mines belonging to the Union.

30. To legislate concerning the municipal organization of the Federal District, as well as the police, higher education and other services which in the capital are reserved to the federal government.

31. To submit to special legislation those points of the territory of the Republic needed for the establishment of arsenals or other establishments or institutions for federal use.

32. To regulate cases of extradition between the States.

33. To enact such laws and resolutions as may be necessary for the exercise of the powers belonging to the Union.

34. To enact the organic laws necessary for the complete execution of the Constitution.

35. To prorogue or adjourn its sessions.

ART. 35. The Congress shall also have power, but not exclusively:

1. To see to the observance of the Constitution and laws and to provide for needs of a federal character.

2. To encourage in the country the development of letters, arts and sciences, as well as of immigration, agriculture, industry and commerce, without granting privileges which may embarrass the action of the local governments.

3. To create institutions for higher and secondary education in the States.

4. To provide for secondary education in the Federal District.

CHAPTER V.—LAWS AND RESOLUTIONS.

ART. 36. Save the exceptions specified in Article 29, all bills may originate, indifferently, in the Chamber or in the Senate, and may be introduced by any of their members.

ART. 37. A bill, after being passed in one of the houses, shall be submitted to the other, and if the latter approves of it, shall be sent to the executive power, which, if approving it, shall sanction and promulgate it.

§ 1. If, however, the President of the Republic shall consider the bill unconstitutional, or contrary to the interests of the nation, he shall veto it within 10 working days, counted from that on which

he received it, and shall return it within the same period to the house in which it originated, with his reasons for the veto.

§ 2. The failure of the President of the Republic to approve or disapprove the bill within these 10 days shall be considered as an approval; in case the bill is vetoed after the Congress has closed, the President shall publish his reasons therefor.

§ 3. A bill not approved shall be returned to the house in which it originated, where it shall be discussed and subjected to a yea-and-nay vote, and shall be considered approved if it obtain two thirds of the votes of the members present. In this case, the bill shall be sent to the other house, and if it be there approved in the same manner and by the same majority it shall be sent as a law to the executive power, for formal promulgation.

§ 4. The sanction and promulgation shall be made in the following language:

1. "The National Congress enacts and I approve the following law (or resolution)."

2. "The National Congress enacts and I promulgate the following law (or resolution)."

ART. 38. If the law is not promulgated within 48 hours by the President of the Republic in the cases specified in §§ 2 and 3 of Article 37, the president of the Senate, or the vice-president, if the president does not do it in the same period, shall promulgate it, using the following language: "I, the president (or the vice-president) of the Senate, do hereby make known to all those who may see these presents that the National Congress enacts and promulgates the following law (or resolution)."

ART. 39. A bill from one house, amended in the other, shall return to the former, and if the amendments are accepted therein, shall be sent to the executive power as amended.

§ 1. In the contrary case, it shall go back to the house where it was amended, and if the alterations receive the vote of two thirds of the members present, they shall be considered as approved, and shall then be sent, together with the bill, to the house where it originated, which can only reject them by a two-thirds vote.

§ 2. If the alterations are rejected by such vote, the bill shall be submitted without them to the approval of the executive.

ART. 40. Bills finally rejected, or not approved, shall not be presented again in the same legislative session.

SECTION II.—THE EXECUTIVE POWER.

CHAPTER I.—THE PRESIDENT AND VICE-PRESIDENT.

ART. 41. The executive power shall be exercised by the President of the Republic of the United States of Brazil as elective head of the nation.

§ 1. The Vice-President, elected simultaneously with the President, shall take the place of the latter in case of temporary disability, and shall succeed him in case of vacancy in the Presidency.

§ 2. In case of disability of the Vice-President, or vacancy of his office, the following shall be called in the order named, to fill the Presidency: The vice-president of the Senate, the president of the Chamber of Deputies, the president of the Federal Supreme Court.

§ 3. The following are the essential conditions of eligibility to the Presidency or Vice-Presidency of the Republic:

1. To be a native of Brazil.
2. To enjoy the exercise of political rights.
3. To be over 35 years of age.

ART. 42. If the vacancy in the Presidency or Vice-Presidency occurs, for any cause whatever, before two years of the presidential term have elapsed, a new election shall be held.

ART. 43. The President shall hold his office for four¹ years, and shall not be reelected for the succeeding presidential term.

§ 1. The Vice-President who may have filled the Presidency during the last year of the presidential term shall not be eligible to the Presidency for the succeeding term.

§ 2. The President shall cease to exercise his powers, without fail, on the same day on which his presidential term expires, and the newly elected President shall at once succeed him.

§ 3. In case of the disability or failure of the latter to enter upon the discharge of his duties, the succession shall be effected in accordance with §§ 1 and 2 of Article 41.

§ 4. The first presidential term shall expire on 15 November 1894.

ART. 44. On taking possession of his office, the President, before Congress, or if that body is not in session, before the Federal Supreme Court, shall make the following affirmation:

I promise to maintain and execute the federal Constitution with perfect loyalty, to promote the general welfare of the Republic, to observe its laws, and to uphold the Union, its integrity and independence.

ART. 45. The President and Vice-President shall not leave the national territory without the permission of the Congress, under penalty of loss of office.

ART. 46. The President and Vice-President shall receive the salary fixed by the Congress in the preceding presidential term.

CHAPTER II.—ELECTION OF PRESIDENT AND VICE-PRESIDENT.

ART. 47. The President and Vice-President of the Republic shall be elected by direct suffrage² of the nation and by an absolute majority of votes.

¹ The governmental draft proposed six years.

² The governmental draft proposed two degrees of suffrage. Article 1 of the Transitory Provisions provided for the election of the first President.

§ 1. The election shall be held on the first day of March of the last year of the presidential term, and the examination of the votes received in the respective election districts shall be made in the federal capital and in the capitals of the States. Congress shall count the votes in its first meeting of the same year, with whatever number of members may be present.

§ 2. In case no one of the candidates shall have received an absolute majority of votes, Congress shall elect, by a majority vote of those present, one of the two persons who have obtained the greatest number of votes in the direct election.

In case of tie the candidate of greatest age shall be considered elected.

§ 3. The process of election and counting of votes shall be regulated by ordinary law.

§ 4. The relatives, whether by blood or affinity, within the first and second degrees, of the President or Vice-President who is in the exercise of his powers at the time of the election, or was so six months before, shall be ineligible to the offices of President and Vice-President.

CHAPTER III.—THE POWERS OF THE EXECUTIVE.

ART. 48. To the President of the Republic belongs the exclusive right:

1. To sanction, promulgate and make public the laws and resolutions of the Congress; to issue decrees, instructions and regulations for their faithful execution.

2. To appoint and dismiss at will the ministers of State.

3. To exercise, or to designate one who shall exercise supreme command over the land and naval forces of the United States of Brazil when called to arms for the internal or external defense of the Union.

4. To govern the army and navy and to distribute their respective forces, in accordance with the federal laws and the needs of the national government.

5. To dispose of the civil and military offices of a federal character, under the restrictions specified in the Constitution.

6. To remit and commute penalties for crimes subject to federal jurisdiction, except in the cases mentioned in Article 34, No. 28, and Article 52, § 2.

7. To declare war and to make peace, under the provisions of Article 34, No. 11.

8. To declare war at once in cases of foreign invasion or aggression.

9. To present an annual statement to the National Congress of the condition of the country, indicating pressing measures and re-

forms, by means of a message, which he shall send to the secretary of the Senate on the day of the opening of the legislative session.

10. To convoke the Congress in extraordinary session.

11. To appoint the federal judges upon nomination by the Supreme Court.

12. To appoint the members of the Federal Supreme Court and diplomatic ministers, with the approval of the Senate.

In the absence of the Congress, he may appoint them temporarily until acted upon by the Senate.

13. To appoint all other members of the diplomatic corps and consular agents.

14. To maintain relations with foreign Powers.

15. To declare directly, or through his responsible agents, a state of siege at any point of the national territory, in case of foreign aggression or serious internal disturbance (Article 6, No. 3; Article 34, No. 21; and Article 80).

16. To enter into international negotiations, to conclude agreements, conventions and treaties, always with the restriction that they are to be referred to the Congress, and to approve those made by the States in conformity with Article 65, submitting them, at the time of their execution, to the authority of the Congress.

CHAPTER IV.—MINISTERS OF STATE.

ART. 49. The President of the Republic is assisted by the ministers of State, agents of his confidence, who shall countersign his acts, and each of whom shall preside over one of the ministries into which the federal administration is divided.¹

ART. 50. The ministers of State shall not exercise any other public employment or function, nor shall they be elected President or Vice-President of the Union, deputy or senator.

SOLE §. Any deputy or senator who shall accept the position of minister of State shall lose his seat and a new election shall at once be held, in which he shall be ineligible.

ART. 51. The ministers of State shall not appear at the meetings of the Congress and shall communicate with that body only in writing or personally by means of conferences with the committees of the houses.

The annual reports of the ministers shall be addressed to the President of the Republic and distributed to all the members of Congress.

ART. 52. The ministers of State are not responsible to the Congress or to the courts for advice given to the President of the Republic.

§ 1. They are responsible, however, for their acts, if these constitute crimes defined by law.

¹ The Law of 30 October 1891 (No. 23) created 7 ministries. Later reduced to 6, they were again (1909) restored to 7.

§ 2. For ordinary offenses and in cases of impeachment they shall be prosecuted and tried by the Federal Supreme Court, and for those committed jointly with the President of the Republic, by the authority competent to pass judgment on the latter.

CHAPTER V.—THE RESPONSIBILITY OF THE PRESIDENT.

ART. 53. The President of the Republic of the United States of Brazil, after the Chamber of Deputies shall have decided that he should be tried on charges made against him, shall be brought to trial and judgment before the Federal Supreme Court in cases of ordinary crimes, and before the Senate in cases of impeachment.

SOLE §. After it has been decided that the President shall be tried, he shall be suspended from the exercise of his functions.

ART. 54. Acts for which the President of the Republic may be impeached are those which are directed against:

1. The political existence of the Union.
2. The Constitution and the form of the federal government.
3. The free exercise of political powers.
4. The legal enjoyment and exercise of political or individual rights.
5. The internal security of the country.
6. The honesty of the administration.
7. The constitutional custody and use of public funds.
8. The appropriations voted by Congress.

§ 1. These offenses shall be defined by a special law.¹

§ 2. Another law shall regulate the mode of accusation, procedure and judgment.²

§ 3. Both of these laws shall be enacted in the first session of the first Congress.

SECTION III.—THE JUDICIAL POWER.

ART. 55. The judicial power of the Union shall be vested in a Federal Supreme Court, sitting in the capital of the Republic, and in as many inferior federal judges and courts, distributed through the country, as the Congress shall create.

ART. 56. The Federal Supreme Court shall be composed of 15 justices, appointed under the provisions of Article 48, No. 12, from among the citizens of notable learning and reputation, eligible to the Senate.

ART. 57. The federal justices shall hold office for life, being removable only by judicial sentence.

§ 1. Their salaries shall be fixed by law and can not be diminished.

¹ Law of 7 January 1892 (No. 27).

² Law of 8 January 1892 (No. 30).

§ 2. The Senate shall try the impeachments of the members of the Federal Supreme Court and the Federal Supreme Court those of the lower federal judges.

ART. 58. The federal courts shall choose their presidents from among their own members, and shall organize their respective clerical corps.

§ 1. In these corps the appointment and dismissal of the respective clerks, as well as the filling of the judicial offices in the judicial districts, shall belong to the presidents of the respective courts.

§ 2. The President of the Republic shall appoint, from among the members of the Federal Supreme Court, the Attorney-General of the Republic, whose attributions shall be defined by law.

ART. 59. The Federal Supreme Court shall have power:

I. To try with original and exclusive jurisdiction:

a. The President of the Republic for ordinary crimes, and the ministers of State in the cases specified in Article 52.

b. The diplomatic ministers for ordinary crimes and in cases of impeachment.

c. Questions and conflicts between the Union and the States, or between the States one with another.

d. Suits and claims between foreign nations and the Union, or between foreign nations and the States.

e. Conflicts between the federal judges or courts one with another, or between them and those of the States, as also conflicts of the judges and courts of one State with the judges and courts of another State.

II. To decide, on appeal, questions passed upon by the inferior federal judges and courts, as well as those mentioned in § 1 of the present article and in Article 60.

III. To review decided cases under the provisions of Article 81.

§ 1. An appeal to the Federal Supreme Court can be taken against decisions rendered in the last instance, by the courts of the State:

a. When the validity or application of the federal laws or treaties is called in question and the decision of the State court shall be against the same.

b. When the validity of laws or acts of the governments of the States in opposition to the Constitution or to the federal laws is contested and the State court shall have decided in favor of the validity of the acts or laws in question.

§ 2. In the cases which involve the application of the laws of the States, the federal court shall consult the jurisprudence of the local tribunals, and, vice versa, the State court shall consult that of the federal tribunals, when the interpretation of the laws of the Union is involved.

ART. 60. It belongs to the federal judges and courts to try and decide:

a. Cases in which one of the parties bases his claim or defense on some provision of the Federal Constitution.

b. Suits against the government of the Union or the national treasury, founded upon provisions of the Constitution, laws and regulations of the executive power, or upon contracts entered into with the same government.

c. Claims for compensation, recovery of property, indemnification for damages or any other claims, presented by the government of the Union against private individuals or vice versa.

d. Litigations between one State and the citizens of another, or between citizens of different States, when the respective State laws are different.

e. Disputes between foreign States and Brazilian citizens.

f. Actions instituted by foreigners, founded upon contracts with the federal government or upon conventions or treaties between the Union and other nations.

g. Questions of maritime law and those relating to navigation, either of the ocean or of the rivers and lakes of the country.

h. Questions of international criminal or civil law.

i. Political crimes.

§ 1. Congress is forbidden to delegate any federal jurisdiction to the courts of the States.

§ 2. Sentences and decrees of the federal judges shall be enforced by the federal court officers, to whom the local police shall be bound to render assistance when called upon to do so.

ART. 61. The decisions of the State judges or courts of competent jurisdiction shall put an end to the suits and questions in which they are rendered, except in cases of:

1. *Habeas corpus*; or

2. Settlement of the estate of a deceased foreigner, in cases not provided for by convention or treaty.

In such cases voluntary recourse may be had to the Federal Supreme Court.

ART. 62. The State courts shall not have power to intervene in questions submitted to the federal courts, or to annul, alter, or suspend the sentences or orders of the latter. And, reciprocally, the federal courts can not intervene in questions submitted to the State courts, or annul, alter, or suspend the decisions or orders of the latter, except in the cases expressly defined in this Constitution.

TITLE II.—THE STATES.

ART. 63. Each State shall be governed by the Constitution and laws adopted by it, provided that the constitutional principles of the Union be respected.

ART. 64. The mines and vacant lands situated in the States shall belong to them, the Union having the right only to that portion of the territory which may be necessary for the defense of the frontier, for fortifications, military constructions and federal railways.

SOLE §. National property which may not be necessary for the service of the Union shall pass to the dominion of the States in whose territory it may be situated.

ART. 65. The States shall have the right:

1. To conclude among themselves agreements and conventions of a nonpolitical character (Article 48, No. 16).

2. To use, in general, any power or right not denied to them by a provision, expressed or implied, of the Constitution.

ART. 66. It is forbidden to the States:

1. To refuse faith and credit to public documents of the Union or of any State, of a legislative, administrative, or judicial character.

2. To refuse to recognize the currency, whether coin or paper, put into circulation by the federal government.

3. To make or declare war, one against another, or make use of reprisals.

4. To refuse the extradition of criminals when requested by the courts of other States or of the Federal District, in conformity with the laws of Congress relating to this subject (Article 34, No. 32).

ART. 67. Excepting the restrictions specified in the Constitution and the federal laws, the Federal District shall be governed by the municipal authorities.¹

SOLE §. The expenses of a local character in the capital of the Republic shall be defrayed exclusively by the municipal authority.

TITLE III.—THE MUNICIPALITY.

ART. 68. The States shall organize themselves in such a way as to assure the autonomy of the municipalities in respect to all that relates to their particular interests.

TITLE IV.—BRAZILIAN CITIZENS.

SECTION I.—QUALIFICATIONS OF BRAZILIAN CITIZENS.

ART. 69. The following are Brazilian citizens:

1. Persons born in Brazil, even of a foreign father, if the latter is not residing in Brazil in the service of his own nation.

2. Children of a Brazilian father, and illegitimate children of a Brazilian mother, born in foreign countries, if they establish their domicile in the Republic.

¹ Law of 29 December 1902 which reorganized the Federal District and the municipal power in the federal capital.

3. Children of a Brazilian father residing in a foreign country in the service of the Republic, provided that they do not establish their domicile there.

4. Foreigners who, having been in Brazil on 15 November 1889, shall not have declared, within six months after the Constitution comes into force, their intention to preserve their nationality of origin.

— 5. Foreigners who hold real estate in Brazil and are married to Brazilian women, or have Brazilian children, provided that they reside in Brazil, unless they have declared their intention of not changing their nationality.

6. Foreigners naturalized¹ in any other way.

ART. 70. Citizens of more than 21 years of age, who are registered according to law, shall be electors.

§ 1. The following shall not be registered as electors for federal or State elections:

1. Beggars;
2. Illiterate persons;
3. Soldiers on pay, except cadets of the higher military schools;
4. Members of monastic orders, companies, congregations or communities of any denomination, subject to a vow of obedience, or rule or statutes, implying the surrender of individual liberty.

§ 2. Citizens who are not registered are not eligible to office.

ART. 71. The rights of the Brazilian citizen can be suspended or lost only in the following cases:

§ 1. The rights are suspended:

- a. Through physical or moral disability.
- b. Through condemnation for crime, during the period of its operation.

§ 2. They shall be lost:

- a. Through naturalization in a foreign country.
- b. Through the acceptance of employment or pension from a foreign government, without permission of the federal executive power.

§ 3. A federal law shall determine the conditions for the re-acquisition of the rights of Brazilian citizenship.

SECTION II.—DECLARATION OF RIGHTS.

ART. 72. The Constitution secures to Brazilians and foreigners residing in the country the inviolability of their rights touching liberty, personal security and property, in the following terms:

§ 1. No person shall be forced to do, or not to do, anything except by virtue of law.

§ 2. All persons are equal before the law.² The Republic does not recognize privileges of birth, or titles of nobility, and abolishes the

¹ Law of 12 November 1902 on the naturalization of foreigners.

² Slavery was suppressed in Brazil in 1888.

existing honorary orders, their prerogatives and decorations, as well as all titles of nobility and the title of counsellor.

§ 3. All persons and religious confessions shall have the right to exercise their religion publicly and freely, to form associations for that purpose, and to acquire property, so long as they conform to the provisions of the ordinary law.

§ 4. The Republic recognizes only the civil marriage, the solemnization of which shall be gratuitous.

§ 5. The cemeteries shall possess a secular character, and shall be managed by the municipal authorities, but all religious denominations shall be free to use their respective rites in conformity with their beliefs, provided they do not offend public morals and the laws.

§ 6. The instruction given in public institutions shall be laical.

§ 7. No denomination or church shall be officially subsidized or made dependent on, or connected with, the government of the Union, or of the States.

§ 8. All persons shall have the right of free association¹ and assembly without arms; the police force shall not intervene, except to maintain public order.

§ 9. All persons shall be permitted to address, by petition, the public powers, to denounce abuses of the authorities and to request that the guilty parties be held responsible.

§ 10. In time of peace all persons shall have the right to enter or leave the territory of the Republic, when and how they please, carrying with them their property, without necessity of securing a passport.

§ 11. The house is the inviolable asylum of the person who inhabits it; without his consent no one can enter it at night, except to aid the victims of a crime or disaster, or during the day, except in the cases and in the form prescribed by law.

§ 12. The expression of opinion on all subjects, through the press or from the platform, shall be free, without subjection to censorship, each one being responsible for the abuses he may commit, in the cases and in the form prescribed by law. Anonymous publications shall not be permitted.

§ 13. No arrest shall be made, except in case of *flagrante delicto*, without the prisoner having been previously indicted, unless otherwise permitted by law, and upon written order of the proper authority.

§ 14. No one shall be kept in prison without charges having been formally filed against him, except in the cases prescribed by law, nor taken to prison, or detained there, if he will give proper bail, in cases where bail is lawful.

¹ Law of 10 September 1893 (No. 173).

§ 15. No one shall be sentenced, except by competent authority, and in virtue of a preexisting law, and in the form prescribed by it.

§ 16. The law shall secure to the accused the fullest defense and all the recourses and means essential thereto, including notice of the charge, to be delivered to the prisoner within 24 hours, signed by the competent authority, with the names of the accusers and witnesses.

§ 17. The rights of property shall be maintained in all their plenitude, except in cases of expropriation because of necessity or public utility, in which cases indemnity shall be made beforehand.

Mines shall belong to the owners of the soil, with the limitations which may be established by law to encourage the exploitation of this branch of industry.

§ 18. The secrecy of correspondence is inviolable.

§ 19. No penalty shall extend beyond the person of the guilty party.

§ 20. The penalties of the galleys and of judicial banishment are abolished.

§ 21. The death penalty is likewise abolished, saving the provisions of military legislation in time of war.

§ 22. The writ of *habeas corpus* shall always be granted when the individual suffers or is in imminent danger of suffering violence or coercion, through illegality or abuse of power.

§ 23. No privileged jurisdiction shall be recognized, except in those cases which, owing to their nature, belong to special courts.

§ 24. The free exercise of any profession, moral, intellectual, or industrial, shall be guaranteed.

§ 25. Industrial inventions shall belong to their inventors, who shall be protected by a patent granted for a limited time, or rewarded by Congress with a reasonable prize, when the usefulness of the invention may vouch for it.¹

§ 26. The exclusive right to reproduce, by the press or any other mechanical process, literary or artistic works is guaranteed to their authors. The heirs of the authors shall enjoy this right for the period which the law shall determine.²

§ 27. The law shall also secure the ownership of trade-marks.³

§ 28. No Brazilian citizen shall be deprived of his civil or political rights, or exempted from the performance of any civic duty whatsoever, on account of his religious belief or office.

§ 29. All those who allege their religious belief as a reason for exempting themselves from any duty which the laws of the Republic impose upon its citizens, and those who accept foreign decorations or titles of nobility, shall lose all their political rights.

¹ Law of 14 October 1882. The international protection of patents is covered by the Law of 9 January 1903.

² Law of 1 August 1898.

³ Law of 24 September 1904.

§ 30. No tax of any kind shall be collected except under authority of law.

§ 31. Trial by jury shall be maintained.

ART. 73. Public offices, civil or military, shall be accessible to all Brazilian citizens, provided that the conditions of special fitness, fixed by law, be observed; the accumulation of salaried positions is forbidden.

ART. 74. Commissions, positions and offices to be held for life shall be fully guaranteed.

ART. 75. Public officers shall be retired with pay, only in case of becoming unable to perform their duties while in the service of the nation.

ART. 76. Officers of the army and navy shall forfeit their commissions, only when condemned, after trial by the competent courts, to more than two years' imprisonment.

ART. 77. The military and naval officers shall be tried by special courts for military offenses.

§ 1. This jurisdiction shall be vested in a Supreme Military Court, whose members shall serve for life, and in the courts martial which may be needed for the proper trial of the cases.

§ 2. The organization and attributions of the Supreme Military Court shall be governed by law.¹

ART. 78. The enumeration of guarantees and rights made in the Constitution shall not exclude other guarantees and rights not enumerated, but resulting from the form of government established and the principles proclaimed by said Constitution.

TITLE V.—GENERAL PROVISIONS.

ART. 79. The citizen vested with functions belonging to one of the three federal powers shall not exercise those belonging to the other two.

ART. 80. Any part of the territory of the Union may be declared in state of siege and the constitutional guarantees suspended in it for a fixed period, whenever the security of the Republic may demand it, in case of foreign aggression or internal disturbance (Article 34, No. 21).

§ 1. If Congress is not in session and the country is in imminent danger, the federal executive power shall exercise this prerogative (Article 48, No. 15).

§ 2. In the exercise of this power during a state of siege the executive power shall be restricted to the following measures of repression against persons:

1. To their detention in a place not destined for persons accused of common crimes.

¹ This court was organized by the Law of 18 July 1893 (No. 149).

2. To banishment to some other part of the national territory.

§ 3. As soon as the Congress assembles, the President of the Republic shall report to that body all the exceptional measures which he may have taken, giving his reasons therefor.

§ 4. The authorities who have ordered such measures shall be responsible for any abuses which may have been committed.

ART. 81. Terminated criminal cases may be reviewed at any time, if to the benefit of the condemned parties, by the Federal Supreme Court, which shall amend or affirm the sentence.

§ 1. The law shall determine the manner and form of the revision, which may be asked for, either by the condemned party, by any one of the people, or *ex officio* by the Attorney-General of the Republic.

§ 2. In such revisions, the penalties imposed by the judgment under review shall not be increased.

§ 3. The provisions of the present article shall apply to military trials.

ART. 82. Public officers shall be strictly responsible for the abuses and omissions of which they may be guilty in the exercise of their functions, as well as for their failure, through indulgence or negligence, to exact from their subordinates the proper responsibility for their acts.

SOLE §. Public officers shall bind themselves, formally, on taking possession of their offices, to faithfully discharge the lawful duties of the same.

ART. 83. Until revoked, the laws of the former *régime* shall remain in force, except in so far as they are explicitly or implicitly contrary to the system of government established by the Constitution, and to the principles proclaimed by its provisions.

ART. 84. The government of the Union guarantees the payment of the public debt, domestic or foreign.

ART. 85. The staff and line officers of the navy shall have the same ranks and privileges as the officers of the army of corresponding grade.

ART. 86. Every Brazilian is bound to do military service in defense of the country and of the Constitution, in accordance with the federal laws.

ART. 87. The federal army shall be made up of contingents, which the States and the Federal District are bound to furnish in accordance with the annual law fixing the strength of the public force.

§ 1. A federal law shall determine the general organization of the army, in accordance with No. 18 of Article 34.

§ 2. The military instruction of the corps and branches of the army service and higher military education shall be in charge of the Union.

§ 3. Compulsory recruiting for military service is abolished.

§ 4. The army and navy shall consist of volunteers, enlisted without bounty, and if this method fails, draftings shall be made according to a plan previously arranged.

The personnel of the navy shall be made up by lot out of pupils of the Naval School, the schools of naval apprentices, and members of the merchant marine.

ART. 88. The United States of Brazil shall in no case engage in a war of conquest, directly or indirectly, by itself or in alliance with another nation.

ART. 89. A Court of Accounts shall be established to audit the accounts of receipts and expenditures and to pass upon their legality before they are presented to Congress.

The members of this Court shall be appointed by the President of the Republic with the approval of the Senate, and shall lose their places only by judicial sentence.

ART. 90. The Constitution may be amended upon the initiative of the National Congress, or of the legislatures of the States.

§ 1. An amendment shall be considered as proposed, when introduced by one fourth, at least, of the members of either house of the National Congress, and accepted, after three discussions, by two thirds of the votes in both houses of the Congress, or, when suggested by two thirds of the States, in the course of one year, each State being represented by a majority of the votes of its legislature.

§ 2. The proposed amendment shall be considered approved, if, in the following year, after three discussions, it is adopted by a majority of two thirds¹ of the votes in the two houses of Congress.

§ 3. The amendment adopted shall be published with the signatures of the presidents and secretaries of the two houses, and incorporated in the Constitution as an integral part thereof.

§ 4. No project having a tendency to abolish the federal republican form of government, or the equal representation of the States in the Senate, shall be admitted for consideration in the Congress.

ART. 91. As soon as this Constitution is approved, it shall be promulgated by the presiding officers of the Congress and signed by the members of the same.²

TRANSITORY PROVISIONS.

ARTICLE 1. Upon the promulgation of the present Constitution, the Congress, assembled in joint session, shall choose at once, by absolute majority in the first balloting, and, if such be not obtained, by a relative majority in the second, the President and Vice-President of the United States of Brazil.

¹ The governmental draft proposed a majority of three fourths.

² In the *Official Journal* of 25 February 1891 there are 223 signatures.

§ 1. This election shall be made through two different votes, one for the President and another for the Vice-President; the votes for the President shall be taken and counted first, and then the votes for Vice-President shall be taken and counted.

§ 2. The President and Vice-President thus elected shall fill the Presidency and Vice-Presidency of the Republic during the first presidential term.

§ 3. There shall be no incompatibilities in this election.

§ 4. As soon as said election is made, the Congress shall declare its mission in joint session as a convention to be ended, and, separating itself into Chamber and Senate, shall enter upon the exercise of its normal functions on the fifteenth of June of the current year, and it shall not for any reason be dissolved.

§ 5. In the first year of the first legislature, the Senate, as soon as it has completed its organization, shall designate preliminarily the first and second thirds of its members, whose terms shall cease at the end of the first and second triennial periods.

§ 6. This designation shall be made in three lists, corresponding to the three thirds of the Senate, whereon the names of the senators of each State and of the Federal District shall be inscribed, according to the respective number of votes obtained by them, so that the one first in the voting in the Federal District and in each State shall be placed in the list for the last triennium and the others in the lists of the other triennial periods, according to the relative number of votes obtained by them.

§ 7. In case of tie preference shall be given to the elder, and if the ages be equal the choice shall be made by lot.

ART. 2. The State which, at the end of the year eighteen hundred and ninety-two, shall not have adopted a constitution for itself, shall be, by Act of Congress, subjected to that one of another State, which may be deemed most suitable, but the State thus subjected to the constitution of another State shall have the right to amend that instrument in the manner provided in the same.

ART. 3. As fast as the States shall be organized, the federal government shall deliver to them the administration of the services which belong to them under the Constitution, and shall settle the responsibility of the Federal administration in all that relates to said services and to the payment of the respective officials.

ART. 4. While the States are engaged in regulating their expenses and during the whole period of organization of their services, the federal government shall grant them special credits for this purpose, under conditions to be established by law.

ART. 5. As soon as the States are organized, the classification of the revenues established in the Constitution shall enter into force.

ART. 6. In the first appointments of federal and State judges, preference shall be given to the present members of the law courts, and to those judicial officers called *desembargadores*, who may enjoy the greatest reputation.

Judges who have served for over thirty years and can not have positions in the new judicial organization shall be retired on full pay.

Those who have served for less than thirty years shall continue to receive their present salaries until they are employed or retired with salaries corresponding to their time of service.

The expenses to be incurred in paying the salaries of the judges placed on the retired or reserve lists shall be paid by the federal government.

ART. 7. On and after 15 November 1889, a pension shall be paid to D. PEDRO DE ALCANTARA, ex-Emperor of Brazil, which shall guarantee him a suitable maintenance for the remainder of his life. Congress in its first regular session shall fix the amount of this pension.

ART. 8. The federal government shall acquire for the nation the house in which BENJAMIN CONSTANT BOTELHO DE MAGALHÃES died, and shall order a tablet to be placed upon the same in memory of that great patriot, the founder of the Republic.

SOLE §. The widow of said DR. BENJAMIN CONSTANT shall enjoy the use of said house during her life.¹

¹ The signatures of the President of the Congress and of the senators and deputies follow.

BULGARIA.

The Preliminary Treaty of Peace, which ended the Russo-Turkish War and was signed at San Stefano 19 February / 3 March 1878,¹ considerably reduced the Ottoman power in Europe. Bulgaria was separated from the Ottoman Empire and constituted into "an autonomous and tributary principality, under the sovereignty of His Majesty the Sultan." by Article 1 of the Treaty of Berlin of 13 July 1878.² This same treaty imposed on the new State certain conditions relative to the election of the Prince (Article 2) and religious liberty (Article 5). On 10/22 February 1879, the first Bulgarian assembly of notables convened in the principality and the new Constitution was promulgated at Tirnovo 16/28 April 1879. It contains 169 articles.³ Eastern Rumelia revolted against Turkish domination in September 1885 and proclaimed Alexander Prince. The latter accepted "the title of Prince of the two Bulgarias of the north and of the south" by a manifesto dated from Tirnovo 20 September.

The Constitution of 1879 was the object of an important revision in 1893. The proposal of the government, adopted by the Ordinary National Assembly on 7/19 December 1892, was submitted to the Grand National Assembly, which was convened at Tirnovo on 3/15 May 1893. On 15/27 May the revision was passed. Thirteen articles of the Constitution were amended: Articles 6, 38, 58, 59, 86, 114, 115, 125, 126, 139, 141, 144 and 161.⁴

In 1911 the Constitution underwent another revision. The Grand National Assembly was opened at Tirnovo on 9/22 June 1911 and held twenty-two meetings, at the conclusion of which (7/20 July) the project of the Fourteenth Ordinary National Assembly was adopted with some modifications and promulgated four days later. Fourteen articles were amended: Articles 6, 17, 19, 24, 35, 38, 55, 72, 73, 76, 86, 121, 127 and 161.

¹ French text in *British and Foreign State Papers*, 69: pp. 732-744; English translation in EDWARD HERTSLET, *Map of Europe by Treaty*, vol. iv (London, 1891), pp. 2672-2696.

² French text in *British and Foreign State Papers*, 69: pp. 749-767; English translation in HERTSLET, *op. cit.*, pp. 2759-2799.

³ French translation in *British and Foreign State Papers*, 70: pp. 1303-1318, and *Annuaire de législation étrangère*, 9 (1879): pp. 774-790.

⁴ French translation in *Annuaire de législation étrangère*, 23 (1893): pp. 682-684, with the old and new texts in parallel columns.

The electoral law in force bears the date of 23 March / 4 April 1897.¹ It received slight modifications in 1898, 1901, 1906, 1907, 1908, 1909, 1910, 1911 (twice) and 1912. Laws of 16/29 March 1903 and 11/24 April 1910 have prescribed the boundaries of the electoral districts.²

CONSTITUTION OF 16/28 APRIL 1879, WITH AMENDMENTS OF 15/27 MAY 1893 AND 11/24 JULY 1911.³

CHAPTER I.—THE TERRITORY OF THE KINGDOM.

ARTICLE 1. The territory of the Kingdom of Bulgaria may not be increased or diminished without the consent of the Grand National Assembly.

ART. 2. The rectification of boundary lines, if this has not been done in inhabited regions, may also be decreed by the Ordinary National Assembly (Article 85).

ART. 3. The territory is divided for administrative purposes into districts, sections (*arrondissements*) and communes.

A special law shall be drafted for the organization of this administrative division on the principle of autonomy for the communes.

CHAPTER II.—THE POWER OF THE KING AND ITS LIMITATIONS.

ART. 4. The Bulgarian Kingdom is an hereditary constitutional monarchy with national representation.

ART. 5. The King is the supreme representative and head of the State.

ART. 6.⁴ The King bears the title of His Majesty the King of the Bulgars; the heir to the throne, that of His Royal Highness.

ART. 7. The King of Bulgaria may not, without the consent of the Grand National Assembly, be at the same time the sovereign of another State.

ART. 8. The person of the King is sacred and inviolable.

ART. 9. The legislative power belongs to the King and the national representation.

ART. 10. The King sanctions and promulgates the laws passed by the National Assembly.

¹ Published in the *Official Journal*, 30 April/12 May. See analysis in *Annuaire de législation étrangère*, 27 (1897): pp. 789-799.

² These introductory paragraphs are based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, p. 296-298, with additions based upon the *Annuaire de législation étrangère*.

³ Translated by GEORGE D. GREGORY from the French translation in the *British and Foreign State Papers*, 107: pp. 615-630. A German translation of the Constitution of 1879 and of the amendments of 1893 is in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 16-31 and 31-32 respectively.

⁴ As amended 11/24 July 1911.

ART. 11. The King is the supreme head of all the military forces of the country in time of peace as well as in time of war. He confers military rank in accordance with the law. Those who enter upon the military career take an oath of fidelity to the King.

ART. 12. The executive power belongs to the King. All the agencies of this power act in his name and under his high supervision.

ART. 13. The judicial power belongs entirely to the authorities and persons vested with judicial powers, who act in the name of the King. The relations of the King with the judicial authorities are determined by special regulations.

ART. 14. The King has the right to mitigate and commute punishments in accordance with the rules laid down in the law on criminal procedure.

ART. 15. The King has the right of pardon in criminal cases. The right of amnesty belongs to the King conjointly with the National Assembly.

ART. 16. The rights of the King specified in Articles 14 and 15 do not cover sentences passed upon ministers for violations of the Constitution.

ART. 17.¹ The King is the representative of the State in all its relations with foreign countries. The government negotiates and concludes in his name all treaties with foreign countries, which must be sanctioned by the King. The ministers inform the National Assembly thereof as soon as the interests and security of the State permit (Article 92 of the Constitution).

Nevertheless treaties of peace, of commerce, treaties obligating the State finances, those that are in derogation of laws now in existence, treaties relating to the public or civil rights of Bulgarian subjects do not become definitive until they have been voted by the National Assembly.

In no case can the secret stipulations of a treaty nullify the published articles.

ART. 18. Decrees and regulations emanating from the King are executory when countersigned by the respective ministers, who assume entire responsibility therefor.

CHAPTER III.—THE RESIDENCE OF THE KING.

ART. 19.¹ The King is obliged always to reside in the Kingdom. If he leaves it temporarily, he designates a Regency, which shall be conferred upon the Council of Ministers. The rights and the duties of the Regency shall be determined by a special law. The King communicates his departure and the designation of the Regency to the Council of Ministers, which informs the nation thereof through the official journal.

¹ As amended 11/24 July 1911.

ART. 20. The heir to the throne must likewise reside in the Kingdom and may not leave it except with the consent of the King.

CHAPTER IV.—THE ARMS OF THE KINGDOM, THE SEAL AND THE NATIONAL FLAG.

ART. 21. The arms of the Bulgarian State consist of a crowned lion of gold on a dark red field. The shield is surmounted by the royal crown.

ART. 22. The seal of the State shall bear the arms of the Kingdom.

ART. 23. The Bulgarian flag is tricolor and consists of the colors white, green and red arranged horizontally.

CHAPTER V.—THE ORDER OF SUCCESSION TO THE THRONE.

ART. 24.¹ The Royal dignity is hereditary in a direct line by right of primogeniture in the male descendance of His Majesty the King of the Bulgars, Ferdinand I of Saxe-Coburg and Gotha. A special law shall govern the order of succession to the throne.

CHAPTER VI.—THE MAJORITY OF THE KING, THE REGENCY AND GUARDIANSHIP.

ART. 25. The reigning King and the heir to the throne attain their majority at the age of eighteen.

ART. 26. If the King ascends the throne before attaining this age, a regency and guardianship are constituted for him until he attains his majority.

ART. 27. The Regency is composed of three regents who are elected by the Grand National Assembly.

ART. 28. The reigning King may also appoint three regents during his lifetime, if the heir to the throne has not attained his majority. But in this case the consent and confirmation of the Grand National Assembly are necessary.

ART. 29. Ministers, the president and members of the Court of Cassation and persons who have filled these offices in an irreproachable manner may be members of the Regency.

ART. 30. Members of the Regency on assuming office take an oath of fidelity to the King and the Constitution before the Grand National Assembly. After which they announce to the nation by proclamation that they have undertaken the government of the country within the limits of the royal power and in the name of the King.

ART. 31. As soon as the King has attained his majority and taken oath, he assumes the government of the country and advises the nation thereof by a proclamation.

¹ As amended 11/24 July 1911.

ART. 32. The education of the King during his minority and the administration of his estates are in the hands of the Queen widow and the tutors appointed by the Council of Ministers with the consent of the Queen.

ART. 33. Members of the Regency may not be at the same time tutors of the minor King.

CHAPTER VII.—ACCESSION TO THE THRONE AND THE TAKING OF THE OATH.

ART. 34. Upon the death of the King the heir ascends the throne and immediately orders the convening of the Grand National Assembly, before which he takes the following oath:

I swear in the name of God Almighty that I shall uphold devoutly and inviolably the Constitution and the laws of the Kingdom and that in all my actions I shall always have in view only the prosperity and welfare of the country. So help me God!

CHAPTER VIII.—MAINTENANCE OF THE KING AND OF THE MEMBERS OF THE ROYAL HOUSE.

ART. 35.¹ The National Assembly fixes by a special law the civil list of the King and of his court.

ART. 36. The National Assembly fixes the amount for the maintenance of the heir to the throne as soon as he has attained his majority.

CHAPTER IX.—RELIGION.

ART. 37. The Orthodox Christian Religion of the Eastern Rite is the State religion of the Kingdom of Bulgaria.

ART. 38.¹ The King may not profess any religion other than the Orthodox. An exception is made in the case of the present King.

ART. 39. As the Kingdom of Bulgaria forms, from an ecclesiastical point of view, an inseparable part of the pale of the Bulgarian Church, it is subject to the Holy Synod, which is the supreme authority of the Bulgarian Church, wherever the seat of that authority may be. It is through it that the Kingdom preserves its union with the Ecumenical Eastern Church in all that pertains to the dogmas of the faith.

ART. 40. Unorthodox Christians and non-Christian inhabitants, whether subjects of the Kingdom or received as such, as well as foreigners permanently or temporarily residing in Bulgaria, enjoy freedom of worship in so far as their religious practices do not violate existing laws.

¹ As amended 11/24 July 1911.

ART. 41. No one may, by virtue of his religious convictions, be exempted from the obligations of the laws in force, which are binding upon everybody.

ART. 42. The ecclesiastical affairs of unorthodox Christians and of non-Christians are governed by the respective religious authorities within the limits of the laws laid down on this subject and under the high supervision of the competent minister.

CHAPTER X.—THE LAWS.

ART. 43. The Bulgarian Kingdom shall be governed strictly in accordance with the laws, which are made and promulgated in the forms indicated in the present Constitution.

ART. 44. No law may be promulgated, completed, modified, or repealed without first being discussed and voted upon by the National Assembly, which also has the right of interpreting its precise meaning.

ART. 45. Every law voted by the National Assembly is submitted to the King for his sanction.

ART. 46. After being sanctioned by the King, the law must be promulgated in full. Mention must be made in the promulgation of the law of its adoption by the National Assembly. No law has any force or effect before its promulgation.

ART. 47. If the State is menaced by some internal or external danger and the National Assembly can not be convened, then, and in this case only, the King may, upon the representations of the Council of Ministers and their joint responsibility, publish ordinances and take measures which will have the same binding force as laws. The extraordinary ordinances and measures shall be submitted to the approval of the first National Assembly which is convened thereafter.

ART. 48. The measures and ordinances mentioned in Article 47 may in no case have for their object the creation of taxes and contributions, which shall always be imposed with the consent of the National Assembly.

ART. 49. The National Assembly alone has the right to decide whether all the formalities prescribed by the present Constitution have been fulfilled in the publication of a law.

ART. 50. Regulations for putting a law into effect and the measures which must be taken to this end are in the hands of the executive power.

CHAPTER XI.—THE PROPERTY OF THE STATE.

ART. 51. The property of the State belongs to the Bulgarian Kingdom, and neither the King nor the members of his family may assume the enjoyment thereof.

ART. 52. The manner in which this property may be alienated or mortgaged, as well as the use to which the revenue therefrom is to be put, shall be prescribed by law.

ART. 53. The property of the State is administered by the competent minister.

CHAPTER XII.—THE CITIZENS OF THE BULGARIAN KINGDOM.

SECTION 1.—GENERAL RULES.

ART. 54. All those who are born in Bulgaria and who have not changed their nationality, as well as those who are born in foreign countries of parents who are Bulgarian subjects, are considered subjects of the Bulgarian Kingdom.

ART. 55.¹ Foreigners may be admitted to Bulgarian nationality by virtue of a law, to be drafted hereafter.

ART. 56. Any subject of the Kingdom may change his nationality after he has completed his period of military service and fulfilled his other obligations toward the State, in conformity with a special law, to be drafted hereafter.

ART. 57. All Bulgarian subjects are equal before the law; no division into classes is tolerated in Bulgaria.

ART. 58.² Titles of nobility and other distinctions can not exist in the Kingdom.

ART. 59.² The King has the right to grant decorations. The creation of decorations takes place by virtue of a special law.

ART. 60. Citizens of the Bulgarian Kingdom alone enjoy political rights. All who dwell within the Kingdom have civil rights in conformity with the laws.

ART. 61. No one in the Bulgarian Kingdom has the right to buy or sell human beings.

Every slave of whatever sex, nationality, or religion is free as soon as he sets foot on Bulgarian territory.

ART. 62. Laws concerning public order and police laws are equally binding upon all who live in the Kingdom.

ART. 63. All immovable property situated in the Kingdom, even though it belongs to foreigners, is governed by the Bulgarian laws.

ART. 64. In all other respects, the condition of foreign subjects in the Kingdom is governed by special laws.

SECTION 2.—THE SERVICE OF THE STATE AND PUBLIC OFFICE.

ART. 65. Bulgarian subjects alone may be officials of the State or of the commune, or be admitted to service in the army.

¹ As amended 11/24 July 1911.

² As amended 15/27 May 1893.

ART. 66. Foreign subjects may also be admitted to the service of the State, subject, however, to the approval of the National Assembly in every instance.

SECTION 3.—THE RIGHT OF PROPERTY.

ART. 67. The right of property is inviolable.

ART. 68. Expropriation may take place only because of public utility and in consideration of a just indemnity. The mode of expropriation shall be determined by a special law.

SECTION 4.—TAXES AND CONTRIBUTIONS LEVIED BY THE STATE.

ART. 69. Every subject of the Bulgarian Kingdom, without exception, is obliged to pay the taxes and contributions established by the laws and to bear the other charges.

ART. 70. The King and the heir to the throne are exempted from all taxes, contributions and other charges.

SECTION 5.—MILITARY SERVICE.

ART. 71. Every Bulgarian subject is liable to military service according to the law to this effect.

ART. 72.¹ A special law shall specify the crimes, imputable to soldiers in active service, that fall within the jurisdiction of the military courts and those that come within the competence of the courts of common law.

SECTION 6.—INVIOABILITY OF PERSON, DOMICILE AND CORRESPONDENCE.

ART. 73.² No one may be subjected to punishment except by virtue of a definite judgment of a competent court.

Neither exceptional tribunals nor commissions of inquiry may be created upon any pretext or under any designation whatever.

In time of war or in case of imminent peril resulting from foreign invasion or an armed insurrection, when the entire country or certain localities have been proclaimed to be in a state of siege, courts martial instituted by law come into operation.

The state of siege is proclaimed by law, if the National Assembly is in session, or by decree on the joint responsibility of the ministers, if the said Assembly is not in session. In the latter case the National Assembly must be convened within five days to approve the decree issued to this effect.

¹ As amended 11/24 July 1911.

² All of this article after Paragraph 1 was added 11/24 July 1911.

ART. 74. Imprisonment and domiciliary visits may take place only in accordance with the rules laid down by law.

ART. 75. No punishment except that prescribed by law may be applied to any one whomsoever.

Torture, as well as the confiscation of property, is prohibited.

ART. 76.¹

ART. 77. The secrecy of private letters and telegrams is inviolable. The responsibility of officials relative to the violation of the secrecy of letters and telegrams shall be governed by a special law.

SECTION 7.—PUBLIC INSTRUCTION.

ART. 78. Primary instruction is obligatory and free to all subjects of the Bulgarian Kingdom.

SECTION 8.—FREEDOM OF THE PRESS.

ART. 79. The press is free. No censorship is permitted. No security shall be required of writers, publishers, or printers. When an author is known and resides in the Kingdom, the publisher, the printer and the distributors shall not be prosecuted.

ART. 80. The Holy Scriptures, ecclesiastical books and works dealing with the dogmas of the Orthodox Church, as well as manuals on religion for use in Orthodox schools, shall first be submitted to the approval of the Holy Synod.

ART. 81. All misdemeanors on the part of the press shall be judged according to law by the ordinary courts.

SECTION 9.—FREEDOM OF ASSEMBLY AND OF ASSOCIATION.

ART. 82. The inhabitants of the Bulgarian Kingdom have the right peaceably to assemble and to discuss unarmed any question without first asking permission. Meetings held in the open air are wholly subject to police regulations.

ART. 83. Bulgarian citizens have the right to form associations without any previous authorization, provided the object of such associations and the means employed do not jeopardize the security of the State, public order, religion, or public morals.

SECTION 10.—THE RIGHT OF PETITION.

ART. 84. Every Bulgarian subject may present petitions to the competent authorities either individually or collectively. Legally constituted institutions may likewise present requests through the intermediary of their representative.

¹ Rescinded 11/24 July 1911.

CHAPTER XIII.—NATIONAL REPRESENTATION.

ART. 85. The representation of the Bulgarian Kingdom consists of a National Assembly, which may be:

1. An Ordinary National Assembly.
2. A Grand National Assembly.

CHAPTER XIV.—THE ORDINARY NATIONAL ASSEMBLY.

SECTION 1.—COMPOSITION OF THE ORDINARY NATIONAL ASSEMBLY.

ART. 86.¹ The Ordinary National Assembly consists of representatives elected by direct vote in the ratio of one deputy for every twenty thousand inhabitants of both sexes. Representatives are elected for four years.

All Bulgarian citizens who have attained the age of 21 years and who enjoy civil and political rights are electors.

Bulgarian citizens enjoying civil and political rights, who have attained the age of 30 and who can read and write, are eligible for election as representatives.

An electoral law shall be drafted.²

ART. 87. Those elected represent not only their constituents, but the whole nation; that is why they may not accept any obligatory instruction from their constituents. Representatives are entirely free in their opinions as to the needs of the country and are guided only by their convictions and conscience.

ART. 88. As soon as the session is opened, the National Assembly, under the presidency of its senior member, proceeds immediately to the election of its president and vice presidents.

ART. 89. The National Assembly elects from among its members as many secretaries as are necessary.

ART. 90. The ministers may attend the meetings of the Assembly and take part in the discussions. The Assembly is obliged to hear the ministers whenever they request the floor.

ART. 91. For the purpose of presenting to the Assembly explanations on the subjects which are submitted, the King may, in the place and stead of the ministers or conjointly with them, appoint special commissioners in the Assembly, who in this case enjoy, like the ministers, the rights designated in the foregoing Article 90.

ART. 92. The Assembly may invite the ministers and commissioners to attend its meetings, in order to furnish such information and explanations as are required. The ministers and commissioners are obliged to present themselves before the Assembly and to commu-

¹ As amended 11/24 July 1911.

² See introductory paragraphs preceding this Constitution.

nicate personally the explanations requested. The ministers and commissioners may on their own responsibility preserve silence as to facts, the premature divulging of which might be injurious to the interests of the State.

SECTION 2.—FREEDOM OF OPINION AND INVIOIABILITY OF MEMBERS OF THE ASSEMBLY.

ART. 93. Every member of the Assembly has the right freely to express his opinion and to vote according to his conviction and his conscience. No one may call him to account for the opinion he has expressed nor prosecute him because of it.

ART. 94. The rights of the president and the responsibility of the members of the Assembly with regard to the rules to be observed in the meetings are determined by a special regulation governing the internal affairs of the Assembly.

ART. 95. Members of the Assembly who during its session shall commit misdemeanors or crimes provided for by the criminal law may not be brought into court except with the authorization of the Assembly.

ART. 96. Members of the National Assembly during the five days preceding the opening and throughout the entire session may not be arrested or tried, unless they are accused of crimes involving the heaviest penalties prescribed by the criminal law. In this case the arrest of a representative must be immediately communicated to the National Assembly, and not until it so authorizes may judicial prosecution be commenced.

ART. 97. Representatives may not be held for debt during the five days preceding the opening and throughout the entire session of the Assembly.

ART. 98. The provisions relating to replacing deceased or retiring members of the Assembly are laid down by the electoral law.

SECTION 3.—PUBLICITY OF THE MEETINGS OF THE NATIONAL ASSEMBLY.

ART. 99. The meetings of the National Assembly are public.

ART. 100. The president, one of the ministers or commissioners, or at least three members of the Assembly may propose to exclude the public from the Assembly chamber. Such a proposal is discussed in secret and decided by a majority vote of the members present.

ART. 101. The decision mentioned in the preceding article (100) is publicly proclaimed by the president.

ART. 102. No one bearing arms may enter the chamber or the building in which the Assembly is sitting.

Military guards and armed forces generally must not be placed at the door of the chamber or in the building of the Assembly itself or in the vicinity of that building, unless a majority of the Assembly so desires.

ART. 103. The Assembly has its own internal police who are under the orders of the president.

ART. 104. The National Assembly makes its own rules for its internal government and the manner in which it shall proceed to examine the questions upon which it is to pass.

CHAPTER XV.—ATTRIBUTIONS OF THE NATIONAL ASSEMBLY.

ART. 105. The attributions of the National Assembly are as follows:

1. To discuss bills, in pursuance of Article 44.
2. To discuss proposals for loans to the State, for the increase, diminution or imposition of taxes and all kinds of contributions, as well as their distribution and the manner of their collection.
3. To decree release from taxes and contributions which are in arrears and the collection of which appears to have become impossible.
4. To discuss the annual budget of receipts and expenditures.
5. To control the expenditure of the sums carried in the budget.
6. To control the operations of the Court of Accounts, which is obliged to present to the Assembly detailed data on the use to which the budget has been put.
7. To put questions as to the responsibility of ministers.

ART. 106. The Assembly has the right to receive all kinds of petitions and requests and to transmit them to the respective ministers. It has the right to appoint commissions of inquiry in all the branches of the administration.

Ministers are obliged to furnish explanations when the Assembly asks for them.

ART. 107. The members of the Assembly have the right to address interpellations to the government; the government and the respective ministers are obliged to reply thereto.

CHAPTER XVI.—RULES RELATING TO THE PRESENTATION AND EXAMINATION OF BILLS AND PROPOSALS.

ART. 108. The King and the National Assembly have the right to initiate legislation.

ART. 109. Bills and proposals are presented to the National Assembly by the respective ministers at the command of the King.

Any representative in the National Assembly may likewise present bills or proposals if he is supported by one fourth of the members present.

ART. 110. Any bill or proposal presented to the National Assembly may be withdrawn so long as it has not been passed as a whole.

ART. 111. The National Assembly may amend, complete, or correct bills which are presented to it.

ART. 112. If the government does not consent to the amendments, additions, or corrections in the bills presented by it, it may withdraw them or present them again in their original form, with explanations and remarks; or it may present them with the amendments and additions which it deems it advisable to introduce therein.

ART. 113. If the Assembly rejects a bill in its entirety, it may not be again presented to the Assembly without modification at the same session. Such a bill may be presented at another session.

ART. 114.¹ Bills presented to the National Assembly may not be voted unless more than one third of all the representatives are present at the meeting.

ART. 115.¹ The members of the Assembly are required to vote in person and in public. The vote may, however, be in secret if at least ten members so request and if their request is granted by the National Assembly.

ART. 116. The Assembly decides questions by a majority vote.

ART. 117. In case of a tie vote, the bill or proposal is considered defeated.

ART. 118. The King must make known to the Assembly, during its session, his decision on every resolution which is passed by the Assembly and submitted to him.

CHAPTER XVII.—THE BUDGET.

ART. 119. The budget is submitted every year to the National Assembly for discussion.

ART. 120. As soon as the budget is voted by the National Assembly, it is submitted to the King for his sanction.

ART. 121.² The National Assembly discusses the proposed budget article by article.

ART. 122. When the Assembly can not be convened and there are necessary emergency expenses to be provided for, the budget for the preceding year remains in force on the responsibility of the ministers until the National Assembly approves the expenditures made. This approval must be given at the next following session.

¹ As amended 15/27 May 1893.

² As amended 11/24 July 1911.

CHAPTER XVIII.—STATE LOANS.

ART. 123. No loan may be contracted without the consent of the National Assembly.

ART. 124. If it should become necessary to contract a loan, when the legislature is not in session, to meet extraordinary emergency expenses, the Assembly is convened immediately in extraordinary session.

ART. 125.¹ If there are serious obstacles in the way of convening the National Assembly, the King, on the initiative of the Council of Ministers, may decree a loan up to the sum of three million francs, on condition that such loan be submitted to the approval of the next National Assembly.

ART. 126.¹ As regards expenses for which no credit has been opened, the King may, in such cases and in accordance with the formalities indicated in the preceding article (125), order them to be defrayed from the treasury funds, but on condition that all such expenses shall not exceed the sum of one million francs.

ART. 127.² The King convenes the National Assembly regularly every year. The session lasts from 15 October to 15 December [old style] and from 15 January to 15 March [old style]. But the Assembly may be convened in extraordinary session, if important matters are on its program.

CHAPTER XIX.—THE CONVENING OF THE ASSEMBLY.

ART. 128. The place where the Assembly is to sit and the length of its session, as set forth in Article 127, are fixed by the convocation decree signed by the King.

ART. 129. The ordinary session of the Assembly may be prolonged if the King and the National Assembly mutually consent thereto.

ART. 130. The King opens and closes the Assembly in person or through a delegate specially designated for that purpose by procuration.

ART. 131. Prior to the opening of the Assembly all its members take, simultaneously and according to the forms of their religion, the following oath:

I swear in the name of the Only God to respect and defend the Constitution and in the performance of my duties in this Assembly to have always in view the welfare of the nation and of the King according to the dictates of my reason and my conscience. So help me God! Amen!

ART. 132. Members of the clergy do not take this oath, but solemnly promise to act always according to the dictates of their con-

¹ As amended 15/27 May 1893.

² As amended 11/24 July 1911.

science with a view to the common good of the country and of the King.

ART. 133. At the opening of the Assembly the King's speech sets forth the condition of the country and indicates the bills and proposals which are to be submitted to the consideration of the Assembly.

ART. 134. In reply to the royal speech, the Assembly presents an address to the King.

ART. 135. After convening the Assembly, the King may prorogue the session for two months at most. A further prorogation in the course of the same session may not take place except with the consent of the Assembly itself.

ART. 136. The King may dissolve the Assembly and order new elections.

ART. 137. The new elections must take place within two months at most and the new Assembly must be opened within not more than four months from the date of the dissolution of the preceding National Assembly.

ART. 138. The members of the National Assembly may not meet in session unless they are convened by the King; neither may they meet after the adjournment, closure, or dissolution of the Assembly.

ART. 139.¹ All representatives receive per diem compensation. Traveling expenses, however, are not allowed except to those who do not reside in the locality where the National Assembly meets.

CHAPTER XX—THE GRAND NATIONAL ASSEMBLY.

SECTION 1.—ATTRIBUTIONS OF THE GRAND NATIONAL ASSEMBLY.

ART. 140. The Grand National Assembly is convened by the King, by the Regency, or by the Council of Ministers.

ART. 141.¹ The King convenes the Grand National Assembly:

1. To discuss questions of the session or exchange of some part of the territory of the Kingdom.

2. To pass upon the case provided for by Article 7 of the Constitution.

3. To modify or revise the Constitution.

There must be a vote of two thirds of all the members of the Assembly.

ART. 142. The Grand National Assembly may not be convened by the Regency except for the purpose of considering questions of the alienation or exchange of some part of the Kingdom.

These questions are decided by a majority of the members of the Assembly present.

¹ As amended 15/27 May 1893.

ART. 143. The Council of Ministers convenes the Grand National Assembly:

1. To elect a new King in case the reigning King dies without leaving an heir. The election is decided by a majority of two thirds of the members of the Assembly present.

2. To elect regents during the minority of the King. The election is decided by a majority of the Assembly present.

ART. 144.¹ The Grand National Assembly is composed of representatives elected directly by the people. The number of these deputies must be double that of the members of the Ordinary National Assembly, in the ratio of two representatives to every twenty thousand inhabitants of both sexes. The elections shall take place in accordance with a special electoral law.

SECTION 2.—COMPOSITION OF THE GRAND NATIONAL ASSEMBLY.

ART. 145. The president, the vice-presidents and the required number of secretaries are elected by the Assembly from among its members. Until these elections have taken place the senior member occupies the presidential chair.

ART. 146. The Grand National Assembly may take up only the questions enumerated in Articles 141–143, for which it has been convened according to the Constitution, and it is dissolved immediately after it has decided them.

ART. 147. Articles 87, 90, 93, 104, 114, 115, 131 and 132 of the present Constitution are applicable also to the Grand National Assembly.

CHAPTER XXI.—THE GRAND BODIES OF THE STATE: THE COUNCIL OF MINISTERS, THE MINISTRIES.

ART. 148. The grand bodies of the State are:

1. The Council of Ministers.
2. The Ministries.

ART. 149. The executive power, under the high supervision and direction of the King (Article 12), belongs to the ministers and their Council.

ART. 150. The Council of Ministers is composed of all the ministers; one of them is appointed President of the Council by the King.

ART. 151. Aside from their regular duties in ordinary times, the Council of Ministers in certain cases set forth below is vested with the following rights and duties:

1. In case the King should die without issue, the Council of Ministers assumes the government of the Kingdom and convenes

¹ As amended 15/27 May 1893.

within one month the Grand National Assembly to elect the new King.

2. The Council of Ministers assumes the government also in case the King should not have appointed a Regency before his death. The Grand National Assembly must be convened within one month for the election of regents (Paragraph 1).

3. If the Queen widow is pregnant at the death of the King, the Kingdom is governed by the Council of Ministers until the Queen's delivery.

4. If one of the regents should die, the Council of Ministers convenes the Grand National Assembly for the election of a successor to the deceased regent, in accordance with the provisions of Paragraph 2.

5. The Council of Ministers, on assuming the government of the country in the cases mentioned in the present article (Paragraphs 1-4), makes this fact known to the nation by a proclamation.

6. As long as the Council of Ministers is in charge of the government of the Kingdom, there can be no change of ministers.

7. The members of the Council of Ministers, when they are provisionally in charge of the government of the country, receive only their salaries as ministers.

ART. 152. Ministers are appointed and dismissed by the King.

ART. 153. Ministers are jointly responsible to the King and the National Assembly for all measures taken in common, and each one is personally responsible for his acts within the limits of his attributions.

ART. 154. Every official act signed by the King must be countersigned, according to its character, either by all the ministers or by the minister concerned.

ART. 155. Charges may be brought against ministers by the National Assembly for treason against the country or the King, for violations of the Constitution, for corruption in office or injuries to the Kingdom in the furtherance of personal ends.

ART. 156. Every accusation against a minister must be presented in writing, with an enumeration of all the charges, and must be signed by at least one fourth of the members of the National Assembly.

ART. 157. A majority of two thirds of the members of the Assembly present is necessary in order to place a minister on trial.

ART. 158. Ministers are tried by a special court of the State, the composition of which shall be determined by a law.

ART. 159. The King may not pardon a minister without the consent of the National Assembly.

ART. 160. The execution of the laws is entrusted to the grand bodies of the State called the ministries.

ART. 161.¹ The ministries are ten in number:

1. The Ministry of Foreign Affairs and Worship.
2. The Ministry of the Interior and Public Health.
3. The Ministry of Public Instruction.
4. The Ministry of Finance.
5. The Ministry of Justice.
6. The Ministry of War.
7. The Ministry of Commerce, Industry and Labor.
8. The Ministry of Agriculture and Domains of the State.
9. The Ministry of Public Works.
10. The Ministry of Railways, Posts and Telegraphs.

ART. 162. A minister is placed at the head of each ministry.

ART. 163. The King has the right of appointment to all the offices of the State.

ART. 164. Every official takes an oath of fidelity to the King and the Constitution.

ART. 165. Every official is responsible for acts pertaining to his duties.

ART. 166. All officials appointed by the government are entitled to a pension, the basis and amount of which shall be determined by a special law.

CHAPTER XXII.—THE MODE OF REVISION AND MODIFICATION OF THE CONSTITUTION.

ART. 167. Proposals for the modification or revision of the Constitution are made in the manner prescribed for the making of laws (Articles 108 and 109).

ART. 168. In order to be adopted, the proposals referred to in the preceding article must receive a majority of more than two thirds of all the members of the National Assembly present.

ART. 169. The Grand National Assembly is convened to examine the proposals mentioned in Article 167 and decides, by a two-thirds majority of its members present, questions concerning the modification or revision of the Constitution.

¹ As amended 11/24 July 1911.

CHINA.

On 12 February 1912, as the result of a revolution, the oldest of monarchies became a republic. The settlement at the close of the revolution, which united the northern and southern provinces into the Republic of China, included among its terms the permanent union of North and South China and the abdication of the Emperor. Delegates from seventeen provinces met in Nanking and drafted a Provisional Constitution, which was promulgated by the Provisional President, Dr. Sun Yat-sen, on 11 March 1912. This Provisional Constitution, consisting of 56 articles, made provision (Article 53) for a National Assembly, which first met on 8 April 1913 as a bicameral body and initiated the drafting of a permanent Constitution. Before the completion of the draft, Articles 56-62, respecting the election of a President and Vice President, were passed by the Assembly and Yuan Shih-k'ai was elected President. The entire draft Constitution of 113 articles was completed and submitted on 3 November 1913 to the two houses of the National Assembly, but, before it could be adopted, Yuan, because he suspected complicity in the rebellion along the Yangtse River, unseated the Kuo-ming-tang members or Democrats—a fact which destroyed the quorum of both houses and in effect dissolved the National Assembly. Yuan thereupon appointed a Council of State (Ts'an Chêng Yuan), which in turn appointed a committee to draw up a new constitution. This is the Constitutional Compact of the Chung Hua Min Kuo of 68 articles, promulgated on 1 May 1914,¹ by which Yuan became a virtual dictator. Attempts to revert to a monarchy were checked only by the death of Yuan on 6 June 1916. The Provisional Constitution of 11 March 1912 was then revived, and in September the National Assembly was reconvened. The revision of the draft Constitution was immediately taken up and was nearly completed when the National Assembly was suddenly dissolved in June 1918.²

¹ Cf. *The China Year Book*, 1916, pp. 437-443.

² These introductory paragraphs are based upon MIN-CH'YEN T. Z. TYAU, *China's New Constitution and International Problems* (Shanghai, 1918), which gives a brief history of the constitutional development, an analysis of the permanent Constitution so nearly adopted in 1918 and an estimate of the latter in comparison with the Provisional Constitution and the constitutions of other countries. Cf. also *The Statesman's Year Book* (1917 and 1918) and *The China Year Book* (1916).

PROVISIONAL CONSTITUTION OF 11 MARCH 1912.¹

CHAPTER I.—GENERAL PROVISIONS.

ARTICLE 1. The Republic of China is composed of the Chinese people.

ART. 2. The sovereignty of the Chinese Republic is vested in the people.

ART. 3. The territory of the Chinese Republic consists of 22 provinces, Inner and Outer Mongolia, Tibet and Chinghai.

ART. 4. The sovereignty of the Chinese Republic is exercised by the Advisory Council, the Provisional President, the Cabinet and the Judiciary.

CHAPTER II.—CITIZENS.

ART. 5. Citizens of the Chinese Republic are all equal, and there shall be no racial, class or religious distinctions.

ART. 6. Citizens shall enjoy the following rights:

1. The person of the citizens shall not be arrested, imprisoned, tried or punished except in accordance with law.

2. The habitations of citizens shall not be entered or searched except in accordance with law.

3. Citizens shall enjoy the right of the security of their property and the freedom of trade.

4. Citizens shall have the freedom of speech, of composition, of publication, of assembly and of association.

5. Citizens shall have the right of the secrecy of their letters.

6. Citizens shall have the liberty of residence and removal.

7. Citizens shall have the freedom of religion.

ART. 8. Citizens shall have the right of petitioning the executive officials.

ART. 9. Citizens shall have the right to institute proceedings before the judiciary and to receive its trial and judgments.

ART. 10. Citizens shall have the right of suing officials in the administrative courts for violation of law or against their rights.

ART. 11. Citizens shall have the right of participating in civil examinations.

ART. 12. Citizens shall have the right to vote and to be voted for.

ART. 13. Citizens shall have the duty to pay taxes according to law.

ART. 14. Citizens shall have the duty to enlist as soldiers according to law.

¹ Translation from the *Peking Daily News*, verified by the Chinese Secretary of the American Legation, Peking, China, and published in *Supplement to the American Journal of International Law*, 6 (1912) : pp. 149-154. A French translation is in the *Annuaire de législation étrangère*, 12 (1912), pp. 598-602.

ART. 15. The rights of citizens as provided in the present chapter shall be limited or modified by laws provided such limitation or modification shall be deemed necessary for the promotion of public welfare, for the maintenance of public order or on account of extraordinary exigency.

CHAPTER III.—THE ADVISORY COUNCIL.

ART. 16. The legislative power of the Chinese Republic is exercised by the Advisory Council.

ART. 17. The Advisory Council shall be composed of members elected by the several districts as provided in Article 18.

ART. 18. The Provinces, Inner and Outer Mongolia and Tibet shall each elect and depute five members to the Advisory Council and Chinghai shall elect one member.

ART. 18. The election districts and methods of elections shall be decided by the localities concerned.

During the meeting of the Advisory Council each member shall have one vote.

ART. 19. The Advisory Council shall have the following powers:

1. To pass all law bills.
2. To pass the budgets of the provisional government.
3. To pass laws of taxation, of currency, and of weights and measures for the whole country.
4. To pass measures for the calling of public loans and to conclude contracts affecting the national treasury.
5. To give consent to matters provided in Articles 34, 35 and 40.
6. To reply to inquiries from the provisional government.
7. To receive and consider petitions of citizens.
8. To make suggestions to the government on legal or other matters.

9. To introduce interpellations to members of the cabinet and to insist on their being present in the Council in making replies thereto.

10. To insist on the government investigating into any alleged bribery and infringement of laws by officials.

11. To impeach the Provisional President for high treason by a majority vote of three fourths of the quorum consisting of more than four fifths of the total number of the members.

12. To impeach members of the cabinet for failure to perform their official duties or for violation of the law, by majority votes of two thirds of the quorum consisting of over three fourths of the total number of the members.

ART. 20. The Advisory Council shall itself convoke, open and adjourn its own meetings.

ART. 21. The meetings of the Advisory Council shall be conducted publicly, but secret meetings may be held at the instigation of members of the cabinet or by the majority vote of its quorum.

ART. 22. Matters passed by the Advisory Council shall be communicated to the Provisional President for promulgation and execution.

ART. 23. If the Provisional President should veto matters passed by the Advisory Council, he shall, within ten days after he received such resolutions, return the same with stated reasons to the Council for reconsideration. If the same matter should again be passed by a two-thirds vote of the quorum of the Council, it shall be dealt with in accordance with Article 22.

ART. 24. The President of the Advisory Council shall be elected by ballots signed by the voting members, and the one who receives more than one half of the total number of the votes cast shall be elected.

ART. 25. Members of the Advisory Council shall not, outside the Council hall, be responsible for their opinions expressed and votes cast in the Council.

ART. 26. Members of the Council shall not be arrested without the permission of the President of the Council, except for crimes committed at the time of arrest and for crimes pertaining to civil and international warfare.

ART. 27. Procedures of the Advisory Council shall be decided by its own members.

ART. 28. The Advisory Council shall be dissolved on the day of the convocation of the National Assembly and its powers shall be exercised by the latter.

CHAPTER IV.—THE PROVISIONAL PRESIDENT AND VICE-PRESIDENT.

ART. 29. The Provisional President and Vice-President shall be elected by the Advisory Council, and he who receives two thirds of the total amount of votes cast by a sitting of the Council consisting of over three fourths of the total number of members shall be elected.

ART. 30. The Provisional President represents the provisional government as the fountain of all executive powers and for promulgating all laws.

ART. 31. The Provisional President may issue or cause to be issued orders for the execution of laws and of powers delegated to him by the laws.

ART. 32. The Provisional President shall be the commander-in-chief of the army and navy of the whole of China.

ART. 33. The Provisional President shall ordain and establish the administrative system and official regulations, but he must first submit them to the Advisory Council for its approval.

ART. 34. The Provisional President shall appoint and remove civil and military officials, but in the appointment of members of the Cabinet, ambassadors and ministers, he must have the concurrence of the Advisory Council.

ART. 35. The Provisional President shall have power, with the concurrence of the Advisory Council, to declare war and conclude treaties.

ART. 36. The Provisional President may, in accordance with law, declare a state of siege.

ART. 37. The Provisional President shall, representing the whole country, receive ambassadors and ministers of foreign countries.

ART. 38. The Provisional President may introduce bills into the Advisory Council.

ART. 39. The Provisional President may confer decorations and other insignia of honor.

ART. 40. The Provisional President may declare general amnesty, grant special pardon, commute a punishment and restore rights, but, in the case of a general amnesty, he must have the concurrence of the Advisory Council.

ART. 41. In case the Provisional President is impeached by the Advisory Council, he shall be tried by a special court consisting of nine judges elected among the justices of the Supreme Court of the realm.

ART. 42. In case the Provisional President vacates his office for various reasons, or is unable to discharge the powers and duties of the said office, the Provisional Vice-President shall take his place.

CHAPTER V.—MEMBERS OF THE CABINET.

ART. 43. The premier and the chiefs of the government departments shall be called members of the Cabinet.¹

ART. 44. Members of the Cabinet shall assist the Provisional President in assuming responsibilities.

ART. 45. Members of the Cabinet shall countersign all bills introduced by the Provisional President and all laws and orders issued by him.

ART. 46. Members of the Cabinet and their deputies may be present and speak in the Advisory Council.

ART. 47. After members of the Cabinet have been impeached by the Advisory Council, the Provisional President may remove them from office, but such removal shall be subject to the reconsideration of the Advisory Council.

¹ Literally, secretaries of State affairs.

CHAPTER VI.—THE JUDICIARY.

ART. 48. The judiciary shall be composed of those judges appointed by the Provisional President and the Chief of the Department of Justice.

The organization of the courts and the qualification of judges shall be determined by law.

ART. 49. The judiciary shall try civil and criminal cases, but cases involving administrative affairs or arising from other particular causes shall be dealt with according to special laws.

ART. 50. The trial of cases in the law courts shall be conducted publicly, but those affecting public safety and order may be in camera.

ART. 51. Judges shall be independent and shall not be subject to the interference of higher officials.

ART. 52. Judges during their continuance in office shall not have their emoluments decreased and shall not be transferred to other offices, nor shall they be removed from office except when they are convicted of crimes, or of offences punishable according to law by removal from office.

Regulations for the punishment of judges shall be determined by law.

CHAPTER VII.—SUPPLEMENTARY ARTICLES.

ART. 53. Within ten months after the promulgation of this Provisional Constitution, the Provisional President shall convene a national assembly, the organization of which and the laws for the election of whose members shall be decided by the Advisory Council.

ART. 54. The Constitution of the Republic of China shall be adopted by the National Assembly, but before the promulgation of the Constitution, the Provisional Constitution shall be as effective as the Constitution itself.

ART. 55. The Provisional Constitution may be amended by the assent of two thirds of the members of the Advisory Council or upon the application of the Provisional President, and being passed by over three fourths of the quorum of the Council consisting of over four fifths of the total number of its members.

ART. 56. The present Provisional Constitution shall take effect on the date of its promulgation and the fundamental articles for the organization of the provisional government shall cease to be effective on the same date.

Sign. 4m 22.1820

COSTA RICA.

The State of Costa Rica was not established as an independent republic until 21 January 1847, nine years after the dissolution of the Central American Confederation. Its Constitution as a federal State, which dated from 2 January 1825, then gave way to a new Constitution,¹ which underwent a reform on 22 November 1848.² From 1848 to 1859 Costa Rica attained to a remarkable degree of prosperity. New Constitutions were established 26 December 1859,³ 18 February 1869⁴ and 7 December 1871,⁵ the last of which was amended several times⁶ and was in force actually or nominally until the Constitution of 8 June 1917 was promulgated.⁷

CONSTITUTION OF 8 JUNE 1917.⁸

[PREAMBLE.]

We, the representatives of the people of Costa Rica, having legitimately assembled to revise the political Constitution and to proceed to the total reformation thereof, in order to secure upon solid bases the common welfare and the benefits of liberty, and of a government adapted to the general necessities and conveniences, decree and sanction the following political Constitution.

CHAPTER I.—THE REPUBLIC AND THE GOVERNMENT IN GENERAL.

ARTICLE 1. Costa Rica is and shall remain a free and independent Republic.

It may, however, form a single political unit with one, several, or all of the other Republics of Central America.

¹ English translation in *British and Foreign State Papers*, 35 : pp. 44-73.

² English translation in *British and Foreign State Papers*, 37 : pp. 777-793.

³ English translation in *British and Foreign State Papers*, 50 : pp. 1092-1111.

⁴ English translation in *British and Foreign State Papers*, 59 : pp. 216-235.

⁵ English translation of Constitution of 7 December 1871 in *British and Foreign State Papers*, 63 : pp. 294-313. Spanish text of Constitution of 1871 with amendments to 1905 in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 1096-1113; the same with English translation in parallel columns in J. I. RODRIGUEZ, *American Constitutions*, vol. 1 (Washington, 1906), pp. 326-357.

⁶ English translations of the amendments of 26 April 1882 and 12 May 1897 are in *British and Foreign State Papers*, 73 : pp. 608-609, and 89 : p. 1129, respectively.

⁷ This introductory paragraph is based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, pp. 566-567.

⁸ Translated by ANTONIO M. OPISSO from the official Spanish text as printed in *La Gaceta* of 13 June 1917.

The treaties of union which may be concluded for this purpose shall be submitted to Congress at the next ordinary session; should Congress approve said treaties by a vote of two thirds of the members present, it shall issue a call to the towns of the Republic to elect a Constituent Assembly for the sole purpose of ratifying or rejecting them.

Should the Assembly ratify said treaties by a vote of three fourths of the total number of its members, they shall become final and binding on the Republic. In this event it belongs to the Assembly to dictate the necessary laws for executing and carrying out said treaties.

ART. 2. The sovereignty resides essentially and exclusively in the nation, from whom public powers emanate, which powers are limited and must be exercised in accordance with the provisions of this Constitution.

ART. 3. No public authority shall validly enter into compacts, agreements, or treaties which may jeopardize the sovereignty and independence of the Republic. Whoever is guilty of this attempt shall be held as a traitor.

✓ The foregoing provision shall not prevent public treaties from being concluded and approved for a political union as provided for in Article 1; nor treaties to modify the boundaries of the national territory; nor those providing for the construction of any inter-oceanic canal which may affect the sovereignty over a part of the territory; nor treaties for the alienation of any island belonging to the State, situated at a distance of over one hundred miles from the coast.

In order that the treaties which may be concluded for any of the last three mentioned purposes may become valid, they shall be submitted to Congress at two different terms of session, whether ordinary or extraordinary, with an interval of two months at least between each term, and must be approved by a vote of three fourths of the total number of its members.

Railways and tramways belonging to the State and devoted to the public service can not be alienated. Neither can they be leased out unless a law should provide so in each case by a vote of two thirds of the respective chamber.

ART. 4. The government of the Republic is popular, representative, alternative and responsible.

It shall be vested in three different powers independent of each other, to be known as the legislative, the executive and the judicial powers.

The legislative power shall never grant omnimodous powers to the executive, or delegate to it the power to legislate; nor shall the legislative or the executive power in any case exercise judicial functions (except as provided for in the case of the Senate sitting as a court for political trials), nor take jurisdiction on pending cases or ask for

these to be brought before them *ad effectum videndi*, nor cause the reopening of finished cases.

ART. 5. The territory of the Republic, which is situated between the Atlantic and Pacific Oceans, is bounded on the northwest by the Republic of Nicaragua, from which it is separated by the line established in the Treaty of Cañas-Jerez of 15 April 1858, and by Cleveland's Award of 22 March 1888. It is bounded on the southeast by the Republic of Panama, from which it is separated by the line established by Loubet's Award of 11 September 1900, the Anderson-Porrás Treaty of 17 March 1910 and by White's Award of 12 September 1914.

ART. 6. No one shall assume the title of sovereign, and whoever should do so shall be prosecuted in accordance with the Penal Code.

No authority shall assume powers not granted to it by law.

Public officials are not owners, but mere depositories of authority. They are subject to the laws; they shall never be considered or held as superior to them, and they are directly and immediately responsible for the acts they may execute in the exercise of their functions. The action to accuse them shall be popular.

✓ No venal employments are recognized.

ART. 7. All orders emanating from the legislative or executive powers which are contrary to the Constitution shall be null and void and without effect, whatever be the form in which they may be issued. Courts of justice shall not obey or apply them in any case.

All acts of those usurping public powers, and all employments given without the requirements demanded by the Constitution, or in default thereof, without the requirements provided by law, shall also be null and void.

ART. 8. The Roman Catholic Apostolic religion is the religion of the State. The State shall contribute to its support without thereby preventing the free exercise of any other form of worship which does not oppose universal morals or good customs.

The declaration referred to in this article does not affect existing legislation, nor hinder in any way the freedom of action of public powers in regard to any national interests.

ART. 9. Primary education shall be obligatory and gratuitous.

The State shall take charge of the public primary schools as well as of normal schools.

Primary schools which are supported by private individuals shall be under the supervision of the government.

The State shall maintain the institutions for secondary education now in existence, and has the power to create other centers of the same character and to contribute to their support and to that of professional schools which may be established either by public or private initiative. It has likewise the power to reestablish the University.

All Costa Ricans or foreigners are free to give or receive the instruction which they may deem convenient in those establishments which are not supported by public funds.

ART. 10. It is the duty of the State to look after the welfare of the working classes, and for this purpose it shall enact all necessary laws; in default of social initiative it shall promote, and in all cases it shall support to the extent of its resources, such institutions as may have for their object to harmonize, on the basis of justice, the relations between patrons and workmen, and those which tend to meliorate the financial status of the latter and to assist them in case of illness, old age or accident, cessation of work or other misfortunes independent of their will.

ART. 11. Every public official shall take an oath in accordance with the following formula:

Do you swear before God, and do you promise to your country to observe and defend the Constitution and the laws of the Republic, and to faithfully fulfill the duties of your office?

I do.

If you do so, may God help you; if not, may He and the country demand it from you.

ART. 12. The military force is subordinated to the civil power; it is essentially passive and must never deliberate.

CHAPTER II.—INDIVIDUAL GUARANTEES.

ART. 13. All men are equal before the law.

The State does not grant nobility titles or hereditary prerogatives or honors, nor does it recognize those granted by another nation.

It does not admit in any form the institution of slavery. The slave who arrives at Costa Rican territory shall, by that very fact, be held and treated as a free man.

ART. 14. No law shall be given retroactive effect to the prejudice of any person or of his vested rights.

ART. 15. The right of property is inviolable, and no one shall be deprived of his property except by virtue of a judicial decree, and for reasons of public utility judicially declared, and after payment of the actual value of both the property and the resulting damages which may be proved, all as appraised by experts.

In case of war or of internal disturbances, and only for the purpose of attending to the national defense or to the restoration of public order, the administrative authority shall declare the need of expropriation without previous indemnity. In this event real property shall be temporarily occupied only for military purposes or to devote the proceeds thereof to the needs of the army. The State is always liable for the expropriations, which the executive may make, either by himself or through his agents.

No law shall provide that private property shall become the property of the State in case that the owner thereof should have given it an inexact value for the purpose of taxation, and that the State, either by itself or through a third party, may offer to take it for the appraised value and a premium.

Mines may be claimed even on private land, but they shall not be worked or adjudicated without previous payment to the owner of the surface for the value of the land to be occupied and the damages resulting therefrom, as the authorities may order and experts may appraise.

ART. 16. No one shall be prevented from engaging in any profession, industry, commerce or work he may desire, provided they are lawful. This right shall only be restricted by a judicial decree whenever the rights of a third party are impaired or by an administrative order issued in accordance with the law, whenever the public security or health or the interests of the nation demand it.

The law shall determine what professions require a degree and what conditions must be fulfilled in order to obtain said degree.

Foreigners may engage in the liberal professions provided Costa Ricans enjoy the same rights in their respective countries.

ART. 17. No person shall be imprisoned for debts of purely civil character.

ART. 18. Private actions which do not affect public order or morals or which do not result to the injury of a third party are beyond the pale of law.

ART. 19. No one shall be molested or prosecuted for any act which does not violate the law, nor for any written or spoken statement of his political opinions. Nevertheless, neither clergymen nor laymen shall in any manner make political propaganda invoking motives of religion or making use, as a means for such propaganda, of the religious beliefs of the people.

ART. 20. No one shall do justice by himself, or execute any acts of violence to enforce his rights. The power to judge civil and criminal cases belongs exclusively to the tribunals of justice.

ART. 21. All Costa Ricans or foreigners must apply to law to seek redress for the injuries or damages which they may have suffered in their person, property, or honor. Prompt and full justice must be dealt in strict conformity with the laws.

Courts of justice shall not be excused from exercising their authority on the ground of lack of legal provision, which may settle the litigation or conclude the case submitted to their decision. If there is no law applicable, they shall apply the general principles of law and of eternal justice.

ART. 22. All Costa Ricans or foreigners have the right to terminate their civil suits by means of arbiters before or after having started legal proceedings.

ART. 23. The same judge shall not sit in different stages (*instancias*) in the same case.

ART. 24. No penalty shall be imposed which has not been provided previously for the crime or misdemeanor of which one may be guilty.

All penalties are personal. No torture, infamous penalties or confiscation of property shall be imposed. The latter provision does not prevent confiscation of the instruments or objects used in the commission of the crime.

ART. 25. No one shall be tried by a specially appointed commission, court or judge, except by the court designated and previously established by law.

Only those who are guilty of the crime of sedition and rebellion and the members of the army who are in active service shall be subject to military jurisdiction for crimes of any kind which they may commit. Those armed bodies, which, according to the law, are militarily regulated are to be considered as military bodies.

Ordinary courts shall take cognizance of appeals and writs of error which may be taken or brought in military cases. Any judgment or order dismissing a case can always be taken up in consultation.

ART. 26. No one shall be compelled to testify against himself in a criminal case brought against him. Nor shall his spouse, descendants, ascendants, brothers by blood or affinity be compelled to testify against the accused.

ART. 27. No penalty shall be imposed without the accused having been heard and convicted by a court, and until the judgment rendered by a competent judge or authority imposing such penalty has become final.

Physical constraint in civil matters is excepted.

ART. 28. Criminal procedure laws must secure in an efficient manner the right of defense of the accused, and consequently, the right to have his plea heard, to have his proofs admitted and to be defended by the person he may choose, and in default thereof, by a person appointed by the court.

ART. 29. Human life is inviolable.

ART. 30. No one shall be arrested without information that he has committed an offense and without written order from a judge or authority entrusted with the preservation of public order, except when the accused has been declared a fugitive from justice.

A person caught in the act may be arrested without previous order by any person for the sole purpose of bringing him before the competent authority.

No person shall be kept under arrest for more than three days without a formal warrant of arrest stating the crime which is imputed to the person arrested and the place, time and circumstances thereof, and all the facts brought out by the summary investigation.

Wardens of prisons shall not receive any one as a prisoner without noting down in the register book the warrant of arrest emanating from the official who has the power to issue it. They may, however, receive as detention prisoners, those who are brought in to be presented to the judge or competent authority, but they are obliged to report to the latter within twenty-four hours.

ART. 31. Every inhabitant of the Republic is entitled to the writ of *habeas corpus*.

ART. 32. All persons may, in times of peace, enter or leave the Republic, travel through its territory and change their residence.

The exercise of this right of free locomotion is subject to the powers of the authority in cases of criminal, civil or police liability, and to the provisions of the law, in so far as it relates to emigration, immigration and general health or the administrative expulsion of non-desirable foreigners.

ART. 33. The dwelling of the inhabitants of the Republic is an inviolable asylum which shall only be entered in the special cases designated by law, and by virtue of an order emanating from the proper authority.

ART. 34. Postal and telegraphic correspondence is inviolable.

Private letters and papers shall only be intercepted, taken or registered by public officials through an order emanating from the proper authority in such cases and under such formalities as are established by law, and for the sole purpose of procuring legal evidence to be presented in criminal cases which are not of a political nature. Papers or private letters which are procured by any other means shall not constitute valid proof.

ART. 35. Any one may communicate his thoughts by spoken or written words or through the agency of the press without previous censoring, but shall be liable for any offense committed in the exercise of this right in such cases and manner as the law may provide.

ART. 36. All the inhabitants of the Republic have the right to assemble peacefully and without arms, for the purpose of engaging in private business or to discuss political matters, and examine the public conduct of government officials. In order to assemble in the streets, squares, and other public places, it shall be necessary to give notice to the political authorities of the place, for the purpose of preserving order.

ART. 37. The right of petition may be exercised individually or collectively. But no person or number of persons may take up the

representation of the people, assume its rights, or make petitions on its behalf. Any one doing so shall be guilty of sedition.

ART. 38. The individual guarantees set forth in the six foregoing articles shall be suspended when the Republic is in imminent peril, either by foreign aggression or by internal upheaval. The suspension shall extend to all these guarantees or to one or more of them, either throughout the whole territory of the Republic or only in a part thereof, and shall last not more than thirty days.

The suspension shall be decreed by Congress at the request of the executive, by two thirds of the votes of the members present.

The executive shall, in regard to persons, only order their detention in a place not set apart for common culprits, or decree their confinement in inhabited and healthy places. In no case shall the executive torment or vex them. He shall report to Congress at its next session all measures taken to preserve public order or maintain the security of the State. These measures shall cease immediately after the guarantees are restored.

During the recess of Congress, the executive shall, in the Council of Ministers, decree this suspension under the terms and with the limitations aforesaid, and shall immediately report to the legislative power. The decree of suspension in the latter case shall amount to a call to Congress to convene at twelve o'clock on the day following that in which the order has been published. Should Congress not confirm this measure by a vote of two thirds of the members present, the guarantees shall be considered reestablished.

CHAPTER III.—NATIONALITY AND CITIZENSHIP.

ART. 39. The following are Costa Ricans, by birth or origin:

1. The legitimate children of a Costa Rican father, and the illegitimate children of a Costa Rican mother, wherever they may be born.

2. The illegitimate children of a foreign mother, born in Costa Rica, and under 21 years of age, acknowledged by a Costa Rican father with the consent of the mother.

3. A child born or found in Costa Rican territory whose parents or nationality are unknown.

4. The legitimate children of a foreign father and the illegitimate children of a foreign mother born in Costa Rica, who, by their own will, register in the civil registry after reaching the age of 21 years, or before reaching this age, with the consent of their father or mother.

5. The inhabitants of the Republic who have acquired the Costa Rican nationality of origin in accordance with former laws, and who have not lost this nationality afterwards in accordance with the law.

ART. 40. The following are naturalized Costa Ricans:

1. Costa Ricans who, after having lost their nationality, recover it in accordance with the law.

2. Foreigners who heretofore should have acquired the status of naturalized Costa Ricans in accordance with the law, and have not lost it.

3. A foreign woman who marries a Costa Rican. She shall retain her status even if she becomes a widow.

4. Foreigners of good conduct and with known business and means of living, who after having resided five years in the country should obtain naturalization papers in accordance with the law. The period of residence shall be reduced to one year for natives of any of the Republics of Central America.

5. Foreigners who render or have rendered important services to the State, or who are people of great ability or of great scientific or artistic culture, or who bring with themselves interesting inventions or open great establishments of positive benefit to the country shall obtain from the executive power the Costa Rican nationality, after having resided one year in Costa Rica.

Naturalization of a foreigner carries with it that of his wife and minor children under 21 years. The latter may, however, on reaching their twenty-first year, choose the nationality of origin.

ART. 41. The following lose their Costa Rican nationality:

1. Costa Ricans who become naturalized in a foreign country.

2. Those who, without the consent of the government, accept titles or decorations conferred by a foreign government, unless said titles are literary or scientific, in which case they may be freely accepted.

3. Those who, without special permission from the government, enter the military service of a foreign nation or enlist in a foreign military body.

4. The illegitimate child of a Costa Rican mother, on being acknowledged, with her consent, by his foreign father, provided that by the law of the respective country said child acquires that nationality.

5. Any Costa Rican woman who marries a foreigner. She shall preserve her foreign nationality unless, according to the law of her husband's country she does not acquire the latter's nationality, since in such case she shall continue to be a Costa Rican.

6. He who in any manner and for any reason asks for or provokes the intervention of any foreign Power against the Republic, or takes refuge in a legation or in a warship of a foreign nation or in any other place protected by the privilege of extraterritoriality, in order to elude the national laws or authorities. Costa Ricans who

lose their nationality by the first of the causes enumerated in this paragraph can never recover it.

ART. 42. No citizen or subject of a nation with which Costa Rica may be at war, nor those who have been declared in other countries to be pirates, slave traders, guilty of incendiarism, counterfeiters of coin, of bank notes, of Treasury notes or of other documents of public credit, murderers, plagiarists or robbers, shall be granted Costa Rican nationality.

ART. 43. The naturalization of a foreigner shall become void by residence in his country of origin for two consecutive years, unless he resides therein in the discharge of an official commission of the Costa Rican government or with the permission of the latter.

ART. 44. The law shall determine the means and the manner by which Costa Rican nationality may be recovered.

ART. 45. The following are the duties of Costa Ricans: to obey the Constitution and the laws, to serve and defend the country and to contribute to the public expenses. They are furthermore obliged to cause their children or wards to attend public or private schools in order to obtain primary elementary education, during the time which the law may designate.

ART. 46. Costa Rican citizens are all male persons who, besides having the status of Costa Ricans have the following requisites:

1. To have reached the age of 21 years, or of 20 years if they have a professional title recognized by the State.

2. To own some property or to have some honest trade, the proceeds or profits of which may be sufficient to support them in relation to their social standing.

3. To be registered in the civil registry of the district where they are domiciled.

4. Beginning from 1 January 1927, in order to be a Costa Rican citizen, it shall be required furthermore to know how to read and write, or to have registered property to the value, at least, of 500 colons, or to be over 50 years of age.

ART. 47. Citizenship is lost together with Costa Rican nationality. The exercise of citizens rights may be suspended, lost and recovered for the causes designated by law.

ART. 48. Those who have lost their citizenship, except in case of treason to the country, may have their rights restored by the executive, when a petition for this grace is legally founded.

ART. 49. Foreigners enjoy in the territory of the nation the same civil rights as the citizens, and they may exercise them as the nationals.

They are under obligation to contribute to the public expenses in the manner provided by law, but not to pay extraordinary obligatory taxes.

They are exempt from military duty. Those who are domiciled in the country are obliged, however, to do police duty in abnormal cases, when the security of the property or the preservation of order in the same town where they live so demand it, subject to the exceptions in regard to this provision stipulated in the treaties which Costa Rica may have concluded with the respective countries.

Foreigners must obey and respect the institutions, laws and authorities of the country, and submit themselves to the findings and judgments of the courts, without making use of any other recourses than those granted to citizens by the laws.

They do not enjoy political rights and must, on the contrary, refrain from participating in any manner in the political matters of the country.

Notwithstanding the aforesaid provisions, the government may expel, in accordance with the law, any foreigner whose permanent residence in the country may be deemed inadvisable.

CHAPTER IV.—SUFFRAGE.

ART. 50. Suffrage is an essentially political function and belongs exclusively to the citizens in the exercise of their rights: the act of voting, being personal, may only be executed by a citizen who has himself the right to do so.

ART. 51. Direct suffrage shall be exercised:

1. By citizens domiciled in each district, to elect a municipal syndic and substitute.
2. By citizens domiciled in each district, to elect an intendant and municipal alderman as well as their respective substitutes.
3. By citizens domiciled in each province, to elect deputies and senators and their substitutes.

The election which embraces three or more functionaries of the same kind shall be made by the system of proportional representation.

ART. 52. Popular elections shall be held on the first Sunday in March, every three years, beginning from 1922 inclusive. At these elections one half of the senators, one half of the deputies and one half of the aldermen, as well as the municipal syndics and intendants, shall be elected.

ART. 53. To exercise the right to vote it is required that the citizen be provided with a personal certificate which shall be given to him free of cost. On casting his vote it must be noted in this certificate that the citizen to whom it belongs has already voted in the corresponding election.

ART. 54. No authority shall arrest any citizen or elector during the hours of voting, except in case of *flagrante delicto*. Nor shall he be required to render military service.

The public official, who shall dictate or attempt to dictate to his subordinates or to any voter the manner in which he is to vote, shall lose his position and his rights as citizen and shall be punished according to law.

^ No military forces shall be located at the polls or near them. Only the president of the board shall have the right to arrange for the police service in the voting precinct and its immediate surroundings, for the maintenance of order.

ART. 55. The election of deputies, senators, municipal officers, intendants, vice-intendants and syndics shall be made by direct vote in accordance with the system in force. The election of President and Vice-President of the Republic shall be made by a secret ballot by an electoral college composed of the deputies and senators both sitting and substitutes, of the sitting aldermen of all the municipalities of the Republic and of all those persons who have occupied for a period not less than six months, the office of President of the Republic, Secretary or Under-Secretary of State, deputy, senator, or justice.

The election of justices of the Supreme Court of Justice shall be made by the Senate, choosing from among the lists of three candidates which the Chamber of Deputies and the executive power shall each present.

There shall be a quorum for election if three fourths of the members of the college meet; and the person receiving the absolute majority of the votes present shall be considered elected.

The president of the Senate shall preside over these electoral acts; in his absence, the president of the Chamber of Deputies, and in the absence of both, the senior senator present.

If, after two ballots, no one should be elected and more than three candidates should have been voted for, the president shall order a new balloting with the understanding that, if on this third ballot an absolute majority in favor of a candidate is not obtained, the balloting shall be continued, limited only to the three candidates who have obtained the greatest number of votes, and thus the election shall proceed for two consecutive times. For this purpose, and if by reason of a tie, it should be impossible to determine who are the three candidates with the highest number of votes, the necessary name or names shall be eliminated by lot in order to leave only three candidates on whom the election shall proceed.

If after two ballots limited to three specified names no election should have been made, the president shall order a new voting turn with the understanding that if an absolute majority does not result in favor of one of the candidates, the voting shall continue only as to the two highest candidates. Should it be impossible to determine

who are the two candidates obtaining the greatest number of votes, either for the reason that all three of them are tied, or because two of them have the same number of votes, one of the names of the three candidates in the first case, and of the two candidates tied in the second case, shall be eliminated by lot.

In the event that the voting being proceeded with only on specified candidates as provided for in the foregoing paragraphs, there should appear on a ballot an absolute majority in favor of a different candidate, the college shall declare elected the one who under such conditions obtained said majority. But if such majority should not appear, the president shall require the voters to proceed to vote exclusively between the two or three names which are being discussed, and shall apply to the candidate obtaining the greater number of votes those votes given to candidates not authorized, as well as blank ballots.

After the balloting has been limited to two names, the college shall continue in permanent session until one of them is elected.

After the election of the President has been completed, the election of the Vice-President shall be proceeded with without delay in accordance with the same principles heretofore explained.

ART. 56. The election of the President and of the Vice-President shall take place on the first Sunday in April of the year in which the presidential term expires. The college shall convene for that purpose at the capital of the Republic, even without previous convocation. Should there be no quorum on that day, the election shall be postponed to the following day. At this second meeting one half of the members of the college shall be sufficient to constitute a quorum. Should no quorum be present at that second meeting, the president shall order that the election be proceeded with on the following day with any number of persons present.

ART. 57. The members of the electoral college shall enjoy immunity from fifteen days before that on which the election of the President is to take place, and while said election has not been terminated, except in cases of *flagrante delicto*.

ART. 58. A special law shall regulate the elections upon the bases hereinbefore outlined so as to secure liberty and the order in the voting.

CHAPTER V.—THE LEGISLATIVE POWER.

ART. 59. The legislative power shall be vested in a Congress composed of two chambers, one of senators, and the other of deputies, whose members, in both, are elected directly by the citizens, and may be reelected indefinitely.

Each province shall be considered for this purpose as an electoral district, and shall elect a sitting deputy for every 15,000 inhabitants

or fraction thereof over 7,500; one substitute deputy for every three and fraction of three sitting deputies, and a substitute senator for every three or remainder of three sitting senators corresponding to it. Even if the number of deputies and senators of a province does not reach the number of three, a substitute shall always be elected.

In order to determine the number of sitting deputies, attention shall be paid to the result of the last official census, and the most recent figures given out by the Department of National Statistics, correcting or enlarging the census.

There shall be no elections by reason of the increase in population except every ten years.

Senators and deputies, although elected by provinces, represent the whole nation, and they must consult only justice and the common welfare. They can not compromise their votes prematurely.

Deputies and senators shall, upon assuming office, take the constitutional oath. The President shall take his oath before the Chamber, and the deputies and senators before the president of the respective chamber.

ART. 60. To be a deputy or a senator the following requisities must be filled:

1. To be a citizen in the exercise of his rights.
2. To be a native of the Republic, or naturalized therein, and have resided ten years after having obtained naturalization papers.
3. To know how to read and write.
4. To be the owner of property of a value of not less than 3,000 colons, or to have a professional degree recognized by the State, or an annual income of 1,200 colons, at least.

To be a deputy it shall be also necessary to be over 25 years of age, and to be senator, over 40 years of age.

ART. 61. The following may not be elected deputies or senators:

1. The President of the Republic or any one who exercises the executive power at the time of election.
2. The ministers of State.
3. The justices of the Supreme Court of Justice.
4. Those who exercise jurisdiction or authority over the whole province making the election.

No one can hold the office of deputy and senator at the same time. Should the same person be elected for both offices, the election for senator shall prevail. Should the same citizen be elected deputy or senator of two or more provinces, he shall represent the province which he may choose. A deputy may be elected senator, but a senator shall not be elected deputy.

ART. 62. Deputies and senators shall hold office for a period of six years.

The members of each one of the chambers shall be renewed by halves every three years. The first renewal shall be made by lot in 1922.

Whenever the exact one half can not be renewed because the number of sitting or substitute deputies or senators is odd, the half of the inferior even number shall first be renewed, and the renewal of the odd senator or deputy shall be left for the following term.

ART. 63. In order to fill up the temporary or absolute vacancy of a sitting deputy, the substitutes of the respective provinces shall be called in the order of their appointment, appearing in the act corresponding to the election of the person whom they are to replace. Should there be no substitute at that time, those elected in the other three-year period shall be called in the same order.

This principle shall also be observed when the vacancy of a senator is to be filled. In none of the foregoing cases shall the fact of calling a substitute to replace a sitting member imply that his term of office shall exceed the period of six years.

Whenever the number of substitutes is exhausted, the respective chamber may order that new substitutes be elected at the next renewal election.

ART. 64. The office of deputy or senator, either sitting or substitute, is incompatible with that of alderman or municipal employee, or with any other salaried public office, function or commission of the same character. As an exception, however, the office of professor in any school supported or subsidized by the State shall not be incompatible, if the appointment is made by the board of directors of the school. No sitting deputy or senator or substitute who is discharging the duties of the sitting member, may, during ordinary or extraordinary sessions, accept from the executive any salaried commission or any employment dependent upon, or by appointment of the executive, except the office of minister of State, or chief of a diplomatic mission.

Whenever the chambers are not in session the deputy or senator may accept employment by appointment of, or dependent upon the executive power.

Both during sessions and in recess, a deputy or senator may freely accept judicial offices.

But in any case in which he should accept employment or office from any other branch of the government in the foregoing terms, he shall lose his seat in the chamber, except when he is appointed head of a diplomatic mission.

ART. 65. No deputy or senator, either sitting or substitute, shall enter, directly or indirectly, into any contract with the public administration by virtue of which he may enjoy some privilege or

concession. Nor shall it be lawful for him to receive any amount from the public Treasury, except that allotted to the office which he discharges, and in its proper case, the value of the contracts which are published in the *Diario Oficial*, or of services, the payment of which is ordered in the same public manner. A deputy or senator violating this prohibition shall *ipso facto* lose his seat in the chamber, and must return the sums unlawfully received.

ART. 66. Deputies and senators are immune for the opinions which they may express, or the votes they may give in the discharge of their duties.

During the sessions their property shall not be attached to further legal civil proceedings except upon the deputy's or senator's own consent.

They shall not be accused, prosecuted or arrested from the time they are declared elected either as sitting or as substitute members until the expiration of their legal term of office, except in cases of *flagrante delicto*, and unless the Chamber of Deputies previously authorizes the accusation, and declares that there is cause for an action against them.

A deputy or senator who is arrested in *flagrante delicto* shall be placed immediately at the disposal of the Chamber of Deputies, with a summary record of the case, so that he may be suspended from his legislative duties and be delivered to the proper judge or be set free, as the case may be. Should the chambers not be in session, the deputy or senator shall be set free, upon furnishing bond of from one to five thousand colons, according to the importance of the offense.

ART. 67. The legislative chambers shall meet every year on 1-May, without need of previous convocation.

The ordinary sessions shall last until 31 July inclusive.

They shall convene in extraordinary session whenever, by reason of high national interests they are convoked by the executive power, and they must also convene in the case provided for in Article 38.

If, on 1 May, Congress should be assembled in extraordinary session, the latter shall cease, and it shall continue to consider in ordinary session the business for which it should have been convoked.

ART. 68. The Senate and the Chamber of Deputies shall open their ordinary and extraordinary sessions at the same time.

The Senate, however, may meet without the presence of the Chamber of Deputies for the exercise of the powers given to it in the first paragraph of Article 78.

If, after the expiration of the ordinary period, there should remain some accusations pending against the officials designated in Article 77, the Chamber of Deputies shall continue its sessions without the

presence of the Senate for the exclusive purpose of declaring whether or not the charges shall be filed.

Neither of the chambers, while working simultaneously, shall, without the consent of the other, suspend its sessions for more than three days.

ART. 69. The chambers shall not open their sessions nor exercise their legal functions without the concurrence of two thirds of their members. When, upon the arrival of the day appointed to open their sessions, they can not do so, or in case that, after the sessions have been opened, they can not continue on account of a lack of quorum, the members present, whatever be their number, shall exert pressure on the absent members in accordance with their respective regulations.

The sessions of the chambers shall be public, except when for reasons of general convenience, it is agreed to consider some special matter in secret session.

ART. 70. The seat of Congress shall be in the capital of the Republic.

Notwithstanding, it may move to another place if so decided by two thirds of the votes.

In case of disturbance of the public order, the chambers shall meet at the place designated by the president of the Senate.

Any meeting of the members of Congress which takes place outside of the constitutional requirements, for the purpose of exercising the legislative power, shall be illegal, and all acts executed in that manner shall be considered null and void. The persons who take part in those deliberations shall be punished according to law.

ART. 71. Each chamber shall draw up its own convenient regulations for the order and direction of its work and for all matters pertaining to its internal policing. The regulations shall not contain any provision contrary to the Constitution; and once adopted they shall not be modified unless upon compliance with the procedure required for all laws, excepting the sanction of the executive.

In accordance with its regulations, it may correct its members and impose on them correctional penalties including the forfeiture of their salary and suspension up to the period of eight days.

ART. 72. Each chamber shall pass upon the credentials of its members, and shall accept the resignations which the latter may present, if the reasons given are just.

It shall elect yearly its board of directors. The president must possess the qualifications required for the office of President of the Republic. In case of absolute vacancy of one of the members of the board of directors, the respective chamber shall designate a substitute to fill his place for the remainder of the year.

ART. 73. The regulations of each chamber or of Congress in joint session, shall be passed by an absolute majority of the votes present, unless the Constitution requires a superior number.

For the latter case, and for any other case wherein an absolute majority is required, this majority shall be constituted by one half plus one, if the total number is even; should this number be odd, a unit shall be added, and one half of the resulting number shall constitute the absolute majority.

In order to fix, in the proper case, the two thirds or the three fourths, the exact arithmetical calculation shall be made. Should the result be a whole number and a fraction, the majority shall be formed by adding a complete unit instead of a fraction to the whole number of the arithmetical result.

The presidents of the chambers shall vote only in case of a tie.

ART. 74. Each chamber, and Congress in the proper case, may call for the ministers of State to give the explanations and information which it may be convenient to demand from them.

ART. 75. It is forbidden to Congress and to each one of its chambers:

1. To address any exhortative communication to public officials.
2. To interfere, either through resolutions or laws, in matters which are of the exclusive competence of the other powers.
3. To pass resolutions lauding or disapproving official acts.
4. To demand from the government information on the instructions given to the diplomatic ministers, or a report on negotiations of a secret nature.
5. To delegate in one or several of its members the powers conferred upon it by this Constitution.

ART. 76. Congress shall meet as a single body to exercise the following powers, which are within its exclusive jurisdiction:

1. To install the President and Vice-President of the Republic, and the justices of the Supreme Court, except in the case provided for in Article 96.
2. To decide upon the resignations or the excuses which may be presented by said officials.
3. To decide upon any doubts which may arise in regard to the incapacity of the President, according to Article 91.
4. To approve or disapprove the treaties and public agreements which the executive power may conclude.
5. To decide upon a declaration of war at the request of the executive power, or to demand from him in due time the opening up of negotiations for peace.
6. To decide whether or not the sessions are to be removed to another place, and to designate such place.

7. To give or refuse its consent to the entry of foreign troops into national territory, or the stationing of fleets in its ports.

8. To suspend the individual guarantees, and to take cognizance of the suspension decreed by the executive power in the case provided for in Article 38.

9. To deliberate upon the revision of the Constitution as explained in Article 124.

10. To approve or disapprove the laws which may determine, declare or order direct or indirect taxes.

In these cases, the president of the Senate and that of the Chamber of Deputies shall act as president and vice-president of Congress respectively.

ART. 77. The following are the attributions of the Chamber of Deputies:

1. To enact, interpret, modify and repeal the laws which it may dictate.

2. To authorize the municipalities, either by a general or a special law, to establish local taxes or imposts, fixing specifically in the law what property may be taxed, and the maximum to be reached in each case; to arrange for the manner in which the municipal budget is to be formed and liquidated, and to designate the powers of the municipalities, which may be more extensive for the senatorial districts of the provinces; and in general, to publish municipal ordinances in accordance with bases laid down in this Constitution.

3. To fix in each legislative period the budget of expenditures of the public administration for the ensuing year, and wherever necessary, the budget for extraordinary expenditures. In the budget law shall be stated the amount of the floating debt which may be created during the fiscal year; and the executive may within that limit carry out any credit transaction. He may also do so in order to cover the expenditures authorized, in case the revenues are not sufficient for that purpose. In other cases, a legislative authorization shall be necessary to pledge the national credit; this principle, however, shall not impair the rights of third parties acting in good faith.

4. To fix at each legislative period the maximum limit of the armed forces which may be placed on duty in times of peace, as well as the increase which the executive may decree in case of foreign war, or of armed insurrection.

5. To create new districts upon the fulfillment of the condition required in Article 116, and to point out their limits and the limits of the provinces.

6. To decree the alienation of the property of the nation, or the application thereof for public uses.

7. To specially empower the executive to negotiate loans or to enter into other contracts upon mortgage security of the national revenue.

The contracts which may be approved by the chambers without alteration shall not be vetoed by the executive, but they shall be so vetoed if they are amended. The amendments introduced by Congress shall be subject to acceptance by the interested party.

8. To fix the allow, weight and standard and denomination of the coin, and to arrange for a system of weights and measures as well as to enact the laws which must regulate banking institutions of all kinds.

9. To confer military degrees from colonel upwards.

10. To grant personal and honorary prizes to those who have rendered great and important services to the Republic, and to decree memorial honors.

11. To examine the annual reports of the ministers of State, and the general account of the expenses of the Treasury. The latter shall first be examined by a committee of two of its members selected one by each chamber; said chamber may demand from the proper party all kinds of explanations and vouchers.

12. To promote whatever may form the prosperity of the State, to care especially for the health and hygiene of the towns, and to encourage the study of science, arts and trades as well as immigration, agriculture, industry and commerce.

13. To take jurisdiction on the accusations which may be brought against the President of the Republic or the person acting as such, against the deputies, senators, justices of the Supreme Court of Justice, or ministers of State, for common offenses committed by them; and to declare by a two-thirds vote whether or not there is ground to institute proceedings against them. In the affirmative case, it shall suspend the accused official and shall place him at the disposal of the Supreme Court of Justice for trial.

14. To take cognizance of the accusations which may be filed against the aforesaid officials for offenses involving liability, committed during the exercise of their duties, and likewise to declare whether or not there is ground to institute proceedings against them. In the affirmative case, to place the accused official at the disposal of the Senate for trial.

15. To take cognizance of the accusations which may be filed within the legal term against the Ex-President of the Republic or the person who has acted as such, or against the ministers of State, for offenses involving political or official liability, in accordance with

Article 102, and likewise to declare whether or not there is ground to institute proceedings against them. In the affirmative case, it shall place the accused official at the disposal of the Senate for trial.

16. All the other powers enumerated in this Constitution.

ART. 78. The following are the attributions of the Senate:

1. To judge the functionaries enumerated in the foregoing article whenever they are accused by the Chamber of Deputies of offenses involving political or official liability. Two thirds of the votes shall be necessary to declare the accused guilty. No penalty shall be imposed by the Senate other than dismissal from office, temporary or absolute deprivation of political rights, or inability to hold public office. This provision shall not prevent ordinary courts of justice from enforcing against them any other civil or criminal liability which they might have incurred.

2. To pass upon the nullity of the elections and the other irregularities of the popular suffrage and of the electoral college.

3. To enact and order the publication of the codes lacking, and to decree the amendments of the existing codes.

4. To approve or disapprove the loan contracts which may be entered outside of the country, after the contract has been approved by the Chamber of Deputies.

5. To approve or disapprove the contracts which the government may enter into, when on account of the nature and importance of the subject matter the executive power or the Chamber of Deputies, at the request of one third of the votes of the members present, considers necessary the sanction of the Senate.

6. To approve or disapprove any bill passed by the Chamber of Deputies, either in the event that the latter should consider it convenient to refer the bill by the vote of one third of the members present, or that the executive, before sanctioning said bill, should refer it to the Senate for review.

7. All the other powers enumerated in other places in this Constitution.

ART. 79. During the ordinary sessions of Congress the bills shall originate in either of the chambers according to their respective attributions, at the proposal of the respective members, or in the executive power through the ministers of State.

The Supreme Court of Justice, sitting in bench, shall by a majority of votes, also propose the enactment, amendment, or abrogation of civil, penal, and procedure laws, and of the organic laws of the Courts of Justice; and for this purpose submit to the Senate the respective bill.

The bills submitted to the chambers may not be signed by more than two of their members.

Only the executive power, through the ministers, shall submit bills during the extraordinary sessions provided they refer to matters which are included in the decree of convocation, or in the decree of extension.

ART. 80. No bill shall become a law unless the following requisites have been fulfilled:

1. To have undergone in the Chamber, or in the latter and in the Senate as the case may be, three different debates on three different days.

2. To have been approved in the Chamber, or in the latter and the Senate, or in Congress, as the case may be.

3. To have obtained the sanction of the executive power, or be within one of the cases in which, according to this Constitution, said sanction may be taken for granted, or is not necessary.

ART. 81. After the bill has been approved by the Chamber, following three debates, without any amendment, it shall be sent to the Senate for review in the proper case, or to the executive power for sanction. Should the bill be disapproved in whole in the Chamber, it shall not be presented again until the following legislative period.

The chambers have the reciprocal right to propose the amendments and alterations which they may deem convenient to the bills under consideration, until they come to a final agreement as to the terms in which said bills are to be drafted when submitted to the approval of the executive. Should both chambers consider it proper, they may meet in joint session, to discuss the points of disagreement; but the voting on the bill shall be made by each chamber separately.

ART. 82. Should the executive power also approve the bill passed by one or both chambers, as the case may be, he shall affix thereto the formula, "Let it be executed," and shall cause the same to be published as a law of the Republic.

In the contrary case, and if he does not consider proper that the Senate should revise it, he shall return the bill to the respective chamber. The order of return shall be written at the foot of the bill and signed by the President of the Republic, and by the corresponding minister of State, who shall furthermore send a detached statement of the reasons on which the executive bases his disapproval, or the changes, suppressions or additions which he desires to be made.

In order that a bill be considered objected to by the executive power, it is indispensable that it be returned in the manner specified within the precise term of ten days (exclusive of Sundays and holidays), beginning from that in which the bill has been received by the respective ministry. Should it not be done within that time, the executive shall not refuse his approval or refrain from publishing it.

If, during the said period of ten days, the chambers should adjourn, and the executive should veto the bill, said bill must be published, together with his veto, in the official journal, at the latest, three days after the expiration of the time granted for the veto. Should it not be done, the bill shall be considered as a law of the Republic.

ART. 83. After a bill has been vetoed by the executive power within the legal term, it shall again be discussed in three debates in case the bill should have been objected to as a whole, or in two debates if the executive should have offered some amendments. Should the chamber agree by a majority of votes to the refusal of the executive, the bill shall be placed on file, and shall not be presented again until the following legislative term. Should the chamber accept by a majority of votes the suggestions made by the executive, or if by a two-thirds vote it should reject the opposition or suggestions of the aforesaid power, and ratify the bill as it was passed, said bill shall be referred again to the Senate if the ratification of the latter is needed, where it shall undergo the same procedure indicated in this article.

Should the Senate, in its turn, agree by a majority of votes to the refusal of the executive, the bill shall be placed on file, and shall not be presented again until the following legislative period. Should the suggestions of the executive be approved by a majority of votes, or if the opposition of the suggestions made by the executive should be rejected by a two-thirds vote, and the bill should be ratified as it was passed originally, it shall be returned to the executive, who shall not then withhold his approval.

ART. 84. If the opposition of the executive is based on the fact that the law is unconstitutional, and the chambers should reenact it, it shall be referred to the Supreme Court of Justice to decide the matter within ten working days. Should the majority of all the Justices of the Supreme Court decide that the bill is constitutional, it shall be the duty of the executive to give it his approval. In the contrary case, the bill shall be considered disapproved, and shall be placed on file.

ART. 85. Should the executive fail to comply with his duty to approve the laws within the time and in accordance with the manner provided in this Constitution, the president of the Senate shall approve the same and cause them to be published in the official journal. If in spite of the order of this official the law should not be published within forty-eight hours in the official journal, the publication shall be made in any of the newspapers of the country.

ART. 86. The bills remaining pending at the end of a legislative period of the chamber shall be considered as new bills in the following ordinary sessions in case that at this second legislative period there

should have been a renewal of deputies. Otherwise, the interrupted debate may be continued.

Those which at the end of the legislative period should be left pending in the Senate, shall likewise be considered as new bills in the same case of renewal of Senators.

ART. 87. The following resolutions shall not require the approval of the executive, and shall be published without need thereof:

1. Those regarding the elections which must be made in accordance with this Constitution or with the international treaties, or with their respective regulations, or those with regard to the resignations or excuses which may be presented.

2. Those that decree the removal of their seat to another place.

3. Those regarding whether or not there is ground to institute proceedings against public officials, as provided in Article 77, or those suspending or sentencing said officials.

4. The regulations which they might adopt for the conduct of their internal affairs.

ART. 88. Every law or decree of Congress shall be headed as follows:

The Senate, the Chamber of Deputies, or the Congress of Costa Rica, in the use of the powers granted to it by the Constitution of the Republic, decrees: * * *

The president and the secretaries shall sign on behalf of each chamber.

The President of the Republic of Costa Rica—whereas the Chamber of Deputies, the Senate, or Congress, has decreed as follows: * * * Therefore, I command that the foregoing law be published and obeyed.

The president and the respective ministers of State shall sign.

CHAPTER VI.—THE EXECUTIVE POWER.

ART. 89. The executive power shall be exercised by a citizen whose title shall be President of the Republic, with the indispensable collaboration of the ministers of State, the number of whom shall be fixed by law.

The President shall despatch with each minister the current matters of public business pertaining, according to law, to that particular ministry.

Bills to be presented to the legislature, those received from it for sanction, the budget bill, matters for which this Constitution requires presidential sanction, and in general all matters of great weight and importance, shall be considered and decided by the President in the Council of Ministers.

ART. 90. There shall be a Vice-President of the Republic, elected for the same term as the President, who will serve during the absence, temporary or permanent, of the President.

In case of the permanent absence of the Vice-President of the Republic, the president of the Senate, or failing him, the president of the Chamber of Deputies shall replace the President during the temporary or permanent absence of the latter, and until he returns to office or the pending presidential term ends, as the case may be. If the president of the Chamber of deputies is called to act as President, during the temporary absence of the president of the Senate, and there be occasion to replace the President of the Republic by reason of his permanent absence, he shall hand over the Presidency to the president of the Senate as soon as the cause for the latter's absence ceases.

If the absence of the Vice-President be temporary and should temporary or permanent absence of the President occur, the president of the Senate shall assume the Presidency, or failing him the president of the Chamber of Deputies; but when the occasion for the absence of the Vice-President ceases, the latter shall be President.

The president of the Senate or the president of the Chamber of Deputies, when called to the Presidency by law, shall continue therein for the time hereinbefore stated, even though their respective appointments shall have terminated. If the term of each as senator or deputy shall not have expired at the time they give up the office, they shall recover their seats in the Senate or in the Chamber, as the case may be, until their terms end.

ART. 91. Should the President die, the Vice-President, or failing him, his lawful successor, shall by right become President.

Should the President resign his office and his resignation be accepted, the Congress shall call the Vice-President or his lawful successor to the Presidency.

Should the President be suspended or deprived of his office, according to this Constitution, the Chamber of Deputies when suspending him or the Senate when depriving him of office, shall call to the Presidency the Vice-President or his lawful successor.

When the President shall have become morally or physically unfit for the office, the Congress, if it be in session, or, if it be adjourned, then as soon as it be called in session by the Minister of the Interior (*Ministro de Gobernación*), within the fixed term of three days, shall consider the circumstances of the case and decide whether the Presidency is to be regarded as vacant. Should it decide in the affirmative, it shall call to the Presidency the Vice-President or his lawful successor. In default of such a resolution, the Council of Ministers, presided over by the Minister of the Interior, shall govern.

ART. 92. If the President should become so ill as to make it difficult for him to discharge his duties, he may turn over the Presidency to the Vice-President or his lawful successor.

When the President shall decide to direct military operations in time of war outside of the capital, he shall call upon the Vice-President, or failing him, his lawful successor, to take charge of the other branches of the government.

In no case may the President relinquish his office without permission of the Senate, which shall then call the Vice-President or his lawful successor, to the Presidency.

ART. 93. To be President or Vice-President of the Republic it is required:

1. That one be a born Costa Rican and a citizen in the exercise of his rights.

2. To be over 30 years of age.

3. To be a layman.

4. To be the owner of property worth 5,000 colons, or to have an annual income of 3,000 colons or a professional title recognized by the State.

5. To know how to read and write.

ART. 94. He is ineligible for the office either of President or Vice-President who is:

1. The ascendant or descendant or brother, by blood or affinity, of whoever shall be in exercise of the functions of President of the Republic at the time of the election, or who shall have exercised them within the year previous.

2. The titular or temporary Vice-President who may be in power at the time of the election or who shall have been in power within the year previous.

Equally ineligible for the office of President is:

1. He who may be minister of State at the time of the election or shall have been such within the year previous.

2. The officer having military command of a city or district at the time of the election or anyone who by blood or affinity shall be his ascendant, descendant or brother.

The President of the Republic shall not be reelected for the term following his own, even though he may have resigned or in any other way lost his office. Neither shall the Vice-President be elected for the term following his own.

Any deputy or senator may be elected Vice-President and does not thereby lose his seat in the chamber, save only for the time he may fill the office.

The President and Vice-President shall not be related to each other by blood or affinity, as ascendant, descendant or brother.

ART. 95. The President shall be in office six years. At the end of such period he ceases by that very fact to exercise his functions.

ART. 96. The office of President and that of Vice-President are obligatory and the President and Vice-President elect shall assume

office on the eighth day of May. On taking office they shall take the oath required by law.

If for any grave reason the President be unable to take the oath on the day named, the Vice-President shall act as President.

In such case the President elect shall take the oath during the ordinary session of Congress; but should the impediment continue and the chambers adjourn, he shall take the oath as President before the Vice-President who is acting in his stead, with the ceremonies prescribed for the occasion.

ART. 97. The salary of the President shall not be increased or diminished except for the following term.

ART. 98. The President shall not leave the territory of the nation while in office, nor for a year after the day he has ceased therefrom, without securing the permission of the Senate in both cases.

This prohibition applies to the titular or temporary Vice-President during the time he is in office and for the following year.

ART. 99. The following are the duties and attributions of the President of the Republic, outside of those enumerated in the other articles of this Constitution:

1. To freely appoint and remove the ministers of State and governors of provinces, and other employees depending upon him. To appoint and remove in the Council of Ministers the diplomatic ministers and the consuls general of the Republic.

2. To maintain public order throughout the territory, and to restore it wherever it has been disturbed, and to provide for the internal security of the Republic, defend the independence and the honor of the nation and the inviolability of its territory.

3. To declare war upon another nation with the consent of Congress, without prejudice of the right of repelling any foreign aggression when urgently required.

4. To conclude and ratify treaties of peace which have been submitted to the approval of Congress.

5. To assume the command of the army as commander-in-chief thereof, or to delegate these functions when he should deem it convenient; and to direct, whenever he may deem it proper, the war operations as such commander-in-chief.

6. To grant military grades up to and including that of lieutenant-colonel, and to issue corresponding certificates for grades conferred by himself or by Congress.

7. To comply with and execute the Constitution and the laws, and cause others through its agents and subordinate employees to do likewise; and to see that the public officials who are not subordinate to it shall also comply with and execute the said Constitution and laws, applying for that purpose to their immediate superiors.

8. To take care of the exact collection and administration of public revenues and wealth, and to decree the disbursement thereof, in strict accordance with the law.

9. To conduct the relations with other nations; to receive diplomatic ministers and to admit the consuls of others nations; to conclude treaties and agreements with the governments of the other countries and to exchange them after ratifications, which must be given by Congress.

10. To grant naturalization papers in the cases authorized by law.

11. To grant pardons, commutation and reduction of sentences in accordance with the law, likewise to reinstate delinquents in their rights.

12. To grant amnesties and general or special pardons for political offenses.

13. To emancipate minors in accordance with the laws.

14. To supply the consent to contract marriage to those who need such consent by law. He shall not supply the consent of the father nor that of the mother.

15. To convene Congress in ordinary session, and, in accord with the Council of Ministers, to call for extraordinary sessions whenever the serious interests of the State demand it. The decree in the latter case shall explain the reasons of the convocation of the chambers. After the latter have convened, he may submit new matters to their consideration.

16. To issue the instructions and regulations which may be necessary and convenient for the prompt and proper execution of the laws, without however contradicting or altering the spirit thereof. These regulations and instructions must be discussed in the Council of Ministers.

17. To issue regulations for the internal government of the offices and departments of the government.

18. To look to the prompt and complete administration of justice lending the courts, in accordance with the law, all the necessary support and assistance to have their orders obeyed and executed.

19. To call upon the citizens and the electoral college to hold the elections which may be necessary at the time fixed by the Constitution and by law.

ART. 100. The President must present to Congress at the opening of the ordinary sessions a written message rendering an account of the political situation of the Republic and of the general situation of the several branches of the administration. He shall recommend, furthermore, the adoption of measures which he may consider important for the good conduct of the affairs of the nation and for its progress and welfare.

These documents, being essentially of a political nature, must be approved by the Council of Ministers.

ART. 101. The President of the Republic during his term of office, and the titular or temporary Vice-President, while in the discharge of that office, shall not be prosecuted or tried for common offenses, except after the Chamber of Deputies has declared that there is ground for prosecution upon charges filed against them.

ART. 102. The President, or the person who replaces him, and the ministers of State are responsible for the offenses which they may commit in their conduct:

1. When they favor the interests of a foreign nation against the independence, liberty and integrity of Costa Rica.

2. When they interfere directly or indirectly with the elections ordered by this Constitution, or restrict the freedom to which all electors are entitled.

3. When they prevent the chambers from assembling or holding their meetings at the time appointed by the Constitution, or restrict the liberty and independence which they should enjoy in all their acts and deliberations.

4. When they refuse to publish or execute the laws in those cases in which according to this Constitution they may not refuse.

5. When they impede or hinder the courts from taking cognizance of cases falling under their jurisdiction, or when they restrict the freedom which said courts should enjoy, or disobey their orders.

6. When in any other manner they attempt to violate the Constitution or the laws, or the lawful enjoyment and exercise of political or individual rights or the constitutional custody and use of the public wealth.

For these acts they shall be tried by the Senate after the Chamber of Deputies, in accordance with the provisions of Article 77, has declared that there is ground to institute proceedings.

The ministers are liable for the acts of the administration in their respective branches jointly with the President. The liability for the acts agreed upon in the Council of Ministers shall extend to all ministers jointly with the President. The ministers shall not be released from liability by a verbal or written order of the President, nor shall they save their vote at the Council sessions.

The liability of the President or of the person acting as substitute shall only be demanded when he is in power, and during the year following the date of his separation from office. The liability of the ministers shall last while they are in office and for six months after their separation therefrom.

ART. 103. All decrees, acts, regulations or orders of the President must be signed by the respective minister, and shall not be valid or

obeyed without this requisite. Only those decrees whereby ministers are appointed or removed shall be signed by the President alone.

The ministers shall not issue any decree, resolution or order by themselves, and shall be held guilty of fraudulent alteration (*susplantación*) if they communicate any act of the President without being signed first by the latter in the respective book.

ART. 104. The ministers of State may attend the sessions of either one of the chambers and take part in the discussion. But they must withdraw from the Hall of the Chamber before voting is proceeded with.

ART. 105. No one shall be minister of State who is not:

1. A citizens in the exercise of his rights.
2. A native or a naturalized citizen who has resided ten years in the country after having obtained his naturalization papers.
3. A layman.
4. Over 25 years of age and of well-known morality and qualifications.

No one shall be minister who is a contractor for public works or services; and whoever files any claim for his own interest shall cease to be a minister if at the time of filing such claim he holds such office.

ART. 106. Within the first fifteen days after the opening of the ordinary sessions, the ministers must present to Congress in writing a detailed report of all the work done during the year and of the condition of the administration.

The Minister of Finance shall furthermore, within the same term, present the project for the budget for the ensuing calendar year, and the detailed account of the expenses incurred during the preceding calendar year. The items of expenses shall be kept one by one with all their details, but should there be amongst the latter any one of a secret character, the publication of which should be deemed inadvisable, the Minister shall not include it, but he must give explanations, and show the corresponding voucher to the committee appointed by Congress to examine the accounts of the Treasury.

Failure to present these reports and the project within the time specified, shall render the defaulting minister liable therefor.

ART. 107. All deliberations and resolutions of the President and the Council of Ministers shall be entered in the corresponding book of minutes which shall be signed by all present.

When the extreme gravity of any matter so demands it, the President shall add to the Council such persons as he may consider proper to call. The resolutions and the votes shall be set down in the minutes.

CHAPTER VII.—THE JUDICIAL POWER.

ART. 108. The judicial power shall be vested in the Supreme Court of Justice divided into branch courts: one of Cassation with five members, and the others of Appeals with three members each.

The number of Courts of Appeals shall be determined by law in accordance with the needs of the administration of justice.

The justices shall be elected by the Senate from among the lists of three candidates for each place, which must be presented to it separately by the Chamber of Deputies and the executive power.

The candidates of either list may be the same in whole or in part.

The Senate shall designate which are the justices who are to constitute each branch court, and which of their members is to be their president. The president of the Court of Cassation shall be the president of the Supreme Court.

The powers of the Supreme Court in bench and those of each branch court shall be determined by law.

ART. 109. The judicial power shall be exercised also by the tribunals and courts established by law, all of which, whatever be their denomination, shall depend upon the Supreme Court.

The law shall mark the jurisdiction, number and duration of the courts and tribunals, their attributions, duties, faculties and the manner in which they shall incur liability.

The Supreme Court has the power to appoint all officials who administer justice under it as well as to appoint or remove the subordinate personnel of the branch courts and lower courts.

Congress is authorized to organize the jurisdiction on governmental litigious matters (*jurisdicción contencioso-administrativa*).

ART. 110. The office of judge or justice is incompatible with that of alderman or municipal employee, and with that of employee and subordinate of the other powers.

But the office of professor of a professional school supported or subsidized by the State is not incompatible, if the appointment is made by the respective board of directors.

No judge or judicial functionary shall engage in the profession of law, or be a solicitor, except in cases personally affecting himself, his spouse, his ascendants or descendants, or brothers, by blood or affinity.

Nor shall any judicial functionary:

1. Address any communication to the executive power or to Congress or to public officials or official corporations, congratulating or criticising them for their acts.

2. Take any part in the political elections outside of casting their personal vote.

3. Take any part in meetings, demonstrations or any other acts of a political character.

The provisions of Article 65 in regard to deputies and senators are also applicable to justices.

ART. 111. For the office of justice the following requisites are necessary:

1. To be a native of the Republic and a citizen in the exercise of his rights.

2. To belong to the laity.

3. To be over 35 years of age.

4. To have a lawyers' degree issued or recognized in the country by the authority or corporation legally empowered therefor, and to have practiced his profession for at least ten years, either as an official of the judicial branch or as a professor of law, or in private practice.

The following shall not be appointed justices:

1. Persons who are deaf or dumb, or those who are physically or mentally defective.

2. Those who have been sentenced for crimes committed against property, public faith or good morals.

Persons who are related to each other by blood or affinity, being ascendants and descendants or brothers, shall not act as justices at the same time.

Justices must give a bond or mortgage security up to the sum of 5,000 colons before entering upon the discharge of their duties.

ART. 112. Justices shall have the right to remain in office while they discharge their duties well. They shall not be suspended without a previous declaration that there is ground to institute proceedings against them, nor shall they be discharged except by virtue of a judgment rendered against them.

A justice who, while in the discharge of his duties as such, shall be rendered incapable of continuing in office by reason of age or illness, shall be separated from the Supreme Court upon justification of his case, and by the vote of three fourths of the total number of its members. A justice shall have then the right to receive a life pension amounting to one half of the salary which he is drawing at the time of his retirement.

ART. 113. The salary of the justices shall be fixed by law every ten years, and those of the other public officials who render their service in the courts and other inferior tribunals shall be fixed every five years.

The salaries of these officials shall not be reduced during the period for which they were fixed.

ART. 114. Public officials who are serving in the inferior courts or tribunals shall not be suspended during their term of office except

upon previous declaration that there is ground for instituting proceedings against them; nor shall they be dismissed except by virtue of a final judgement.

The Supreme Court, for grave reasons, however, shall cancel, by a vote of two thirds of the total number of its members, the election of any of said officials.

ART. 115. In order to fill accidental vacancies of justices, the Senate shall elect every two years twenty assistant justices who must have the same qualifications required for the office of justice, and who have property of their own to the value of 5,000 colons, or an annual income of 3,000 colons, and who are not subalterns, officials of the court or employees of the other branches of the government, or aldermen or municipal employees.

No lawyer shall sit as assistant justice in any case of which he is in charge or which he may be defending before the courts.

Whenever any justice is to be substituted, either for a specified case or for any length of time, the Supreme Court in bench shall draw such substitute by lot from among the list of assistant justices.

Whenever a vacancy shall occur amongst the justices by reason of death or incapacity, the Supreme Court shall report this fact to the executive power and to the Chamber of Deputies, in order that the Senate in its ordinary or extraordinary session may fill such vacancy. In the meantime the Supreme Court shall elect one of the assistant justices to temporarily fill the vacancy.

CHAPTER VIII.—THE MUNICIPAL RÉGIME.

ART. 116. For the purposes of the general administration of national affairs, the territory of the Republic shall continue to be divided into the seven provinces of San José, Alajuela, Cartago, Heredia, Guanacaste, Puntarenas and Limón. The provinces shall be divided into cantonments and the cantonments into districts.

Hereafter, no cantonment shall be created that has not at least 5,000 inhabitants; neither shall a cantonment be created, if upon dismembering it from the other or others the dismembered cantonment should not be left with a population of at least 6,000 inhabitants and sufficient territory for its development.

The law creating a new cantonment shall designate its boundaries in indubitable manner.

The executive power shall issue, as soon as possible, the opportune orders so that the boundaries of existing cantonments and provinces shall be clearly determined. Should the municipalities concerned agree in the total or partial demarcation of their boundaries, the executive power shall approve the agreement and the line agreed upon

by the parties shall be considered as the boundary line. Otherwise, the disputed line shall be submitted to the decision of the Chamber of Deputies, so as to settle the question by a law fixing the boundaries and adopting the natural divisions as far as may be practicable.

ART. 117. The management of interests which are purely local in character shall be entrusted by each cantonment to a municipality and an intendant, who shall be elected by the citizens domiciled in such cantonment at least three months before election.

Each municipality shall be composed of three aldermen in those cantonments whose population does not exceed 5,000 inhabitants; five in those whose population exceeds 5,000 and is less than 10,000; and in those cantonments of over 10,000 inhabitants there shall be an additional alderman for every 10,000 inhabitants or fraction thereof exceeding 5,000.

In order to fill the vacancies of aldermen, there shall be elected at the same time as many substitutes as there are sitting aldermen; and to replace the vacancy of the intendant, a vice-intendant shall be elected.

Each district shall furthermore elect a sitting and a substitute syndic, whose main duty shall be to represent before the municipality the special interests of his district, and to see that the funds of the latter are used for the needs thereof, after deducting the percentage of general expenses for the cantonment which may correspond to the district in the proportion which its population has to the total population of the cantonment.

ART. 118. The sitting and substitute aldermen shall hold their office for six years, and one half of them shall be renewed every three years. If the number of aldermen is odd, the half of the even number resulting after adding a unit to the total shall be renewed first. The alderman or aldermen who are to leave office after the first three years shall be decided by lot.

The syndics shall hold office for three years, and shall be elected by the citizens of the district at the same time as the aldermen.

The office of alderman and syndic is obligatory and gratuitous. The law shall designate the qualifications which said officers must have, and the grounds which may be alleged as excuses for declining the election.

The intendant and vice-intendant shall hold office for three years, and may be reelected. The office of intendant is salaried. The amount of the salary shall be fixed by the municipality for the following period, and shall not be increased or diminished for the running term of three years.

The term of office of municipal officials shall begin on 1 May, on which date they shall enter upon the duties thereof.

ART. 119. The municipality shall not take any action without the presence of two thirds of its members. The decisions shall be taken by a majority of the votes present. The intendant shall preside over the sessions, but shall not vote.

The provisions regarding the substitute deputies, as contained in Article 63, is applicable to aldermen.

ART. 120. The municipality has the power to freely appoint and discharge the heads of the several departments. Subalternate officials shall be freely appointed and discharged by the intendant but the municipality has the right to disapprove such appointments or dismissals.

The intendant is the executor of the laws and resolutions of the municipality on municipal matters.

The municipality shall deliberate and decide upon all matters of local interest, and it is therefore its duty to take care of the sanitation, to which they must give preferred attention in accord with the Supreme Board of Health, and to take care also of the public comfort, improvement and recreation: of the roads, streets and squares of the cantonment; of the municipal public works; of the lighting and water systems, neatness, markets, sewers, watermains and in general of everything that tends to the progress and welfare of the neighborhood considered as an administrative unit different from that of the State. All this shall be done in accordance with the general laws and the provisions of the present Constitution.

It shall dispose of all the revenues and income belonging to it according to the law.

It may decree new taxes whenever there is a law authorizing it. Its decree shall be obligatory to the neighborhood after it has been approved by the executive power, who shall not refuse its approval if the tax is according to law, and does not exceed the maximum which the latter may have fixed and must fix for each item.

It shall attend to the needs of the cantonment with its revenues and income. No expenditure shall be authorized by the municipality or by law which does not respond to a real necessity; and the use of the public funds of the cantonments for feasts, celebrations, receptions or other purposes foreign to those of the municipal institution is forbidden.

A general law shall provide what may be proper in regard to the manner of forming and liquidating the municipal budget. Every three months the intendant shall publish and cause to be printed and circulated a statement giving in detail the revenues and the expenditures; and he shall publish every year in the official journal a report of whatever has been done during the preceding year.

ART. 121. The intendant shall propose to the municipality the measures which he may deem proper.

He may veto any resolution of the municipality within the eight working days following the passage thereof, whenever in his opinion said resolution is contrary to law, or is beyond the powers of the corporation. Private individuals impaired in their rights may in similar cases appeal from municipal resolutions. The municipality shall reconsider its resolutions immediately, and if insisted on, the case shall be submitted for final decision to the executive power, who shall consider and decide the matter in question in the Council of the Cabinet.

ART. 122. The executive power shall take care that the municipalities and intendants comply with their legal duties. Should he notice any illegality in the discharge of the duties belonging to such corporations or officials, he may suspend their resolutions, if so decided in the Council of the Cabinet, and he shall report this fact to the Senate at its next session, so that the latter may take the proper action or may determine the corresponding liability.

ART. 123. There shall be a governor for each province, who shall be the agent for and appointed by the executive power, with the qualifications and attributions determined by law.

This official shall have no authority over the municipality and the intendant in the exercise of the latter's office. He must, on the contrary, and as far as not against law, lend them his assistance and collaboration.

CHAPTER IX.—THE REFORM OF THIS CONSTITUTION.

ART. 142. The present Constitution may be partially reformed through a legislative act which must be subject to the following provisions:

1. No amendment shall be proposed, considered, or decided upon in extraordinary sessions.

2. No proposed amendment which has been rejected by either one of the chambers or by Congress shall be again presented until after two years.

3. Either chamber may propose an amendment by three of its members, no more, no less. The proponents must present a reasoned statement together with the draft of the articles, which shall be published in the official journal before they are read in the chamber.

4. No proposed amendment shall cover matters which are not perfectly connected with one another. Each matter shall be the object of a proposed amendment which may refer to several articles of the Constitution if they supplement one another.

5. Each chamber shall, before entering upon the discussion of any amendment, elect a commission of three persons, from among its

members, to report within eight days whether or not the amendment is advisable. This report shall be published in the official journal and shall not be taken up for debate until three days after its publication.

6. Saving the provision contained in Section 10 of this article, with reference to Congress, no amendment shall be considered validly made until passed by two thirds of the votes present.

7. After the amendments have been presented, and their publication and report on the same have been proceeded with as aforesaid, they shall be taken up for debate on three different days. Should the chamber approve the amendment, with or without amendments, it shall be referred to the other chamber for review. Should this not be done, the proposed amendment shall be considered as rejected.

8. The reviewing chamber in the same session, or, in case of lack of time, in the session immediately following, shall take up the proceedings on the amendment. If the chamber, after holding three debates should agree to the amendment as it was sent to it, the record shall be sent to the executive power. Should the chamber reject the amendment as a whole, said amendment shall be considered defeated. Should the amendment be accepted in general, but subject, in its opinion, to some necessary changes, said changes shall be proposed to the chamber where the amendment originated. In such case, should the latter accept the changes after a debate, the respective bill shall be considered modified, and shall be forwarded by the reviewing chamber to the executive power, but should said changes be disapproved, the amendment shall be considered rejected.

9. If in the foregoing cases the proposed amendment should be referred to the executive power, the President shall, in the Council of Ministers, decide what he may deem convenient, and he shall return the record within the first eight days after the sessions for the year immediately following have opened. The resolution of the executive and the reasons on which his decision is based shall be noted in the record of the proposed amendment, and the respective act or statement shall be signed by the President and the ministers. This document shall likewise be published in the official journal.

10. Three days after the report of the executive has been published, the Congress shall, in joint session, begin to consider the matter, which must undergo three debates on such dates as it may designate, without need of referring the report to a new committee. In the event that the executive has accepted it without change, or should propose a change accepted by Congress, two thirds of the votes of deputies and senators present shall be sufficient to consider the amendment ratified. But three fourths of the total number of deputies and senators shall be necessary to consider the amendment passed, if the executive should object to it or should suggest changes

which Congress does not accept. If in either case the necessary special majority should not be obtained, the proposed amendment shall be considered as rejected.

11. If the amendment agreed upon in accordance with the foregoing principles should refer to any of the guarantees specified in Chapter II of this Constitution, said amendment shall not be held valid if not ratified by a majority of the votes of a Constituent Assembly which shall be called by Congress for that purpose.

ART. 125. Whenever, according to Article 1, or to the last article, a Constituent Assembly has to be called, Congress shall, within eight days following the approval of the treaties or the amendments, pass a law calling for an election of deputies, possessing the qualifications which this Constitution demands for the office of senator. The election shall be made by provinces at the rate of one sitting deputy for every 15,000 inhabitants and fraction not over (*sic*) 7,500, and of a substitute deputy for every three and fraction of three of the sitting deputies.

The Assembly shall meet within three months, at the latest, and the rules established by Article 69 in regard to the number necessary to constitute a quorum shall also be applicable to the Assembly. The provisional board of directors shall be composed of the three eldest deputies who shall, in order of seniority, fill the office of president, first and second secretary.

CHAPTER X.—THE OBSERVANCE OF THIS CONSTITUTION.

ART. 126. The present Constitution, signed by all the deputies in the Assembly, shall be referred to the executive power for its immediate publication and observance, without the need of the oath formerly used.

The former Constitution of 1871, reenacted in 1882 and in this same year by a decree of the Constituent Assembly, as well as all the laws which thereafter amended it, are hereby abrogated.

ART. 127. The existing laws shall continue in force and shall be obeyed, in so far as they are not contrary to this Constitution.

ART. 128. In order that the interpretation of any of the provisions of this Constitution may be considered authentic, it is necessary that the same procedure and formalities prescribed for their revision be observed.

ART. 129. Congress, at its ordinary sessions, shall ascertain whether or not this Constitution has been violated, and whether or not the liability of the infractors has been enforced; and, in its proper case, it shall take the necessary steps for the punishment of the guilty.

TRANSITORY PROVISIONS.

ARTICLE 1. The first presidential term shall end on 8 May 1923, and until then the President elected by the people on 1 April of the present year shall exercise the executive power in accordance with the Constitution.

The budget to be voted in 1923 shall show the salary the President shall receive for the next six years and for each succeeding term of six years.

ART. 2. The office of Vice-President of the Republic shall become effective for the term commencing on 8 May 1923.

Meanwhile, in regard to succession to the Presidency the system of designates shall be used which was in force under the previous Constitution.

ART. 3. The Constituent Assembly ratifies the appointments of the justices of the Supreme Court of Justice and the assistant justices, to which decrees No. 5 of 12 April and No. 13 of 4 June of the present year respectively refer.

ART. 4. In order to arrange the municipal régime during the transition period it is hereby ordered:

1. That one half of the members of the present municipalities shall continue in office until 30 April 1919. The President of the Republic in the Council of Ministers shall draw by lot the one half which must cease at the present time, and shall replace it with individuals appointed by him possessing the qualifications required by law. Should the number be an odd one, the one half resulting from the total plus one, shall cease at the present time.

2. That the office of intendant shall not be filled until 1 May 1919, and in the meantime the government and political chiefs shall continue to exercise the powers which they have at present. During that interval the executive must submit the proposed municipal ordinances, and Congress must publish them. The municipalities shall continue to be governed as at present until 1 May 1919, on which date the provisions in regard to the new municipalities shall become effective.

3. That the syndics at present in office shall continue in their places until 30 April 1919. Should any vacancy occur and should there be no substitute to fill it, the executive shall replace it, appointing a person for that office possessing the legal requisites, after hearing the principal inhabitants and taxpayers of the district.

4. That the first popular election of sitting and substitute aldermen, as well as of syndics, intendants and vice-intendants shall take place on the first Sunday in March, 1919.

ART. 5. The Assembly shall convert itself into an ordinary Congress, and shall remain in ordinary session until 31 August of the

present year, and for the purpose of constituting the legislative chambers it shall observe the rules for distribution of members established by the present Constitution.

ART. 6. The senators and deputies who compose the present Assembly and who shall form the next Congress and the members of the municipality now in office, shall continue in their places until 30 April 1919.

The executive power shall, at the proper time, call for elections in accordance with Article 52 of the Constitution; and one half of the members of the chambers which may then be elected, as well as those of the municipalities, shall be renewed every three years in the manner established in this Constitution.

ART. 7. In order to fill the absolute or temporary vacancies of senators, the chambers shall elect a member of the Chamber of Deputies, giving preference to those of the same province, of the senator who left the vacancy. Provided that if the vacancy is only temporary, the deputy elected to fill it shall be reinstated in his Chamber when the absence of the sitting senator should cease.

ART. 8. If the number of substitute deputies of one province should be exhausted, the vacancies which may occur shall be filled by those of another province which the board of directors may elect.

ART. 9. During the present constitutional period the representation for the provinces shall be as follows: San José, 9 deputies and 4 senators; Alajuela, 7 deputies and 3 senators; Cartago, 5 deputies and 2 senators; Heredia, 3 deputies and 2 senators; Guanacaste, 3 deputies and 1 senator; Puntarenas, 1 deputy and 1 senator; Limón, 1 deputy and 1 senator. The renewals which may occur during the six years immediately following shall be made in accordance with this proportion.

ART. 10. The judges and mayors who are at present discharging judicial duties shall not be removed from office until the expiration of the term in force, in accordance with the original law, without prejudice to the provisions contained at the end of Article 114.¹

¹ Here follow the signatures of the 42 deputies and the decree of promulgation signed by the President and the 5 ministers.

CUBA.

By the Treaty of Paris of 10 December 1898,¹ which ended the Spanish-American War, Spain abandoned her rights of sovereignty over her possessions of Cuba, Porto Rico and the Philippines. For a few years Cuba was under the control of the United States military forces. An Act of Congress of the United States of 2 March 1901² authorized the President of the United States "to 'leave the government and control of the island of Cuba to its people,' so soon as a government shall have been established in said island under a constitution which, either as a part thereof or in an ordinance appended thereto, shall define the future relations of the United States and Cuba" on the basis of certain principles. These principles were to be inserted in a permanent treaty. A convention embodying them was signed on 22 May 1903³ between the United States and Cuba. Meanwhile, an assembly met at Habana and adopted a Constitution on 21 February 1901,⁴ and an amendment governing Cuba's relations with the United States was adopted by the Constituent Assembly on 12 June following.⁵ The President and Vice-President of the new Republic were elected on 21 February 1902, and the government of the United States transmitted the actual control of the island to the established authorities on 20 May.⁶

¹ Signed in English and Spanish. English text in W. M. MALLOY, *Treaties, Conventions, International Acts, Protocols, and Agreements between the United States of America and other Powers, 1776-1909* (Washington, 1910), vol. II, pp. 1690-1695, and *British and Foreign State Papers*, 90: pp. 382-387.

² Text in *United States Statutes at Large*, 31: p. 897.

³ Signed in English and Spanish. English text in MALLOY, *op cit.*, vol. I, pp. 362-364, and *British and Foreign State Papers*, 96: pp. 548-551. English and Spanish texts in parallel columns in J. I. RODRIGUEZ, *American Constitutions*, vol. II (Washington, 1907), pp. 149-154.

⁴ The Spanish text, as officially published and certified by Gen. Leonard Wood, military governor of Cuba, in the Habana *Gaceta* of 14 April 1902, and English translation in parallel columns appear in RODRIGUEZ, *op. cit.*, pp. 112-148 (this includes the Appendix). Spanish text also in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 1113-1130. French translation in *Annuaire de législation étrangère*, 34 (1904): pp. 463-486. English translation in *British and Foreign State Papers*, 94: pp. 554-578 (this includes the Appendix).

⁵ See preceding note.

⁶ This introductory paragraph is based upon F. R. DARESTE, ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, pp. 427-428, and RODRIGUEZ, *op. cit.*, pp. 109-111.

CONSTITUTION OF 21 FEBRUARY 1901.¹

[PREAMBLE.]

We, the delegates of the people of Cuba, in national convention assembled for the purpose of framing and adopting the Fundamental Law under which Cuba is to be organized as an independent and sovereign State, and be given a government capable of fulfilling its international obligations, preserving order, securing liberty and justice, and promoting the general welfare, do hereby ordain, adopt and establish, invoking the favor of God, the following Constitution.

TITLE I.—THE NATION, ITS FORM OF GOVERNMENT AND THE NATIONAL TERRITORY.

ARTICLE 1. The people of Cuba constitute themselves into a sovereign, independent State and adopt a republican form of government.

ART. 2. The island of Cuba and the islands and islets adjacent thereto, which up to the date of the ratification of the Treaty of Paris of 10 December 1898² were under the sovereignty of Spain, form the territory of the Republic.

ART. 3. The territory of the Republic shall be divided into the six provinces which now exist, each of which shall retain its present boundaries. The determination of their names corresponds to the respective provincial councils.

The provinces may by resolution of their respective provincial councils and the approval of Congress annex themselves to other provinces, or subdivide their territory and form new provinces.

TITLE II.—CUBANS.

ART. 4. Cuban nationality is acquired by birth or by naturalization.

ART. 5. Cubans by birth are:

1. All persons born of Cuban parents whether within or without the territory of the Republic.

2. All persons born of foreign parents within the territory of the Republic, provided that on becoming of age they apply for inscription, as Cubans, in the proper register.

3. All persons born in foreign countries of parents natives of Cuba who have forfeited their Cuban nationality, provided that on becoming of age they apply for their inscription as Cubans in the register aforesaid.

¹ See above, p. 151, note 4. The translation given here is based on the one in RODRIGUEZ.

² See above, p. 151, note 1.

ART. 6. Cubans by naturalization are:

1. Foreigners who having served in the liberating army claim Cuban nationality within six months following the promulgation of this Constitution.

2. Foreigners domiciled in Cuba prior to 1 January 1899 who have retained their domicile, provided that they claim Cuban nationality within six months following the promulgation of this Constitution, or if they are minors within a like period following the date on which they reach full age.

3. Foreigners who after five years' residence in the territory of the Republic, and not less than two years after the declaration of their intention to acquire Cuban nationality, have obtained naturalization papers according to law.

4. Spaniards residing in the territory of Cuba on 11 April 1899 who failed to register themselves as such in the corresponding register within one year thereafter.

5. Africans who were slaves in Cuba, and those "emancipated" referred to in Article 13 of the Treaty of 28 June 1835 between Spain and England.

ART. 7. Cuban nationality is lost:

1. By the acquisition of foreign citizenship.

2. By the acceptance of employment or honors from another government without permission of the Senate.

3. By entering the military service of a foreign nation without the said permission.

4. In cases of naturalized Cubans, by their residence for five years continuously in the country of origin, except when serving an office or fulfilling a commission of the government of the Republic.

ART. 8. Cuban nationality may be reacquired in the manner to be provided by law.

ART. 9. Every Cuban shall be bound:

1. To bear arms in defense of his country in such cases and in such manner as may be determined by the laws.

2. To contribute to the payment of public expenses in such manner and proportion as the laws may prescribe.

TITLE III.—FOREIGNERS.

ART. 10. Foreigners residing within the territory of the Republic shall be on the same footing as Cubans:

1. In respect to protection of their persons and property.

2. In respect to the enjoyment of the rights guaranteed by Section I of the following title, excepting those exclusively reserved to citizens.

3. In respect to the enjoyment of civil rights under the conditions and limitations prescribed in the law of aliens.

4. In respect to the obligation of obeying the laws, decrees, regulations, and all other statutes that may be in force in the Republic, and complying with their provisions.

5. In respect to submission to the jurisdiction and decisions of the courts of justice and all other authorities of the Republic.

6. In respect to the obligation of contributing to the public expenses of the State, province and municipality.

TITLE IV.—RIGHTS GUARANTEED BY THIS CONSTITUTION.

SECTION I.—INDIVIDUAL RIGHTS.

ART. 11. All Cubans are equal before the law. The Republic does not recognize any personal prerogatives.

ART. 12. No law shall have retroactive effect, except when penal and favorable to the defendant.

ART. 13. Obligations of a civil nature arising out of contracts or other acts or omissions shall not be nullified or impaired by either the legislative or the executive power.

ART. 14. The penalty of death shall in no case be imposed for offenses of political character, said offenses to be defined by law.

ART. 15. No person shall be detained except in the cases and in the manner prescribed by law.

ART. 16. Every arrested person shall be set at liberty or placed at the disposal of the competent judge or court within twenty-four hours immediately following the arrest.

ART. 17. All arrests shall be terminated, or turned into formal imprisonments, within seventy-two hours, immediately after the delivery of the arrested person to the judge or court of competent jurisdiction. Within the same time notice shall be served upon the interested party of the action taken.

ART. 18. No person shall be imprisoned except by order of a competent judge or court.

The order directing the imprisonment shall be affirmed or reversed, upon the proper hearing of the prisoner, within seventy-two hours next following the committal.

ART. 19. No person shall be prosecuted or sentenced except by a competent judge or court, by virtue of laws in force prior to the commission of the offense, and in the manner and form prescribed by said laws.

ART. 20. Every person arrested or imprisoned without the formalities of law, or outside of the cases foreseen in this Constitution or the laws, shall be set at liberty at his own request or that of any citizen.

*The law shall determine the form of summary proceedings to be followed in this case.*¹

ART. 21. No one shall be bound to testify against himself, neither shall he be compelled to testify against his consort, nor against his relatives within the fourth degree of consanguinity or second of affinity.

ART. 22. The secrecy of correspondence and other private documents is inviolable, and neither shall be seized or examined except by order of a competent authority and with the formalities prescribed by the laws. In all cases matters therein contained not relating to the subject under investigation shall be kept secret.

ART. 23. Domicile is inviolable; and therefore no one shall enter at night the house of another except by permission of its occupant, unless it be for the purpose of giving aid and assistance to victims of crime or accident; or in the daytime, except in the cases and in the manner prescribed by law.

ART. 24. No person shall be compelled to change his domicile or residence except by virtue of an order issued by a competent authority and in the cases prescribed by law.

ART. 25. Every one may freely express his ideas either orally or in writing, through the press, or in any other manner, without subjection to previous censorship; but the responsibilities specified by law, when attacks are made upon the honor of individuals, the social order, or the public peace, shall be properly enforced.

ART. 26. The profession of all religions, as well as the practice of all forms of worship, is free, without any other restriction than that demanded by the respect for Christian morality and public order. The Church shall be separated from the State, which in no case shall subsidize any religion.

ART. 27. All persons shall have the right to address petitions to the authorities, to have them duly acted upon, and to be informed of the action taken thereon.

ART. 28. All the inhabitants of the Republic have the right to assemble peacefully, without arms, and to associate with others for all lawful pursuits of life.

ART. 29. All persons shall have the right to enter or leave the territory of the Republic, to travel within its limits, and to change their residence, without necessity of safe conducts, passports, or other sim-

¹The words printed in italics are not found in the text of the Constitution as given in the *Diario de Sesiones de la Convención Constituyente de la Isla de Cuba*, pp. 461-472, or in J. R. SEDANO Y AGRAMONTE, *El Libro del ciudadano cubano* (Habana, 1901), pp. 9-49. They appear, however, in the text of the Constitution as printed in the *Colección Legislativa de la Isla de Cuba*, 1902, vol. 1, pp. 415 *et seq.*, and in Don GONZALO DE QUESADA (Cuban Minister at Washington), *Cuba* (published by the International Bureau of the American Republics, November, 1905).

ilar documents, except when otherwise provided by the laws governing immigration, or by the authorities, in cases of criminal prosecution.

ART. 30. No Cuban shall be banished from the territory of the Republic or prohibited from entering it.

ART. 31. Primary instruction shall be compulsory and gratuitous. The teaching of arts and trades shall also be gratuitous. Both shall be supported by the State, as long as the municipalities and provinces, respectively, may lack sufficient funds to defray their expenses.

Secondary and superior education shall be controlled by the State. All persons however, may, without restriction, learn or teach any science, art, or profession, and found and maintain establishments of education and instruction, but it pertains to the State to determine what professions shall require special titles, what conditions shall be required for their practice and for the securing of diplomas, as well as for the issuing thereof as established by law.

ART. 32. No one shall be deprived of his property, except by competent authority, upon proof that the condemnation is required by public utility, and previous indemnification. If the indemnification is not previously paid, the courts shall protect the owners, and, if needed, restore to them the property.

ART. 33. In no case shall the penalty of confiscation of property be imposed.

ART. 34. No person is bound to pay any tax or impost not legally established and the collection of which is not carried out in the manner prescribed by the laws.

ART. 35. Every author or inventor shall enjoy the exclusive ownership of his work or invention for the time and in the manner determined by law.

ART. 36. The enumeration of the rights expressly guaranteed by this Constitution does not exclude other rights based upon the principle of the sovereignty of the people and the republican form of government.

ART. 37. The laws regulating the exercise of the rights which this Constitution guarantees shall be null and void if said rights are abridged, restricted, or adulterated by them.

SECTION II.—RIGHT OF SUFFRAGE.

ART. 38. All male Cubans over 21 years of age have the right of suffrage, except the following:

1. Those who are inmates of asylums.
2. Those judicially declared to be mentally incapacitated.
3. Those judicially deprived of civil rights on account of crime.
4. Those serving in the land or naval forces of the Republic, when in active service.

ART. 39. The laws shall establish rules and methods of procedure to guarantee the intervention of the minorities in the preparation of the census of electors, and in all other electoral matters, and its representation in the Chamber of Representatives and in the provincial and municipal councils.

SECTION III.—SUSPENSION OF CONSTITUTIONAL GUARANTEES.

ART. 40. The guarantees established in Articles 15, 16, 17, 19, 22, 23, 24 and 27, Section I of this title, shall not be suspended either in the whole Republic, or in any part thereof, except temporarily and when the safety of the State may require it, in cases of invasion of the territory or of serious disturbances that may threaten public peace.

ART. 41. The territory in which the guarantees mentioned in the preceding article are suspended shall be ruled during the period of suspension according to the law of public order which may have been previously enacted. But neither the said law, nor any other, shall order the suspension of other guarantees not mentioned in the said article.

Nor shall any new offenses be created, or new penalties not established by the law which was in force at the time of the suspension, be ordered to be inflicted during the same.

The executive power is hereby forbidden to exile or expel from the country any citizen thereof, or compel him to reside at any other place farther than one hundred and twenty kilometers from his domicile. Nor shall it detain any citizen for more than ten days, without delivering him to the judicial authorities, or repeat the detention during the time of the suspension of guaranties. The detained individuals shall be kept in special departments in the public establishments destined for the detention of prisoners charged with common offenses.

ART. 42. The suspension of the guarantees specified in Article 40 shall be ordered, only and exclusively by means of a law, but if Congress is not in session, it can be ordered by a decree of the President of the Republic. But the President shall have no power to suspend the guarantees more than once during the period intervening between two sessions of Congress, or for an indefinite period of time, or for a period longer than thirty days, without convoking Congress in the same decree of suspension. In all cases the President shall report the facts to Congress, in order that it may act as deemed proper.

TITLE V.—THE SOVEREIGNTY AND THE PUBLIC POWERS.

ART. 43. The sovereignty is vested in the people of Cuba, and from the said people all the public powers emanate.

TITLE VI.—THE LEGISLATIVE POWER.

SECTION I.—THE LEGISLATIVE BODIES.

ART. 44. The legislative power is vested in two elective bodies, to be known as the Chamber of Representatives and the Senate; the two together constituting the Congress.¹

SECTION II.—THE SENATE, ITS MEMBERSHIP AND ITS POWERS.

ART. 45. The Senate shall consist of four senators for each province, to be elected in each one for a period of eight years by the provincial councilors, and by double that number of electors forming with the councilors an electoral college.

One half of the electors shall consist of citizens paying the greatest amount of taxes, and the other half shall possess the qualifications required by law. But it is necessary for all of them to be of full age and residents of the province.

The election of electors shall be made by the provincial voters one hundred days before that of the senators.

The Senate shall be renewed by halves every four years.

ART. 46. To be a senator it is required:

1. To be a Cuban by birth.
2. To be over 35 years of age.
3. To be in the full enjoyment of civil and political rights.

ART. 47. The Senate shall have the following exclusive powers:

1. To try, sitting as a tribunal of justice, the impeachment of the President of the Republic, upon charges made against him by the Chamber of Representatives, for crimes against the external security of the State, against the free exercise of the legislative or judicial powers, or for violation of the constitutional provisions.

2. To try, sitting as a tribunal of justice, the impeachment of the secretaries of State, upon charges made against them by the Chamber of Representatives, for crimes against the external security of the State, the free exercise of the legislative or judicial powers, violation of the constitutional provision, or any other crime of political character determined by law.

3. To try, sitting as a tribunal of justice, the impeachment of the governors of provinces, upon charges made against them by the provincial councils or by the President of the Republic for any of the crimes named in the foregoing number.

When the Senate sits as a tribunal of justice, it shall be presided over by the Chief Justice of the Supreme Court and shall not impose any other penalty than that of removal from office, or removal

¹ Law of 22 July 1902 determined the relations between the two houses. Electoral Law of 25 December 1903, revised 11 September 1908.

from office and disqualification from holding any public office; but the infliction of any other penalty upon the convicted official shall be left to the courts declared by law to be competent for the purpose.

4. To confirm the nominations made by the President of the Republic for the positions of Chief Justice and associate justices of the Supreme Court, diplomatic representatives and consular agents of the nation, and all other public officers whose nominations require the approval of the Senate in accordance with the law.

5. To authorize Cuban citizens to accept employment or honors from foreign governments or to serve in their armies.

6. To approve the treaties entered into by the President of the Republic with other nations.

SECTION III.—THE CHAMBER OF REPRESENTATIVES, ITS MEMBERSHIP AND ITS POWERS.

ART. 48. The Chamber of Representatives shall consist of one representative for each 25,000 inhabitants or fraction thereof over 12,500. elected for the period of four years by direct vote of the people and in the manner provided by law.

The Chamber of Representatives shall be renewed by halves every two years.

ART. 49. To be a representative it is required:

1. To be a Cuban citizen by birth or by naturalization, provided in the latter case that the candidate has resided eight years in the Republic, to be counted from the date of his naturalization.

2. To have attained the age of 25 years.

3. To be in full possession of all civil and political rights.

ART. 50. The power to impeach before the Senate the President of the Republic and the secretaries of State, in the cases prescribed in Nos. 1 and 2 of Article 47 corresponds to the Chamber of Representatives. But the concurrence of two thirds of the total number of representatives, in secret session, shall be required to exercise this right.

SECTION IV.—PROVISIONS COMMON TO BOTH HOUSES OF CONGRESS.

ART. 51. The positions of senator and representative are incompatible with the holding of any other paid position of government appointment, except a professorship in a government institution, obtained by competitive examination prior to the election.

ART. 52. Senators and representatives shall receive from the State a pecuniary remuneration, alike for both positions, the amount of which may be changed at any time; but the change shall not take effect until after the renewal of the legislative bodies.

ART. 53. Senators and representatives shall be inviolable for their votes and opinions in the discharge of their duties. Senators and representatives shall only be arrested or indicted upon permission of the body to which they belong, if Congress is then in session, except in case of *flagrante delicto*. In this case, and in the case of the arrest or indictment being made when Congress is not in session, the fact shall be reported, as soon as practicable to the respective house for proper action.

ART. 54. Both houses of Congress shall open and close their sessions on the same day; they shall meet in the same city, and neither shall move to any other place, or adjourn for more than three days, except by common consent.

Nor shall they begin to do business without two thirds of the total number of their members being present, or continue their sessions without the attendance of an absolute majority.

ART. 55. Each house shall be the judge of the election of its respective members and shall also pass upon their resignations. No senator or representative shall be expelled from the house to which he belongs, except upon grounds previously determined, and the concurrence of at least two thirds of the total number of its members.

ART. 56. Each house shall frame its respective rules and regulations, and elect from among its members its president, vice-presidents and secretaries. But the president of the Senate shall not discharge his duties as such, except in case the Vice-President of the Republic is absent or acting as President.

SECTION V.—CONGRESS AND ITS POWERS.

ART. 57. Congress shall assemble, without necessity of previous call, twice in each year, each session to last not less than forty working days. The first session shall begin on the first Monday in April and the second on the first Monday in November.

It shall meet in extra session in such cases and in such manner as may be provided by its rules and regulations and when called to convene by the President of the Republic in accordance with the provisions of this Constitution. In both cases it shall only consider the express object or objects for which it assembles.

ART. 58. Congress shall meet in joint session to proclaim, after counting and verifying the electoral vote, the President and Vice-President of the Republic.

In this case the president of the Senate, and in his absence the president of the Chamber of Representatives, as vice-president of the Congress, shall preside over the joint meeting.

If upon counting the votes for President it is found that none of the candidates has an absolute majority of votes, or if the votes are equally divided, Congress, by the same majority, shall elect as Presi-

dent one of the two candidates having obtained the greatest number of votes.

Should more than two candidates receive the highest number of votes—no one obtaining an absolute majority—two or more having secured the same number, Congress shall elect from said candidates.

If the vote of Congress is equally divided another vote shall be taken; and if the result of the second vote is the same, the president shall cast the deciding vote.

The method established in the preceding number shall be also employed in the election of Vice-President of the Republic.

The counting of the electoral vote shall take place prior to the expiration of the presidential term.

ART. 59. Congress shall have the following powers:

1. To enact the national codes and the laws of a general nature; to determine the rules that shall be observed in the general, provincial and municipal elections; to issue orders for the regulation and organization of all services pertaining to the administration of national, provincial and municipal government; and to pass all other laws and resolutions which it may deem proper relating to other matters of public interest.

2. To discuss and approve the budgets of the revenues and expenses of the government. The said revenues and expenses, except such as will be mentioned hereafter, shall be included in annual budgets which shall be available only during the year for which they shall have been approved.

The expenses of Congress, those of the administration of justice and those required to meet the interest and redemption of loans shall have, the same as the revenues with which they have to be paid, the character of permanent and shall be included in a fixed budget which shall remain in force until changed by special laws.

3. To contract loans, with the obligation, however, of providing permanent revenues for the payment of the interest and redemption thereof.

All measures relating to loans shall require the vote of two thirds of the total number of the members of each house.

4. To coin money, fixing the standard, weight, value and denomination thereof.

5. To regulate the system of weights and measures.

6. To make provisions for regulating and developing internal and foreign commerce.

7. To regulate the services of communications and ¹ railroads, roads, canals and harbors, creating those required by public convenience.

¹ The *Diario de Sesiones* and *El Libro del ciudadano cubano* has "of railway communications."

8. To levy such taxes and imposts of national character as may be necessary for the needs of the government.

9. To establish rules and proceedings for obtaining naturalization.

10. To grant amnesties.

11. To fix the strength of the land and naval forces and provide for their organization.

12. To declare war and approve treaties of peace negotiated by the President of the Republic.

13. To designate, by means of a special law, the official who shall act as President of the Republic in case of death, resignation, removal, or supervenient inability of the President and Vice-President.

ART. 60. Congress shall not attach to appropriation bills any provision tending to make changes or reforms in the legislation or in the administration of the government; nor shall it diminish or abolish revenues of permanent character without creating at the same time new revenues to take their place, except in case that the decrease or abolition depend upon the decrease or abolition of the equivalent permanent expenses. Nor shall Congress appropriate for any service to be provided for in the annual budget a larger sum of money than that recommended in the estimates submitted by the government; but Congress may by means of special laws create new services and reform or give greater scope to those already existing.

SECTION VI.—INITIATIVE. PREPARATION, APPROVAL AND PROMULGATION OF LAWS.

ART. 61. The right to initiate legislation is vested without distinction in both houses of Congress.

ART. 62. Every bill passed by the two houses and every resolution of the same which has to be executed by the President of the Republic shall be submitted to him for approval. If they are approved, they shall be signed at once by the President. If they are not approved, they shall be returned by the President, with his objections, to the house in which they originated, which shall enter said objections upon its journal and engage again in the discussion of the subject.

If after this new discussion two thirds of the total number of the members of the house vote in favor of the bill or resolution as originally passed, the latter shall be referred with the objections of the President, to the other house, where it shall be also discussed, and if the measure is approved there by the same majority it shall become a law. In all these cases the vote shall be by yeas and nays.

If within ten working days immediately following the sending of the bill or resolution to the President, the latter fails to return it, it shall be considered approved and shall become law.

If within the last ten days of a session of Congress a bill is sent to the President of the Republic, and he wishes to take advantage of the whole time granted him in the foregoing paragraph for the purposes of approval or disapproval, he shall acquaint the Congress with his desire, so as to cause it to remain in session, if it so wishes, until the end of the ten days. The failure by the President to do so shall cause the bill to be considered approved and become a law.

No bill totally rejected by one house shall be discussed again in the same session.

ART. 63. Every law shall be promulgated within ten days next following its approval by either the President or the Congress, as the case may be, under the provisions of the preceding article.

TITLE VII.—THE EXECUTIVE POWER.

SECTION I.—THE EXERCISE OF THE EXECUTIVE POWER.

ART. 64. The executive power¹ shall be vested in the President of the Republic.

SECTION II.—THE PRESIDENT OF THE REPUBLIC, HIS POWERS AND DUTIES.

ART. 65. To be President of the Republic it is required:

1. To be a Cuban by birth or naturalization, and in the latter case to have served in the Cuban armies in the wars of independence for at least ten years.

2. To be over 40 years of age.

3. To be in the full enjoyment of civil and political rights.

ART. 66. The President of the Republic shall be elected by presidential electors on the same day, in the manner provided by law.

The term of office shall be four years, and no one shall be President for three consecutive terms.

ART. 67. The President, before entering on the discharge of the duties of his office, shall take oath or affirmation before the Supreme Court of Justice to faithfully discharge his duties and comply and cause others to comply with the Constitution and the laws.

ART. 68. The President of the Republic shall have the following powers and duties:

1. To approve and promulgate the laws, and to obey and cause others to obey their provisions. To enact, if Congress has not done so, such rules and regulations as may be necessary for the proper

¹ Organic Law (on the executive power) of 26 January 1909.

execution of the laws; and to issue all orders or decrees which may be conducive to the same purpose or to any other purposes of government and the administration thereof in the Republic, provided that in no case the said orders or decrees are at variance with the provisions of the law.

2. To call Congress, or the Senate alone, to meet in extra session in the cases set forth in the Constitution, or when in his opinion the meeting may be necessary.

3. He shall adjourn Congress, when no agreement can be reached between the two houses on the question of adjournment.

4. To transmit to Congress at the beginning of each session, and whenever he may deem it advisable, a message relating to the acts of his administration, showing the general condition of the affairs of the Republic, and recommending the adoption of such laws and measures as he may deem necessary or advisable.

5. To submit to Congress through either one of the houses, before 15 November, a draft of the annual budget.

6. To furnish Congress all the information desired by it on every matter of business which does not require secrecy.

7. To conduct all diplomatic negotiations and conclude treaties with foreign nations, provided that these treaties be submitted for approval of the Senate, without which requisite they shall be neither valid nor binding upon the Republic.

8. To freely appoint and remove the secretaries of State, giving Congress information of his action.

9. To appoint, with the approval of the Senate, the Chief Justice and the associate justices of the Supreme Court, and the diplomatic and consular agents of the Republic. If the vacancy occurs at a time in which the Senate is not in session, he shall have power to make the appointment of said functionaries *ad interim*.

— 10. To appoint all other public officers recognized by law, whose appointment is not entrusted to some other authority.

11. To suspend the exercise of the rights enumerated in Article 40 of the Constitution in the cases and in the manner set forth in Articles 41 and 42.

12. To suspend the resolutions passed by the provincial and municipal councils in the cases and in the manner set forth in this Constitution.

13. To order the suspension of the governors of provinces in case they exceed their powers or violate the laws; but in these cases he shall report the fact to the Senate, in the manner and form determined by law, for such action as may be proper.

14. To prefer charges against the governors of provinces in the cases set forth in No. 3 of Article 47.

15. To grant pardons according to the provisions of law, except in the case of public functionaries convicted for wrongs done in the exercise of their functions.

16. To receive diplomatic representatives and admit consular agents of other nations.

17. To dispose of the land and sea forces of the Republic as commander-in-chief of the same. To provide for the defense of the national territory, reporting to Congress what he may have done on the subject. To provide for the preservation of peace and public order in the interior of the country. If there is danger of invasion, or of any rebellion breaking out and gravely threatening the public safety, Congress not being in session at the time, the President shall call it to convene without delay for such action as may be deemed proper.

ART. 69. The President shall not leave the territory of the Republic without the permission of Congress.

ART. 70. The President shall be responsible before the Supreme Court for the common offenses he may commit during his term of office, but he shall not be prosecuted without previous permission of the Senate.

ART. 71. The President shall receive from the State a salary which may be changed at any time, but the change shall not go into effect until the next following presidential term.

TITLE VIII.—THE VICE-PRESIDENT OF THE REPUBLIC.

ART. 72. There shall be a Vice-President of the Republic, who shall be elected in the same manner and for the same period of time as the President, and jointly with him. To be Vice-President the same qualifications set forth in this Constitution to be President shall be required.

ART. 73. The Vice-President of the Republic shall be the president of the Senate, but he shall vote only in case that the votes of the senators are equally divided.

ART. 74. In case of temporary or permanent absence of the President of the Republic, the Vice-President shall act in his place. If the absence is permanent, the Acting President shall continue in office until the end of the presidential term.

ART. 75. The Vice-President shall receive from the State a salary which may be changed at any time, but the change shall not go into effect until the next following presidential term.

TITLE IX.—THE SECRETARIES OF STATE.

ART. 76. For the transaction of the executive business, the President of the Republic shall have as many secretaries of State as the law may determine, and no one shall be a secretary of State who

is not a Cuban citizen in the full enjoyment of his civil and political rights.

ART. 77. All decrees, orders and decisions of the President of the Republic shall be countersigned by the secretary of State to whom the matter corresponds. Without this signature no decree, order or decision of the President shall have binding force nor shall it be obeyed.

ART. 78. The secretaries of State shall be personally responsible for the measures signed by them, and jointly and severally for the measures agreed upon or authorized by them at a cabinet meeting. This responsibility does not exclude the personal and direct responsibility of the President of the Republic.

ART. 79. The secretaries of State shall be impeachable before the Senate by the Chamber of Representatives in the cases mentioned in No. 2 of Article 47.

ART. 80. The secretaries of State shall receive from the State a salary which may be changed at any time, but the change shall not go into effect until the next following presidential term.

TITLE X.—THE JUDICIAL POWER.

SECTION I.—THE EXERCISE OF THE JUDICIAL POWER.

ART. 81. The judicial power¹ is vested in a Supreme Court of Justice and in all the other tribunals which may be established by law. The law shall regulate the respective organization and powers of these tribunals, the manner of exercising their powers, and the qualifications required of the judicial functionaries.

SECTION II.—THE SUPREME COURT OF JUSTICE.

ART. 82. To be Chief Justice or associate justice of the Supreme Court it is required:

1. To be a Cuban by birth.
2. To be over 35 years of age.
3. To be in the full enjoyment of civil and political rights, and not to have been condemned to any corporal punishment for common offenses.

4. To have in addition to the foregoing qualifications any one of the following:

To have practiced in Cuba, during ten years at least, the profession of lawyer; or have discharged for the same length of time judicial functions; or have taught law for the same number of years in an official establishment.

¹ Organic Law (on the judicial power) of 27 January 1909.

The following persons are also eligible for the positions of Chief Justice or associate justices of the Supreme Court, even if not having the qualifications set forth in Nos. 1, 2 and 3 of this article:

a. Those who have served in the judiciary for the time determined by law in a position of equal or immediately inferior category.

b. Those who, previous to the promulgation of this Constitution, served as justices of the Supreme Court of the Island of Cuba.

The time of service in the judiciary shall be computed as time of practice of law for the purpose of qualifying the lawyers to be appointed justices of the Supreme Court.

ART. 83. The Supreme Court shall have the following attributions, in addition to those already vested or hereafter to be vested in it:

1. To take cognizance of cases on a writ of error.

2. To decide conflicts of jurisdiction between courts immediately inferior to it, or not having a common superior.

3. To take cognizance of the cases to which the State on the one side and the provinces or municipalities on the other are parties.

4. To decide as to the constitutionality of the laws, decrees and regulations when a question to that effect is raised by any party.

SECTION III.—GENERAL RULES REGARDING THE ADMINISTRATION OF JUSTICE.

ART. 84. Justice shall be administered gratuitously throughout the entire territory of the Republic.

ART. 85. The courts shall take cognizance of all cases, whether civil, criminal, or between the government and private parties.

ART. 86. No judicial commissions or extraordinary tribunals, no matter under what name, shall ever be created.

ART. 87. No functionary of the judicial order shall be suspended or removed from his office except for crime or some other grave cause, fully proven, and always after being heard. Nor shall he be transferred without his consent to any other place, unless it is for the manifest benefit of the public service.

ART. 88. All judicial functionaries shall be personally responsible, in the manner and form determined by law, for the violations of law which they may commit.

ART. 89. The salaries of judicial functionaries shall not be changed except at the end of periods of more than five years, and by means of a law. The law, however, shall not give different salaries to positions whose rank, category and functions are equal.

ART. 90. The courts for the forces of land and sea shall be governed by a special organic law.¹

¹ Code of Military Procedure of 27 January 1909.

TITLE XI.—THE PROVINCIAL GOVERNMENT.

SECTION I.—GENERAL PROVISIONS.

ART. 91. A province consists of the municipal districts established within its limits.

ART. 92. Each province shall have a governor and a provincial council elected directly by the people, in the manner and form established by law.¹

The number of councilors in each province shall not be less than eight nor more than twenty.

SECTION II.—THE PROVINCIAL COUNCILS AND THEIR ATTRIBUTIONS.

ART. 93. The provincial councils shall have power:

1. To resolve upon matters concerning the provinces which, under the Constitution, treaties or laws, are not within the general jurisdiction of the State or the exclusive jurisdiction of the municipal councils.

2. To frame the budget of their expenses, providing at the same time for the necessary revenue to meet them, provided that this is done in a manner not inconsistent with the system of taxation adopted by the State.

3. To contract loans for public works of provincial interest, provided that at the same time sufficient revenue is raised to meet the payment of interest and principal when due.

Such loans shall not be carried into effect unless they are approved by two thirds of the municipal councils of the provinces.

4. To impeach before the Senate the governor of their respective province, in the cases set forth in No. 3 of Article 47, when two thirds of the total number of provincial councilors decide in secret session that this should be done.

5. To appoint and remove, according to law, the provincial employees.

ART. 94. The provincial councils shall have no power to diminish or abolish revenue of permanent character without creating at the same time some other revenue to take its place, except in case that the decrease or suppression are due to the decrease or suppression of equivalent permanent expenses.

ART. 95. The resolutions of the provincial councils shall be sent to the governor of the province. If approved, they shall be signed by him; if not, they shall be returned with his objections to the council, wherein the subject shall be again discussed. If after the second discussion the resolution is approved by two thirds of the total number of councilors it shall become a law.

¹ Organic Law (on provinces) of 2 June 1908.

If the governor does not return the resolution within ten days from the date of reference, it shall be considered approved and shall become a law.

ART. 96. The resolutions of the provincial councils may be suspended by the governor of the province or by the President of the Republic, whenever, in their opinion, they are contrary to the Constitution, the laws, or any resolutions passed by the municipal councils in due exercise of their functions; but the right to take cognizance of and pass upon the claims which may arise out of the said suspension shall be reserved to the courts of justice.

ART. 97. Neither the provincial councils nor any section or committee, selected from their members or from persons not members thereof, shall intervene in matters belonging to any class of elections.

ART. 98. The provincial councilors shall be personally responsible before the courts in the manner determined by law for whatever may be done by them in the exercise of their functions.

SECTION III.—THE GOVERNORS OF PROVINCES AND THEIR ATTRIBUTIONS.

ART. 99. The governors of provinces shall have the following powers:

1. To comply and cause others to comply, as far as their provinces are concerned, with the laws, decrees and general rules and regulations of the nation.

2. To publish such resolutions of the provincial councils as have force of law, and comply and cause others to comply with them.

3. To issue orders, instructions and rules for the proper execution of the resolutions of the provincial council, if the latter has not done so already.

4. To call the provincial councils to convene in extra session whenever in his own judgment the same may be necessary. The subjects to be discussed in this session shall be set forth in the call.

5. To suspend the resolutions of the provincial and municipal councils in the cases set forth in this Constitution.

6. To order the suspension of mayors, in case they have exceeded their powers, violated the Constitution or the laws, acted in contravention to the resolutions of the provincial councils, or failed to do their duty. The suspension shall be reported to the provincial council in the manner and form established by law.

7. To appoint and remove the employees of their offices in the manner provided by law.

ART. 100. The governors shall be responsible before the Senate in the cases set forth in this Constitution, and before the courts of justice, according to the provisions of the law, in all other classes of offenses.

ART. 101. The governors shall receive from the provincial treasury a salary which may be changed at any time, but the change shall not take effect until after the election of a new governor is held.

ART. 102. In case of temporary or permanent vacancy of the position of governor of the province, the president of the provincial council shall act in his place. If the vacancy is permanent, the acting governor shall continue in the discharge of his duties as such until the end of the term.

TITLE XII.—THE MUNICIPAL GOVERNMENT.

SECTION I.—GENERAL PROVISIONS.

ART. 103. The municipal districts shall be governed by municipal councils, consisting of aldermen or councilors directly elected by the people, in the number and in the manner provided by law.¹

ART. 104. There shall be in each municipal district a mayor elected by the people by direct vote in the manner and form established by law.

SECTION II.—THE MUNICIPAL COUNCILS AND THEIR ATTRIBUTIONS.

ART. 105. The municipal councils shall have power:

1. To resolve on all matters exclusively relating to their own municipal districts.

2. To prepare the budget of their expenses, providing at the same time the necessary revenue to meet them, on condition, however, that this is done in a manner consistent with the general system of taxation of the Republic.

3. To resolve on the negotiation of loans, providing at the same time the permanent revenue necessary to meet the interest and principal when due.

In order that these loans may be carried into effect, they shall have to be approved by two thirds of the electors of the municipal district.

4. To appoint and remove the municipal employees in the manner established by law.

ART. 106. The municipal councils shall not decrease or suppress any revenues of permanent character without establishing at the same time some other revenues which may take their place, except in case the decrease or suppression is due to the decrease or suppression of the equivalent permanent expense.

ART. 107. The resolutions of the municipal councils shall be referred to the mayor. If approved by him, they shall be authorized with his signature; if not, they shall be returned with his objections

¹ Organic Law (on municipal districts) of 29 May 1908.

to the municipal council, wherein they shall be again discussed. If, after a second discussion, two thirds of the total number of councilors vote in favor of the resolution, it shall become a law.

When the mayor does not return the resolution, within ten days after the date of reference, it shall be considered approved and become a law.

ART. 108. The resolutions of the municipal councils may be suspended by the mayor, the governor of the province, or the President of the Republic, when in their opinion they are contrary to the Constitution, the treaties, the laws, or the resolutions passed by the provincial councils within the sphere of their powers. But the right to take cognizance and pass upon the claims which may arise out of said suspension shall be reserved to the courts of justice.

ART. 109. The members of the municipal councils shall be personally responsible before the courts of justice, in the manner and form established by law, for the acts done by them in the performance of their duties.

SECTION III.—THE MAYORS AND THEIR ATTRIBUTIONS AND DUTIES.

ART. 110. Mayors shall have power:

1. To publish such resolutions of the municipal councils as may have force of law, and execute and cause the same to be executed.
2. To administer the municipal affairs, issuing orders and instructions as well as rules for the better execution of the resolutions of the municipal councils, whenever the latter may fail to do so.
3. To appoint and remove the employees of their respective offices in the manner provided by law.

ART. 111. Mayors shall be personally responsible before the courts of justice, in the manner prescribed by law, for all acts performed by them in the discharge of their functions.

ART. 112. Each mayor shall receive a salary, to be paid by the municipal treasury, which may be changed at any time; but such change shall not take effect until after a new election for mayor has been held.

ART. 113. In case of vacancy, either temporary or permanent, of the office of mayor, the president of the municipal council shall act as mayor.

Should the absence be permanent, the substitute shall act until the end of the term for which the mayor was elected.

TITLE XIII.—THE NATIONAL TREASURY.

ART. 114. All property existing within the territory of the Republic not belonging to provinces, municipalities or private individuals or corporations shall belong to the State.

TITLE XIV.—AMENDMENTS TO THE CONSTITUTION.

ART. 115. The Constitution shall not be amended, in whole or in part, except by resolution passed by two thirds of the total number of members of each house of Congress.

Six months after the resolution to amend the Constitution has been passed, a Constitutional Convention shall be called to assemble, for the exclusive and specific purpose of either approving or rejecting the amendment. Each house shall, in the meantime, continue to perform its duties with absolute independence of the Convention.

Delegates to the said Convention shall be elected by each province at the rate of one for every 50,000 inhabitants, in the manner that may be provided by law.

TRANSITORY PROVISIONS.

FIRST. The Republic of Cuba does not recognize any other debts or obligations than those legitimately contracted in favor of the revolution by commanders of bodies of the liberating army, subsequent to 24 February 1895 and prior to 19 September of the same year, on which date the Jimaguayú Constitution was promulgated; and the debts and obligations contracted afterwards by the revolutionary government, either by itself or through its legitimate representatives in foreign countries. Congress shall examine said debts and obligations and decide upon the payment of those which are found legitimate.

SECOND. Persons born in Cuba, or children of native-born Cubans, who, at the time of the promulgation of this Constitution, are citizens of any foreign nation, shall not enjoy the rights of Cuban nationality without first renouncing expressly their foreign citizenship.

THIRD. The time of service of foreigners in the wars of independence of Cuba shall be counted as time of naturalization and residence, for the acquisition of the right granted to naturalized citizens in Article 49.

FOURTH. The basis of population established in relation to the election of representatives in Congress, and of delegates to the Constitutional Convention, in Articles 48 and 115, may be changed by law, whenever, in the judgment of Congress, the change becomes necessary through the increase in the number of inhabitants, shown by censuses to be periodically taken.

FIFTH. At the time of the first organization of the Senate, the senators shall be divided into two groups for the purpose of their renewal.

Those forming the first group shall cease in their duties at the expiration of the fourth year, and those forming the second group

at the expiration of the eighth year. It shall be decided by lot which of the two senators from each province shall belong to either group.

The law shall provide the method to be followed in the formation of the two groups into which the Chamber of Representatives shall be divided for the purpose of its partial renewal.

SIXTH. Ninety days after the promulgation of the electoral law, which shall be framed and adopted by the Constitutional Convention, an election shall be held of the public functionaries provided by the Constitution, to whom the transfer of the government of Cuba, in conformity with the provisions of Order No. 301 of Headquarters, Division of Cuba, dated 25 July 1900, is to be made.

SEVENTH. All laws, decrees, regulations, orders and other provisions which may be in force at the time of the promulgation of this Constitution shall continue to be observed, in so far as they do not conflict with the said Constitution, until legally revoked or amended.

APPENDIX OF 12 JUNE 1901.¹

[PREAMBLE.]

The Constitutional Convention, acting in conformity with the order of the Military Governor of the Island, of 25 July 1900, by which it was called to assemble, resolves to attach, and does hereby attach to the Constitution of the Republic of Cuba adopted on 21 February ultimo, the following Appendix.

ARTICLE 1. The government of Cuba shall never enter into any treaty or other compact with any foreign power or powers which will impair or tend to impair the independence of Cuba, nor in any way authorize or permit any foreign Power or Powers to obtain by colonization or for military or naval purposes, or otherwise, lodgment in or control over any portion of said island.

ART. 2. That said government shall not assume or contract any public debt to pay the interest upon which, and to make reasonable sinking-fund provision for the ultimate discharge of which, the ordinary revenues of the island, after defraying the current expenses of government, shall be inadequate.

ART. 3. That the government of Cuba consents that the United States may exercise the right to intervene² for the preservation of Cuban independence, the maintenance of a government adequate for the protection of life, property and individual liberty, and for discharging the obligations with respect to Cuba imposed by the Treaty of Paris on the United States, now to be assumed and undertaken by the government of Cuba.

¹ See above, p. 151, note 4.

² This right was exercised in August 1906, when an insurrection broke out, the provisional government being undertaken by a United States Commission, which relinquished its office on 24 January 1909.

ART. 4. That all acts of the United States in Cuba during its military occupancy thereof are ratified and validated, and all lawful rights acquired thereunder shall be maintained and protected.

ART. 5. That the government of Cuba will execute, and, as far as necessary, extend the plans already devised, or other plans to be mutually agreed upon, for the sanitation of the cities of the Island, to the end that a recurrence of epidemic and infectious diseases may be prevented, thereby assuring protection to the people and commerce of Cuba, as well as to the commerce of the southern ports of the United States and the people residing therein.

ART. 6. That the Isle of Pines shall be omitted from the proposed constitutional boundaries of Cuba, the title thereto being left to future adjustment by treaty.

ART. 7. That to enable the United States to maintain the independence of Cuba, and to protect the people thereof, as well as for its own defense, the government of Cuba will sell or lease to the United States lands necessary for coaling or naval stations, at certain specified points, to be agreed upon with the President of the United States.¹

ART. 8. That, by way of further assurance, the government of Cuba will embody the foregoing provisions in a permanent treaty with the United States.²

¹ Under treaties signed 2 July 1903, the United States has coaling stations in the Bay of Guantánamo and Bahía Honda, for which \$2,000 is paid annually.

² See above, p. 151, note 3.

EGYPT.

On 13 February 1841 (21 Dulkaada 1256), Egypt became the hereditary possession of the Sultan of the Ottoman Empire. In 1866 and 1867 imperial firmans extended the attributions of the Khedive so as to give him absolute power to do whatever was necessary for the internal administration of Egypt. An Assembly was established to deliberate upon the domestic interests of the country and a regulation in 61 articles determining the attributions of the Assembly was promulgated by the Khedive 20 November 1866.¹ In 1883 the British government undertook the political and administrative reorganization of the country and on 1 May an Organic Law was promulgated by the Khedive creating a number of representative institutions, including a Legislative Council, a General Assembly and Provincial Councils.² But these bodies were mainly consultative and the Khedive and his ministers retained most of the legislative power. An electoral law in 46 articles was promulgated the same date (24 Jomada I 1300). These two laws were replaced³ in July 1913 by the present Organic and Electoral Laws, by which for the Legislative Council and General Assembly was substituted a new body called the Legislative Assembly.⁴

ORGANIC LAW OF 21 JULY 1913.⁵

[PREAMBLE.]

We, Khedive of Egypt,

Whereas it is Our desire to endow Our country with an enlightened system of government, which, while assuring good administration, the protection of the liberty of the individual and the development of progress and civilization, shall be specially adapted to the country;

¹ French text in *Staatsarchiv*, 41 (no. 7741).

² French text is in the *British and Foreign State Papers*, 74: pp. 1095-1103, and F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, pp. 346-356.

³ See Article 54 below.

⁴ These introductory paragraphs are based upon DARESTE, *op. cit.*, pp. 345-346, and *The Statesman's Year Book* (1918).

⁵ Translation taken from the British Parliamentary Paper *Egypt, No. 3A (1913)* (London, 1913) [Cd. 6878], which also contains a translation of the Electoral Law of the same date. French text with the commentary of the British Consul-General at Cairo in the *British and Foreign State Papers*, 106: pp. 917-941. The date of the Khedive's decree is 1 July 1913 (26 Rajab 1331), but the law did not come into force until 21 July (see Article 55).

Whereas such a result can only be obtained by the loyal cooperation of all classes and the coordination of all interests with a view to the calm and considered development of a system of government which, without being a servile imitation of Western methods, shall be capable of advancing the prosperity of the Egyptian people;

And whereas it is consequently Our intention to introduce amendments into the Organic Law with the object of improving Our legislative system, substituting for the present Organic Laws, Laws the objects of which are the fusion in a single Assembly of the Legislative Council and the General Assembly, the adoption of a wider and more rational method of election, the increase of the number of representatives entrusted with a share in the process of legislation, the grant to the new Assembly, and the organization of a procedure of consultation and initiative such as shall enable Our government to profit to a greater extent by the opinions and suggestions of the new Assembly with reference to the management of the internal affairs of Egypt;

Hereby decree:

PART I.

ARTICLE 1. There shall be:

1. A Legislative Assembly; and
2. A Provincial Council in each moodirieh.¹

PART II.—COMPOSITION OF THE LEGISLATIVE ASSEMBLY.

ART. 2. The Legislative Assembly shall be composed of *ex officio* members, of elected members and of nominated members.

The ministers shall be *ex officio* members.

There shall be sixty-six elected members, one of whom shall be elected by the Assembly as vice-president. These members shall be elected in accordance with the forms and conditions prescribed by the Electoral Law.

There shall be seventeen nominated members, that is to say, a president, a vice-president and fifteen members, chosen with a view to securing the representation of minorities and interests not represented by the elected portion of the Assembly.

The elected and nominated members shall be entitled to an allowance.

A decree promulgated at the instance of Our Council of Ministers shall determine the composition of the Legislative Assembly after the election.

¹ That is, in each province.

ART. 3. The seats of the elected members shall be assigned as follows:¹

Cairo.....	4
Alexandria.....	3
Gharbieh.....	7
Menoufieh.....	5
Dakalieh.....	5
Behera.....	5
Sharkieh.....	5
Kalioubieh.....	3
Gizeh.....	3
Beni-Souef.....	2
Fayoum.....	6
Minieh.....	4
Assiut.....	5
Girgeh.....	4
Kena.....	4
Assuan.....	1
Port Said and Ismailia.....	1
Suez.....	1
Damietta.....	1

The fifteen members to be nominated by the government shall be chosen in such a way as to assure to the different classes of the population a minimum representation in the Assembly according to the following table:

Copts.....	4
Arab Bedouins.....	3
Business men.....	2
Medical men.....	2
Engineer.....	1
Representative of general or religious education.....	1
Representative of the municipalities.....	1

ART. 4. The mandate of the nominated and elected members of the Legislative Assembly shall last six years. The nominated and elected members shall respectively be renewed by thirds every two years. The first partial renewal of the General Assembly shall take place after a period of two years and the second after a period of four years. The selection of the outgoing members shall be made by lot. The same rules shall apply in the case of the renewal of the Assembly as a whole.

ART. 5. The members of the Legislative Assembly shall, at the first sitting or before acting in their office, take an oath of fidelity to Our Person and of obedience to the laws of the land.

¹ The spelling of these proper names has been made to conform to *Funk and Wagnalls New Standard Dictionary of the English Language* (New York and London, 1915.)

ART. 6. Except for the cases of forfeiture mentioned in the Electoral Law, members of the Assembly shall only be deprived of their office by decree issued at the instance of Our Council of Ministers in pursuance of a resolution passed by the Assembly by a three-quarters majority.

ART. 7. In the case of a seat in the Assembly becoming vacant, a new election shall take place or a new member be nominated, as the case may be, within three months at the latest. The mandate of the new member shall last only until the expiry of the mandate of the member whom he replaces.

ART. 8. The Legislative Assembly may be dissolved by Us at any time by decree issued at the instance of Our Council of Ministers.

In case of dissolution, the new nominations and elections shall take place within three months.

The selection of the members to go out at the first and second partial renewals of the new Assembly shall be made by lot.

Such partial renewals shall always take place in the month of January following the completion of the period of two years fixed by Article 4.

PART III.—POWERS AND ATTRIBUTIONS OF THE LEGISLATIVE ASSEMBLY.

ART. 9. No law shall be promulgated without having been previously submitted to the Legislative Assembly for its opinion.

All measures respecting the internal affairs of Egypt which relate to the organization of authority in the State or affect the civil or political rights of the generality of its inhabitants, as well as all decrees regulating matters of public administration, shall be considered as "laws."

All other measures may lawfully be taken under decrees promulgated by Us on the advice of Our Council of Ministers.

ART. 10. No law or decree shall be promulgated without being countersigned by the president of the Council of Ministers and the ministers concerned.

ART. 11. The Assembly shall possess the right of initiating legislation except as concerns the constitutional laws.

When the Assembly has been seized by one or more of its members of a bill, it shall decide at a public sitting whether or not it shall be taken into consideration.

In the case of its being taken into consideration, the proposed text shall be submitted to a committee and shall thereafter be examined by the Assembly sitting in committee. In the case of approval, the bill shall be transmitted to the Council of Ministers.

If the Council approves the bill, it shall send it back to the Assembly with or without amendments, in order that it may there be dealt with according to the usual forms. In the contrary event, the

Council of Ministers shall notify the Assembly of the reasons for its decision. Such reasons shall not be made the ground of any discussion.

In no case shall the bill be discussed by the Assembly at a public sitting without having been previously approved by the Council of Ministers.

ART. 12. When the Legislative Assembly is seized by the government of a bill, it may accept it without amendment, it may amend it, or it may reject it.

ART. 13. If the government does not agree with the Assembly, it shall send back the bill, together with a statement of its views.

The Assembly may discuss the explanations of the government, and if it persists in its disagreement, a conference shall take place between the Council of Ministers and the Assembly, sitting in committee.

ART. 14. If the conference does not result in an agreement, the examination of the bill under consideration shall be adjourned for a period of fifteen days. At the end of such period the bill shall again be submitted to the Assembly, either in its original form, or with such alterations as the government considers it advisable to make in it; so, nevertheless, that the government shall not depart from the principle of the original bill or from that of the amendments which have been introduced into it.

ART. 15. If after the adjournment provided for in Article 14 the Assembly and the government are still in disagreement, the latter may either dissolve the Assembly, or may promulgate the law in the form in which it last put it forward, or with such modifications as it may think right to accept.

The government shall inform the Assembly of the reasons which have led it to disregard the opinion of the Assembly.

ART. 16. In the event of the dissolution of the Legislative Assembly, under the provisions of Article 15, on account of the continuance of disagreement between the government and the Assembly, the bill which has given rise to such disagreement may be submitted to the new Assembly at its first sitting, and shall in that case take precedence of all questions except the budget. The bill thus submitted shall be considered as a new bill and shall be examined in the ordinary manner.

ART. 17. No new direct tax, land tax, or personal tax, shall be imposed in Egypt without having been discussed and voted by the Legislative Assembly.

ART. 18. The Legislative Assembly shall be asked for its opinion as to:

1. Every public loan.
2. Every general scheme for the construction or suppression of canals, drains, or railways which affects several provinces.

3. The general classification of the land in the country, from the point of view of the land tax.

The government shall, if the case arises, communicate to the Assembly the reasons for which it has not accepted its opinion.

ART. 19. The Legislative Assembly may express opinions or pass resolutions, either spontaneously or upon a request from the government, relating to matters or bills submitted for its consideration. The matters on which the Assembly may spontaneously express opinions and pass resolutions as regards the internal affairs of Egypt are economic, administrative and financial matters.

The government shall, if the case arises, communicate to the Assembly the reasons for which it has not accepted any opinion expressed or resolution passed by it.

ART. 20. The services of the civil list, the tribute, and the public debt, and, generally, the charges and obligations resulting from the law of liquidation or from international agreements, as well as questions concerning foreign Powers and the relations of Egypt with them shall not be made the subject of any decision, discussion, observation, or representation.

Questions relating to the nomination, promotion, transfer, prosecution, or dismissal of a public servant, or of any person entrusted with a public duty, or with any other measure affecting any such public servant or persons in his individual capacity, shall equally be outside the competence of the Assembly.

ART. 21. Every resolution passed by the Legislative Assembly which is not in conformity with the provisions of the present Law shall be null and void.

ART. 22. The general budget of revenue and expenditure shall be communicated to the Legislative Assembly one month at least before the end of the financial year.

The Legislative Assembly may express opinions, submit observations, or pass resolutions on any section of the budget except those referring to questions mentioned in Article 19.

Such opinions, observations, or resolutions shall be transmitted to the Minister of Finance, who shall, if the case arises, give his reasons for the rejection of the suggestions of the Assembly.

The Legislative Assembly shall have the right to discuss the explanations thus furnished and to formulate new observations.

ART. 23. In any event the budget shall be put into force by decree issued at the instance of our Council of Ministers five days before the end of the financial year at the latest.

During the month following the publication of the budget, the Ministry of Finance shall furnish the Legislative Assembly with reasons as to any new observations which have not been accepted.

ART. 24. The general accounts of the Department of Finance drawn up for the past financial year shall be presented annually to the Legislative Assembly for its opinion, observations and criticisms four months at least before the introduction of the new budget.

ART. 25. Every Egyptian may address Us by petition.

Such petitions shall be forwarded to the president of the Legislative Assembly and shall after examination by the Assembly be rejected or taken into consideration.

All petitions which are taken into consideration shall be sent, for such action as the case may call for, to the minister concerned, who shall inform the Assembly of the action taken.

ART. 27. The members of the Legislative Assembly shall be entitled to put questions to ministers with regard to administrative matters of general interest, subject to the following conditions:

1. They shall at least five days in advance send to the secretariat of the Legislative Assembly a written notice containing the entire text of the question.

Nevertheless, in case of urgency, and with the approval of the president of the Assembly and of the minister concerned, a question may be put after twenty-four hours' notice in writing.

2. The president of the Legislative Assembly, sitting with the two vice-presidents, shall reject or return for modification any question which in his opinion contains improper expressions or personal attacks, or is of a nature to provoke animosity between the different elements of the population, as also any question affecting the relations and arrangements with the Powers.

ART. 28. The ministers or their representatives shall reply to the questions thus asked; they may, nevertheless, refuse to reply to a question if they consider that to do so would be contrary to the public interest.

ART. 29. The replies of the ministers or of their representatives shall not be made the subject of any discussion. Nevertheless, the members of the Assembly shall have the right, with the approval of the president, of putting supplementary questions, but only with a view to elucidating points raised by the ministerial reply.

PART IV.—THE PROCEDURE OF THE LEGISLATIVE ASSEMBLY.

ART. 30. The Legislative Assembly shall meet annually on 1 November, and shall continue its session till the end of May the following year.

It may also be summoned by Us whenever circumstances require it to meet.

Neither ordinary nor extraordinary sessions shall terminate until the Legislative Assembly has communicated to the government its opinion on all the questions submitted to it.

ART. 31. Ministers shall have the right to be assisted or represented for special matters by high officials of their department.

ART. 32. The sittings of the Legislative Assembly shall be public, subject to the provisions of such standing orders as the Assembly shall pass with respect thereto.

Conferences with the Council of Ministers and meetings of the Assembly when sitting in committee shall not be public.

ART. 33. The Legislative Assembly can not take valid decisions unless two thirds at least of its members, excluding those on regular leave of absence, are present.

Except when a three-quarters majority is required, resolutions shall be passed by majority of votes.

When the votes are equally divided, the president shall have a casting vote.

Votes shall not be given by proxy. Voting shall be open, unless the Assembly decides in the public interest that it shall be by ballot.

ART. 34. The president of the Legislative Assembly shall appoint the staff required for the despatch of the business of the Assembly.

PART V.—ATTRIBUTIONS OF PROVINCIAL COUNCILS.

ART. 35.—*a*. The Provincial Council may vote temporary taxes in the moodirieh to cover expenditure for public purposes, including education.

It may assign the whole of these taxes to education. Within a limit of 5 per cent. of the whole total of the land tax in the moodirieh, the decision of the Council shall be final, both with regard to its imposition and to its allocation, and shall form the subject of a decree.

In the event of the Council exceeding this limit, its decision as regards the excess shall not be final until it has been approved by the government and sanctioned by decree.

The rules regarding public money shall apply to the levy, safe-keeping and expenditure of the proceeds of the taxes in question.

The Council shall have the right to control the expenditure of all that portion of the proceeds of which it has not disposed directly, whether by virtue of the present Law or some other law.

b. Except as provided for in the annual budget, which shall be voted by the Council for a period of twelve months, commencing on 1 January, and be approved by the Minister of the Interior, no payment out of the funds destined to be spent directly by the Council

shall be made without the special authority of the Minister of the Interior.

c. The Ministry of Finance has the right to inspect and verify the accounts of the Provincial Councils.

d. The Council may, through its president, demand from the public services of the moodirieh full information on the subject of the work for which they are responsible.

ART. 36. Independently of the attributions conferred on it by the express provisions of the present Law or of any other law, the Council may be consulted by the moodir or by any minister on any question as to which the moodir or minister thinks it expedient to obtain its opinion. The Council may, further, submit spontaneously to the moodir, or through the latter to any minister, or to the Council of Ministers, representations on the subject of the general needs of the province, and notably on the subject of agriculture, irrigation, means of communication, public security, public health and education.

Nevertheless:

a. The Provincial Council shall not be competent to take cognizance of any question coming within the scope of the local commissions or of the mixed local commissions set up in the moodirieh.

b. The Provincial Council shall not deliberate on the appointment, transfer, discipline, or dismissal of public servants.

ART. 37.—1. The preliminary opinion of the Provincial Council shall be necessary as to the following questions:

(1) The alteration of the boundaries of the moodirieh;

(2) The establishment or suppression of a local commission within the moodirieh;

(3) The establishment, transfer, or suppression of government schools or hospitals and public cemeteries;

(4) The purchase, sale, exchange, construction, repairing, or change in the purpose for which buildings and immovable property belonging to the State in the moodirieh are used;

(5) The application of a law to a bandar or village in the moodirieh or the decision to apply it no longer;

(6) The regulation of the application of a law in a bandar or village in the moodirieh;

(7) Alterations in administrative and judicial circumscriptions in the moodirieh;

(8) Alterations in the boundaries of the bandars or villages; the creation of new villages; the suppression of villages existing in the moodirieh;

(9) The construction of agricultural railways in the moodirieh and the fixing of their route;

(10) The grant of concessions in the moodirieh either to companies or private individuals.

2. The consent of the Provincial Council shall be obligatory as regards the following measures, before any steps are taken to execute them:

a. The promulgation, modification, or abrogation by the moodir of a local regulation, whether for the whole or a part of the moodirieh, or for certain bandars or villages of the moodirieh.

b. The application of an order or regulation to a bandar or village, or the decision to apply to the order no longer.

c. The regulation of the application of an order or regulation in a bandar or village of the moodirieh.

Nevertheless, the provisions of Sections *a*, *b* and *c* (*supra*) shall not apply to provisional orders and regulations enacted or applied in the case of an epidemic or other circumstances having an urgent character. In this case the moodir shall at the first meeting of the Council inform it of the reasons for which its consent has been dispensed with. In the same way the said provisions shall not apply to questions coming within the scope of a local commission or of a mixed local commission of the moodirieh, or to measures provided for by a law on which the Legislative Assembly has expressed its opinion.

ART. 38. There shall be submitted to the Provincial Council for its opinion the annual program of the Ministry of Public Works, concerning the following matters:

a. The construction of canals and public drains.

b. The cleaning out of canals and public drains.

In the case of the Ministry of Public Works judging it necessary to modify in any way a resolution of the Provincial Council, it must consult the Council on the modification.

c. The rotation of irrigation during low water.

Nevertheless, the fact of submitting to the Council the program of rotation shall not deprive the Ministry of Public Works and its agents of the right to modify the order of rotation, in case of urgency, without first asking the opinion of the Provincial Council. In this case the Council, at its first meeting, shall be informed of the reasons which have led to the modification.

ART. 39. From the coming into force of the present Law, no fair or market shall be held at any place in the moodirieh where it was not held periodically before this date, unless authority has previously been given by the moodirieh, with the consent of the Provincial Council.

Fairs and markets held in breach of the provisions of the present article shall be closed by the moodir by administrative service.

Nevertheless:

a. The present article shall not be applicable to markets established by virtue of a concession granted before the entering into force of the present Law;

b. No authorization shall be accorded under the present article contrary to the terms of a concession already granted;

c. No authorization granted under the present article shall dispense with the obligation to conform with all sanitary or other regulations in force in fairs or markets.

ART. 40.—*a.* The Provincial Council shall fix, subject to the approval of the Ministry of the Interior, the number of ghaffirs necessary to guard each bandar or village in the moodirieh, except those having a local commission or a mixed local commission; it shall also determine the different classes of ghaffirs;

b. The Council shall fix, under the same conditions, the wages of the ghaffirs, taking into consideration the rate of wages current in the different parts of the moodirieh;

c. If, before 1 January of each year the Council has not altered the number of ghaffirs in any bandar or village, or the rate of their wages, the number of ghaffirs employed in the bandar or village and the rate of their wages shall remain the same as in the preceding year.

Nevertheless, the Ministry of the Interior may, after having taken the opinion of the Council, increase the number of ghaffirs in any bandar or village, if the increase appears to him necessary in the interests of public security.

d. A committee of the Provincial Council shall be appointed annually to decide without appeal the claims formulated against the apportioning between the various dwellings of the sum necessary for the maintenance of the ghaffirs in a bandar or village other than those possessing a local commission or a mixed local commission.

ART. 41.—1. The Provincial Council shall have the following attributions as regards ezbehs:

a. No ezbeh shall be constructed in a province without the prior authorization of the moodirieh given with the assent of the Provincial Council.

The Council shall take into consideration the area of the lands belonging to the petitioner in the place where the ezbeh has been constructed, the number of persons employed in the cultivation of these lands, the distance between the said lands and any village or other locality where lodging could be found and the possibility of arranging in a satisfactory manner for the protection of the ezbeh without excessive expense.

Requests for authority to construct an ezbeh must be accompanied by a plan of the spot, a plan of the buildings, and by all other information required to enable the Council to arrive at a decision, in accordance with the provisions of the present article.

b. The Council may at any time decide to demolish an ezbeh, even an authorized one, if it serves habitually as a refuge for persons of bad character or if criminals find asylum therein.

c. The Council may decide to demolish any ezbeh constructed without authority, either before or after the coming into force of the present Law, if the provision of watchmen is too difficult or costly, having regard to the number of its inhabitants and their conditions of existence.

Nevertheless:

a. No decision shall be taken by virtue of paragraphs *b* and *c* of this article until the owner of the ezbeh has been invited to express his views before the Council or before a committee of the Council, nor without the approval of the Council of Ministers;

b. No authorization shall be given for the construction of an ezbeh within 100 metres of the embankment of the Nile, or a public drain, or a cemetery, or within 300 metres of a birket situated to the north of the site proposed for the ezbeh or within 200 metres of any other birket;

c. Any refusal to grant authorization shall be subject to an appeal before the Minister of the Interior.

2. If an ezbeh has been constructed, or the construction of an ezbeh is undertaken, without the authority of the moodir or the Minister of the Interior, in the case of appeal the administration may proceed to demolish the ezbeh before its completion, or within six months of its completion.

The moodir shall have its demolition proceeded with by administrative service. The expenses of demolition shall be recovered from the owner of the ezbeh or the owner of the land on which the ezbeh was being constructed in the form prescribed by the Decree of 25 March 1880.

ART. 42. In addition to the development of elementary education (including training in agriculture and handicraft), the Council is empowered to supervise the development in the moodirieh of education in all its branches and grades in the following manner:

a. It may decide to establish or acquire schools in the moodirieh, and provide for their management, and shall have all the powers necessary for the purpose.

b. Independently of schools thus established or acquired, the Council may equally take over the control of any other school in the moodirieh and arrange for its management, provided that the allocation of buildings to the needs of education is permanently guaranteed and that the effective control of the school is secured to the Council by the conditions stipulated in the act of transfer.

c. In order to establish a uniform system in the whole moodirieh, the Council may issue regulations and schemes for the management of schools of different categories, besides those established, acquired, or managed in conformity with the preceding paragraph; it may confer the title of "recognized schools" on schools managed

in conformity with the said regulations and the owners or managers of which submit to the conditions laid down on the subject.

d. It may associate with itself four persons at the most, chosen from those particularly interested in education in the moodirieh, who shall be present to give their advice at the meetings held by the Council for the purpose of deciding questions connected with education, and in the case of the institution of a committee for education such persons shall be members of it *ex officio*.

The mandate of the said persons shall be for two years; it is renewable.

e. The Council may set up committees composed of members of its own body or of the persons interested in education in the moodirieh. These communities shall be entrusted each with the management of one or more schools. The Council shall define their powers itself.

f. It may accept gifts of money, which are destined, or real property, the revenues of which are destined, to the needs of education in the moodirieh generally or in stated localities.

It may also accept subscriptions presented for special objects coming within the scope of the Council in matters of education; in this case the subscriptions shall be spent in accordance with the conditions of the gift.

g. Seventy per cent. of the total of the taxes destined for education shall be appropriated by the Council for elementary education, including training in agriculture and handicraft. The thirty per cent. remaining shall be used for the benefit of primary education and that of higher grades.

In the exercise of powers conferred by the present article the Council shall observe as far as possible the general principles contained in any general regulation promulgated by a law or an order of the Minister of Public Education.

ART. 43. The Council shall, within a reasonable period from the day on which it was notified thereof, examine any question submitted to it under the present law or any other law, and express its opinion.

If the Provincial Council refuses to express its opinion, or if it does not express it within a reasonable time, the Council of Ministers may decide to dispense with it.

PART VI.—COMPOSITION AND PROCEDURE OF PROVINCIAL COUNCILS.

ART. 44. The Provincial Councils shall be composed as follows:

Each Council shall consist of two representatives of each markaz of the moodirieh, elected by the elector-delegate of the villages in the markaz.

The two representatives must be domiciled in the circumscription of the markaz which they represent.

For the purposes of this provision :

1. The capital of a moodirieh with its own administrative organization shall be considered as forming part of the markaz in the circumscription of which it is situated.

2. Every markaz, the population of which does not exceed 20,000 inhabitants, and every administrative subdivision of a moodirieh not forming a markaz, shall be amalgamated with other markazes by order issued by the Minister of the Interior with the assent of the Council of Ministers.

The moodir shall be the president of the Provincial Council, and, if absent or prevented from attending, he shall be replaced by the sub-moodir.

The Provincial Councils thus constituted shall be considered to be corporations. They shall be represented by the moodir for the purpose of the exercise of the powers and the carrying out of the duties assigned to them.

ART. 45. The representatives of the markazes in the Provincial Councils shall be elected for four years. One representative of each markaz shall retire every two years in turn.

The retiring members of the Council shall continue to perform their duties until the appointment of their successors. They may be reelected.

ART. 46. In the case of a seat of a member of a Provincial Council becoming vacant, a new election shall take place within three months at the outside. The mandate of the new member shall last only until the expiration of the mandate of the member he replaces.

ART. 47. Each newly-elected member of the Provincial Council shall, before he enters upon his duties, take before the moodir the oath of fidelity to the Khedive and of obedience to the laws of the country.

ART. 48. Every member of a Provincial Council who, without reason considered by the Council as sufficient, shall be absent during three consecutive sessions shall be declared by the Council to have forfeited his seat.

By "session" is understood one or more consecutive sittings held by virtue of a single summons.

Except for the cases of forfeiture of seats provided for by the Electoral Law, the members of the Provincial Council shall not be dismissed save by decree issued at the instance of Our Council of Ministers on a resolution passed by the Provincial Council by a three-quarters majority.

ART. 49. The Provincial Councils shall assemble at the times fixed by their standing orders, or otherwise when summoned by the moodir.

The moodir may at any time summon the Council to a special sitting, and it shall be obligatory for him to do so whenever a written demand to this effect is made to him, signed by at least one third of the members of the Council.

Excepting members of the Provincial Council, no one may be present at the sittings of the Council or at those of its committees without being invited by the Council or moodir for the better elucidation of the questions under discussion.

Nevertheless, each minister may appoint one or more delegates to be present at those sittings of the Provincial Council or its committees at which questions relating to a service under his department are to be discussed. These delegates shall take part in discussions without voting.

The moodir, or the sub-moodir for him, shall be an *ex officio* member of all the committees of the Council. He shall preside over every sitting at which he is present.

The sittings of the Council shall not be in order unless the number of members present exceeds one half. Decisions shall be taken by a majority of votes, and in case of an equal division the president shall have a casting vote.

The Minister of the Interior may enact, by order approved by the Council of Ministers, regulations of general application for the working of the Provincial Councils.

While complying with the general regulations, each Provincial Council may, with the approval of the Minister of the Interior, draw up its own standing orders.

ART. 50. The dissolution of a Provincial Council may be pronounced at any time by a decree stating the reasons for this course. In this case there shall be a fresh election within three months from the date of dissolution.

PART VII.—INTERPRETATION.

ART. 51. All questions arising as to the interpretation of the present Law shall be decided definitively by a special commission composed of two ministers, one of whom shall be the Minister of Justice, who shall preside, and the other of whom shall be nominated by the Council of Ministers, of two members of the Legislative Assembly chosen by that Assembly, and of the president, the vice-president and the senior judge of the Native Court of Appeal.

PART VIII.—MISCELLANEOUS AND TRANSITORY PROVISIONS.

ART. 52. The first partial renewal of the Legislative Assembly shall take place in January 1916, the second in January 1918, and the third in January 1920.

The selection of the members to go out at the first and second renewals shall be made by lot.

ART. 53. The existing members of the Provincial Councils shall remain in office until their mandate runs out. Nevertheless, in order to secure the retirement of half of the members every second year as required by Article 45, the representative whose mandate would normally run out at the end of 1916 shall only remain in office until the end of 1915.

ART. 54. The Organic Law of 1 May 1883, as successively amended by the decree of 29 September 1883, and by Laws Nos. 3, 18 and 22 of 1909, Law No. 2 of 1911 and Law No. 7 of 1912, is hereby repealed, as are all provisions of laws, decrees, superior orders or regulations which are in conflict with the provisions of the present Law.

ART. 55. Our ministers are charged, each so far as he is concerned therein, with the execution of the present law, which shall come into force as from the date of its publication in the *Official Journal*. The Law shall, in addition, be placarded in all towns and villages throughout Egypt.¹

¹ Here follow the signatures of the Khedive Abbas Hilmi and the six ministers.

FRANCE.

Since 1789 France has undergone numerous changes in government, and each change has been embodied in constitutional documents. It will suffice here to enumerate the several constitutions which were in force before the definite establishment of the Third Republic:

1. The Constitution of 3 September 1791 established a limited monarchy, but disappeared with the fall of the King in the succeeding year.

2. The Republican Constitution of 24 June 1793 had not been put in force before the fall of the Jacobins who framed it, and was disregarded by those who succeeded to their power.

3. The Constitution of 22 August 1795 vested the executive power in five Directors, and the legislative power in a Council of Five Hundred and a Council of Ancients. It represents the conservative reaction from the Jacobin principles of 1793.

4. The usurpations of the Directory and the coup d'état of 9 November 1799 put an end to the Constitution of 1795. Under the Constitution of 13 December 1799 Napoleon gained as First Consul the supreme executive power to which he aspired.

5. The senatus-consulta of 2 and 4 August 1802 proclaimed Napoleon First Consul for life with extended powers, and on 18 May 1804 the Consulate was replaced by the Empire. The Constitution was altered by several other less important acts between 1804 and 1814. Intimately connected with the first Imperial Constitution is the Additional Act of 22 April 1815, which by its liberal principles attempted to outbid the Bourbon Charter of 1814; the Additional Act disappeared with the defeat of Napoleon at Waterloo.

6. Upon the restoration of the Bourbons the Constitutional Charter of 4 June 1814¹ was issued by Louis XVIII; with this Constitution was first established the parliamentary system with ministerial responsibility; the legislature was composed of two houses, one appointive, the other elective, but with a very limited electorate.

7. The Constitution of 14 August 1830² and the organic laws of 1831 came as a result of the July revolution of 1830. The Constitution of 1814 remained almost unchanged, except for a limited extension of the suffrage and the abolition of hereditary peerages.

¹ French text in the *British and Foreign State Papers*, 1: pp. 960-966.

² French text in the *British and Foreign State Papers*, 17: pp. 1013-1018.

8. The Republican Constitution of 4 November 1848¹ introduced universal suffrage, with an unicameral legislature, and an elective president chosen for four years and ineligible to succeed himself.

9. The Constitution of 14 January 1852² extended for 10 years the power of Louis Napoleon Bonaparte as President of the Republic; the senatus-consultum of 7 November,³ ratified by the plebiscite of 21 and 22 November 1852, reestablished the Empire. Between 1852 and 1870 the Constitution was altered by numerous senatus-consulta, the most important of which was that of 8 September 1869, establishing ministerial responsibility.

10. The senatus-consultum of 21 May 1870, a codification of constitutional changes since 1860, was really a new Imperial Constitution, and was submitted to a vote of the people as such.

11. Imperial institutions in France were now destined to be of short duration; the Empire disappeared on 4 September 1870, when news reached Paris of the French disaster at Sedan. The Government of the National Defense, which succeeded the Empire, gave way in February, 1871, to a National Assembly which chose Thiers chief of the executive power of the French Republic.

For two years after 1871 nothing was done by the National Assembly toward the permanent establishment of the Republic. In fact the majority of the Assembly were monarchists; the overthrow of Thiers and the election of Marshal de MacMahon as President were considered the first steps toward the restoration of monarchy, but the attitude of the Comte de Chambord wrecked the hopes of his supporters. Definite steps toward a constitutional organization were not taken until hope of a restoration of the Bourbons had disappeared.

Even after the failure to reestablish the Monarchy the majority of the National Assembly hoped to prevent the permanent establishment of the Republic. But the provisional organization of the Government could not continue forever, nor could the Assembly, elected to meet the national crisis of 1871, expect much longer to remain in power. The constitutional and organic laws were finally enacted in 1875, and the elections of 1876 proved that the people of France were ready to support republican institutions. In addition to these laws, some subsequent laws bearing upon constitutional matters have been included here.⁴

¹ French text in the *British and Foreign State Papers*, 36 : pp. 1072-1085.

² French text in the *British and Foreign State Papers*, 41 : pp. 1085-1090.

³ French text in the *British and Foreign State Papers*, 41 : pp. 1095-1098.

⁴ These introductory paragraphs are based upon W. F. DODD, *Modern Constitutions* (Chicago, 1909), vol. I, pp. 283-285. There is also a very good account in F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. I, pp. 1-9.

CONSTITUTIONAL LAW OF 25 FEBRUARY 1875.¹

ON THE ORGANIZATION OF THE PUBLIC POWERS.

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.²

The composition, the method of election and the attributions of the Senate shall be regulated by a special law.³

ART. 2. The President of the Republic shall be 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 reelection.

ART. 3. The President of the Republic shall have the initiative of laws, concurrently with the members of the two houses. He shall promulgate the laws when they have been voted by the two houses⁴; he shall look after and secure their execution.

He shall have the right of pardon: amnesty may only be granted by law.⁵

He shall dispose of the armed force.

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 shall be countersigned by a minister.

ART. 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 councilors of State in regular service.

The councilors of State thus chosen may be dismissed only by decree rendered in the Council of Ministers.⁶

¹ Promulgated in the *Journal officiel* of 28 February 1875. Translation of this and the following laws based upon DODD, *op. cit.*, pp. 286-288, which in turn was based upon the translation by C. F. A. CURRIER in the *Supplement to the Annals of the American Academy of Political and Social Science*, March, 1893 (Philadelphia, 1893), and in *Foreign Constitutions* [*The Convention Manual of the Sixth New York State Constitutional Convention, 1894*, part 2, vol. 3] (Albany, 1894), pp. 230-255. French texts in DARESTE, *op. cit.*, pp. 10-37, and PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 564-587.

² See Laws of 30 November 1875, 16 June 1885, 13 February 1889 and 17 July 1889, on pp. 203, 213, 214 and 215, respectively.

³ See Constitutional Law of 24 February 1875 and Laws of 2 August 1875 and 9 December 1884, on pp. 195, 198 and 210, respectively.

⁴ See Article 7 of the Constitutional Law of 16 July 1875 on p. 196.

⁵ The houses may, without amending the Constitution, decide that pardons granted by the President of the Republic shall, under certain conditions, produce all the effects of amnesty (Laws of 3 March 1879 and 11 July 1880).

⁶ The Council of State is now governed by the Laws of 24 May 1872 and 13 July 1879. Clause 3 of the above article has been omitted, because it ceased to have application after 1881.

ART. 5. The President of the Republic may, with the advice of the Senate, dissolve the Chamber of Deputies before the legal expiration of its mandate.

In that case the electoral colleges shall be assembled for new elections within the space of 2 months, and the Chamber within the 10 days following the close of the elections.¹

ART. 6. The ministers shall be collectively responsible to the houses 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.²

ART. 7. In case of vacancy by death or for any other reason, the two houses assembled together shall proceed at once to the election of a new President.³

In the meantime the Council of Ministers shall be vested with the executive power.

ART. 8. The houses 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 the Republic, to declare a revision of the constitutional laws necessary.⁴

After each of the two houses 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.⁵

The republican form of government shall not be made the subject of a proposed revision.⁶

Members of families that have reigned in France are ineligible to the Presidency of the Republic.⁶

ART. 9.⁷

¹ As amended by Article 1 of the Constitutional Law of 14 August 1884.

² See Article 12 of the Constitutional Law of 16 July 1875, on p. 197.

³ See Article 3 of the Constitutional Law of 16 July 1875, on p. 196.

⁴ Article 8 has been put into practice twice, in 1879 and in 1884. See the introductory paragraphs preceding this law.

⁵ The clause following this, concerning the presidency of Marshal de MacMahon, is now without object.

⁶ Added by Article 2 of the Constitutional Law of 14 August 1884.

⁷ Repealed by the Constitutional Law of 21 June 1879. Article 9 originally read: "The seat of the executive power and of the two houses shall be at Versailles." See Law of 22 July 1879, on p. 208.

CONSTITUTIONAL LAW OF 24 FEBRUARY 1875.¹

ON THE ORGANIZATION OF THE SENATE.

ARTICLES 1-7.²

ART. 8. The Senate shall have, concurrently with the Chamber of Deputies, the power to initiate and to pass laws. Money bills, however, shall first be introduced in and passed by the Chamber of Deputies.³

ART. 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.⁴

ART. 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 organize and enter upon its duties the same day that the National Assembly is dissolved.

ART. 11. The present law shall be promulgated only after the passage of the law on the public powers.

CONSTITUTIONAL LAW OF 16 JULY 1875.⁵

ON THE RELATIONS OF THE PUBLIC POWERS.

ARTICLE 1. The Senate and the Chamber of Deputies shall assemble each year on the second Tuesday of January, unless convened earlier by the President of the Republic.

The two houses shall continue in session at least five months each year. The sessions of the two houses shall begin and end at the same time.⁶

ART. 2. The President of the Republic pronounces the closing of the session. He may convene the houses in extraordinary session.

He shall convene them if, during the recess, an absolute majority of the members of each house request it.

The President may adjourn the houses. The adjournment, however, shall not exceed one month, nor take place more than twice in the same session.

¹ Promulgated in the *Journal officiel* of 28 February 1875. See above, p. 193, note 1.

² These seven articles, concerning the composition of the Senate and of the electoral body which names the senators, were deprived of their constitutional character by Article 3 of the Law of 14 August 1884 and were repealed by Article 9 of the Law of 9 December 1884. See below, pp. 198 and 213, respectively.

³ This text is an almost literal reproduction of Article 15 of the Charter of 1830, which in turn was borrowed from the Charter of 1814 (Articles 17 and 47). The Senate and the Chamber since 1876 have frequently been in disagreement upon the interpretation to be given to Article 8, the former maintaining that no exception for money bills is made to the general principle of the equality of the two houses in the passage of laws, the latter claiming exclusive control of budgetary rights.

⁴ See below, p. 197, note 1.

⁵ Promulgated in the *Journal officiel* of 18 July 1875. See above, p. 193, note 1.

⁶ The third paragraph of this article, repealed by Article 4 of the Law of 14 August 1884, prescribed public prayers on the Sunday following the convening of the houses.

ART. 3. One month at least before the legal expiration of the powers of the President of the Republic, the houses 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 these powers.

In case of the death or resignation of the President of the Republic, the two houses shall assemble immediately, as of right.¹

In case the Chamber of Deputies, in consequence of Article 5 of the Law of 25 February 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.

ART. 4. Every meeting of either of the two houses which shall be held at a time when the other is not in session is *ipso facto* illegal and void,² except in the case provided for in the preceding article, and in case the Senate meets as a court of justice; in the latter case, judicial duties alone shall be performed.

ART. 5. The sittings of the Senate and of the Chamber of Deputies shall be public.

Nevertheless either house may meet in secret session, upon the request of a fixed number of its members, determined by the rules.³

It shall then decide by absolute majority whether the sitting shall be resumed in public upon the same subject.

ART. 6. The President of the Republic communicates with the houses by messages, which shall be read from the tribune by a minister.

The ministers shall have entrance to both houses, 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.

ART. 7. The President of the Republic shall promulgate the laws within the month following the transmission to the government of the law finally passed. He shall promulgate, within three days, laws the promulgation of which shall have been declared urgent by an express vote of each house.⁴

Within the time fixed for promulgation the President of the Republic may, by a message with reasons assigned, request of the two houses a new discussion, which can not be refused.

ART. 8. The President of the Republic shall negotiate and ratify treaties. He shall give information regarding them to the houses as soon as the interests and safety of the State permit.

¹ See Article 7 of the Constitutional Law of 25 February 1875, on p. 194.

² See above, Paragraph 2 of Article 1.

³ The number of members required for such action is 5 for the Senate and 20 for the Chamber.

⁴ A decree of 6 April 1876 governs the formula of promulgation of laws.

Treaties of peace and of commerce, treaties which involve the finances of the State, those relating to the status of the persons and to the right of property of French citizens in foreign countries, shall be ratified only after having been voted by the two houses. No cession, exchange, or annexation of territory shall take place except by virtue of a law.

ART. 9. The President of the Republic shall not declare war without the previous consent of the two houses.

ART. 10. Each house shall be the judge of the eligibility of its members and of the regularity of their election; it alone may receive their resignation.

ART. 11. The bureau¹ of each house shall be elected each year for the entire session, and for every extraordinary session which may be held before the regular session of the following year.

When the two houses meet together as a National Assembly, their bureau shall be composed of the president, vice-presidents and secretaries of the Senate.

ART. 12. The President of the Republic may be impeached only by the Chamber of Deputies and may be tried only by the Senate.

The ministers may be impeached by the Chamber of Deputies for offenses 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.²

ART. 13. No member of either house shall be prosecuted or held responsible on account of any opinions expressed or votes cast by him in the performance of his duties.³

ART. 14. No member of either house shall, during the session, be prosecuted or arrested for any offense or misdemeanor, unless upon the authority of the house of which he is a member, except in the case of *flagrante delicto*.

The detention or prosecution of a member of either house shall be suspended for the session, and for the entire term of the house, if the chamber requires it.

¹ The bureau of the Senate consists of a president, 4 vice-presidents, 8 secretaries and 3 questors; the bureau of the Chambers of Deputies has the same composition.

² Law of 10 April 1889.

³ Article 41 of the Law of 29 July 1881 on the press develops and completes this provision.

LAW OF 21 JUNE 1879.¹

REVISING ARTICLE 9 OF THE CONSTITUTIONAL LAW OF 25 FEBRUARY 1875.

SOLE ARTICLE. Article 9 of the Constitutional Law of 25 February 1875 is repealed.²

LAW OF 14 AUGUST 1884.³

PARTIALLY REVISING THE CONSTITUTIONAL LAWS.⁴

ARTICLE 1. Paragraph 2 of Article 5 of the Constitutional Law of 25 February 1875, on the organization of the public powers, is amended as follows:

In that case the electoral colleges shall meet for new elections within 2 months and the Chamber within the 10 days following the close of the elections.

ART. 2. To Paragraph 3 of Article 8 of the same law of 25 February 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.

ART. 3. Articles 1 to 7 of the Constitutional Law of 24 February 1875, on the organization of the Senate, shall no longer have a constitutional character.⁵

ART. 4. Paragraph 3 of Article 1 of the Constitutional Law of 16 July 1875, on the relation of the public powers, is repealed.

ORGANIC LAW OF 2 AUGUST 1875.⁶

ON THE ELECTION OF SENATORS.

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.

ART. 2. In each municipal council the election of delegates shall take place without debate and by secret ballot, by *scrutin de liste* and by an absolute majority of votes cast.

¹ Promulgated in the *Journal officiel* of 22 June 1879.

² This article fixed the seat of government at Versailles (see above, p. 194). The seat of government was removed from Versailles to Paris by a Law of 22 July 1879 (see below, p. 208).

³ Promulgated in the *Journal officiel* of 15 August 1884.

⁴ The amendments to the constitutional laws have also been inserted in their proper places.

⁵ These articles were repealed by way of ordinary legislation on 9 December 1884 (see below, p. 213).

⁶ Promulgated in the *Journal officiel* of 13 August 1875.

After two ballots a plurality shall be sufficient, and in case of an equality of votes the oldest is elected.

The procedure and method shall be the same for the election of alternates.

Councils having 1, 2 or 3 delegates to choose shall elect 1 alternate.

Those choosing 6 or 9 delegates shall elect 2 alternates.

Those choosing 12 or 15 delegates shall elect 3 alternates.

Those choosing 18 or 21 delegates shall elect 4 alternates.

Those choosing 24 delegates shall elect 5 alternates.

The municipal council of Paris shall elect 8 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.

The choice of the municipal councils shall not extend to a deputy, a general councilor or an arrondissement councilor.

All communal electors, including the municipal councilors, shall be eligible without distinction.¹

ART. 3. In communes where the duties of the municipal council are performed by a special delegation organized by virtue of Article 44 of the Law of 5 April 1884, the senatorial delegates and alternates shall be chosen by the former council.²

ART. 4. If the delegates were not present at the election, notice shall be given them by the mayor within 24 hours. They shall, within 5 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.²

ART. 5. The official report of the election of delegates and alternates shall be transmitted at once to the prefect; it shall state the acceptance or refusal of the delegates and alternates, as well as the protests raised, by one or more members of the municipal council, against the legality of the election. A copy of this official report shall be posted on the door of the town hall.²

ART. 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, and may be copied and published.

Every elector may, at the bureau of the prefecture, obtain information and a copy of the list, by communes, of the municipal councilors of the department, and, at the bureaus of the subprefectures, information and a copy of the list, by communes, of the municipal councilors of the arrondissement.

¹ As amended by Article 8 of the Law of 9 December 1884 (see below, p. 212). The original text provided that each municipal council elect one delegate and one alternate.

² As amended by Article 8 of the Law of 9 December 1884 (see below, p. 212). The amendments of Articles 4 and 5 merely substitute "delegates" and "alternates" for "delegate" and "alternate."

ART. 7. Every communal elector may, within the next three days, address directly to the prefect a protest against the regularity of the election.

If the prefect deems the proceedings irregular, he may request that they be set aside.

ART. 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 election is annulled because they do not fulfill some one of the conditions demanded by law, or on account of informality, shall be replaced by the alternates.

In case the election of a delegate and of an alternate is 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.¹

ART. 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.

ART. 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 take part in the voting.

ART. 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, of French citizenship.
3. Of delegates elected by the French members of each municipal council from among the communal electors of French citizenship.

ART. 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.²

The president shall be assisted by the two oldest 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 oldest judge.

¹ As amended by Article 8 of the Law of 9 December 1884 (see below, p. 212). The amendment to this article merely substitutes "delegates" and "alternates" for "delegate" and "alternate."

² This sentence was added by the Law of 1 February 1898.

ART. 13. The bureau shall divide the electors in alphabetical order into sections of at least 100 voters each. It shall appoint the president and inspectors of each of these sections. It shall decide all questions and contests which may arise in the course of the election, without power, however, to depart from the decisions rendered by virtue of Article 8 of the present law.

ART. 14. The first ballot shall begin at 8 o'clock in the morning and close at noon. The second shall begin at 2 o'clock and close at 5 o'clock. The third shall begin at 7 o'clock and close at 10 o'clock. The results of the ballotings shall be canvassed by the bureau and announced immediately by the president of the electoral college.¹

ART. 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 plurality shall be sufficient, and, in case of an equality of votes, the oldest is elected.

ART. 16. Political meetings 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 30 June 1881² shall be made by two voters at least.

The forms and regulations of this article, as well as those of Article 3, shall be observed.

The members of Parliament elected or 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.

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 2.³

ART. 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, a remuneration for traveling expenses, which shall be paid to them upon the same basis and in the same manner as that given to jurors by Articles 35, 90 and following of the decree of 18 June 1811.

A public administrative regulation shall determine the manner of fixing the amount and the method of payment of this remuneration.⁴

¹ As amended by Article 8 of the Law of 9 December 1884 (see below, p. 212).

² Law on the freedom of assembly. The Law of 28 March 1907 concerning public gatherings suppressed the formality of a previous declaration.

³ As amended by Article 8 of the Law of 9 December 1884 (see below, p. 213).

⁴ Decree of 26 December 1875.

ART. 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 50 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.

ART. 19. Every attempt at corruption or constraint by the employment of means enumerated in Articles 177 and following of the Penal Code, to influence the vote of an elector or to keep him from voting, shall be punished by imprisonment of from three months to two years and by a fine of from 50 to 500 francs, or by either of these penalties.

Article 463 of the Penal Code is applicable to the penalties provided by the present article.¹

ART. 20. There is incompatibility between the functions of senator and those:

Of councilor of State and maître des requêtes, prefect and sub-prefect, except the prefect of the Seine and the prefect of police.

Of member of the courts of appeal² and of tribunals of first instance, except the public prosecutor before the court of Paris.

Of paymaster general, of special receiver, of official and employee of the central administration of the ministries.³

ART. 21. No one of the following officers shall 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.

3. The prefect of police, prefects and subprefects 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.

¹ As amended by Article 8 of the Law of 9 December 1884 (see p. 213).

² France is divided into 26 judicial districts, in each of which there is a court of appeal. There are similar courts in Algeria and the colonies. The Court of Cassation is the supreme court of appeal for all France, Algeria and the colonies.

³ This article was implicitly repealed by the Law of 26 December 1887 (see below, p. 214). By Article 3 of the Law of 16 November 1897, the governor and undergovernor of the Bank of France are ineligible as deputies or senators.

6. The inspectors of primary schools.
7. The archbishops, bishops and vicars general.¹
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.

ART. 22. A senator elected in several departments shall make known his choice to the president of the Senate within 10 days following the verification 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 holds true in case of an invalidated election.

ART. 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.²

ARTS. 24-25.³

ART. 26. Members of the Senate shall receive the same salaries as members of the Chamber of Deputies.⁴

ART. 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 offenses, prosecutions and penalties.
3. To election proceedings, in all matters not contrary to the provisions of the present law.

ARTS. 28-29.⁵

ORGANIC LAW OF 30 NOVEMBER 1875.⁶

ON THE ELECTION OF DEPUTIES.

ARTICLE 1. The deputies shall be chosen by the voters registered:

1. Upon the lists drawn up in accordance with the Law of 7 July 1874.

¹ This clause was implicitly repealed by Article 2 of the Law of 9 December 1905 on the separation of Church and State.

² As amended by Article 8 of the Law of 9 December 1884 (see below, p. 213).

³ Articles 24 and 25 were repealed by Article 9 of the Law of 9 December 1884.

⁴ See Article 17 of the Organic Law of 30 November 1875, p. 207 below.

⁵ Articles 28 and 29 of this law contained transitory provisions.

⁶ Promulgated in the *Journal officiel* of 31 November 1875. This law has been amended or supplemented by the Laws of 16 June 1885, 13 February 1889 and 17 July 1889 (see below, pp. 213, 214 and 215, respectively).

2. Upon the supplementary list including those who have lived in the commune six months.¹

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 7 July 1874.

Appeals relating to the formation and revision of either list shall be brought directly before the Civil Chamber of the Court of Cassation.²

ART. 2. The soldiers of all ranks and grades, of both land and naval forces, shall not take part in any vote when they are with their regiment, at their post, or on duty. Those who, on election day, are in private residence, on the non-active list 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.³

ART. 3. During the electoral period, circulars and platforms signed by the candidates, electoral placards and manifestoes signed by one or more voters, may, after being deposited with the public prosecutor, be posted and distributed without previous authorization.

The distribution of ballots shall not be subject to the formality of deposit.⁴

Every public or municipal officer is forbidden to distribute ballots, platforms or circulars of candidates.

The provisions of Article 19 of the Organic Law of 2 August 1875⁵ on the election of senators shall apply to the election of deputies.

ART. 4. The balloting shall last one day only. The voting shall occur in the chief town 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 15 March 1849.

ART. 5. The voting shall take place in accordance with the provisions of the organic and regulating decrees of 2 February 1852.

The ballot shall be secret.

¹ There is now only a single list, common to the political and municipal elections, since municipal electors are subject to only six months residence (Article 14 of the Law of 5 April 1884).

² Here follows a transitory provision, concerning the electoral lists of 1875, omitted here.

³ See Article 9 of the Law of 21 March 1905.

⁴ The Law of 20 December 1878 dispensed with the formality of deposit of ballots in all elections. The printer was dispensed from the deposit of these ballots by the Law of 27 July 1881.

⁵ See above, p. 202.

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.

ART. 6. Every voter shall be eligible, without any property qualification, at the age of 25 years.¹

ART. 7. No soldier or sailor in active service on land or sea 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 the inactive list, 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 kept at their homes while awaiting the settlement of their pension.

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.

ART. 8. The exercise of public duties paid for out of the treasury of the State is incompatible with the office of deputy.²

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, undersecretary 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, attorney general of the Court of Cassation, attorney general of the Court of Accounts, attorney 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.³

¹ Exceptions to eligibility are to be found in the Laws of 16 June 1885, 22 June 1886, 17 July 1889 (see below, p. 215), 20 July 1895 and 21 March 1905.

² To these must be added the duties of administrator of concessionary companies of maritime postal service (Law of 28 June 1883, Article 10), administrators of railways (Law of 20 November 1883, Article 5) and governor and undergovernor of the Bank of France (Law of 17 November 1897, Article 3).

³ These religious officials were made ineligible for 8 years by Article 40 of the Law of 9 December 1905 on the separation of Church and State.

ART. 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 above.¹

ART. 10. The officer preserves the rights which he has acquired to a retiring pension, and may, after the expiration of his mandate, be restored to active service.

The civil officer who, having had 20 years of service at the date of the acceptance of the mandate of deputy, shall be 50 years of age at the time of the expiration of his mandate, 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 9 June 1853.²

If the officer is restored to active service after the expiration of his mandate, the provisions of Article 3, Paragraph 2, and Article 28 of the Law of 9 June 1853 shall apply to him.

In duties where the rank is distinct from the employment, the officer, by the acceptance of the mandate of deputy, loses the employment and preserves the rank only.

ART. 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 reelected, if the office which he occupies is compatible with the mandate of deputy.

Deputies who become ministers or undersecretaries of State shall not be required to seek reelection.

ART. 12. The following officers shall 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, because 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 and members of the tribunals of first instance, as well as titular justices of the peace.³

¹ See Law of 26 December 1887.

² The Law of 29 March 1897 added that, for officials subject (as concerns the pension) to the Law of 22 August 1790, this pension shall be regulated at the rate of one thirtieth (per year of service) of the pension which would have been settled upon them for 30 years of service. The same law also makes these provisions applicable to the case provided for by the second paragraph of the sole article of the Law of 26 December 1887.

³ The Law of 30 March 1902 added the phrase "as well as titular justices of the peace."

3. The prefect of police, the 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.¹

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 subprefects and councilors of the prefecture² shall not be elected in any of the arrondissements of the department in which they perform their duties.

ART. 13. Every attempt to bind deputies by instructions is null and void.

ART. 14.³

ART. 15. Deputies shall be chosen for four years.

The Chamber shall be renewed integrally.

ART. 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.⁴

In case of option,⁵ the vacancy shall be filled within one month.

ART. 17. Deputies shall receive an indemnity.

The legislative indemnity is fixed at fifteen thousand (15,000) francs⁶ per year, beginning with 1 January 1907. It is regulated by the second paragraph of Article 96 and by Article 97 of the Law of 15 March 1849, as well as by the provisions of the Law of 16 February 1872.

ART. 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.

¹ Implicitly repealed by Article 40 of the Law of 9 December 1905 on the separation of Church and State.

² The Law of 30 March 1902 added the phrase "and councilors of the prefecture."

³ This article was repealed by the Law of 16 June 1885 (see below, p. 213), which established the ballot by ticket (*scrutin de liste*) in place of the separate ballot (*scrutin individuel*) or system of single districts, but was reenacted almost word for word by the Law of 13 February 1889, Article 2 (see below, p. 214).

⁴ See Article 7 of the Law of 16 June 1885, p. 214 below.

⁵ I. e., when a deputy has been elected from two or more districts, and decides which one he will serve.

⁶ As amended by the Law of 23 November 1906; before the passage of this law deputies and senators received 9,000 francs per year. The Law of 16 February 1872 prohibits the adding of the indemnity to State salaries (plurality of offices). Article 96 of the Law of 15 March 1849 treats of the same subject. Article 97 permits the seizure of the entire indemnity.

On the second ballot a plurality is sufficient. In case of an equality of votes, the oldest is elected.¹

ART. 19.²

ART. 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 living in places not formed into communes, the decrees for fixing the seat of these districts shall be issued by the governor general, upon the report of the prefect or of the general commanding the division.

ART. 21.³

ART. 22. Every violation of the prohibitive provisions of Article 3, Paragraph 3, of the present law shall be punished by a fine of from 16 francs to 300 francs. Nevertheless the criminal courts may apply Article 463 of the Penal Code.

The provisions of Article 6 of the Law of 7 July 1874 shall apply to the political electoral lists.⁴

The Decree of 29 January 1871 and the Laws of 10 April 1871, 2 May 1871 and 18 February 1873 are repealed.

Paragraph 11 of Article 15 of the Organic Decree of 2 February 1852 is also repealed, in so far as it refers to the Law of 21 May 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.

ART. 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 subprefects, whose duties shall have ceased either before the promulgation of the present law or within 20 days thereafter.

LAW OF 22 JULY 1879.⁵

ON THE SEAT OF THE EXECUTIVE POWER AND OF THE TWO HOUSES AT PARIS.

ARTICLE 1. The seat of the executive power and of the two houses shall be at Paris.

¹ This article should be considered as implicitly repealed by Article 5 of the Law of 16 June 1885 which repeats the terms of this article almost word for word.

² This article, concerning the representation of Algeria, was implicitly repealed by Article 3 of the Law of 13 February 1889 (see below, p. 214).

³ This article, concerning the representation of the colonies, was implicitly repealed by Article 3 of the Law of 13 February 1889 (see below, p. 214).

⁴ The Law of 7 July 1874 concerns the municipal electorate. Article 6 of that law punishes fraudulent registrations on the electoral lists.

⁵ Promulgated in the *Journal officiel* of 23 July 1879.

ART. 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 houses is authorized to choose, in the city of Paris, the palace which it wishes to occupy.

ART. 3. The various parts of the palace of Versailles now occupied by the Senate and the Chamber of Deputies shall preserve their arrangements.

Whenever, according to Articles 7 and 8 of the Law of 25 February 1875 on the organization 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 24 February 1875 on the organization of the Senate, and Article 12 of the Constitutional Law of 16 July 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.

ART. 4. The Senate and Chamber of Deputies shall sit at Paris on and after 3 November next.

ART. 5. The presidents of the Senate and of the Chamber of Deputies are charged with the duty of securing the internal and external safety of the houses over which they preside.

For this purpose they shall have the right to call upon the armed forces and upon all the 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.

ART. 6. Every petition to either of the houses shall be made and presented only in writing. It is forbidden to present them in person or at the bar.

ART. 7. Every violation of the preceding article, every provocation, by public speeches, by writings or printed matter, posted or distributed, to a crowd upon the public ways, having for its object the discussion, drawing up or carrying to the houses or to one of them, of petitions, declarations or addresses, shall be punished by the penalties enumerated in Paragraph 1 of Article 5 of the Law of 7 June 1848, whether or not any results follow from such actions.

ART. 8. The preceding provisions do not diminish the force of the Law of 7 June 1848 on riotous assemblies.

ART. 9. Article 463 of the Penal Code is applicable to the offenses mentioned in the present law.

LAW OF 9 DECEMBER 1884.¹AMENDING THE ORGANIC LAWS ON THE ORGANIZATION OF THE SENATE
AND THE ELECTION OF SENATORS.

ARTICLE 1. The Senate shall be composed of 300 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.

ART. 2. The Department of the Seine shall elect 10 senators.

The Department of the Nord shall elect 8 senators.

The departments of Côtes-du-Nord, Finistère, Gironde, Ile-et-Vilaine, Loire, Loire-Inférieure, Pas-de-Calais, Rhône, Saône-et-Loire and Seine-Inférieure shall elect 5 senators each.

Aisne, Bouches-de-Rhône, Charente-Inférieure, Dordogne, Haute-Garonne, Isère, Maine-et-Loire, Manche, Morbihan, Puy-de-Dôme, Seine-et-Oise and Somme shall elect 4 senators each.

Ain, Allier, Ardèche, Ardennes, Aube, Aude, Aveyron, Calvados, Charente, Cher, Corrèze, Corse, Côte-d'Or, Creuse, Doubs, Drôme, 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-Saône, Sarthe, Savoie, Haute-Savoie, Seine-et-Marne, Deux-Sèvres, Tarn, Var, Vendée, Vienne, Haute-Vienne, Vosges and Yonne shall elect 3 senators each.

Basses-Alpes, Hautes-Alpes, Alpes-Maritimes, Ariège, Cantal, Lozère, Hautes-Pyrénées, Pyrénées-Orientales, Tarn-et-Garonne and Vaucluse shall elect 2 senators each.

The territory of Belfort, the three departments of Algeria, the four colonies of Martinique, of Guadeloupe, of Réunion and of the French Indies shall elect 1 senator each.²

ART. 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 irremovable 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.

¹ Promulgated in the *Journal officiel* of 10 December 1884.

² This redistribution was not effective until after the death of the last irremovable senator (see Article 3 of this law).

The mandate thus conferred shall expire at the same time as that of the other senators belonging to the same department.

ART. 4. No one shall be a senator unless he is a French citizen at least 40 years of age and in the enjoyment of civil and political rights.¹

Members of families that have reigned in France are ineligible to the Senate.

ART. 5. The soldiers of the land and naval forces shall 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.

ART. 6. Senators shall be elected by *scrutin de liste*, by a college meeting at the capital of the department or of the colony and composed :

1. Of the deputies.

2. Of the general councilors.

3. Of the councilors of the arrondissement.

4. Of delegates elected from among the voters of the commune by each municipal council.

Councils composed of 10 members shall elect 1 delegate.

Councils composed of 12 members shall elect 2 delegates.

Councils composed of 16 members shall elect 3 delegates.

Councils composed of 21 members shall elect 6 delegates.

Councils composed of 23 members shall elect 9 delegates.

Councils composed of 27 members shall elect 12 delegates.

Councils composed of 30 members shall elect 15 delegates.

Councils composed of 32 members shall elect 18 delegates.

Councils composed of 34 members shall elect 21 delegates.

Councils composed of 36 members or more shall elect 24 delegates.

The municipal council of Paris shall elect 30 delegates.

In the French Indies the members of the local councils shall take the place of councilors of the arrondissement. The municipal council of Pondichéry shall elect 5 delegates. The municipal council of Karikal shall elect 3 delegates. All of the other communes shall elect 2 delegates each.²

¹ By the Law of 20 July 1895 no one may become a member of either house unless he has complied with the law regarding military service.

² As amended by the Law of 17 December 1908, which repealed a last paragraph worded as follows: "The balloting shall take place at the seat of government of each district."

ART 7. Members of the Senate shall be elected for 9 years.

The Senate shall be renewed every 3 years according to the order of the present series of departments and colonies.

ART. 8. Articles 2 (Paragraphs 1 and 2), 3, 4, 5, 8, 14, 16, 19 and 23 of the Organic Law of 2 August 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, by *scrutin de liste* and by an absolute majority of votes cast.

After two ballots a plurality shall be sufficient, and in case of an equality of votes the oldest is elected.

The procedure and method shall be the same for the election of alternates.

Councils having 1, 2 or 3 delegates to choose shall elect 1 alternate.

Those choosing 6 or 9 delegates shall elect 2 alternates.

Those choosing 12 or 15 delegates shall elect 3 alternates.

Those choosing 18 or 21 delegates shall elect 4 alternates.

Those choosing 24 delegates shall elect 5 alternates.

The municipal council of Paris shall elect 8 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.

ART. 3. In communes where the duties of the municipal council are performed by a special delegation organized by virtue of Article 44 of the Law of 5 April 1884, the senatorial delegates and alternates shall be chosen by the former council.

ART. 4. If the delegates were not present at the election, notice shall be given them by the mayor within 24 hours. They shall, within 5 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.

ART. 5. The official report of the election of delegates and alternates shall be transmitted at once to the prefect. It shall state the acceptance or refusal of the delegates and alternates, as well as the protests raised, by one or more members of the municipal council, against the legality of the election. A copy of this official report shall be posted on the door of the town hall.

ART. 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 election is annulled because they do not fulfill some one of the conditions demanded by law, or because of informality, shall be replaced by the alternates.

In case the election of a delegate and of an alternate is 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.

ART. 14. The first ballot shall begin at 8 o'clock in the morning and close at noon. The second shall begin at 2 o'clock and close at 5 o'clock. The third shall begin at 7 o'clock and close at 10 o'clock. The results of the balloting shall be canvassed by the bureau and announced immediately by the president of the electoral college.

ART. 16. Political meetings 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 30 June 1881¹ shall be made by two voters at least.

The forms and regulations of this article, as well as those of Article 3, shall be observed.

The members of Parliament elected or 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.

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.

ART. 19. Every attempt at corruption or constraint by the employment of means enumerated in Articles 177 and following of the Penal Code, to influence the vote of an elector or to keep him from voting, shall be punished by imprisonment of from three months to two years and by a fine of from 50 to 500 francs, or by either of these penalties.

Article 463 of the Penal Code is applicable to the penalties provided by the present article.

ART. 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.

ART. 9. The following are repealed:

1. Articles 1-7 of the Law of 24 February 1875 on the organization of the Senate.

2. Articles 24 and 25 of the Law of 2 August 1875 on the elections of senators.²

LAW OF 16 JUNE 1885.³

AMENDING THE ELECTORAL LAW.

ARTICLES 1-3.⁴

ART. 4. Members of families that have reigned in France are ineligible to the Chamber of Deputies.⁵

ART. 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 total number of voters registered.

¹ See above, p. 201, note 2.

² The transitory provisions of this law are omitted, because they are practically repeated in the Law of 26 December 1887 on parliamentary incompatibilities (see below, p. 214).

³ Promulgated in the *Journal officiel* of 17 June 1885.

⁴ Articles 1, 2 and 3 of this law were repealed by the Law of 13 February 1889 (see below, p. 214).

⁵ For similar provisions regarding the Presidency of the Republic and the Senate, see Article 2 of the Law of 14 August 1884 and Article 4 of the Law of 9 December 1884 (see above, pp. 198, 211). Article 4 of the Law of 22 June 1886 prohibited every elective office to the members of families that have reigned in France.

On the second ballot a plurality shall be sufficient.

In case of an equality of votes, the oldest of the candidates is elected.

ART. 6. Subject to the case of a dissolution provided for and regulated by the Constitution, the general elections shall take place within the 60 days preceding the expiration of the powers of the Chamber of Deputies.

ART. 7. Vacancies which occur in the six months preceding the renewal of the Chamber shall not be filled.

LAW OF 26 DECEMBER 1887.¹

ON PARLIAMENTARY INCOMPATIBILITIES.

Until the passage of a special law on parliamentary incompatibilities, Articles 8 and 9 of the Law of 30 November 1875 shall be applicable to senatorial elections.²

Every officer affected by this provision who has had 20 years of service and is 50 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 9 June 1853.

LAW OF 13 FEBRUARY 1889.³

REESTABLISHING SINGLE DISTRICTS FOR THE ELECTION OF DEPUTIES.

ARTICLE 1. Articles 1, 2 and 3 of the Law of 16 June 1885 are repealed.

ART. 2. Members of the Chamber of Deputies shall be elected by single districts. Each administrative arrondissement in the departments, and each municipal arrondissement at Paris and at Lyons, shall elect one deputy. Arrondissements the population of which exceeds 100,000 inhabitants shall elect an additional deputy for every 100,000 or fraction of 100,000 inhabitants. Arrondissements in such cases shall be divided into districts, a table⁴ of which is annexed to the present law and shall only be changed by law.

ART. 3. One deputy is assigned to the territory of Belfort, 6 to Algeria and 10 to the colonies, as is indicated by the table.

ART. 4. On and after the promulgation of the present law, until the renewal of the Chamber of Deputies, vacancies occurring in the Chamber of Deputies shall not be filled.

¹ Promulgated in the *Journal officiel* of 28 December 1887.

² See this law, p. 203 above; see also Article 20 of the Law of 2 August 1875, p. 202 above.

³ Promulgated in the *Journal officiel* of 14 February 1889.

⁴ This table is omitted. It may be found in the *Journal officiel* of 14 February 1889; it has been modified by the Laws of 22 July 1893, 6 April 1898, 30 March 1902 and 27 March 1914.

LAW OF 17 JULY 1889.¹

ON MULTIPLE CANDIDATURES.

ARTICLE 1. No one shall be a candidate in more than one district.
ARTS. 2-6.²

¹ Promulgated in the *Journal officiel* of 18 July 1889.

² Formalities imposed upon candidates and penalties for their violation.

GERMANY.

From the dissolution of the Holy Roman Empire in 1806 to the reconstruction of the German Empire in 1871 the constitutional history of Germany may be divided into three distinct periods: (1) The preponderance of France (Confederation of the Rhine); (2) the preponderance of Austria (German Confederation); and (3) the preponderance of Prussia (North German Confederation).

The Confederation of the Rhine, established in July 1806, included practically all of the German States except Austria and Prussia. With the fall of Napoleon it was replaced by the German Confederation. The Confederation Act of 8 June 1815¹ was amended by the Vienna Final Act of 15 May 1820,² which united the States for the repression of liberal principles. Until the revolution of 1848 the movement for German unity was confined largely to liberal theorists. This revolution forced the governments to act. A German National Assembly met on 18 May 1848 and eventually adopted the Imperial Constitution of 28 March 1849. But by this time the liberal movement had begun to lose force. Austria had gained the victory over the revolutionary forces within its borders and firmly opposed any scheme which would give to Prussia the leadership of a united Germany. The German Confederation was reestablished and continued until Austria was expelled from Germany by force of arms.

The Schleswig-Holstein affair led to an open conflict between Prussia and Austria in 1866. In the war which followed, Austria and her allies among the small States were signally defeated, and, by the Peace of Prague of 23 August 1866,³ Austria gave its "consent to the new organization of Germany without the participation of the Austrian Empire." The relations of the South German States to the new Confederation of the North German States, which had been established on 10 June 1866, were to be established by future negotiations. With the adhesion of the four South German States to the Confederation, the latter became the German Empire.

By the treaties with the South German States changes had been introduced into the Constitution of the North German Confederation

¹ English translation in EDWARD HERTSLET, *Map of Europe by Treaty*, vol. 1 (London, 1875), pp. 200-207. German text and French translation in parallel columns in the *British and Foreign State Papers*, 2: pp. 114-136.

² English translation in HERTSLET, *op. cit.*, pp. 636-657. French translation in the *British and Foreign State Papers*, 7: pp. 399-414.

³ English translation in HERTSLET, *op. cit.*, vol. III (London, 1875), pp. 1720-1726, and in the *British and Foreign State Papers*, 56: pp. 1050-1054.

and therefore the Constitution of the Empire was now contained in the following four documents:

1. The Constitution of the North German Confederation of 16 April–14 June 1867.¹

2. The Protocol of 15 November 1870² between the North German Confederation, Baden and Hesse.

3. The Treaty of 25 November 1870³ between the North German Confederation, Baden and Hesse on the one side and Württemberg on the other.

4. The Treaty of 23 November 1870⁴ concerning the adhesion of Bavaria to the North German Confederation.

The Imperial Constitution of 16 April 1871 was practically a consolidation of the permanent provisions of these four instruments. This Constitution has been amended 10 times since 1871, and in the text given below not only have these formal amendments been inserted in their proper places, but also many other important changes which the Constitution has undergone by means of addition of territory, interpretation in practice, and of ordinary legislation have been indicated in the footnotes.⁵

CONSTITUTION OF 16 APRIL 1871.⁶

[PREAMBLE.]

His Majesty the King of Prussia, in the name of the North German Confederation, His Majesty the King of Bavaria, His Majesty the King of Württemberg, His Royal Highness the Grand Duke of Baden, and His Royal Highness the Grand Duke of Hesse and Rhenish Hesse for those parts of the Grand Duchy of Hesse lying south of the Main, conclude an eternal Confederation for the protection of the federal territory, and of the rights of the same as well as for the promotion of the welfare of the German people. This Confederation shall bear the name of the German Empire, and shall have the following Constitution.

¹ English translation in HERTSLET, *op. cit.*, pp. 1807–1828.

² English translation in the *British and Foreign State Papers*, 61 : pp. 110–113.

³ English translation in the *British and Foreign State Papers*, 61 : pp. 128–131.

⁴ English translation in the *British and Foreign State Papers*, 61 : pp. 113–127.

⁵ These introductory paragraphs are based upon W. F. DODD, *Modern Constitutions* (Chicago, 1909), vol. 1, pp. 321–324, and F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. 1, pp. 170–172.

⁶ German text in FELIX STOERK, *Handbuch der deutschen Verfassungen* (2d edition, by F. W. VON RAUCHHAUPT, Munich, 1913), pp. 8–25, and in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 46–63. French translation in DARESTE, *op. cit.*, pp. 172–200. English translation in DODD, *op. cit.*, pp. 325–351, and by E. J. JAMES in *Foreign Constitutions [The Convention Manual of the Sixth New York State Constitutional Convention, 1894, part 2, vol. 3]* (Albany, 1894), pp. 266–286. The translation given here is based on the one in DODD, which has been brought up to date by a comparison with STOERK-RAUCHHAUPT.

I.—FEDERAL TERRITORY.

ARTICLE 1. The federal territory shall consist of the States of Prussia with Lauenburg, Bavaria, Saxony, Württemberg, Baden, Hesse, Mecklenburg-Schwerin, Saxe-Weimar, Mecklenburg-Strelitz, Oldenburg, Brunswick, Saxe-Meiningen, Saxe-Altenburg, Saxe-Coburg-Gotha, Anhalt, Schwarzburg-Rudolstadt, Schwarzburg-Sondershausen, Waldeck, Reuss, elder line, Reuss, younger line, Schaumburg-Lippe, Lippe, Lübeck, Bremen and Hamburg.¹

II.—LEGISLATION OF THE EMPIRE.

ART. 2. Within this federal territory the Empire shall exercise the right of legislation² in accordance with the provisions of this Constitution; and the laws of the Empire shall take precedence of the laws of the States. The laws of the Empire shall receive their binding force by imperial promulgation, through the medium of a *Reichsgesetzblatt* [Imperial Gazette]. If no other time is designated for the published law to take effect, it shall become effective on the fourteenth day after its publication in the *Reichsgesetzblatt* at Berlin.

ART. 3. There shall be a common citizenship for all Germany, and the members (subjects or citizens) of each State of the Confederation shall be treated in every other State as natives, and shall accordingly have the right of becoming permanent residents, of carrying on business, of filling public offices, of acquiring real estate, of obtaining citizenship and of enjoying all other civil rights under the same conditions as those born in the State, and shall also have the same treatment as regards judicial remedies and the protection of the laws.

No German shall be limited in the exercise of these rights by the authorities of his native State or by the authorities of any other State of the Confederation.

The regulations governing the care of paupers and their admission into the various local unions shall not, however, be affected by the principle enunciated in the first paragraph.

In like manner, until further action, those treaties shall remain in force which have been concluded between the several States of the Confederation in relation to the taking over of persons liable to be deported, the care of sick and the burial of deceased citizens.

With respect to the performance of military service in the several States, the necessary laws will be passed by the Empire.

¹ The Duchy of Lauenburg was joined to the crown of Prussia 13 September 1865, and incorporated in the Kingdom of Prussia by the Law of 23 June 1876. Alsace-Lorraine was joined to the Empire by the Law of 9 June 1871 and incorporated in the federal territory by the Law of 25 June 1873, Article 2. The Law of 9 June 1871 invested the Emperor with the exercise of the right of sovereignty over Alsace-Lorraine. The island of Helgoland was incorporated in the federal territory by the Law of 15 December 1890 Article 2.

² The Law of 2 May 1877 governs the exercise of the legislative power in Alsace-Lorraine.

As against foreign countries all Germans shall have an equal claim upon the protection of the Empire.

ART. 4. The following matters shall be under the supervision of the Empire and subject to imperial legislation:

1. Regulations concerning the freedom of migration,¹ matters of domicile and settlement,² citizenship, passports,³ surveillance of foreigners, exercise of a profession,⁴ including insurance,⁵ so far as these matters are not already provided for by Article 3 of this Constitution; in Bavaria, however, exclusive of matters relating to domicile and settlement, and likewise matters relating to colonization and emigration to foreign countries.⁶

2. Legislation concerning customs duties, commerce, and such taxes as are to be applied to the uses of the Empire.⁷

3. Regulation of the system of measures, coinage and weights,⁸ and the establishment of the principles for the issue of funded and unfunded paper money.

4. General banking regulations.⁹

5. Patents for inventions.¹⁰

6. The protection of the ownership of intellectual works.¹¹

7. The organization of a general system of protection for German trade in foreign countries, of German navigation and of the German flag on the high seas, and the establishment of a common consular representation, which shall be maintained by the Empire.

8. Railway matters, subject in Bavaria to the provisions of Article 46, and the construction of highways and waterways in the interests of national defense and of commerce in general.

9. Rafting and navigation upon waterways common to several States, the condition of such waterways, taxes collectable upon rivers and other waterways, and also the signals of maritime navigation (beacons, buoys, lights and other signals).¹²

10. Postal and telegraph affairs; in Bavaria and Württemberg, however, only in accordance with the provisions of Article 52.

¹ Law of 1 November 1867 on freedom of migration.

² Law of 1 June 1870 on the acquisition and loss of federal nationality and State nationality.

³ Law of 12 October 1867 on passports.

⁴ Law of 21 June 1869 on industry, amended by numerous subsequent laws.

⁵ Law of 15 June 1883 on workmen's health insurance (amended in 1892, 1900 and 1903); Law of 30 June 1900 on workmen's accident insurance; Law of 22 June 1889 on workmen's old age and disability insurance (completed by the Law of 13 July 1899).

⁶ Law of 9 June 1897 on emigration.

⁷ See below, Articles 35 and 70.

⁸ Law of 4 December 1871 and Coinage Law of 9 July 1873; Ordinance of 17 August 1868 on weights and measures (amended in 1873, 1884, 1893 and 1900).

⁹ Law of 7 June 1899.

¹⁰ Law of 25 May 1877 on patents (amended by the Law of 7 April 1891); Law of 30 November 1874 on the protection of trade-marks.

¹¹ Law of 11 June 1870 on authors' rights.

¹² "And also . . . signals." Added by the Law of 3 March 1873.

11. Regulations concerning the reciprocal execution of judicial sentences in civil cases and the execution of requisitions in general.¹
12. Regulations concerning authentication of public documents.²
13. General legislation as to the whole domain of civil law,³ criminal law⁴ and judicial procedure.⁵
14. The imperial military and naval affairs.
15. Police regulation of medical and veterinary matters.
16. Regulations concerning the press and the right of association.⁶

ART. 5. The legislative power of the Empire shall be exercised by the Bundesrat and the Reichstag. A majority of the votes of both bodies shall be necessary and sufficient for the passage of a law.

With respect to laws concerning the army, navy and the taxes specified in Article 35, the vote of the *präsidium*⁷ shall decide in case of a difference of opinion in the Bundesrat, if such vote be in favor of the maintenance of existing arrangements.

III.—THE BUNDESRAT.

ART. 6. The Bundesrat shall consist of representatives of the members of the Confederation, among which the votes shall be divided in such manner that Prussia with the former votes of Hanover, Electoral Hesse, Holstein, Nassau and Frankfort shall have 17 votes; Bavaria, 6; Saxony, 4; Württemberg, 4; Baden, 3; Hesse, 3; Mecklenburg-Schwerin, 2; Saxe-Weimar, 1; Mecklenburg-Strelitz, 1; Oldenburg, 1; Brunswick, 2; Saxe-Meiningen, 1; Saxe-Altenburg, 1; Saxe-Coburg-Gotha, 1; Anhalt, 1; Schwarzburg-Rudolstadt, 1; Schwarzburg-Sondershausen, 1; Waldeck, 1; Reuss, elder line, 1; Reuss, younger line, 1; Schaumburg-Lippe, 1; Lippe, 1; Lübeck, 1; Bremen, 1; Hamburg, 1; total, 58 votes.

Each member of the Confederation may appoint as many delegates to the Bundesrat as it has votes, but the votes of each State shall be cast only as a unit.

ART. 6a.⁸ Alsace-Lorraine shall cast 3 votes in the Bundesrat so long as the provisions of Article 2, Section 1, and Section 2, Paragraphs 1 and 3, of the Law of 31 May 1911 concerning the Constitution of Alsace-Lorraine, remain in force.

¹ Law of 21 June 1869 on the reciprocal assistance of federal courts.

² Law of 1 May 1878 on the credibility due to authentic acts.

³ As amended by the Law of 20 December 1873. The original text read: "General legislation concerning the law of obligations, criminal law, the law of commerce and exchange, and judicial procedure." The Civil Code was promulgated 16 August 1896.

⁴ Penal Code of 15 May 1871, amended by numerous subsequent laws.

⁵ Code of Civil Procedure of 30 January 1877; Code of Penal Procedure of 1 February 1877.

⁶ Law of 7 May 1874 on the press; Law of 19 April 1908 on association.

⁷ I. e., of Prussia (see below, p. 223).

⁸ Article 6a was inserted by the Law of 31 May 1911 (cf. STÖRK-RAUCHHAUPT, *op. cit.*, pp. 10–11).

The votes of Alsace-Lorraine shall not be counted if the addition of these votes alone would give the majority to the presidential vote or would give it the deciding vote in the sense of Article 7, Paragraph 3, Sentence 3. The same shall hold good for the decisions upon amendments to the Constitution.

Alsace-Lorraine shall be understood to be a State of the Confederation in the sense of Article 6, Section 2, and of Articles 7 and 8.

ART. 7. The Bundesrat shall take action:

1. Upon the measures to be proposed to the Reichstag and the resolutions passed by the same.
2. Upon the general administrative provisions and arrangements necessary for the execution of the imperial laws, so far as not otherwise provided for by imperial law.
3. Upon the defects which may be discovered in the execution of the imperial laws or of the provisions and arrangements heretofore mentioned.

Each member of the Confederation shall have the right to make propositions and introduce motions, and it shall be the duty of the præsidium to submit them for deliberation.

Decision shall be reached by simple majority, with the exceptions provided for by Articles 5, 37 and 78. Votes not represented or not instructed shall not be counted. In the case of a tie, the vote of the præsidium shall decide.

In decisions upon a subject which, according to the provisions of this Constitution, does not concern the whole Empire, only the votes of those States of the Confederation interested in the matter in question shall be counted.

ART. 8. The Bundesrat shall appoint from its own members permanent committees:

1. On the army and the fortifications.
2. On marine affairs.
3. On customs duties and taxes.
4. On commerce and trade.
5. On railroads, posts and telegraphs.
6. On judicial affairs.
7. On accounts.¹

In each of these committees there shall be representatives of at least four States of the Confederation, besides the præsidium, and each State shall be entitled to only one vote therein. In the Committee on the Army and Fortifications Bavaria shall have a permanent seat; the remaining members of this Committee, as well as the members of the Committee on Marine Affairs, shall be appointed by

¹ Five other permanent committees derive their personnel from the membership of the Bundesrat:

8. On foreign affairs.
9. On Alsace-Lorraine.
10. On the Constitution.

11. On the order of business.
12. On railway freight tariffs.

the Emperor; the members of the other committees shall be elected by the Bundesrat. These committees shall be newly formed at each session of the Bundesrat, i. e., each year, and the retiring members shall be eligible for reelection.

A Committee on Foreign Affairs, over which Bavaria shall preside, shall also be appointed in the Bundesrat; it shall be composed of the plenipotentiaries of the Kingdoms of Bavaria, Saxony and Württemberg and of two plenipotentiaries of the other States of the Empire, who shall be elected annually by the Bundesrat.

The employees necessary for the conduct of their work shall be placed at the disposal of the committees.

ART. 9. Each member of the Bundesrat shall have the right to appear in the Reichstag, and must be heard there at any time he shall so request, in order to represent the views of his government, even when such views shall not have been adopted by the majority of the Bundesrat. No one shall at the same time be a member of the Bundesrat and of the Reichstag.

ART. 10. The Emperor shall afford the customary diplomatic protection to the members of the Bundesrat.

IV.—THE PRESIDENCY.

ART. 11. The presidency (*presidium*) of the Confederation shall belong to the King of Prussia, who shall bear the title of German Emperor. It shall be the duty of the Emperor to represent the Empire among nations, to declare war and to conclude peace in the name of the Empire, to enter into alliances and other treaties with foreign countries, to accredit and receive ambassadors.

For a declaration of war in the name of the Empire, the consent of the Bundesrat is required, unless an attack is made upon the federal territory or its coasts.

So far as treaties with foreign countries relate to matters which, according to Article 4, are to be regulated by imperial legislation, the consent of the Bundesrat shall be required for their conclusion, and the approval of the Reichstag shall be necessary to render them valid.

ART. 12. The Emperor shall have the right to convene, open, adjourn and close the Bundesrat and the Reichstag.

ART. 13. The Bundesrat and the Reichstag shall be convened annually, and the Bundesrat may be called together for the preparation of business without the Reichstag; the latter, however, shall not be convened without the Bundesrat.

ART. 14. The Bundesrat shall be convened whenever a meeting is demanded by one third of the total number of votes.

ART. 15. The Imperial Chancellor, to be appointed by the Emperor, shall preside in the Bundesrat and supervise the conduct of its business.

The Imperial Chancellor shall have the right to delegate the power to represent him to any other member of the Bundesrat; this delegation shall be made in writing.¹

ART. 16. The necessary bills shall be laid before the Reichstag in the name of the Emperor, in accordance with the resolutions of the Bundesrat, and shall be advocated in the Reichstag by members of the Bundesrat or by special commissioners appointed by the latter.

ART. 17. It shall be the duty of the Emperor to prepare and publish the laws of the Empire and to supervise their execution. The decrees and ordinances of the Emperor shall be issued in the name of the Empire and shall require for their validity the countersignature of the Imperial Chancellor, who thereby assumes the responsibility for them.²

ART. 18. The Emperor shall appoint Imperial officials, cause them to take the oath to the Empire and dismiss them when necessary.

Officials of any one of the States of the Confederation, who shall be appointed to any Imperial office, shall enjoy, with reference to the Empire, the same rights as those to which they are entitled in their native State by virtue of their official position, provided that no other legislative provision shall have been made previous to their entrance into the service of the Empire.³

ART. 19. If the States of the Confederation do not fulfill their constitutional duties, they may be compelled to do so by execution. This execution shall be decided upon by the Bundesrat and carried out by the Emperor.

V.—THE REICHSTAG.

ART. 20. The Reichstag shall be elected by universal and direct suffrage on secret ballot.

Until regulation by law, the power to make such regulation being reserved by Section 5 of the Electoral Law of 31 May 1869 (*Bundesgesetzblatt*, 1869, page 145), 48 deputies shall be elected in Bavaria, 17 in Württemberg, 14 in Baden, 6 in Hesse south of the River Main, and the total number shall consequently be 382.⁴

¹ The Law of 17 March 1878 authorized the Imperial Chancellor to delegate various functions of imperial administration.

² By the Law of 17 March 1878, the countersignature may be made by an authorized representative of the Imperial Chancellor.

³ Law of 31 March 1873 on the rights and duties of imperial officials (amended in 1886, 1887, 1893, 1903 and 1905. There are nine departments: Foreign Affairs, Interior, Marine, Posts, Treasury, Railroads, Imperial Railroads, Banks, Justice.

⁴ Including, that is to say, those deputies returned by the States of the North German Confederation. By the Law of 25 June 1873, 15 additional members are elected from Alsace-Lorraine, making the total number 397, the remaining 297 being distributed as follows:

Prussia, 235; Saxony, 23; Mecklenburg-Schwerin, 6; Hesse, Saxe-Weimar. Oldenburg, Brunswick, and Hamburg, 3 each; Saxe-Meiningen, Saxe-Coburg-Gotha, and Anhalt, 2 each; the rest, 1 each.

With certain minor exceptions every male German of the age of 25 years may vote for members of and may be elected to the Reichstag.

ART. 21. No leave of absence shall be required for public officials to enter the Reichstag.

When a member of the Reichstag accepts a salaried office of the Empire, or a salaried office in one of the States of the Confederation, or accepts any office of the Empire or of a State involving higher rank or salary, he shall forfeit his seat and vote in the Reichstag and may recover his place in the same only by a new election.

ART. 22. The proceedings of the Reichstag shall be public.

No one shall be held responsible for truthful reports of the proceedings of the public sessions of the Reichstag.

ART. 23. The Reichstag shall have the right to propose laws within the competence of the Empire and to refer petitions addressed to it to the Bundesrat or the Chancellor of the Empire.

ART. 24. The term of the Reichstag shall be five years.¹ To dissolve the Reichstag during that time, a resolution of the Bundesrat, with the consent of the Emperor, is required.

ART. 25. In case of the dissolution of the Reichstag, new elections shall take place within a period of 60 days, and the Reichstag shall be called together within a period of 90 days after its dissolution.

ART. 26. Without the consent of the Reichstag, an adjournment of that body shall not exceed the period of 30 days and shall not be repeated during the same session.

ART. 27. The Reichstag shall examine into the legality of the election of its members and decide thereon. It shall regulate its own procedure and its own discipline, through its order of business, and elect its president, vice-presidents and secretaries.

ART. 28. The Reichstag shall take action by absolute majority. To render any action valid, the presence of a majority of the statutory number of members is required.²

ART. 29. The members of the Reichstag are the representatives of the people as a whole and shall not be bound by orders or instructions.

ART. 30. No member of the Reichstag shall at any time suffer legal or disciplinary prosecution on account of his vote or on account of utterances made while in the performance of his functions, or be held responsible in any other way outside of the Reichstag.

ART. 31. Without the consent of the Reichstag, no one of its members shall be tried or arrested during the session for any penal offense,

¹ As amended by the Law of 19 March 1888. Originally the term was three years.

² The second paragraph of this article was repealed by the Law of 24 February 1873. It read as follows: "In decisions of a matter which, according to this Constitution, does not concern the entire Empire, only such members shall vote as are elected from States whose interests are affected by the proposition." Cf. the last paragraph of Article 7, p. 222, above.

unless he be taken in the commission of the offense, or during the course of the following day.

Like consent shall be required in the case of arrest for debt.¹

At the request of the Reichstag all criminal proceedings instituted against one of its members and all detentions for judicial inquiry or in civil cases shall be suspended during its session.

ART. 32. The members of the Reichstag as such shall receive no salary. They shall receive an indemnity in accordance with the provisions of law.²

VI.—CUSTOMS AND COMMERCE.

ART. 33. Germany shall form one customs and commercial territory, having a common frontier for the collection of duties. Such parts of the territory as can not, by reason of their situation, be suitably embraced within the customs frontier, shall be excluded.

All articles which are the subject of free traffic in one State of the Confederation may be brought into any other State, and in the latter shall be subject only to such internal taxes as are imposed upon similar domestic productions.

ART. 34. The Hanse cities, Bremen and Hamburg, together with a part of their own or of the surrounding territory suitable for such purpose, shall remain free ports outside of the common customs frontier, until they request admission within such frontier.

ART. 35. The Empire shall have the exclusive power to legislate concerning everything relating to the customs, concerning the taxation of salt and tobacco produced in the federal territory, of domestic brandy and beer and of sugar and sirup prepared from beets or other domestic products, concerning the mutual protection against fraud with reference to all taxes upon articles of consumption levied in the several States of the Confederation, as well as concerning the measures which may be required in the territory, outside the customs boundaries, for the security of the common customs frontier.

In Bavaria, Württemberg and Baden, the matter of taxing domestic brandy and beer shall remain reserved to the legislation of the States. The States of the Confederation shall, however, endeavor to bring about uniform legislation regarding the taxation of these articles also.

ART. 36. The administration and collection of customs duties and of the taxes on articles of consumption (Article 35) shall be left to

¹ Law of 29 May 1868 on the abolition of imprisonment for debt.

² As amended by the Law of 21 May 1906. Article 32, as originally worded, forbade any salary or indemnity to members of the Reichstag. A law of 21 May 1906 provides that members of the Reichstag shall receive: (1) Free transportation on the German railways during the sessions of the Reichstag and for 8 days before the beginning of and 8 days after the close of each session; and (2) a yearly indemnity of 3,000 marks.

each State of the Confederation within its own territory, so far as these functions have heretofore been exercised by each State.

The Emperor shall superintend the observance of legal methods by means of imperial officers whom he shall appoint, after consulting the Committee of the Bundesrat on Customs Duties and Taxes, to act in cooperation with the customs or tax officials and with the directive boards of the several States.

Reports made by these officers concerning defects in the administration of the joint legislation (Article 35) shall be submitted to the Bundesrat for action.

ART. 37. In taking action upon the rules and regulations for the execution of the joint legislation (Article 35), the vote of the *præsidium* shall decide when it is cast in favor of maintaining the existing rule or regulation.

ART. 38. The revenues from customs and from the other taxes designated in Article 35, so far as the latter are subject to imperial legislation, shall go to the treasury of the Empire.

Such revenues shall consist of the total receipts from the customs and the other taxes, after deducting therefrom:

1. Tax rebates and reductions in conformity with existing laws or general administrative regulations.

2. Reimbursements for taxes improperly collected.

3. The costs of collection and of administration, viz:

a. In case of the customs, the costs which are required for the protection and collection of customs on the frontiers and in the frontier districts.

b. For the salt tax, the costs which are incurred for the salaries of the officers charged with the collection and control of this tax at the salt works.

c. For the taxes on beet sugar and on tobacco, the compensation which is to be allowed, according to the existing rules of the Bundesrat, to the several State governments for the cost of administering these taxes.

d. Fifteen per cent of the total receipts from other taxes.

The territories situated outside of the common customs frontier shall contribute to the expenses of the Empire by payment of a proportional sum (*aversum*).

Bavaria, Württemberg and Baden shall not share in the revenues which go into the treasury of the Empire from duties on brandy and beer, nor in the portion of the aforesaid proportional sum corresponding to these revenues.

The provision of Article 38, Paragraph 2, Number 3 *d*, of the Imperial Constitution is repealed, in so far as it relates to the tax on breweries. The compensation to be allowed to the States for the

expense of collecting and administering the tax on breweries shall be fixed by the Bundesrat.¹

ART. 39. The quarterly extracts, made at the end of each quarter by the revenue boards of the States of the Confederation, and the final statements, made at the end of the year after the closing of the accounts, of the receipts which have become due in the course of the quarter, or during the fiscal year, from customs and from taxes on consumption which, according to Article 38, belong to the treasury of the Empire, shall, after a preliminary audit, be assembled in general summaries by the directive boards of the various States. Each tax shall be separately entered, and these summaries shall be transmitted to the Committee of Accounts of the Bundesrat.

The latter, upon the basis of these summaries, shall fix provisionally every three months the amounts due to the imperial treasury from the treasury of each State, and it shall inform the Bundesrat and the States of the amounts so fixed; furthermore, it shall submit to the Bundesrat annually the final statement of these amounts with its remarks. The Bundesrat shall take action upon the determination of such amounts.

ART. 40. The terms of the Customs Union Treaty of 8 July 1867,² shall remain in force, so far as they have not been altered by the provisions of this Constitution and so long as they are not altered in the manner designated in Articles 7 or 78.

VII.—RAILWAYS.

ART. 41. Railways, which are considered necessary for the defense of Germany or in the interest of general commerce, may, by force of imperial law, be constructed at the expense of the Empire, even against the opposition of the members of the Union through whose territory the railroads run, without prejudice, however, to the sovereign rights of the States; or private persons may be granted the right to construct railways and receive the right of eminent domain.

Every existing railway is bound to permit new railroad lines to be connected with it, at the expense of the said new lines.

All laws which grant existing railway undertakings the right to prevent the building of parallel or competitive lines are hereby repealed throughout the Empire, without prejudice to rights already acquired. Such rights of prevention shall not be granted in future concessions.

ART. 42. The governments of the States of the Confederation bind themselves, in the interest of general commerce, to manage the German railways as one system, and for this purpose to have all new lines constructed and equipped according to a uniform plan.

¹ This last paragraph was added by the Law of 3 June 1906.

² Law of 27 May 1885 modifying the Customs Union Treaty of 8 July 1867.

ART. 43. Accordingly, as soon as possible, uniform arrangements as to operation shall be made, and especially shall uniform regulations be adopted for the police of railways.¹ The Empire shall take care that the various railway administrations keep the roads at all times in such condition as is necessary for public security and furnish them with such equipment as the needs of traffic may require.

ART. 44. Railway administrations are bound to establish as many passenger trains of suitable speed as may be required for through traffic and for the establishment of harmony between time tables; also to establish such freight trains as may be necessary for the transport of goods and to organize a system of through forwarding both in passenger and freight traffic, permitting rolling stock to go from one road to another for the usual remuneration.

ART. 45. The Empire shall have control of the tariff of charges. It shall especially exert itself to the end:

1. That uniform regulations as to operation be introduced as soon as possible on all German railway lines.

2. That the tariff be reduced and made uniform as far as possible, and, particularly that in the long-distance transportation of coal, coke, wood, ores, stone, salt, pig-iron, manure, and similar articles, a tariff be introduced suitably modified in the interests of agriculture and industry; and that the 1-pfennig tariff be introduced as soon as practicable.

ART. 46. In case of public distress, especially in case of an extraordinary rise in the price of provisions, it shall be the duty of the railway administrations to adopt temporarily a low special tariff suited to the circumstances, to be fixed by the Emperor on motion of the competent committee of the Bundesrat, for the transport of grain, flour, legumes and potatoes. This tariff shall, however, not be lower than the lowest existing rate for raw produce on the said line.

The foregoing provisions, and those of Articles 42-45, shall not apply to Bavaria.

The Empire, however, shall have the power, with respect to Bavaria also, to establish by means of legislation uniform standards for the construction and equipment of railways which may be of importance for the defense of the country.

ART. 47. The managers of all railways shall be required to obey, without hesitation, requisitions made by the authorities of the Empire for the use of their roads for the defense of Germany. In particular shall troops and all materials of war be forwarded at uniformly reduced rates.

¹ The regulations, which are very numerous, as listed in A. ARNDT, *Verfassung des deutschen Reichs* (3d edition, Berlin, 1907), p. 263.

VIII.—POST AND TELEGRAPH.

ART. 48. The postal and telegraphic systems shall be organized and managed on a uniform plan, as State institutions throughout the German Empire.

The legislation of the Empire in regard to postal and telegraphic affairs, provided for in Article 4, shall not extend to those matters the control of which is left to governmental ordinance or administrative regulation, according to the principles which have prevailed in the administration of post and telegraph by the North German Confederation.

ART. 49. The receipts from post and telegraph throughout the Empire shall belong to a common fund. The expenses shall be paid from the general receipts. The surplus shall go into the imperial treasury (Section XII).

ART. 50. The Emperor shall have the supreme supervision of the administration of post and telegraph. The officers appointed by him shall have the duty and the right to see to it that uniformity be established and maintained in the organization of the administration and in the conduct of business, as well as in the qualifications of employees.

The Emperor shall have the power to issue governmental instructions and general administrative regulations, and also the exclusive right to regulate the relations with the postal and telegraphic systems of other countries.

It shall be the duty of all officers of the postal and telegraphic administration to obey the orders of the Emperor. This obligation shall be assumed in the oath of office.

The appointment of such superior officers as shall be required for the administration of the post and telegraph in the various districts (such as directors, counselors, superintendents), furthermore, the appointment of officers of the post and telegraph acting in the capacity of organs of the aforesaid authorities as supervisors or for other services in the several districts (such as inspectors, controllers), shall be made throughout the Empire by the Emperor, to whom such officers shall take the oath of office. The governments of the several States shall receive timely notice of the aforementioned appointments, so far as they may relate to their territories, so that they may officially confirm and publish them.

Other officers required in the administration of the post and telegraph, as well as all those employed for local and technical work, including the officials in the local offices, and so forth, shall be appointed by the governments of the respective States.

Where there is no independent State administration of post or telegraph, the terms of special treaties shall control.

ART. 51.¹

ART. 52. The provisions of the foregoing Articles 48-51 shall not apply to Bavaria and Württemberg. In their place the following provisions shall be valid for these two States of the Empire:

The Empire shall have the exclusive power to legislate upon the privileges of the post and telegraph, upon the legal relations of both institutions to the public, upon the franking privilege and the postal rates, excepting, however, the adoption of administrative regulations and of rates for the internal communication within Bavaria and Württemberg, respectively; and, under like limitations, upon the fixing of charges for telegraphic correspondence.

In the same manner, the Empire shall have the regulation of postal and telegraphic communication with foreign countries, excepting the immediate intercourse of Bavaria and Württemberg with neighboring States not belonging to the Empire, the regulation of which shall be subject to the provisions of Article 49 of the Postal Treaty of 23 November 1867.²

Bavaria and Württemberg shall not share in the postal and telegraphic receipts coming into the treasury of the Empire.

IX.—MARINE AND NAVIGATION.

ART. 53. The navy of the Empire shall be a united one, under the supreme command of the Emperor. The Emperor is charged with its organization and construction; he shall appoint the officers and employees of the navy, and they and the seamen shall take an oath of obedience to him.

The harbor of Kiel and the harbor of the Jade shall be imperial naval ports.

The expense required for the establishment and maintenance of the navy and of the institutions connected therewith shall be defrayed from the treasury of the Empire.

All seafaring men of the Empire, including machinists and artisans employed in ship-building, are exempt from service in the army, but are liable to service in the imperial navy.³

ART. 54. The merchant vessels of all States of the Confederation shall form a united merchant marine.

¹Article 51 governed, for the first eight years, a special method of computing postal surpluses. At the expiration of these eight years, the total surplus was to be turned into the imperial treasury.

²This postal treaty was between the North German Confederation, Bavaria, Württemberg and Baden.

³Paragraph 5 of Article 53 was repealed by the Law of 26 May 1893. It read as follows: "The apportionment of requisitions to supply the ranks of the navy shall be made according to the actual seafaring population, and the number furnished in accordance herewith by each State shall be deducted from the number otherwise required for the army."

The Empire shall determine the process for ascertaining the tonnage of seagoing vessels, shall regulate the issuance of bills of tonnage and of ship certificates, and shall fix the conditions upon which a license to command a seagoing vessel shall be granted.

The merchant vessels of all the States of the Confederation shall be admitted on equal footing to the harbors and all natural and artificial watercourses of the several States of the Confederation, and shall be accorded similar treatment therein. The fees which may be collected in harbors, from sea going vessels or from their cargoes, for the use of marine institutions, shall not exceed the amount necessary for the maintenance and ordinary repair of these institutions.

On all natural watercourses taxes may be levied only for the use of special institutions which serve to facilitate commercial intercourse. These taxes, as well as the charge for navigating such artificial channels as are the property of the State, shall not exceed the amount required for the maintenance and ordinary repair of such institutions and establishments. These provisions shall apply to rafting, in so far as it is carried on along navigable watercourses.

The power to lay other or higher taxes upon foreign vessels or their cargoes than those which are paid by the vessels of the States of the Confederation or their cargoes shall belong only to the Empire and not to the separate States.

ART. 55. The flag of the naval and merchant marine is black, white and red.

X.—CONSULAR AFFAIRS.

ART. 56. The Emperor shall have the supervision of all consular affairs of the German Empire, and he shall appoint consuls, after hearing the Committee of the Bundesrat on Trade and Commerce.

No new State consulates shall be established within the districts covered by German consuls. German consuls shall perform the functions of State consuls for the States of the Confederation not represented in their districts. All the State consulates now existing shall be abolished as soon as the organization of the German consulates shall be completed in such a manner that the representation of the separate interests of all the States of the Confederation shall be recognized by the Bundesrat as satisfactorily secured by the German consulates.

XI.—MILITARY AFFAIRS OF THE EMPIRE.

ART. 57. Every German is liable to military duty,¹ and in the discharge of this duty no substitute shall be accepted.

ART. 58. The costs and the burden of the entire military system of the Empire shall be borne equally by all the States of the Confeder-

¹ Law of 9 November 1867 on the obligation of military service.

ation and their subjects, so that neither special privileges nor burdens upon particular States or classes are in principle permissible. Where an equal distribution of the burdens can not be effected *in natura* without prejudice to the public welfare, the equalization shall be effected by legislation in accordance with the principles of justice.

ART. 59. Every German capable of bearing arms shall belong for seven years to the standing army, as a rule from the end of his 20th to the beginning of his 28th year; during the next five years he shall belong to the national guard (*Landwehr*) of first summons, and then to the national guard of second summons until 31 March of the calendar year in which he reaches the age of 39 years.

During the period of service in the standing army the members of the cavalry and of the mounted field artillery are required to serve the first three years, and all other forces the first two years, in unbroken active service.

As regards the emigration of men belonging to the reserve, only those provisions shall be in force which apply to the emigration of members of the national guard (*Landwehr*).¹

ART. 60. The effective strength of the German army in time of peace shall be fixed, until 31 December 1871, at 1 per cent of the population of 1867, and shall be furnished *pro rata* by the several States of the Confederation. After the above date the effective strength of the army in time of peace shall be fixed by imperial legislation.

ART. 61. After the publication of this Constitution the entire Prussian system of military legislation shall be introduced without delay throughout the Empire, both the statutes themselves and the regulations, instructions and rescripts issued for their execution, explanation or completion; especially the Military Penal Code of 3 April 1845; the Law of Military Penal Procedure of 3 April 1845; the ordinance of 20 July 1843 concerning the courts of honor; the regulations with respect to recruiting, time of service, matters relating to quarters and subsistence, to the quartering of troops, to compensation for injury done to fields, to mobilization of troops, etc., in times of peace and war. The military ordinance relating to religious observances is, however, excepted.

When a uniform organization of the German army for war purposes shall have been established, a comprehensive military code for the Empire shall be submitted to the Reichstag and the Bundesrat for their action, in accordance with the Constitution.

ART. 62. For the purpose of defraying the expenses of the whole German army, and of the institutions connected therewith, the sum of 225 thalers for each man in the army on the peace footing accord-

¹ This article is given as amended by the Laws of 11 February 1888 and 15 April 1905.

ing to Article 60, shall be annually placed at the disposal of the Emperor until 31 December 1871. (See Section XII.)

After 31 December 1871, the several States of the Confederation shall pay these contributions into the imperial treasury. Until it is altered by an imperial law, the strength of the army in time of peace, as temporarily fixed in Article 60, shall be taken as a basis for calculating the amounts of such contributions.

The expenditure of these sums for the imperial army and its establishments shall be fixed by the budgetary law.

In determining the budget of military expenditure, the organization of the imperial army, legally established in accordance with this Constitution, shall be taken as a basis.

ART. 63. The total land force of the Empire shall form one army, which shall be under the command of the Emperor, in war and in peace.

The regiments, etc., throughout the whole German army shall bear continuous numbers. As to the uniform, the primary colors and cut of the royal Prussian army shall be the standard. It is left to commanders of the several contingents to determine upon external marks of distinction (cockades, etc.).

It shall be the duty and right of the Emperor to take care that throughout the German army all divisions be kept complete and ready to take the field, and that uniformity be established and maintained in regard to organization and formation, equipment and command, the training of the men and the qualifications of the officers. For this purpose the Emperor shall have authority to satisfy himself at any time, by inspection, of the condition of the several contingents, and to order the correction of defects disclosed by such inspection.

The Emperor shall determine the strength, composition and division of the contingents of the imperial army, and also the organization of the national guard (*Landwehr*), and he shall have the right to determine the garrisons within the federal territory, as also to order any portion of the imperial army held in readiness for war.

In order to maintain the indispensable unity in the administration, care, arming and equipment of all divisions of the German army, all orders relating to these matters hereafter issued to the Prussian army shall be communicated, for their proper observance, to the commanders of the other contingents, through the Committee on the Army and Fortifications provided for by Article 8, No. 1.

ART. 64. All German troops are bound to render unconditional obedience to the commands of the Emperor. This obligation shall be included in the military oath.

The commander-in-chief of a contingent, as well as all officers commanding troops of more than one contingent, and all commanders of fortresses, shall be appointed by the Emperor. The officers appointed

by the Emperor shall take the military oath to him. The appointment of generals, and of officers performing the duties of generals within a contingent, shall in every case be subject to the approval of the Emperor.

In the transfer of officers, with or without promotion, to positions which are to be filled by him in the service of the Empire, be it in the Prussian army or in other contingents, the Emperor shall have the right to select from the officers of all the contingents of the imperial army.

ART. 65. The right to construct fortresses within the federal territory shall belong to the Emperor, who shall ask in accordance with Section XII for the grant of the means required for that purpose, unless it has already been included in the regular appropriation.

ART. 66. Where special conventions do not provide otherwise, the princes of the Confederation and the senates shall appoint the officers of their respective contingents, subject to the restriction of Article 64. They shall be the heads of all of the divisions of troops belonging to their territories, and shall enjoy the honors connected therewith. They shall have particularly the right to hold inspections at any time, and shall receive, besides the regular reports and announcements of changes to be made, timely information of all promotions and appointments concerning their respective contingents, in order to provide for the necessary publication of such information by State authority.

They shall also have the right, for police purposes, not only to employ their own troops, but also to requisition all other divisions of the imperial army which may be stationed in their respective territories.

ART. 67. Unexpended portions of the military appropriation shall under no circumstances fall to the share of a single government, but at all times to the imperial treasury.

ART. 68. The Emperor shall have the power, if public security within the federal territory is threatened, to declare martial law in any part of the Empire. Until the publication of a law regulating the occasions, the form of announcement and the effects of such a declaration, the provisions of the Prussian Law of 4 June 1851 shall be in force (*Gesetz-Sammlung*, 1851, p. 451 ff.)

FINAL PROVISION OF SECTION XI.

The provisions contained in this section shall be applied in Bavaria, in accordance with the more detailed provisions of the Treaty of Alliance of 23 November 1870¹ (*Bundesgesetzblatt*, 1871, p. 9), under III, § 5; in Württemberg, in accordance with the more de-

¹ See above, p. 218, note 4.

tailed provisions of the Military Convention of 21-25 November 1870¹ (*Bundesgesetzblatt*, 1870, p. 658).

XII. FINANCES OF THE EMPIRE.

ART. 69. All receipts and expenditures of the Empire shall be estimated for each year, and included in the imperial budget. The latter shall be fixed by law before the beginning of the fiscal year, in accordance with the following principles.

ART. 70. For the defrayal of all common expenses there shall serve first of all the joint revenues derived from customs duties, from common taxes, from the railway, postal and telegraphic systems, and from the other branches of the administration. In so far as the expenditures are not covered by such receipts, they shall be met by contributions from the several States of the Confederation in proportion to their population, such contributions to be fixed by the Imperial Chancellor, with reference to the total amount established by the budget. In so far as these contributions are not used, they shall be repaid to the States at the end of the year, in proportion as the other regular receipts of the Empire exceed its needs.

Any surpluses from preceding years shall be used, in so far as the imperial budgetary law does not otherwise provide, for defraying the joint extraordinary expenses.²

ART. 71. The general appropriations shall, as a rule, be granted for one year; they may, however, in special cases, be granted for a longer period.

During the period of transition fixed by Article 60, the properly classified budget of the expenditures of the army shall be laid before the Bundesrat and the Reichstag merely for their information.

ART. 72. For the purpose of discharge an annual report of the expenditure of all the revenues of the Empire shall be presented, through the Imperial Chancellor, to the Bundesrat and the Reichstag, for their approval.

ART. 73. In cases of extraordinary need, a loan may be contracted or a guaranty assumed as a charge upon the Empire, by means of imperial legislation.

FINAL PROVISION OF SECTION XII.

Articles 69 and 71 shall apply to expenditures for the Bavarian army only according to the provisions of the Treaty of 23 November 1870, mentioned in the final provision of Section XI; and Article 72 shall apply only to the extent that the Bundesrat and the Reichstag

¹ English translation in the *British and Foreign State Papers*, 61: pp. 131-135.

² As amended by the Laws of 14 May 1904 and 3 June 1906.

shall be informed that the sum necessary for the Bavarian army has been assigned to Bavaria.

XIII.—SETTLEMENT OF DISPUTES AND PENAL PROVISIONS.

ART. 74. Every attempt against the existence, the integrity, the security or the Constitution of the German Empire; finally, any offense committed against the Bundesrat, Reichstag, a member of the Bundesrat or of the Reichstag, an authority or a public officer of the Empire, while in the execution of their duty or with reference to their official position, by word, writing, printing, drawing, pictorial or other representation, shall be judged and punished in the several States of the Confederation in accordance with the laws therein existing or which may hereafter be enacted, by which provision is made for the trial of similar offenses against any one of the States of the Confederation, its constitution, its legislature or estates, the members of its legislature or its estates, its authorities and officers.

ART. 75. For those offenses against the German Empire, specified in Article 74, which, if committed against one of the States of the Empire, would be considered high treason or treason against the State, the Superior Court of Appeals of the three free Hanse cities, at Lübeck, shall be the competent deciding tribunal in the first and last instance.

More definite provisions as to the competency and the procedure of the Superior Court of Appeals shall be made by Imperial legislation. Until the passage of an Imperial law, the existing jurisdiction of the courts in the respective States, and the provisions relative to the procedure of these courts shall remain as at present.¹

ART. 76. Disputes between the several States of the Confederation, so far as they do not relate to matters of private law, and are therefore to be decided by the competent judicial authorities, shall be adjusted by the Bundesrat, at the request of one of the parties.

In disputes relating to constitutional matters in those States of the Confederation whose constitution does not designate an authority for the settlement of such differences, the Bundesrat shall, at the request of one of the parties, effect an amicable adjustment, or, if this can not be done, the matter shall be settled by imperial law.

ART. 77. If justice is denied in one of the States of the Confederation, and sufficient relief can not be procured by legal measures, it shall be the duty of the Bundesrat to receive substantiated complaints concerning denial or restriction of justice, which shall be proven according to the constitution and the existing laws of the respective States of the Confederation, and thereupon to obtain judicial relief

¹ The criminal competence of the Superior Court of Appeals at Lübeck disappeared with the creation of the Supreme Court of the Empire.

from the State government which shall have given occasion to the complaint.

XIV.—GENERAL PROVISIONS.

ART. 78. Amendments of the Constitution shall be made by legislative enactment. They shall be considered as rejected when 14 votes are cast against them in the Bundesrat.

The provisions of the Constitution of the Empire, by which certain rights are secured to particular States of the Confederation in their relation to the whole, may be amended only with the consent of the States affected.

GREAT BRITAIN AND IRELAND.

There is no Constitution in England, if by this expression is meant a fundamental law organizing the powers of the State and fixing the bases of public law. At no period in their history have the English considered it necessary or expedient to present their political system under the form of a solemn act, setting forth abstract theories or containing the construction of an entirely new political edifice. There are, it is true, certain famous historical documents, each of which marks a step in the progress of English institutions. Such are notably the *Great Charter of Liberty*, the *Petition of Right*, the *Bill of Rights* and the *Act of Settlement*. But it must be noticed that none of them herald the settlement of anything new; on the contrary, it is repeated with a peculiar insistence that the rights and liberties which it has seemed necessary to proclaim anew are ancient rights which the English people have always enjoyed.

The rules of the English Constitution can be found in no single written document, for it is built upon old laws and precedents. Therefore, it would be manifestly impossible to include all such laws in a work of this character. Besides the laws which are printed here in text or translation, it will be sufficient to enumerate certain Acts of Parliament upon constitutional matters:

The 39 articles governing the Constitution of the English church voted by the clergy in 1562 and converted into law of the realm in 1571 [13 *Elizabeth*, c. 12].

An Act for an Union of the Two Kingdoms of England and Scotland of 16 May 1707 [6 *Anne*, c. 11].

An Act for rendring the Union of the Two Kingdoms more intire and complete of 1707 [6 *Anne*, c. 40].

The Act for Union of Great Britain and Ireland of 2 July 1800 [39 & 40 *George III*, c. 67, amended by 21 & 22 *Victoria*, c. 26, and by the *Statute Law Revision Act* of 1871].

An Act for the Relief of His Majesty's Roman Catholic Subjects of 24 June 1829 [10 *George IV*, c. 7].

An Act to amend the Representation of the People in England and Wales of 7 June 1832 [2 *William IV*, c. 45], *of the People in Scotland* of 17 July 1832 [2 *William IV*, c. 65], *of the People in Ireland* of 7 August 1832 [2 *William IV*, c. 88].

An Act further to amend the Laws relating to the representation of the People in England and Wales of 15 August 1867 [30 & 31 Victoria, c. 102].

An Act to amend the Law relating to the Representation of the People of the United Kingdom of 6 December 1884 [48 Victoria, c. 3]. This was followed by a series of laws passed in 1885 of which the chief ones are: *The Registration Acts* [48 & 49 Victoria, c. 15, 16 and 17] and the *Redistribution of Seats Act* [48 & 49 Victoria, c. 23].¹

GREAT CHARTER OF LIBERTIES OF 11 FEBRUARY 1225.²

[PREAMBLE.]

Henry, by the grace of God, King of England, Lord of Ireland, Duke of Normandy and Guyan, and Earl of Anjou, to the archbishops, bishops, abbots, priors, earls, barons, sheriffs, reeves, servants, and all bailiffs and his faithful subjects, which shall see this present Charter, greeting. Know that by the suggestion of God, and for the salvation of our soul and the souls of our predecessors and successors, to the exaltation of Holy Church and improvement of our realm, of our own free good will, we have given and granted to the archbishops, bishops, abbots, priors, earls, barons, and to all of our realm these liberties written below, to be kept in our Kingdom of England forever.

ARTICLE 1. In the first place we have granted to God, and by this our present Charter have confirmed, for us and our heirs forever, that the English Church shall be free and shall have all its rights entire and its liberties uninjured. We have granted also and given to all free men of our realm, for us and our heirs forever, these liberties written below, to be had and be holden by them and their heirs from us and our heirs forever.

ARTS. 2-6.³

¹ These introductory paragraphs are based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. 1, pp. 46-51. Since the present work contains only documents of a constitutional nature, and since an adequate outline of the Constitution of Great Britain is to be derived from such a multitude of sources, the reader is therefore referred to an article in English by LOUIS HAMILTON in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 601-629, to the authorities there cited and to the authorities cited in DARESTE, *op. cit.*, pp. 70-72.

² Of the 37 articles composing the Great Charter of Henry III, 22 are now considered as repealed and have been so declared by the Statutes of Parliament, notably by the *Statute Law Revision Act* of 1863 [26 & 27 Victoria, c. 125.] The Great Charter has been confirmed a number of times, but these confirmations all carry forward the text of 1225, the Charter of 1215 containing provisions not reproduced in subsequent confirmations. The translation given here is based upon the Latin text and English translation of the Charter of 1297 [25 Edward I], confirming the Charter of Henry III [9 Henry III], in *The Statutes: Second Revised Edition*, vol. 1 (London, 1888), pp. 44-53. French translation of this and the following documents appears in DARESTE, *op. cit.*, pp. 52-70.

³ Repealed by the *Statute Law Revision Act* of 1863.

ART. 7.¹

ART. 8. We, or our bailiffs, shall not seize any land or rent for any debt, so long as the present chattels of the debtor are sufficient for the payment of the debt and the debtor himself is ready to satisfy therefore. Nor shall the pledges of the debtor be distrained, so long as the principal debtor himself is sufficient for the payment of the debt; and if the principal debtor fail in the payment of the debt, not having the wherewithal to pay, or will not pay where he is able, the pledges shall answer for the debt; and if they wish, they shall have the lands and rents of the debtor, until they shall have been satisfied for the debt which they before paid for him, unless the debtor shall have shown himself to be quit in that respect towards those pledges.

ART. 9. The city of London shall have all its ancient liberties and customs. Moreover, we will and grant that all other cities and boroughs and villages and the barons of the Cinque Ports, and all other ports, shall have all their liberties and free customs.

ART. 10. No man shall be distrained to do more service for a knight's fee or for any other free tenement than is due from it.

ARTS. 11-12.²ART. 13.³

ART. 14. A free man shall not be fined (*amercietur*) for a small offence, except in proportion to the measure of the offence; and for a great offence, [he shall be fined] in proportion to the magnitude of the offence, saving to him his freehold; and a merchant likewise, saving his merchandise; and any other's villian than ours shall be likewise fined, saving his wainage, if he shall be at our mercy. And none of the above fines shall be imposed except by the oaths of honest and lawful men of the neighborhood. Earls and barons shall only be fined by their peers, and only in proportion to their offence. No man of the church shall be fined in proportion to the measure of his spiritual benefice, but in proportion to his lay holding and to the measure of his offence.

ART. 15. No vill or man shall be distrained to make bridges over the rivers except those which of old time and of right ought to do it.

ART. 16. No river-banks shall be defended from henceforth, but such as were in defence in the time of King Henry our grandfather, by the same places and the same bounds as they were wont to be in his time.

¹ Provisions regarding the restriction of the dowry and second marriages of widows.

² Repealed by 42 & 43 Victoria, c. 59. Article 11 concerned common pleas and circuit courts.

³ Repealed by the *Statute Law Revision Act* of 1863.

ART. 17. No sheriff, constable, coroner, or other bailiffs of ours shall hold pleas of our crown.

ART. 18.¹

ARTS. 19-21.²

ART. 22. We will not hold the lands of those convicted of felony for more than a year and a day, after which the lands shall be returned to the lords of the fiefs.

ART. 23.³

ART. 24.²

ART. 25.⁴

ART. 26.⁵

ARTS. 27-28.²

ART. 29. No free man shall be taken or imprisoned, or be dispossessed of his freehold or liberties or free customs, or be outlawed, or exiled, or in any other way destroyed; nor will we go upon him, or send upon him except by the lawful judgment of his peers or by the law of the land. To no one will we sell, to no one will we deny or defer right or justice.

ART. 30. All merchants, if they were not openly prohibited before, shall have their safe and sure conduct to depart out of England, to come into England, to tarry in and go through England, as well by land as by water, for buying and selling, free from all maletolts, by the ancient and rightful customs, except in time of war; and if they are of a land at war with us and such are found in our land at the beginning of the war, they shall be attached without damage to their bodies or goods, until it shall be known from us or our chief justice in what way the merchants of our land are treated who shall be then found in the country which is at war with us; and if ours are safe there, the others shall be safe in our land.

ARTS. 31-37.⁶

Reserving to all archbishops, bishops, abbots, priors, templars, hospitallers, earls, barons, and all persons, as well spiritual as temporal, all their liberties and free customs, which they have had in time passed. And all those customs and liberties mentioned above which we have granted to be holden within our realm, as far as pertains to us, in respect to our men; all men of our realm, as well clergy as laymen, shall observe, as far as pertains to them, in respect to their men.

¹ Provision regarding the opening of succession of lay tenants of the King.

² Repealed by the *Statute Law Revision Act* of 1863.

³ Provision regarding fishing in rivers.

⁴ Provision regarding weights and measures.

⁵ Repealed by 9 *George IV*, c. 31, s. 1.

⁶ Repealed by the *Statute Law Revision Act* of 1863. The provisions concerned feudal law.

And for this our gift and grant of these liberties, and of others contained in our Charter of Liberties of the Forest,¹ the archbishops, bishops, abbots, priors, earls, barons, knights, freeholders, and all of our realm have given unto us the fifteenth part of all their movables. And we have granted unto them on the other part, for us and our heirs, that neither we nor our heirs shall produce or do anything whereby the liberties contained in this Charter shall be infringed or broken. And if anything be procured by any person contrary to the premises, it shall not be valid and shall be considered null.²

CONFIRMATION OF CHARTERS, OF 10 OCTOBER 1297.³

CONFIRMATION OF THE MAGNA CHARTA AND OF THE CHARTER OF FORESTS BY EDWARD I.

ARTICLE 1. Edward, by the grace of God, King of England, Lord of Ireland, and Duke of Guyan, to all those that these present letters shall hear or see, greeting. Know that we, to the honor of God and of Holy Church and to the profit of all our realm, have granted, for us and for our heirs, that the Great Charter of Liberties and the Charter of the Forest, which were made by common assent of all the realm in the time of King Henry our father, shall be kept in all points without breach. And we will that the same charters shall be sent under our seal, as well to our justices of the forest, as to others, and to all sheriffs of shires, and to all our other officers, and to all our cities throughout the land, together with our writs, in which it shall be contained that they cause the foresaid charters to be published and cause to be declared to the people that we have confirmed them in all points; and to our justices, sheriffs, mayors and other ministers, which under us and by us have the laws of our land to guide, that they shall allow the same charters in all their points, in pleas before them and in judgments; that is to wit, the Great Charter of Liberties as the common law, and the Charter of the Forest according to the assize of the forest, for the improvement of our people.

ART. 2. And we will that, if any judgment be given from henceforth contrary to the points of the charters aforesaid by the justices or by other ministers of ours that hold plea before them against the points of the charters, it shall be undone and holden for nought.

ARTS. 3-4.⁴

¹ *Carta de foresta regis Henrici III* of 12 February 1225.

² Here follow the names of the witnesses to the number of 65: 1 archbishop, 11 bishops, 20 abbots, the chief justice, 8 earls, the constable and 23 nobles.

³ *Carta confirmation regis Edwardi I* [25 Edward I]. The translation given here is based upon the French text and English translation in *The Statutes: Second Revised Edition*, vol. 1 (London, 1888), pp. 53-56.

⁴ Repealed by the *Statute Law Revision Act* of 1888 [50 & 51 Victoria, c. 59].

ART. 5. And forasmuch as divers people of our realm are in fear that the aids and tasks which they have hitherto given to us towards our wars and other business, of their own grant and their own good will, howsoever they were made, might turn to a bondage to them and to their heirs, because they might be at another time found in the rolls, and so likewise the prizes taken throughout the realm by our ministers in our name, we have granted for us and our heirs that we shall not draw such aids, tasks or prizes into a custom, for any thing that hath been done heretofore or that may be found by roll or in any other manner.

ART. 6. Moreover, we have granted, for us and our heirs, as well to archbishops, bishops, abbots and priors and other folk of Holy Church, as also to earls and barons and to all the commonalty of the land, that for no business from henceforth we shall take of our realm such manner of aids, tasks or prizes, except by the common assent of all the realm and for the common profit thereof, saving the ancient aids and prizes due and accustomed.

ART. 7. And forasmuch as the majority of the commonalty of the realm find themselves sore grieved with the maletolts of wools, that is to wit, a toll of forty shillings for every sack of wool, and have made petitions to us to release the same, we at their requests have fully released it and have granted that we will not take such thing nor any other without their common assent and their good will, saving to us and our heirs the custom of wools, skins and leather, granted before by the commonalty of the realm aforesaid. In witness of which things we have caused these our letters to be made patents.

Witness Edward our son at London the tenth day of October, the twenty-fifth year of our reign.

And be it remembered that this same Charter, in the same terms, word for word, was sealed in Flanders under the King's Great Seal, that is to say, at Ghent the fifth day of November, the twenty-fifth year of the reign of our aforesaid lord the King, and sent into England.

STATUTUM DE TALLAGIO NON CONCEDENDO OF 1297.¹

ARTICLE 1. No tallage or aid shall be laid or levied by us or our heirs in our realm without the good will and assent of the arch-

¹ This document, cited by Walter of Hemingford under the name of *Articuli inserti in Magna Charta*, is not found in the authentic collections of the time. It is nevertheless cited as a statute in Article 1 of the *Petition of Right* (see below, p. 245), and was so decided by the judges in 1637. The translation given here is based upon the Latin text and English translation in *The Statutes: Second Revised Edition*, vol. 1 (London, 1888), pp. 56-57.

bishops, bishops and other prelates, earls, barons, knights, burgesses and other freemen of our realm.

ART. 2. No officer of ours or of our heirs shall take corn, wool, leather or any other goods of any manner of person without the good will and assent of the party to whom the goods belonged.

ART. 3. Nothing shall be taken from a sack of wool in the name or by occasion of maletolt.

ART. 4. We will and grant, for us and our heirs, that all clerks and laymen of our realm shall have all their laws, liberties and free customs as largely and wholly as they have used to have the same at any time when they had them best and most fully. And if any statutes have been made by us or our predecessors, or any customs brought in contrary to them or any manner of article contained in this present Charter, we will and grant that such manner of statutes and customs shall be void and null forevermore.

ARTS. 5-6.¹

PETITION OF RIGHT OF 7 JUNE 1628.²

TO THE KING'S MOST EXCELLENT MAJESTY.

ARTICLE 1. Humbly show unto our Sovereign Lord the King, the Lords Spiritual and Temporal, and Commons in Parliament assembled, that whereas it is declared and enacted by a statute made in the time of the reign of King Edward the First, commonly called *Statutum de tallagio non concedendo*, that no tallage or aid shall be laid or levied by the King or his heirs in this realm without the good will and assent of the archbishops, bishops, earls, barons, knights, burgesses, and other the freemen of the commonality of his realm; and by authority of Parliament holden in the five and twentieth year of the reign of King Edward the Third, it is declared and enacted that from thenceforth no person shall be compelled to make any loans to the King against his will, because such loans were against reason and the franchise of the land; and by other laws of this realm it is provided that none should be charged by any charge or imposition, called a benovolence, nor by such like charge: by which, the statutes before-mentioned and other the good laws and statutes of this realm, your subjects have inherited this freedom, that they should not be

¹ Article 5 grants pardon to different members of the aristocracy who had rebelled against the royal power. Article 6 contains measures to assure the publication and execution of the statute.

² *The Petition Exhibited to his Majestic by the Lords Spirituall and Temporall and Commons, in this present Parliament assembled, concerning divers Rights and Liberties of the Subjects, with the Kings Majesties Royall Aunsweere thereunto in full Parliament* [3 Charles I, c. 1]. The text given here is reprinted (in modern orthography) from *The Statutes: Second Revision Edition*, vol. 1 (London, 1888), pp. 585-588.

compelled to contribute to any tax, tallage, aid, or other like charge, not set by common consent in Parliament:

ART. 2. Yet nevertheless, of late divers commissions directed to sundry commissioners in several counties with instructions have issued, by means whereof your people have been in divers places assembled and required to lend certain sums of money unto your Majesty, and many of them, upon their refusal so to do, have had an oath administered unto them, not warrantable by the laws or statutes of this realm, and have been constrained to become bound to make appearance and give attendance before your Privy Council and in other places, and others of them have been therefore imprisoned, confined, and sundry other ways molested and disquieted: and divers othere charges have been laid and levied upon your people in several counties, by Lord Lieutenants, deputy lieutenants, commissioners for musters, justices of peace and others, by command or direction from your Majesty or your Privy Council, against the laws and free customs of this realm.

ART. 3. And whereas also by the statute called, "The Great Charter of the Liberties of England,"¹ it is declared and enacted, that no free-man may be taken or imprisoned or be disseised of his freehold or liberties, or his free customs, or be outlawed or exiled, or in any manner destroyed, but by the lawful judgment of his peers, or by the law of the land:

ART. 4. And in the eight and twentieth year of the reign of King Edward the Third, it was declared and enacted by authority of Parliament that no man, of what estate or condition that he be, should be put out of his lands or tenements, nor taken, nor imprisoned, nor disherited, nor put to death, without being brought to answer by due process of law:

ART. 5. Nevertheless, against the tenor of the said statutes and other the good laws and statutes of your realm to that end provided, divers of your subjects have of late been imprisoned without any cause showed, and when for their deliverance they were brought before your justices by your Majesty's writs of *habeas corpus*, there to undergo and receive as the court should order, and their keepers commanded to certify the causes of their detainer, no cause was certified, but that they were detained by your Majesty's special command, signified by the lords of your Privy Council, and yet were returned back to several prisons without being charged with anything to which they might make answer according to the law.

ART. 6. And whereas of late great companies of soldiers and mariners have been dispersed into divers counties of the realm and the inhabitants against their wills have been compelled to receive them

¹ See above, p. 240.

into their houses, and there to suffer them to sojourn, against the laws and customs of this realm, and to the great grievance and vexation of the people:

ART. 7. And whereas also by authority of Parliament, in the five and twentieth year of the reign of King Edward the Third, it is declared and enacted that no man shall be forejudged of life or limb against the form of the Great Charter and the law of the land; and by the said Great Charter and other the laws and statutes of this your realm, no man ought to be adjudged to death, but by the laws established in this your realm either by the customs of the same realm or by Acts of Parliament: and whereas no offender of what kind soever is exempted from the proceedings to be used and punishments to be inflicted by the laws and statutes of this your realm; nevertheless of late divers commissions under your Majesty's Great Seal have issued forth, by which certain persons have been assigned and appointed commissioners with power and authority to proceed within the land, according to the justice of martial law against such soldiers and mariners, or other dissolute persons joining with them, as should commit any murder, robbery, felony, mutiny, or other outrage or misdemeanor whatsoever, and by such summary course and order as is agreeable to martial law and is used in armies in time of war, to proceed to the trial and condemnation of such offenders, and them to cause to be executed and put to death, according to the law martial.

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

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

ART. 8. They do therefore humbly pray your most excellent Majesty, that no man hereafter be compelled to make or yield any gift, loan, benevolence, tax, or such like charge, without common consent by Act of Parliament; and that none be called to make answer, or take such oath, or to give attendance, or be confined, or otherwise molested or disquieted concerning the same, or for refusal thereof; and that no freeman, in any such manner as in before-mentioned, be

imprisoned or detained; and that your Majesty will be pleased to remove the said soldiers and mariners, and that your people may not be so burdened in time to come; and that the aforesaid commissions for proceeding by martial law, may be revoked and annulled; and that hereafter no commissions of like nature may issue forth to any person or persons whatsoever, to be executed as aforesaid, lest by colour of them any of your Majesty's subjects be destroyed or put to death, contrary to the laws and franchise of the land.

All which they most humbly pray of your most excellent Majesty, as their rights and liberties according to the laws and statutes of this realm; and that your Majesty would also vouchsafe to declare, that the awards, doings and proceedings to the prejudice of your people, in any of the premises, shall not be drawn hereafter into consequence or example; and that your Majesty would be also graciously pleased, for the further comfort and safety of your people, to declare your royal will and pleasure, that in the things aforesaid all your officers and ministers shall serve you, according to the laws and statutes of this realm, as they tender the honour of your Majesty, and the prosperity of this kingdom.¹

HABEAS CORPUS ACT OF 1679.²

ARTICLE 1. Whereas great delays have been used by sheriffs, gaolers, and other officers, to whose custody any of the King's subjects have been committed for criminal or supposed criminal matters, in making returns of writs of *habeas corpus* to them directed, by standing out an *alias* and *pluries habeas corpus*, and sometimes more. and by other shifts to avoid their yielding obedience to such writs, contrary to their duty and the known laws of the land, whereby many of the King's subjects have been and hereafter may be long detained in prison, in such cases where by law they are bailable, to their great charge and vexation. For the prevention whereof, and the more speedy relief of all persons imprisoned for any such criminal or supposed criminal matters, be it enacted by the King's most excel-

¹ This Petition was read in Parliament on 2 June 1628, together with the King's answer as follows:

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

This reply not being considered clear enough, Parliament requested another. On 7 June the King appeared in person and pronounced the following French formula, *Soit droit fait come est désiré*, which, according to usage, signified assent pure and simple to the terms of the petition.

² An Act for the better securing the Liberty of the Subject and for Prevention of Imprisonments beyond the Seas [31 Charles II, c. 2]. The text given here is reprinted (in modern orthography) from *The Statutes: Second Revised Edition*, vol. 1 (London, 1888), pp. 672-680.

lent 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 thereof, that whensoever any person or persons shall bring any *habeas corpus* directed unto any sheriff or sheriffs, gaoler, minister, or other person whatsoever, for any person in his or their custody, and the said writ shall be served upon the said officer, or left at the gaol or prison with any of the under-officers, under-keepers or deputy of the said officers or keepers, that the said officer or officers, his or their underofficers, under-keepers or deputies, shall, within three days after the service thereof as aforesaid (unless the commitment aforesaid were for treason or felony, plainly and specially expressed in the warrant of commitment), upon payment or tender of the charges of bringing the said prisoner, to be ascertained by the judge or court that awarded the same, and endorsed upon the said writ, not exceeding twelve pence per mile, and upon security given by his own bond to pay the charges of carrying back the prisoner, if he shall be remanded by the court or judge to which he shall be brought according to the true intent of this present Act, and that he will not make any escape by the way, make return of such writ: and bring or cause to be brought the body of the party so committed or restrained, unto or before the Lord Chancellor, or Lord Keeper of the Great Seal of England for the time being, or the judges or barons of the said court from whence the said writ shall issue, or unto and before such other person or persons before whom the said writ is made returnable, according to the command thereof; and shall then likewise certify the true causes of his detainer or imprisonment, unless the commitment of the said party be in any place beyond the distance of twenty miles from the place or places where such court or person is or shall be residing; and if beyond the distance of twenty miles, and not above one hundred miles, then within the space of ten days, and if beyond the distance of one hundred miles, then within the space of twenty days, after such the delivery aforesaid, and no longer.

ART. 2. And to the intent that no sheriff, gaoler or other officer may pretend ignorance of the import of any such writ, be it enacted by the authority aforesaid that all such writs shall be marked in this manner, *per statutum tricesimo primo Caroli secundi regis*, and shall be signed by the person that awards the same; and if any person or persons shall be or stand committed or detained as aforesaid, for any crime, unless for treason or felony plainly expressed in the warrant of commitment, in the vacation-time, and out of term, it shall and may be lawful to and for the person or persons so committed or detained (other than persons convict or in execution) by legal process, or any one on his or their behalf, to appeal or complain

to the Lord Chancellor or Lord Keeper, or any one of his Majesty's justices, either of the one bench or of the other, or the barons of the exchequer of the degree of the coif; and the said Lord Chancellor, Lord Keeper, justices or barons or any of them, upon view of the copy or copies of the warrant or warrants of commitment and detainer, or otherwise upon oath made that such copy or copies were denied to be given by such person or persons in whose custody the prisoner or prisoners is or are detained, are hereby authorized, and required, upon request made in writing by such person or persons or any on his, her or their behalf, attested and subscribed by two witnesses who were present at the delivery of the same, to award and grant an *habeas corpus* under the seal of such court whereof he shall then be one of the judges, to be directed to the officer or officers in whose custody the party so committed or detained shall be, returnable immediate before the said Lord Chancellor or Lord Keeper, or such justice, baron or any other justice or baron of the degree of the coif of any of the said courts; and upon service thereof as aforesaid, the officer or officers, his or their underofficer or under-officers, under-keeper or under-keepers, or deputy, in whose custody the party is so committed or detained, shall within the times respectively before limited, bring such prisoner or prisoners before the said Lord Chancellor or Lord Keeper, or such justices, barons or one of them, before whom the said writ is made returnable, and in case of his absence before any of them, with the return of such writ, and the true causes of the commitment and detainer; and thereupon within two days after the party shall be brought before them, the said Lord Chancellor or Lord Keeper, or such justice or baron before whom the prisoner shall be brought as aforesaid, shall discharge the said prisoner from his imprisonment, taking his or their recognizance, with one or more surety or sureties, in any sum according to their discretions, having regard to the quality of the prisoner and nature of the offence, for his or their appearance in the court of king's bench the term following, or at the next assizes, sessions, or general gaol-delivery of and for such county, city, or place where the commitment was, or where the offence was committed, or in such other court where the said offence is properly cognizable, as the case shall require, and then shall certify the said writ with the return thereof, and the said recognizance or recognizances into the said court where such appearance is to be made; unless it shall appear unto the said Lord Chancellor or Lord Keeper, or justice or justices, or baron or barons, that the party so committed is detained upon a legal process, order or warrant, out of some court that hath jurisdiction of criminal matters, or by some warrant signed and sealed with the hand and seal of any of the said justices or barons,

or some justice or justices of the peace, for such matters or offences for the which by the law the prisoner is not bailable.

ART. 3. Provided always, and be it enacted that if any person shall have willfully neglected, by the space of two whole terms after his imprisonment, to pray a *habeas corpus* for his enlargement, such person so willfully neglecting shall not have any *habeas corpus* to be granted in vacation-time, in pursuance of this act.

ART. 4. And if any officer or officers, his or their underofficer or underofficers, under-keeper or under-keepers, or deputy, shall neglect or refuse to make the returns aforesaid, or to bring the body or bodies of the prisoner or prisoners according to the command of the said writ, within the respective times aforesaid, or upon demand made by the prisoner or person in his behalf, shall refuse to deliver, or within the space of six hours after demand shall not deliver, to the person so demanding, a true copy of the warrant or warrants of commitment and detainer of such prisoner, which he and they are hereby required to deliver accordingly; all and every the head goalers and keepers of such prisons, and such other person in whose custody the prisoner shall be detained, shall for the first offence forfeit to the prisoner or party grieved the sum of one hundred pounds, and for the second offence the sum of two hundred pounds, and shall and is hereby made incapable to hold or execute his said office, the said penalties to be recovered by the prisoner or party grieved, his executors or administrators, against such offender, his executors or administrators, by any action of debt, suit, bill, plaint, or information, in any of the King's courts at Westminster, wherein no essoin, protection, privilege, injunction, wager of law, or stay of prosecution by *non vult ulterius prosequi*, or otherwise, shall be admitted or allowed, or any more than one imparlance, and any recovery or judgment at the suit of any party grieved shall be a sufficient conviction for the first offence, and any after recovery or judgment, at the suit of a party grieved for any offence after the first judgment, shall be a sufficient conviction to bring the officers or person within the said penalty for the second offence.

ART. 5. And for the prevention of unjust vexation by reiterated commitments for the same offense, be it enacted by the authority aforesaid that no person or persons, which shall be delivered or set at large upon any *habeas corpus*, shall at any time hereafter be again imprisoned or committed for the same offence by any person or persons whatsoever, other than by the legal order and process of such court wherein he or they shall be bound by recognizance to appear, or other court having jurisdiction of the cause; and if any other person or persons shall knowingly contrary to this act recommit or imprison, or knowingly procure or cause to be recommitted or imprisoned, for the same offence or pretended offence, any person

or persons delivered or set at large as aforesaid, or be knowingly aiding or assisting therein, then he or they shall forfeit to the prisoner or party grieved the sum of five hundred pounds; any colourable pretence or variation in the warrant or warrants of commitment notwithstanding to be recovered as aforesaid.

ART. 6. Provided always that if any person or persons shall be committed for high treason or felony, plainly and specially expressed in the warrant of commitment, upon his prayer or petition in open court the first week of the term, or first day of the sessions of oyer and terminer or general gaol-delivery, to be brought to his trial, shall not be indicted some time in the next term, sessions of oyer and terminer or general gaol-delivery, after such commitment, it shall and may be lawful to and for the judges of the court of King's bench and justices of oyer and terminer or general gaol-delivery, and they are hereby required, upon motion to them made in open court the last day of the term, sessions or gaol-delivery, either by the prisoner or any one in his behalf, to set at liberty the prisoner upon bail, unless it appear to the judges and justices upon oath made, that the witnesses for the King could not be produced the same term, sessions or general gaol-delivery; and if any person or persons committed as aforesaid, upon his prayer or petition in open court the first week of the term or first day of the sessions of oyer and terminer and general gaol-delivery, to be brought to his trial, shall not be indicted and tried the second term, sessions of oyer and terminer or general gaol-delivery, after his commitment, or upon his trial shall be acquitted, he shall be discharged from his imprisonment.

ART. 7. Provided always that nothing in this act shall extend to discharge out of prison any person charged in debt, or other action, or with process in any civil cause, but that after he shall be discharged of his imprisonment for such his criminal offence, he shall be kept in custody according to the law, for such other suit.

ART. 8. Provided always that if any person or persons subject of this realm shall be committed to any prison or in custody of any officer or officers whatsoever, for any criminal or supposed criminal matter, that the said person shall not be removed from the said prison and custody into the custody of any other officer or officers, unless it be by *habeas corpus* or some other legal writ, or where the prisoner is delivered to the constable or other inferior officer to carry such prisoner to some common gaol, or where any person is sent by order of any judge of assize or justice of the peace to any common work-house or house of correction, or where the prisoner is removed from one prison or place to another within the same county, in order to his or her trial or discharge in due course of law, or in case of sudden fire or infection, or other necessity; and if any person or persons shall after such commitment aforesaid make out and sign or counter-

sign any warrant or warrants for such removal aforesaid, contrary to this act, as well he that makes or signs of countersigns such warrant or warrants as the officer or officers that obey or execute the same, shall suffer and incur the pains and forfeitures in this act before mentioned, both for the first and second offence respectively, to be recovered in manner aforesaid by the party grieved.

ART. 9. Provided also that it shall and may be lawful, to and for any prisoner and prisoners as aforesaid, to move and obtain his or their *habeas corpus* as well out of the high court of chancery or court of exchequer, as out of the courts of King's bench or common pleas, or either of them, and if the said Lord Chancellor or Lord Keeper, or any judge or judges, baron or barons for the time being, of the degree of the coif. of any of the courts aforesaid, in the vacation-time, upon view of the copy or copies of the warrant or warrants of commitment or detainer, or upon oath made that such copy or copies were denied as aforesaid, shall deny any writ of *habeas corpus* by this act required to be granted, being moved for as aforesaid, they shall severally forfeit to the prisoner or party grieved the sum of five hundred pounds, to be recovered in manner aforesaid.

ART. 10. And an *habeas corpus*, according to the true intent and meaning of this act, may be directed and run into any county palatine, the Cinque Ports, or other privileged places within the Kingdom of England, dominion of Wales, or town of Berwick upon Tweed, and the islands of Jersey or Guernsey, any law or usage to the contrary notwithstanding.

ART. 11. And for preventing illegal imprisonments in prisons beyond the seas, be it further enacted by the authority aforesaid that no subject of this realm that now is, or hereafter shall be, an inhabitant or resiant of this Kingdom of England, dominion of Wales, or town of Berwick upon Tweed, shall or may be sent prisoner into Scotland, Ireland, Jersey, Guernsey, Tangier, or into any parts, garisons, islands or places beyond the seas, which are or at any time hereafter shall be within or without the dominions of his Majesty, his heirs or successors; and that every such imprisonment is hereby enacted and adjudged to be illegal; and that if any of the said subjects now is or hereafter shall be so imprisoned, every such person and persons so imprisoned shall and may for every such imprisonment maintain by virtue of this Act an action or actions of false imprisonment in any of his Majesty's courts of record, against the person or persons by whom he or she shall be so committed, detained, imprisoned, sent prisoner or transported, contrary to the true meaning of this Act, and against all or any person or persons that shall frame, contrive, write, seal or countersign any warrant or writing for such commitment, detainer, imprisonment, or transportation, or shall be advising, aiding or assisting in the same, or any of them; and the

plaintiff in every such action shall have judgment to recover his treble costs, besides damages, which damages so to be given shall not be less than five hundred pounds; in which action no delay, stay or stop of proceeding by rule, order or command, nor no injunction, protection or privilege whatsoever, nor any more than one imparlance shall be allowed, excepting such rule of the court wherein the action shall depend, made in open court, as shall be thought in justice necessary, for special cause to be expressed in the said rule; and the person or persons who shall knowingly frame, contrive, write, seal or counter-sign any warrant for such commitment, detainer, or transportation, or shall so commit, detain, imprison or transport any person or persons contrary to this Act, or be any ways advising, aiding or assisting therein, being lawfully convicted thereof, shall be disabled from thenceforth to bear any office of trust or profit within the said realm of England, dominion of Wales, or town of Berwick upon Tweed, or any of the islands, territories or dominions thereunto belonging; and shall incur and sustain the pains, penalties and forfeitures limited, ordained and provided in and by the Statute of Provision and *Praemunire* made in the sixteenth year of King Richard the Second; and be incapable of any pardon from the King, his heirs or successors, of the said forfeitures, losses, or disabilities, or any of them.

ART. 12. Provided always that nothing is this Act shall extend to give benefit to any person who shall by contract in writing agree with any merchant or owner of any plantation, or other person whatsoever, to be transported to any parts beyond the seas, and receive earnest upon such agreement, although that afterwards such person shall renounce such contract.

ART. 13. Provided always that if any person or persons lawfully convicted of any felony shall in open court pray to be transported beyond the seas, and the court shall think fit to leave him or them in prison for that purpose, such person or persons may be transported into any parts beyond the seas, this Act or anything therein contained to the contrary notwithstanding.

ART. 14.¹

ART. 15. Provided also that if any person or persons at any time resident in this realm shall have committed any capital offence in Scotland or Ireland, or any of the islands, or foreign plantations of the King, his heirs or successors, where he or she ought to be tried for such offence, such person or persons may be sent to such place, there to receive such trial in such manner as the same might have been used before the making of this Act, anything herein contained to the contrary notwithstanding.

ART. 16. Provided also that no person or persons shall be sued, impleaded, molested or troubled for any offence against this Act, un-

¹ Repealed by the *Statute Law Revision Act* of 1863.

less the party offending be sued or impleaded for the same within two years at the most after such time wherein the offence shall be committed, in case the party grieved shall not be then in prison: and if he shall be in prison, then within the space of two years after the decease of the person imprisoned, or his or her delivery out of prison, which shall first happen.

ART. 17. And to the intent no person may avoid his trial at the assizes or general gaol-delivery, by procuring his removal before the assizes, at such time as he can not be brought back to receive his trial there, be it enacted that after the assizes proclaimed for that county where the prisoner is detained, no person shall be removed from the common gaol upon any *habeas corpus* granted in pursuance of this Act, but upon any such *habeas corpus* shall be brought before the judge of assize in open court, who is thereupon to do what to justice shall appertain.

ART. 18. Provided nevertheless that, after the assizes are ended, any person or persons detained, may have his or her *habeas corpus* according to the direction and intention of this Act.

ART. 19. And if any information, suit or action shall be brought or exhibited against any person or persons for any offence committed or to be committed against the form of this law, it shall be lawful for such defendants to plead the general issue, that they are not guilty, or that they owe nothing, and to give such special matter in evidence to the jury that shall try the same, which matter being pleaded had been good and sufficient matter in law to have discharged the said defendant or defendants against the said information, suit or action, and the said matter shall be then as available to him or them, to all intents and purposes, as if he or they had sufficiently pleaded, set forth or alleged the same matter in bar or discharge of such information, suit or action.

ART. 20. And because many times persons charged with petty treason or felony, or as accessories thereunto, are committed upon suspicion only, whereupon they areailable, or not, according as the circumstances making out that suspicion are more or less weighty, which are best known to the justices of peace that committed the persons, and have the examinations before them, or to other justices of the peace in the county, be it therefore enacted, that where any person shall appear to be committed by any judge or justice of the peace, and charged as accessory before the fact, to any petty treason or felony, or upon suspicion thereof, or with suspicion of petty treason or felony, which petty treason or felony shall be plainly and specially expressed in the warrant of commitment, that such person shall not be removed or bailed by virtue of this Act, or in any other manner than they might have been before the making of this Act.

BILL OF RIGHTS OF 13 FEBRUARY 1689.¹

ARTICLE 1. Whereas the Lords Spiritual and Temporal, and Commons, assembled at Westminster, lawfully, fully and freely representing all the estates of the people of this realm, did, upon the thirteenth day of February, in the year of our Lord one thousand six hundred eighty-eight, present unto their Majesties, then called and known by the names and style of William and Mary, Prince and Princess of Orange, being present in their proper persons, a certain declaration in writing, made by the said Lords and Commons, in the words following, viz.:²

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

And whereas the said late King James the Second having abdicated the government, and the throne being thereby vacant, his Highness the Prince of Orange (whom it hath pleased Almighty God to make the glorious instrument of delivering this kingdom from popery and arbitrary power) did (by the advice of the Lords Spiritual and Temporal, and diverse principal persons of the Commons) cause letters to be written to the Lords Spiritual and Temporal, being Protestants, and other letters to the several counties, cities, universities, boroughs, and Cinque Ports, for the choosing of such persons as represent them, as were of right to be sent to Parliament, to meet and sit at Westminster upon the two and twentieth day of January, in this year one thousand six hundred eighty and eight, in order to such an establishment, as that their religion, laws and liberties might not again be in danger of being subverted; upon which letters elections have been accordingly made.

And thereupon the said Lords Spiritual and Temporal, and Commons, pursuant to their respective letters and elections, being now assembled in a full and free representation of this nation, taking into their most serious consideration the best means for attaining the ends aforesaid, do in the first place (as their ancestors in like case have usually done), for the vindicating and asserting their ancient rights and liberties, declare:

That the pretended power of suspending of laws, or the execution of laws, by regal authority, without consent of Parliament, is illegal.

¹ *An Act declaring the Rights and Liberties of the Subject and settling the Succession of the Crowne* [1 William and Mary, sess. 2, c. 12]. The text given here is reprinted (in modern orthography) from *The Statutes: Second Revised Edition*, vol. 1 (London, 1888), pp. 690–696.

² Here follows the enumeration of twelve complaints of Parliament against the government of the late King James II. These are taken up almost word for word in the reply to the several complaints below.

That the pretended power of dispensing with laws, or the execution of laws, by regal authority, as it hath been assumed and exercised of late, is illegal.

That the commission for erecting the late Court of Commissioners for ecclesiastical causes, and all other commissions and courts of like nature, are illegal and pernicious.

That levying money for or to the use of the Crown, by pretence of prerogative, without grant of Parliament, for longer time or in other manner than the same is or shall be granted, is illegal.

That it is the right of the subjects to petition the King, and all commitments and prosecutions for such petitioning are illegal.

That the raising or keeping a standing army within the kingdom in time of peace, unless it be with consent of Parliament, is against law.

That the subjects which are Protestants may have arms for their defence suitable to their conditions, and as allowed by law.

That election of members of Parliament ought to be free.

That the freedom of speech, and debates or proceedings in Parliament, ought not to be impeached or questioned in any court or place out of Parliament.

That excessive bail ought not to be required, nor excessive fines imposed; nor cruel and unusual punishments inflicted.

That jurors ought to be duly impanelled and returned, and jurors which pass upon men in trials for high treason ought to be freeholders.¹

That all grants and promises of fines and forfeitures of particular persons before conviction are illegal and void.

And that for redress of all grievances, and for the amending, strengthening, and preserving of the laws, Parliament ought to be held frequently.

And they do claim, demand and insist upon all and singular the premises, as their undoubted rights and liberties; and that no declarations, judgments, doings or proceedings, to the prejudice of the people in any of the said premises, ought in any wise to be drawn hereafter into consequence or example. To which demand of their rights they are particularly encouraged by the declaration of his Highness the Prince of Orange, as being the only means for obtaining a full redress and remedy therein. Having therefore an entire confidence that his said Highness the Prince of Orange will perfect the deliverance so far advanced by him, and will still preserve them from the violation of their rights, which they have here asserted, and from all other attempts upon their religion, rights, and liberties.

¹ "And jurors . . . freeholders." Repealed by 6 *George IV*, c. 50, s. 62.

The said Lords Spiritual and Temporal, and Commons, assembled at Westminster, do resolve that William and Mary, Prince and Princess of Orange, be and be declared King and Queen of England, France¹ and Ireland, and the dominions thereunto belonging.²

Upon which their said Majesties did accept the Crown and royal dignity of the Kingdoms of England, France, and Ireland, and the dominions thereunto belonging, according to the resolution and desire of the said Lords and Commons contained in the said declaration. And thereupon their Majesties were pleased that the said Lords Spiritual and Temporal, and Commons, being the two houses of Parliament, should continue to sit, and with their Majesties' royal concurrence make effectual provision for the settlement of the religion, laws and liberties of this Kingdom, so that the same for the future might not be in danger again of being subverted; to which the said Lords Spiritual and Temporal, and Commons, did agree and proceed to act accordingly. Now in pursuance of the premises, the said Lords Spiritual and Temporal, and Commons, in Parliament assembled, for the ratifying, confirming and establishing the said declaration, and the articles, clauses, matters and things therein contained, by the force of a law made in due form by authority of Parliament, do pray that it may be declared and enacted that all and singular the rights and liberties asserted and claimed in the said declaration, are the true, ancient and indubitable rights and liberties of the people of this Kingdom, and so shall be esteemed, allowed, adjudged, deemed and taken to be, and that all and every the particulars aforesaid shall be firmly and strictly holden and observed, as they are expressed in the said declaration; and all officers and ministers whatsoever shall serve their Majesties and their successors according to the same in all times to come.³ All which their Majesties are contented and pleased shall be declared, enacted and established by authority of this present Parliament, and shall stand, remain and be the law of this realm forever; and the same are by their said Majesties, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in Parliament assembled,

¹ The title of King of France was borne by the King of England up to 1801.

² Here follow provisions governing the order of succession to the throne, the suppression of the former oaths of allegiance and supremacy and the creation of two new formulas of oaths (now virtually repealed) intended to replace them.

³ Here follow provisions (now merely matters of historical interest) concerning the recognition of the legitimate rights of William and Mary to the Crown of England, the establishment of the order of succession to the throne, the eventual exclusion from the throne of all the members of the royal family who might profess the "Popish" religion or whose spouse might profess this religion, the obligation imposed upon everyone called to succession to the throne to repeat audibly on the day of coronation the declaration mentioned in 30 *Charles II*, entitled "An Act for the more effectual preserving the King's person and government, by disabling Papists from sitting in either House of Parliament."

and by the authority of the same, declared, enacted or established accordingly.

ART. 2. And from and after this present session of Parliament, no dispensation by *non obstante* of or to any statute, or any part thereof, shall be allowed, but the same shall be held void and of no effect, except a dispensation be allowed of in such statute, and except in such cases as shall be specially provided for by one or more bill or bills to be passed during this present session of Parliament.

ART. 3.¹

ACT OF SETTLEMENT OF 12 JUNE 1701.²

ARTICLE 1.³

ART. 2.⁴

ART. 3. And whereas it is requisite and necessary that some further provision be made for securing our religion, laws and liberties, from and after the death of his Majesty and the Princess Anne of Denmark, and in default of issue of the body of the said princess and of his Majesty respectively; 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 Parliament assembled, and by the authority of the same:

That whosoever shall hereafter come to the possession of this crown shall join in communion with the Church of England as by law established.

That in case the crown and imperial dignity of this realm shall hereafter come to any person, not being a native of this Kingdom of England, this nation be not obliged to engage in any war for the defence of any dominions or territories which do not belong to the Crown of England, without the consent of Parliament.⁵

That no pardon under the Great Seal of England be pleadable to an impeachment by the commons in Parliament.

ART. 4. And whereas the laws of England are the birthright of the people thereof, and all the Kings and Queens who shall ascend the throne of this realm ought to administer the government of the same according to the said laws, and all their officers and ministers

¹ Repealed by the *Statute Law Revision Act of 1867* [30 & 31 Victoria, c. 59].

² *An Act for the further Limitation of the Crown and better securing the Rights and Liberties of the Subject* [12 & 13 William III, c. 2]. The text given here is reprinted (in modern orthography) from *The Statutes: Second Revised Edition*, vol. 1 (London, 1888), p. 758-762.

³ Establishment of the eventual rights of Princess Sophia, electrix of Hanover, to succeed to the crown of England, in default of Princess Anne of Denmark and her line.

⁴ Exclusion of those who profess the "Popish" religion from eligibility to succeed to the throne.

⁵ Here follow four paragraphs, subsequently repealed.

ought to serve them respectively according to the same; the said Lords Spiritual and Temporal and Commons do therefore further humbly pray that all the laws and statutes of this realm for securing the established religion and the rights and liberties of the people thereof and all other laws and statutes of the same now in force may be ratified and confirmed, and the same are by his Majesty, by and with the advice and consent of the said Lords Spiritual and Temporal and Commons, and by authority of the same, ratified and confirmed accordingly.

GREECE.

After a long period of Turkish domination and a few stormy years as a republic, Greece was recognized as an independent monarchy on 22 January/3 February 1830 by the Conference of London.¹ By the Treaty of London of 25 April/7 May 1832,² the new monarchy accepted Prince Otto of Bavaria as King. The latter ruled without a Constitution for eleven years, the first six of which were under a regency, but a military revolution (3/15 September 1843) caused him to convene a constituent Assembly at Athens, which eventually (4/16 March 1844) adopted a Constitution³ modeled after the French Charter of 14 August 1830⁴ and the Belgian Constitution of 7 February 1831⁵ and admitting the system of bicameral assembly. The King took the oath to this Constitution on 18/30 March.

The revolution of 10/22 October 1862, which overthrew King Otto, brought George of Denmark to the throne on 6 June 1863. The following year a general revision of the Constitution was made (29 October) by the National Assembly which had chosen the new King. The latter took the oath to this Constitution on 16/28 November 1864.⁶ The Senate was abolished and the legislative power entrusted (Article 22) to the King and a single house. A law of 25 November/7 December 1865 abrogated Articles 83–86 concerning the Council of State.

In 1911 the Constitution was modified and a substitute for a second chamber was adopted in the reestablishment of the Council of State. This Constitution came into force 1/14 June 1911. From present indications, it is probable that the Constitution will be revised again in the near future.⁷

¹ French text in *British and Foreign State Papers*, 17: pp. 191–195.

² French and English texts in parallel columns in *British and Foreign State Papers*, 19: pp. 33–41; English text in HERTSLET, *Map of Europe by Treaty*, vol. 1 (London, 1875), pp. 893–899.

³ French text in *British and Foreign State Papers*, 32: pp. 989–1000.

⁴ French text in *British and Foreign State Papers*, 17: pp. 1013–1018.

⁵ French text in *British and Foreign State Papers*, 18: pp. 1052–1065.

⁶ French translation in *British and Foreign State Papers*, 56: pp. 572–584, and F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, pp. 301–317; and German translation in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 589–599.

⁷ These introductory paragraphs are based upon DARESTE, *op. cit.*, pp. 299–300, and POSENER, *op. cit.*, pp. 587–589. Cf. also *The Statesman's Yearbook* (1917 and 1918).

CONSTITUTION OF 1/14 JUNE 1911.¹

[PREAMBLE.]

In the Name of the Holy, Consubstantial and Indivisible Trinity, the Second National Assembly of the Greeks in Athens decrees:

RELIGION.

ARTICLE 1. The Established Religion in Greece is that of the Eastern Orthodox Church of Christ. Every other known religion is tolerated and the forms of its worship are carried out without hindrance under the protection of the laws, proselytism and all other interference with the established religion being prohibited.

ART. 2. The Orthodox Church of Greece, acknowledging for its Head our Lord Jesus Christ, is indissolubly united in doctrine with the Great Church in Constantinople and with every other Church of Christ holding the same doctrine, steadfastly observing, as they do, the holy apostolic and synodal canons and holy traditions; it is autocephalous, exercising its sovereign rights independently of every other Church, and it is administered by a Holy Synod of Bishops. The ministers of all recognized religions are subjected to the same superintendence on the part of the State as the ministers of the established religion.

The text of the Holy Scriptures is maintained unchanged; the rendering thereof in another form of language without the previous sanction of the Great Church of Christ in Constantinople also is absolutely prohibited.

THE PUBLIC RIGHTS OF THE GREEKS.

ART. 3. The Greeks are equal in the eye of the law and contribute without distinction to the public burdens according to their ability; and only Greek citizens are admissible to all public employments, saving the special exceptions introduced by special laws. Citizens are those who have acquired or shall acquire the qualifications of citizenship in accordance with the laws of the State. Titles of nobility or distinction are neither conferred on Greek citizens nor recognized by them.

ART. 4. Personal liberty is inviolable; no man may be prosecuted, arrested, imprisoned or otherwise confined, except when and as the law provides.

¹ Translation taken from a manuscript belonging to the U. S. Department of State, English translation also in the *British and Foreign State Papers*, 108: pp. 482-497.

ART. 5. Except when taken in the act, no man may be arrested or imprisoned without a judicial warrant stating the reason, which must be served at the moment of arrest or detention. He who is detained on being taken in the act or on a warrant of arrest must be brought without delay before the competent examining judge within 24 hours of his arrest at the latest, or, if the arrest occurred beyond the limits of the district of the examining judge, within the time absolutely necessary for his conveyance. The examining judge must, within at the most three days of his appearance, either release the person arrested or deliver a warrant for his imprisonment. In the event of either of these terms having passed without such action, every jailer or other person, civil or military, charged with the detention of the arrested person, must release him instantly. Those who violate the above provisions are punished for illegal detention and are obliged to make good any loss sustained by the injured party and further to indemnify him in a sum of money fixed at the discretion of the judge but never less than ten drachmas per diem.

ART. 6. In case of political offenses, the Council of the Judges of the Court of Misdemeanors can always, on demand of the person detained, allow his release under bail fixed by a judicial order, against which an appeal is allowed. In case of these offenses, preliminary detention can never be prolonged beyond three months.

ART. 7. No punishment may be inflicted unless previously fixed by law.

ART. 8. No one may be withdrawn without his consent from the [jurisdiction of the] judge assigned to him by law.

ART. 9. Each individual or many together possess the right, on conforming with the laws of the realm, to address petitions in writing to the public authorities, who are bound to take prompt action and to furnish the petitioner with an answer in writing, in accordance with the provisions of the law. Only after the final decision of the authority to whom the petition was addressed, and by leave of that authority, may inquiry be made as to responsibility on the part of the petitioner for offenses contained in the petition.

ART. 10. The Greeks have the right to meet quietly and unarmed; only at public assemblages the police may be present. Assemblages in the open air may be prohibited, if danger to public security is imminent from them.

ART. 11. The Greeks possess the right of association, conforming with the laws of the State, and in no case can the laws subject this right to previous permission on the part of the government.

An association can not be dissolved for infraction of the provisions of the law except by a judicial decision.

ART. 12. The dwelling is inviolable. Domiciliary visits can only be made when and as the law directs.

Offenders against these provisions are punished for abuse of authority and are bound fully to indemnify the injured party and further to compensate him in a sum of money fixed at the discretion of the Law Court but never less than one hundred drachmas.

ART. 13. In Greece human beings may neither be bought nor sold; a slave, purchased or otherwise, of every race and religion, is free from the time he sets foot on Greek soil.

ART. 14. Everyone may publish his opinions by speech, by writing or by printing, observing the laws of the realm. The press is free. Censorship and every other preventive measure is prohibited. The seizure of newspapers and other printed treatises whether before or after publication is likewise prohibited. Exceptionally seizure after publication is permitted on account of insult to the Christian religion or to the person of the King, or, in cases determined by law, on account of indecent publications manifestly offending public decency; but in such case, within 24 hours, after the seizure, both the public prosecutor must submit the case to the Judicial Council and the Council must decide whether the seizure is to be maintained or withdrawn; otherwise the seizure is *de jure* raised. Appeal is allowed against the order only to the publisher of the article seized and not to the public prosecutor.

The publication of news or communications relating to military movements or to the fortifications of the country may be prohibited in such manner as the law shall direct, under threat of seizure and criminal prosecution. In case of seizure the provisions above stipulated are applied.

Both the publisher of a newspaper and the author of a reprehensible publication relating to private life, in addition to the penalty imposed according to the terms of the criminal law, are civilly and conjointly liable fully to redress any loss occasioned and to indemnify the injured party in a sum of money fixed at the discretion of the judge but never less than 200 drachmas.

Only Greek citizens are allowed to publish newspapers.

ART. 15. No oath may be imposed except in the form provided by law.

ART. 16. Education, which is under the supreme supervision of the State, is conducted at the State expense.

Elementary education is obligatory for all, and is given free by the State.

Private persons and corporations are allowed to establish private schools conducted in accordance with the Constitution and the laws of the realm.

ART. 17. No one may be deprived of his property except for the public benefit duly proven, when and as the law directs and always after indemnification. The indemnification is always fixed through the judicial channel. In case of urgency it may be provisionally fixed judicially after the beneficiary has been heard or summoned and the beneficiary may be obliged, at the discretion of the judge, to give a proportionate guarantee in the manner defined by law. Until the final or provisional indemnification fixed is paid, all the rights of the proprietor are maintained intact, dispossession not being permitted.

Special laws settle the details respecting the proprietorship and disposal of mines, quarries, archaeological treasures, and mineral and running waters.

ART. 18. Torture and general confiscation are prohibited. Civil death is abolished. The penalty of death for political offenses, except when complicated by other crimes, is abolished.

ART. 19. No previous permission of the administrative authority is required to prosecute public or municipal officials for their punishable acts connected with their service, except in the case of ministers for which special provisions are laid down.

ART. 20. The secrecy of letters is absolutely inviolable.

THE FORM OF GOVERNMENT.

ART. 21. All powers have their source in the nation and are exercised in the manner appointed by the Constitution.

ART. 22. The legislative power is exercised by the King and the House of Representatives.

ART. 23. The right of proposing laws belongs to the House of Representatives and the King, who exercises it through the ministers.

ART. 24. No proposal regarding an increase of the budgetary expenditure by salary or pension, or in general for the advantage of a person, may originate from the House of Representatives.

ART. 25. A project of law rejected by either of the two Estates possessing the legislative power may not be again introduced in the same parliamentary session.

ART. 26. The authentic interpretation of the laws rests with the legislative power.

ART. 27. The executive power belongs to the King, and is exercised by the responsible ministers appointed by him.

ART. 28. The judicial power is exercised by the courts of law, and judicial decisions are executed in the King's name.

THE KING.

ART. 29. The person of the King is irresponsible and inviolable; his ministers are responsible.

ART. 30. No act of the King is valid, nor is it executed, if it be not countersigned by the competent minister, who is rendered responsible by his signature alone; in case of a change of the whole Ministry, if no one of the retiring ministers consent to countersign the decree dismissing the old and appointing the new Ministry, these are signed by the president of the new Ministry after taking the oath on appointment by the King.

ART. 31. The King appoints and dismisses his ministers.

ART. 32. The King is the highest authority of the State. He commands the land and sea forces, declares war, concludes treaties of peace, alliance and commerce, and communicates them to the House of Representatives with the necessary explanations as soon as the interest and the security of the State allow it. Nevertheless treaties of commerce and any others granting concessions concerning which according to other provisions of the present Constitution nothing can be determined without a law, or which lay a burden upon Greeks personally are not valid without the consent of the House of Representatives.

ART. 33. No cession or exchange of territory can take place without a law. The secret articles of a treaty can never subvert the open articles.

ART. 34. The King confers military and naval rank in accordance with the law; he appoints and dismisses public officials also according to the law, saving the exceptions determined by law, but he can not appoint an official to an office not [already] established by law.

ART. 35. The King issues the necessary decrees for the execution of the laws; but he can never delay the operation, nor except any one from the execution of the law.

ART. 36. The King sanctions and publishes the laws voted by the House of Representatives. A law not published within two months of the conclusion of the session is null.

ART. 37. The King convokes the House of Representatives in ordinary session once a year, and in extraordinary session as often as he deems expedient; he opens and closes each session either in person or by deputy, and he has the right of dissolving the House of Representatives, but the decree of dissolution, countersigned by the Ministry, must at the same time include the convocation of the electors within 45 days and of the House of Representatives within three months:

ART. 38. The King has the right, once only, to suspend the labors of a legislative session, either by postponing the opening or by interrupting the continuance of those labors.

The suspension can not exceed 30 days, nor can it be renewed during the session without the consent of the House.

ART. 39. The King has the right to pardon, commute and diminish the punishments awarded by the courts of law, saving in the case of the provisions concerning ministers; he has moreover the right to grant amnesty only in the case of political crimes under the responsibility of the Ministry.

ART. 40. The King has the right to confer the established decorations in accordance with the provisions of the law relative to this subject.

ART. 41. The King has the right to coin money according to law.

ART. 42. The Royal Civil List is fixed by law; the annual Civil List of King George I, in which is included the sum voted by the late Ionian Parliament, is fixed at 1,125,000 drachmas. This amount may be increased after ten years by a law.¹

ART. 43. King George after signing the present Constitution will take the following oath before the present National Assembly:

I swear in the name of the Holy, Consubstantial and Indivisible Trinity to defend the established religion of the Greeks, to guard the Constitution and the laws of the Greek nation, and to preserve and protect the national independence and integrity of the Greek State.

ART. 44. The King has no other powers than those expressly assigned to him by the Constitution and the special laws consistent with it.

SUCCESSION AND REGENCY.

ART. 45. The Greek Crown and its constitutional rights are hereditary, and pass to the legitimate and lawful descendants of King George I in direct line by order of primogeniture, preference being given to the males.

ART. 46. If no successor exist in accordance with the above stipulations, the King appoints one with the consent of the House of Representatives, convoked for the purpose, [and deciding] by the vote of two thirds of the total number of representatives and by open voting.

ART. 47. Every successor to the Greek throne must profess the religion of the Eastern Orthodox Church of Christ.

ART. 48. The crowns of Greece and of any other State whatever can never be united on the same head.

ART. 49. The King attains his majority on completing the eighteenth year of his age. Before ascending the throne he takes the oath comprised in Article 43 in the presence of the ministers, of the Holy Synod, of the representatives [present] in the capital and of

¹ This amount was increased about two years later to 2,000,000 drachmas.

the other higher authorities. The King convokes the House of Representatives within two months at the most, and repeats the oath before the representatives.

ART. 50. In case of the King's death, if the successor be a minor or absent, and there be no Regent already appointed, the House of Representatives, even if its term have expired or it have been dissolved, assembles without summons on the tenth day at latest after the King's death. The royal constitutional power is exercised by the Ministerial Council under in its own responsibility until the Regent have taken the oath or the successor have arrived. A special law will regulate the details concerning the Regency.

ART. 51. If, when the King dies, his successor be a minor, the House of Representatives, even if its terms have expired or it have been dissolved, assembles to choose a guardian; but a guardian is only chosen when none such is named in the will of the deceased King, or when the infant successor has not a mother remaining in her widowhood, who is then called as of right to the guardianship of her child. The guardians of the infant King, whether appointed by will or chosen by the House of Representatives, must be a Greek citizen of the Eastern faith.

ART. 52. In case of a vacancy of the throne the House of Representatives, even if its term have expired or it have been dissolved, provisionally elects a Greek citizen of the Eastern faith as Regent, and the Ministerial Council exercises under its own responsibility the royal constitutional power in the name of the nation until the Regent have taken the oath; within two months at the latest representatives equal in number to the members of the House are elected by the citizens, and these, meeting in one body with the House of Representatives, choose a King by a majority of two thirds of the whole number and by open voting.

ART. 53. If the King owing to sickness deem necessary the establishment of a Regency, he convokes the House with this object and invites through the Ministry [the passing of] a special law to this effect. If the King is not in a state to reign, the Ministerial Council convokes the House of Representatives, and the House when it meets, if it recognizes the necessity by a majority of three fourths of the votes, chooses a Regent and, if necessary, a guardian, by open voting.

A special law will settle the details concerning a Regency in case of the absence of the King from the Kingdom.

THE HOUSE OF REPRESENTATIVES.

ART. 54. The House of Representatives assembles annually by inherent right on the 1st of October [old style] in regular session for

the business of the year unless the King convoke it for this business earlier in conformity with Article 37.

The duration of each regular session may not be less than three months, in which the period of suspension according to Article 38 is not computed.

ART. 55. The House of Representatives sits in public in the Parliament House, but may debate with closed doors on the demand of the members if it be so decided in secret sitting by a majority, and afterwards it decides whether the debate on the same subject ought to be resumed in public sitting.

ART. 56. The House of Representatives can not debate without the presence of at least one third of the total number of its members, nor can it take any decision without an absolute majority of the members present, which majority can in no case be less than four fifths of the minimum number of the quorum.

In case of an equality of votes, the motion is rejected.

ART. 57. No project of law is adopted unless it have been discussed and voted by the House of Representatives, once in principle and twice article by article and as a whole, on three different days.

After the vote in principle, the project under discussion is sent to a committee of the House, if it has not been previously so sent or if it has not been elaborated by the Council of State; and after it has been revised by the committee, or the period fixed for that purpose has expired, the debate article by article follows in different sittings not less than two days apart from each other. But in exceptional circumstances the House may, declaring the project urgent, abstain from sending it to a committee and may reduce to one day the interval between the two discussions article by article.

If amendments are admitted at the time of the last discussion, the vote of the project as a whole is postponed until what has been voted has been printed and distributed as amended.

The voting of judicial codes previously prepared by special committees constituted by special laws may take place by means of a particular law sanctioning the said codes as a whole. The project of such a law may not be declared urgent.

The codification of existing provisions by simple rearrangement, or the entire reënactment of repealed laws, except laws relating to taxation may be effected in the same manner.

ART. 58. No one without a summons may present himself before the House of Representatives to make any statement verbally or in writing, but petitions are presented by a member or deposited at the office. The House has the right to send the petition addressed to it to the ministers, who are bound to give explanations whenever they are demanded; the House can also appoint from among its members committees to examine the subjects.

ART. 59. No tax can be imposed or collected without a law. Exceptionally, in the case of imposition or increase of an import duty the collection of it is permitted from the date of the presentation to the House of the project concerning it, upon the express condition of the publication of the law at latest within ten days of the close of the parliamentary session.

ART. 60. In its annual ordinary session the House of Representatives votes for the ensuing financial year the strength of the military and naval forces, the conscription for the army and navy, and the budget, and decides concerning the final accounts. All the revenue and expenditure of the State must be shown in the budget and in the final accounts.

The budget is brought into the House within the first two months of the session, and after being examined by a special committee of members, it is voted in one reading chapter by chapter and article by article, in sections to be settled in the regulations of the House, and on four different days, but a division by roll call is to be taken on the total estimates of each ministry.

The final account of the last financial year is brought into the House within a year at latest after its close. It is examined by a special committee of members, and is voted by the House in the manner to be settled in its regulations.

ART. 61. No salary, pension, allowance or remuneration is inscribed in the budget of the State, or is granted, without an organic or other special law.

ART. 62. A representative can not be prosecuted, nor in any way questioned on account of an opinion or vote given by him in the exercise of his duty as a representative.

ART. 63. During the parliamentary session a representative can not be prosecuted, arrested or imprisoned without the leave of the body; such leave is not required in case of discovery *in flagrante delicto*. Personal detention can not be exercised against a representative during the parliamentary session, four weeks before its beginning and three after its termination.

If a representative chance to be undergoing personal detention he is released without four weeks before the beginning of the session.

ART. 64. Before beginning their duties the representatives take the following oath in the Parliament House and in public sittings:

I swear in the name of the Holy, Consubstantial and Indivisible Trinity to observe fidelity to the country and to the Constitution and the laws of the State, and conscientiously to fulfill my duties.

Representatives belonging to other religions, instead of the invocation "in the name of the Holy, Consubstantial and Indivisible Trinity," swear according to the formula of their own religion.

ART. 65. The House of Representatives determines by its regulations the manner of fulfilling its duties.

ART. 66. The House of Representatives is composed of representatives chosen by the citizens having the right to elect by direct, universal and secret suffrage.

The parliamentary elections are ordered and carried out simultaneously throughout the realm.

ART. 67. The representatives represent the nation and not only the electoral district by which they are returned.

ART. 68. The number of representatives from each electoral district is fixed by law in proportion to the population. But the total number of representatives can never be less than 150.

ART. 69. The representatives are elected for four consecutive years, commencing from the date of the general elections; and at the end of the quadrennial parliamentary period the holding of general parliamentary elections is ordered. Within 45 days from the holding of these elections the House of Representatives is obligatorily summoned to an ordinary session only if the late House have not fulfilled, for the year in which the elections were held, the stipulations of Article 60.

A representative's seat vacated during the last year of the period is not filled, provided that the number of vacancies do not exceed one fourth of the total number of representatives.

ART. 70. To be elected representative it is necessary to be a Greek citizen, to have completed the 25th year and to be lawfully qualified to elect.

A representative who loses these qualifications is *ipso facto* deprived of the character of representative. Should doubt arise upon this point the House of Representatives decides.

ART. 71. Salaried public servants, military men on the active list, mayors, notaries, custodians of mortgages and deeds of transfer, and process-servers can not be elected representatives unless they have resigned their functions before the day of nomination of candidates.

The duties of a representative are incompatible with the business of a manager or other representative, director or salaried legal adviser or employee of mercantile societies or undertakings enjoying special privileges or a regular subvention in virtue of a special law.

Those who belong to one of those categories must within eight days of the validation of their election declare their choice between the position of representative and their business as above; in default of such declaration they *ipso facto* lose the position of representative.

The incompatibility of other business also with the character of a representative may be established by law.

ART. 72. Representatives undertaking any one of the duties or businesses referred to in the preceding article *ipso facto* lose the character of a representative.

ART. 73. The examination and the trial of parliamentary elections against the validity of which objections are raised referring either to electoral irregularities in the course of them or to the absence of qualifications (in the elected candidate) are referred to a special tribunal chosen by lot from among all the members of the Areopagus [Court of Cassation] and of the Courts of Appeal of the realm. The drawing of lots is effected by the Areopagus in public sitting, and the presidency of the special tribunal is occupied by the member who takes precedence by rank or seniority. The details with regard to its functions and to its entire procedure will be settled by a law.

Resignation of the representative character is the right of the representative.

ART. 74. The House of Representatives elects from among its members at the beginning of each parliamentary session its president, its vice-president and its secretaries.

ART. 75. Representatives resident at Athens and the Piræus receive as compensation from the public treasury at the beginning of every quarter 800 drachmas [\$160]; the rest 1,000 drachmas [\$200].

An additional allowance of 250 drachmas a month is granted to the regular president of the House of Representatives for contingent expenses.

In no circumstances is any other compensation granted to representatives for the fulfilment of their duties.

ART. 76. In case of absence of a representative for more than five sittings per month without the leave of the House, during an ordinary or extraordinary session, 20 drachmas for each sitting are retained out of the above compensation.

THE MINISTERS.

ART. 77. No member of the royal family can be appointed minister.

ART. 78. The ministers have free entrance to the sittings of the House of Representatives, and are listened to whenever they demand a hearing; but they only vote if they are members. The House can require the presence of ministers.

ART. 79. In no case can an order from the King, whether written or verbal, release the ministers from responsibility.

ART. 80. The House of Representatives has the right to impeach ministers, in accordance with the laws concerning ministerial responsibility, before the tribunal *ad hoc* presided over by the president of

the Areopagus [Court of Cassation] and composed of 12 judges drawn by lot by the president of the House in public sitting from among all the members and president of the Courts of the Areopagus and of Appeal already appointed before the impeachment, in the manner more specifically determined by the law.

ART. 81. The King can pardon a minister, condemned according to the above provisions, only with the consent of the House of Representatives.

THE COUNCIL OF STATE.

ART. 82. To the province of the Council of State belong particularly:

1. The elaboration of projects of law and of decrees containing regulations.

2. The decision of differences, concerning a contested administrative act, which are submitted to it by law.

3. The invalidation on petition, for infringement of the law, of acts of the administrative authorities, in accordance with details more particularly fixed in the law.

4. The supreme disciplinary jurisdiction over irremovable administrative officials according to the laws dealing with that subject.

In cases provided for in Paragraphs 2, 3 and 4, Articles 92 and 93 of the Constitution apply.

ART. 83. The Council of Ministers decides what projects of law shall be entrusted to the Council of State for elaboration before they are presented to the House of Representatives. The House may refer to the Council of State the projects submitted to it.

The budget is never referred to the Council of State.

ART. 84. Decrees containing regulations are issued after opinion given by the Council of State, which pronounces within a suitable period fixed by the competent minister; should this period pass without any action being taken, the decree is issued without [the Council's] opinion.

The opinion of the Council of State is not binding on the minister.

ART. 85. The members of the Council of State are ordinary and extraordinary. The number of them is fixed by law, but that of ordinary members can not be less than 7 nor more than 15, nor that of extraordinary members more than 10. The extraordinary members are chosen from among the superior public servants of the State other than judicial, at an additional salary fixed by the law.

ART. 86. The ordinary members of the Council of State are appointed by royal decree on the proposal of the Ministerial Council. The term of service is ten years, and those who have completed their

service may be reappointed. But on the first establishment of the Council of State the term of service, as regards one third to be chosen by lot, shall be considered to be at an end on the completion of the eighth year of its activity as regards the second third on the completion of the tenth, and as regards the last third on the completion of the twelfth year.

The duties of the ordinary members of the Council of State are incompatible with the duties of any other public, communal or ecclesiastical official with the exception of those of professor of legal and political sciences in the National University and those of minister; but the simultaneous exercise of the functions of minister and councillor of State is never permitted.

A special law shall regulate the qualifications of the ordinary members of the Council of State, the conditions of their retirement during their term of service, the details of an auxiliary staff, and everything relating to the organization and working of the Council of State.

THE JUDICIAL POWER.

ART. 87. Justice is administered by judges appointed by the King according to the law.

ART. 88. The members of the Areopagus [Court of Cassation], Courts of Appeal and Courts of First Instance are appointed for life, and the public prosecutors, their substitutes, justices of the peace, special magistrates, clerks and assistant clerks of the courts and of the public prosecutors' offices, notaries and custodians of mortgages and deeds of transfer are irremovable, so long as their respective service exist. Judicial functionaries enjoying life tenure or irremovability can not be dismissed without a judicial sentence consequent either upon a criminal conviction, upon disciplinary faults, or upon illness or incapacity, attested in such manner as the law shall direct, and the provisions of Articles 92 and 93 being observed.

They retire obligatorily from the service on the completion of the limit of age fixed by law, which for the members of the Areopagus can not be higher than the 75th nor lower than the 65th year, and for all other salaried judicial officials not higher than the 70th nor lower than the 60th year.

Until the passing of a new special law concerning an age limit all the above salaried judicial officials retire on the completion of their 65th year.

ART. 89. The qualifications of judicial officials in general are fixed by law.

ART. 90. Judicial officials, except assistant clerks, appointed for life or irremovable are placed, transferred and promoted by a Supreme Judicial Council, composed of members of the Areopagus in such manner as is directed by law.

Promotion to the posts of president, vice-president and public prosecutor of the Areopagus is not within the province of the Supreme Judicial Council.

ART. 91. Judicial committees and extraordinary tribunals under whatsoever name are not allowed to be set up.

A special law shall regulate, for the eventuality of a state of war or of a general mobilization on account of external dangers, the details of the temporary total or partial suspension of Articles 5, 6, 10, 11, 12, 14, 20 and 95 of the Constitution, of the proclamation of a state of siege and of the establishment and working of exceptional tribunals. The said law can not be modified during the course of the labors of the House of Representatives summoned for the purpose of putting it into operation. It is put into operation as regards all or some only of its provisions, throughout the whole realm or part of it, by a royal decree issued with the consent of the House of Representatives.

If the House is not in session the law may be put into operation without its consent by a royal decree countersigned by the whole Ministerial Council. By the same royal decree, under penalty of its invalidity, the House of Representatives is summoned to meet within five days, even if its term have expired or if it have been dissolved, in order that by an act of its own it may decide as to the maintenance or the withdrawal of the provisions of the royal decree. The parliamentary immunity of Article 63 commences from the publication of the royal decree.

The application of the above royal decree is extended, in the case of war, no longer than the termination of it, and in the case of mobilization it is automatically raised after two months if in the meantime its validity have not been extended by further consent of the House of Representatives.

ART. 92. The sittings of the courts of law are public, except when publicity would be injurious to good morals or public order, but then the courts must issue a decision to that effect.

ART. 93. Every judgment must be specially reasoned and must be pronounced in public sitting.

ART. 94. The jury system is retained.

ART. 95. Political offenses are tried by juries, as well as press offenses, when they do not concern private life.

ART. 96. A judge is not allowed to accept additional salaried service, except that of professor in the University.

ART. 97. The details concerning military or naval courts martial, piracy, barratry and prize courts are regulated by special laws.

THE COURT OF ACCOUNTS.

ART. 98. The members and assessors of the Court of Accounts are appointed for life and are only dismissed under the conditions of Article 88, but they obligatorily retire from the service upon attaining the age limit fixed by the law, which can not be higher than the 75th nor lower than the 65th year. The qualifications of the members and assessors of the Court of Accounts are fixed by law.

GENERAL PROVISIONS.

ART. 99. Without a law foreign troops can not be received into the Greek service, nor remain in the State nor pass through it.

ART. 100. Only when and as the law directs can military and naval men be deprived of their rank, honors and pensions.

ART. 101. Contested administrative cases continue to be carried before the ordinary tribunals, by which they are judged as urgent, excepting those questions for which special laws set up administrative tribunals by which the provisions of Articles 92 and 93 are to be observed. Pending the publication of special laws the existing laws concerning administrative jurisdiction remain in force.

Petitions of final appeal against the decisions of the administrative tribunals belong exclusively to the jurisdiction of the Council of State from the moment when it shall have begun to perform its functions. Conflicts [of jurisdiction] between judicial and administrative authorities or between the Council of State and administrative authorities are judged by the Areopagus, until a special law shall have established to try them a mixed tribunal composed of equal numbers of the Areopagus and ordinary Councillors of State, under the presidency of the Minister of Justice or his substitute designated by the law.

ART. 102. The qualifications of administrative officials in general are fixed by law.

When the Council of State shall have begun to perform its functions, the above officials are irremovable from the date of their definitive appointment so long as their respective services exist; except in the cases of dismissal in virtue of a judicial decision, they are not transferred without an affirmative opinion, nor are they discharged or degraded without a special decision of a council organized according to law, and composed, as regards at least two thirds of its members, of irremovable officials. Against such de-

cision recourse to the Council of State is permitted in the manner more particularly laid down in the law.

Exceptions from the qualifications and the irremovability [of public officials] may be made in the cases of envoys and diplomatic agents, consuls general, secretaries general of ministries, private secretaries to ministers, prefects, the Royal Commissioner to the Holy Synod, and the Director General of Posts and Telegraphs.

ART. 103. Charges of wrongful administration of justice against members of the Areopagus, life members of the Court of Accounts and ordinary Councillors of State are tried before a special tribunal of five members, composed in such manner as the law directs [of persons] chosen by lot from among those three bodies, from advocates members of the Supreme Disciplinary Council, and from the professors of the faculty of law of the University, one member being taken from each body.

Before this tribunal are also brought all preparatory proceedings; and no other permission is required.

The same tribunal may also be empowered by law to try charges of wrongful administration of justice against judges of first instance, judges of appeal and public prosecutors.

ART. 104. The disciplinary authority over the members of the Court of Accounts, the Areopagus, and the Council of State is also exercised by a Council composed of two members of each of those bodies and two professors of the faculty of law of the University, all chosen by lot, under the presidency of the Minister of Justice.

As occasion requires, those of the members of the Council are left out who belong to the body upon whose proceedings the Council is called upon to pronounce, whether the whole of it or some only of its members are implicated.

ART. 105. The election of the municipal authorities is effected by universal suffrage.

ART. 106. Every Greek, capable of bearing arms, is under obligation to contribute towards the defense of the country according to the terms of the laws.

ART. 107. The official language of the State is that in which the texts of the Constitution and of the Greek legislation are drawn up; any attempt to corrupt it is prohibited.

ART. 108. The revision of the whole of the Constitution is not permitted.

Ten years after this provision has taken effect a revision of the non-fundamental provisions of the Constitution is permitted, whenever the House of Representatives, through two thirds of the total number of its members, demands it by a special act, particularly defining the provisions to be revised, and voted on two separate occasions distant not less than one month from one another.

The revision having been decided on, the existing House of Representatives is *ipso facto* dissolved and a new one is convoked, which during its first session takes a decision upon the articles to be revised, by an absolute majority of the total number of its members.

ART. 109. All laws and decrees, in so far as they are in contradiction with the present Constitution, are repealed.

ART. 110. The present Constitution takes effect as soon as it has been signed by the King, and the Ministerial Council must publish it in the *Official Gazette* within 24 hours of the signature.

Any revision of the non-fundamental provisions of the Constitution which is voted, is promulgated and published through the *Official Gazette* within ten days of its being voted by the House of Representatives, and is put into operation by a special resolution [of the House].

ART. 111. The preservation of the present Constitution is committed to the patriotism of the Greeks.

GUATEMALA.

Guatemala was one of the five nations forming the Central American Federation, and under the Federal Constitution of 22 November 1824¹ was given a separate Constitution. After the dissolution of the federal agreement, Rafael Carrera organized a separate government for the State of Guatemala and caused to be sanctioned by an assembly in the month of October, 1851, a "Constitutive Act of the Republic of Guatemala," which was amended on 29 January 1885. After the death of Carrera (14 April 1865) two attempts were made at constitutional reform, but neither accomplished lasting results. The present Constitution dates from 11 December 1879; it was modified in 1885, 1887, 1889, 1893, 1897 and 1903.²

CONSTITUTION OF 11 DECEMBER 1879.³

[PREAMBLE.]

We, the representatives of the sovereign people of Guatemala, lawfully called together and assembled in sufficient number, do hereby decree and sanction the fundamental laws which, united in a single body, form the following Constitution of the Republic.

TITLE I.—THE NATION AND ITS INHABITANTS.

ARTICLE 1. Guatemala is a free, sovereign and independent nation. The exercise of its sovereignty is delegated to the authorities established by the Constitution.

ART. 2. Guatemala shall maintain and cultivate intimate family and reciprocal relations with the other Republics of Central America. And whenever the Central American nationality should be again brought into existence in a stable, just, popular and suitable manner, the Republic of Guatemala shall be ready to become a part thereof.

¹ English translation in the *British and Foreign State Papers*, 13: pp. 725-747.

² This introductory paragraph is based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, pp. 561-562.

³ Spanish text and English translation of this Constitution and Transitory Provisions in parallel columns in J. I. RODRIGUEZ, *American Constitutions* (Washington, 1906), vol. I, pp. 236-258. English translation in the *British and Foreign State Papers*, 70: pp. 866-879, and 78: pp. 1007-1012, respectively. The translation given here is based upon the one in RODRIGUEZ.

ART. 3. The supreme power of the nation is republican, democratic and representative, and is divided, as to its exercise, into the legislative, executive and judicial powers; it shall be entirely independent in the exercise of its functions.

ART. 4. Guatemalans are divided into native and naturalized.

ART. 5. The following are native Guatemalans:

1. All those born or who may be born hereafter in the territory of the Republic, no matter what the nationality of their fathers may be, with the exception of the children of diplomatic agents.

2. Children of Guatemalan fathers or illegitimate children of Guatemalan mothers born in a foreign country, from the moment in which they establish their residence in the Republic; and even without this condition when, according to the laws of the place of birth, the nationality of Guatemala corresponds to them, or when, having the right to choose, they adopt Guatemalan citizenship.

ART. 6. Natives of the other Central American Republics who declare before competent authority their desire to become Guatemalans, shall be considered native Guatemalans.

ART. 7. The following are naturalized Guatemalans:

1. Spanish-Americans domiciled in the Republic, if they do not desire to retain their own nationality.

2. All other foreigners who have been naturalized in conformity with previous laws.

3. Those who obtain naturalization papers according to law.

ART. 8. The following are citizens:

1. Guatemalans over 21 years of age who know how to read and write, or who have an income, industry, trade or profession providing them with means of subsistence.

2. All those over 18 years of age who belong to the army.

3. All those over 18 years of age who have received a literary degree or title in a national establishment.

ART. 9. The rights inherent to citizenship are:

1. The electoral right.

2. The right to aspire to public office when the law requires citizenship as a qualification therefor.

ART. 10. When the law requires citizenship as a qualification for the exercise of any public function, the said function may be entrusted to foreigners who have all the other qualifications required by the same law; by the fact of their acceptance of the position they shall become naturalized citizens.

ART. 11. Citizenship is suspended, lost or recovered according to law.

ART. 12. The following are the duties of Guatemalans:

1. To serve and defend the country.

2. To obey the laws, respect the authorities and comply with the regulations of the police.

3. To contribute in the manner established by law to meet the public expenses.

ART. 13. Foreigners, from the moment of their arrival in the territory of the Republic, are strictly bound to respect the authorities and observe the laws, and acquire the right to be protected by them.

ART. 14. Neither Guatemalans nor foreigners shall have in any case the power to claim from the government indemnification for damages or injuries done to their persons or property by revolutionists.

ART. 15. Foreigners are bound to comply with the police laws and regulations, and to pay the local taxes, as well as all other taxes levied or to be levied hereafter, whether heavier or lighter, on commerce, industry, profession or property owned or possessed.

TITLE II.—GUARANTEES.

ART. 16. The authorities of the Republic are established to protect the inhabitants in the enjoyment of their rights, which are, liberty, equality, security of person, of honor and of property.

ART. 17. All power is originally vested in the nation. Officials are not the owners but the depositaries of the authority, subject to the law and never superior to it, and always responsible for their official conduct.

ART. 18. Primary instruction is compulsory; the instruction furnished by the nation is laical and gratuitous.

ART. 19. All persons are free to enter, remain in and leave the territory of the Republic, except in the cases determined by law.

ART. 20. Industry is free. The author or inventor enjoys the ownership of his work or invention for a period of time not exceeding 15 years, but literary property is perpetual.

The executive may grant concessions for a term not exceeding 10 years to those who introduce or establish new industries in the Republic.

ART. 21. All persons may freely dispose of their property, provided that by so doing they do not violate any law.

Entailments of property, however, and every endowment (*institución*) in favor of dead hands, are absolutely forbidden, excepting only those made in favor of charitable establishments.

ART. 22. The inhabitants of the Republic, whether nationals or foreigners, may direct their petitions to the authorities.

Armed forces shall not deliberate or exercise the right of petition.

ART. 23. The inhabitants of the Republic have free access to the courts of the country to exercise their actions in the form prescribed

by the laws. Foreigners shall not resort to diplomatic action except in case of denial of justice. For this purpose, the fact that a judgment obtained is not favorable to the claimant shall not be understood as a denial of justice.

ART. 24. The exercise of all religions, without preference for any particular one, is guaranteed in the interior of the temples; but this free exercise shall not be extended to the performance of acts subversive of or practices inconsistent with peace and public order, nor shall it give right to oppose the fulfillment of civil and political obligations.

ART. 25. The right of association and of peaceful assembly without arms is guaranteed, but the establishment of conventual congregations and all kinds of monastical institutions or associations is forbidden.

ART. 26. The expression of ideas, verbally, in writing, or through the press, without previous censorship, is free. Anyone abusing this right shall be responsible for it before the law. A jury shall take cognizance of all offenses and crimes committed through the press.

ART. 27. All the inhabitants of the Republic are free to give or receive the instruction which they may prefer, in establishments not supported with funds of the nation.

ART. 28. Property is inviolable; its expropriation shall only be ordered upon legal proof that the public interests are subserved thereby, and in this case the owner, before his property is seized, shall receive its just value in cash.

In case of war the indemnity need not be previous.

ART. 29. Services not to be rendered gratuitously under a law, or under a judicial decision founded on law, shall be justly remunerated.

ART. 30. No one shall be detained or imprisoned except by reason of crime or offense. The law determines the cases and the formalities for proceeding to detention or arrest.

ART. 31. Every detained person shall be examined within 48 hours; the detention shall not exceed five days; and within this period the authority which ordered it shall either give the reason for the warrant of imprisonment or discharge the prisoner.

ART. 32. No one shall be kept in solitary confinement except in the cases, for the time and with the formalities established by law; nor shall anyone be subject to restrictions not indispensable for his safe-keeping.

ART. 33. No warrant of imprisonment shall be issued without the summary information, previously obtained, that an offense punishable with corporal or pecuniary penalty has been committed and without present reasons legally sufficient for believing that the detained person is the delinquent.

ART. 34. The Constitution recognizes the right of *habeas corpus*, or let the prisoner be produced.¹

ART. 35. No one shall be compelled to testify against himself, his consort, ascendants, descendants, or brothers or sisters.

ART. 36. The defense of persons or rights before the courts is inviolable, and no one shall be tried by special tribunals.

ART. 37. The correspondence of every person and his private papers are inviolable. Only by order of the competent judge shall the former be detained and opened or the latter seized, in the cases and with the formalities required by law.

ART. 38. Domicile is inviolable. The law determines the formalities and the cases in which the domicile can be rightfully entered.

ART. 39. When the territory of the nation is invaded or attacked, or when public tranquility is in any way threatened, the President, with the advice of the Council of Ministers, shall suspend, by means of a decree, the individual guarantees described in this title, and he shall then state whether the suspension embraces the whole Republic or only one or more departments of the same; he shall also report the fact to the Assembly at the next session.

TITLE III.—THE LEGISLATIVE POWER.

SECTION I.—ORGANIZATION OF THE LEGISLATIVE POWER.

ART. 40. The legislative power is vested in the National Assembly.

ART. 41. The National Assembly shall meet every year on 1 March, even if not called to convene. Its ordinary sessions shall last two months, but this period may be extended a month longer.

ART. 42. The Assembly shall not hold any meeting without the presence of an absolute majority of the members of which it is composed; but the meeting of 15 deputies, at least, shall be sufficient for passing upon credentials and taking suitable measures against the obstacles to a majority in the Assembly.

ART. 43. The Assembly shall hold an extra session whenever it has been convoked by the executive power or the Permanent Committee, and in these cases it shall only discuss the subjects mentioned in the call.

ART. 44. Deputies, from the day of their election, shall enjoy the following prerogatives:

1. Personal immunity from indictment or trial, unless the Assembly previously authorizes the prosecution by declaring that criminal proceedings can be instituted; but they can be arrested in case of *flagrante delicto*.

¹ That is to say, so that the reasons for his detention may be stated. The last clause is merely a free rendering in the vernacular of the Latin law term.

2. Irresponsibility for all their opinions, for the introduction of any legislative measures and for the manner of doing business in the discharge of their duties.

These prerogatives do not authorize arbitrariness or excesses of personal initiative on the part of the deputies.

The rules of the Assembly shall establish the manner of repressing any abuses which may be committed.

ART. 45. After the declaration referred to in § 1 of the foregoing article has been made, the accused parties shall remain subject to the competent judge and suspended from the exercise of their legislative functions, which they shall not exercise unless they are acquitted. If they are condemned, their seats shall remain vacant and new elections shall be ordered to be held.

ART. 46. If the Assembly is not in session, the Permanent Committee shall declare whether or not criminal proceedings shall be instituted against the deputy.

ART. 47. Should any deputy be arrested *flagrante delicto*, he shall be placed immediately at the disposal of the Assembly, or of the Permanent Committee if the Assembly is not in session.

ART. 48. The Assembly shall consist of a deputy for each 20,000 inhabitants or for each fraction thereof exceeding 10,000.

The law shall provide the manner of holding the elections; but without modifying the principle of direct popular election.

ART. 49. To be elected deputy it is required to be in the exercise of the rights of citizenship and to be over 21 years of age.

ART. 50. Contractors of public works or services of any kind, the cost of which is defrayed with State funds, and those who in consequence of the said contracts have pending claims of their own private interest shall be ineligible to be deputies. The secretaries of State shall also be ineligible; as also, for the department or electoral district in which they exercise their functions, political chiefs, military commanders, judges of the first instance, collectors of public revenue and ministers of religion.

ART. 51. Deputies shall remain in the exercise of their functions four years, but the Assembly shall be renewed by halves every two years. For this purpose the Assembly shall, before closing the session of its first constitutional year, decide by lot the deputies who are to go out at the expiration of the first two-year period.

SECTION II.—ATTRIBUTIONS OF THE LEGISLATIVE POWER.

ART. 52. It belongs to the legislative power:

1. To open and close its ordinary and extraordinary sessions.

2. To count the votes for President of the Republic and to proclaim popularly elected the citizen who obtained an absolute majority of votes.

3. To elect the President from among the three candidates who obtained the greatest number of votes, in case there is no popular election because of the absence of an absolute majority of votes.

4. To appoint in the last meetings of each year the designates (*designados*).

5. To give possession [of his office] to the President of the Republic and to receive from him the declaration required by law.

6. To accept or refuse to accept, as it may deem advisable, the resignation of the President of the Republic.

7. To grant or refuse permission to the President of the Republic to absent himself from the territory of Central America.

8. To designate the person who shall act, during his absence, as President of the Republic, when the latter has obtained permission to absent himself from the territory of Central America.

9. To count the votes for president, magistrates and public prosecutors of the courts of justice, whose election shall be popular and direct, and to proclaim elected by the people the citizens who have obtained a plurality of votes.

10. To accept or refuse to accept the resignations of the president, magistrates and public prosecutors of the courts of justice, and designate, if the resignations are accepted, or if the offices become absolutely vacant, the persons who should fill the positions until the completion of the respective constitutional terms of office.

ART. 53. The Assembly also has power to declare whether or not impeachment proceedings shall be instituted against the President of the Republic, members of the cabinet, members of the Council of State, magistrates, public prosecutors of the superior courts and solicitors of the government.

The law of responsibilities determines the form of the impeachment proceedings and the tribunal which shall take cognizance of the case.

ART. 54. The legislative power also has the following attributions:

1. To enact, interpret, amend and repeal the laws which must be observed in all branches of the administration.

2. To fix every year the expenses of the public administration, approving or disapproving the estimates submitted by the executive power.

3. To levy the ordinary taxes and imposts required to cover the expenses of the government and the claims approved.

4. To approve or disapprove every year the account which the executive must submit of the funds disbursed in the public administration, and of any unforeseen expenses which may have been necessary.

5. To levy extraordinary taxes when the necessity so demands.

6. To authorize the executive power to enter into contracts and negotiate loans, either at home or abroad, and to pledge for their payment the revenues of the nation.

7. To examine the claims against the public treasury for credits not included in the estimates, and, if they are approved by the Assembly, to set aside funds for their amortization.

8. To fix the fineness, weight and denominations of the national currency, and to fix likewise the system of weights and measures.

9. To approve or disapprove, before their ratification, the treaties and conventions concluded by the executive with other countries.

10. To grant pensions and public honors for great services rendered to the nation.

11. To authorize the executive to send forth such laws as, owing to their extent, can not be despatched by the legislative power, to which, however, a report thereon should be submitted in due time.

12. To grant extraordinary faculties to the executive, when necessity or the interest of the Republic so demands, specifying in the decree what are the faculties granted.

13. To approve or disapprove the acts done by the executive power in the exercise of the faculties granted to him.

14. To appoint brigadier generals and generals of division upon nomination of the executive, accompanied for this purpose by the record of services of the nominee.

15. To declare war and approve treaties of peace.

16. To grant general amnesties and pardons when public utility may so demand.

ART. 55. The following attributions also belong to the Assembly:

1. To elect at the opening of the session its own president, vice-president and all the other functionaries who under the rules of the Assembly are necessary to complete its organization.

2. To be the judge of the election of its own members and approve or disapprove their credentials.

3. To accept or refuse to accept the resignations of its members, and order new elections to be held to fill the places vacant for this or any other reason.

4. To make rules for its internal government.

5. To compel the attendance of absent deputies and punish the offenses, by commission or omission, of those present.

SECTION III.—ENACTMENT AND APPROVAL OF THE LAWS.

ART. 56. Laws may be introduced in the Assembly on the proposal of some one of its members, through the initiative of the executive power or of the judicial power in matters of its competence.

ART. 57. The Assembly, in order to exercise the attributions enumerated in §§ 6 and 7 of Article 52 and § 4 of Article 55, shall

discuss. in three different meetings held on different days, the subject presented to it, and no vote shall be taken until said subject is held in the third meeting to have been sufficiently discussed.

In all the other formalities of proceedings the regulations prescribed by the rules of the Assembly shall be observed.

ART. 58. All bills passed by the Assembly shall be sent for approval to the executive.

ART. 59. The President shall approve the law passed by the Assembly and order it to be promulgated, but if he should find it unsuitable, he shall upon the advice of the Council of Ministers, withhold his approval and return it to the Assembly, within ten days, accompanied with the remarks that he may deem proper. The Assembly shall either reconsider the bill at once, or, if the remarks made by the executive are not accepted, postpone its reconsideration until the session of the next year. In the latter case, if the Assembly ratifies the bill by a two-thirds vote, the executive shall be bound to approve and promulgate the law.

ART. 60. If the executive does not return the bill within ten days to be counted from its despatch, it shall be considered approved and shall be promulgated as law. If the Assembly adjourns before the expiration of the ten days within which the return of the bill was possible, the executive must return it within the first eight days of the ordinary session of the following year.

ART. 61. The acts of the Assembly relating to its internal government, to the qualification of elections and the resignation of those elected, to the permission to prosecute or impeach public officials as set forth in Articles 44 and 53, and all the other provisions of Articles 52 and 55 shall not require the approval of the executive.

SECTION IV.—THE PERMANENT COMMITTEE.

ART. 62. Before closing its sessions the Assembly shall elect seven of its members to form the Permanent Committee, which shall at its first meeting designate its chairman.

ART. 63. The Permanent Committee shall have during the recess of the Assembly the following attributions:

1. To declare whether or not criminal proceedings may be instituted against a member of the Assembly in the cases mentioned in Articles 44 and 53.

2. To take up the unfinished business and put it in shape for proper consideration when the Assembly meets.

3. To call an extra session of the Assembly when the exigencies of the circumstances so demand.

The Permanent Committee shall meet at any time at the call of its chairman.

TITLE IV.—THE EXECUTIVE AND ITS ATTRIBUTIONS.

SECTION I.—ORGANIZATION OF THE EXECUTIVE.

ART. 64. A citizen with the title of "President of the Republic" exercises the executive power, and shall be elected popularly and directly.

ART. 65. To be elected President it is required:

1. To be a native of Guatemala or of any other Republic of Central America.

2. To be over 21 years of age.

3. To be in the enjoyment of the rights of citizenship.

4. To be of the secular estate.¹

ART. 66. The term of office of the President shall be six years.²

ART. 67. The President is responsible to the Assembly for his acts.

ART. 68. The President of the Republic shall turn his office over to the person selected for that purpose by the Assembly, when he, with the permission of the latter, decides to absent himself from the territory of Central America.

ART. 69. Two designates (*designados*), elected by the Assembly, shall fill, in the order of their election, the place of President of the Republic, in the cases set forth by the Constitution.

To be elected *designado* the same qualifications are required as to be elected President of the Republic.

In case of absolute vacancy of the office of President of the Republic, the executive power shall be transmitted to the first *designado*, and, in his default, to the second. In such a case, the *designado*, within eight days following the absolute vacancy, shall call for a presidential election, to be held within six months to be counted from the date of the call. The election having been held and the Assembly having made the declaration to which § 2 of Article 52 refers, the citizen elected shall at once take possession of the office, and his presidential term shall be computed from the fifteenth of March following.

ART. 70. The President of the Republic in taking possession of his office shall make the following solemn declaration:

I declare that I will fulfill with patriotism the office of President, and will observe and cause to be observed faithfully the Constitution of the Republic.

ART. 71. The President of the Republic shall have for the transaction of business the number of secretaries provided by law. Their appointment and removal belongs to the President.

¹ That is, not to be an ecclesiastic.

² As amended by the legislative decree of 12 July 1903 which repealed the prohibition of consecutive reelection.

ART. 72. To be a secretary of State it is required to be over 21 years of age and of the secular estate, to be in the exercise of the rights of citizenship, and not to be a contractor of public works, nor to be personally interested in claims arising out of said contracts.

ART. 73. The secretaries of State, in their respective departments, shall authorize the decisions of the President.

All orders and other provisions of the executive power shall be signed and communicated by the secretary of the department to which they belong.

ART. 74. The secretaries of State are jointly responsible with the President for all the acts of the latter authorized by them with their signatures.

ART. 75. The secretaries of State shall, during the first days of the ordinary session of the Assembly, submit a detailed report on the condition of the business of their respective departments.

ART. 76. The secretaries of State may attend the meetings of the Assembly and take part in the deliberations. They are bound to furnish all the information which may be asked of them and to answer to interpellations which may be directed to them upon administration affairs, except in matters which have reference to diplomatic transactions or to pending military operations.

SECTION II.—DUTIES AND ATTRIBUTIONS OF THE EXECUTIVE POWER.

ART. 77. The duties and attributions of the executive power are:

1. To defend the independence and honor of the nation and the inviolability of its territory.
2. To observe and cause to be observed the Constitution and the other laws.
3. To see to the prompt and complete administration of justice.
4. To see to the preservation of public order.
5. To render to the functionaries of the judicial power the assistance and force necessary to render their decisions effective.
6. To direct public instruction, create teaching establishments and make rules for those supported by national funds.

It has also the power to exercise supreme inspection over all the schools and other teaching establishments, even when not supported by national funds.

7. To attend to the collection and management of the national revenue, and order it to be disbursed according to law.

8. To appoint secretaries of State, accept their resignations, and separate them from the service.

9. To appoint from among three nominees of the Supreme Court of Justice the judges of first instance.

10. To appoint functionaries of the administrative and military order; to transfer them from one place to another when advisable for the good of the service.

11. To grant military grades up to and including that of colonel.

12. To command the army, organize and distribute it as may be deemed advisable.

13. To raise the force which may be necessary to repel foreign invasion or to prevent or put down domestic insurrections.

14. To appoint ministers plenipotentiary, ministers resident, *chargés d'affaires* and consuls for the service of the Republic in foreign countries.

15. To receive the ministers and other envoys of other nations and grant the *exequatur* to the patents of foreign consuls.

16. To give passports to the ministers and other envoys of other nations and to withdraw the *exequatur* to the patents of consuls in the cases prescribed by international law.

17. To issue the decrees and rules which may be necessary to facilitate and insure the execution of the laws in all branches of the administration.

18. To suspend, with the advice of the Council of Ministers, the constitutional guarantees, when the public order so demands.

19. To submit to the Assembly, for its approval, the treaties concluded by it.

20. To call the Assembly to convene in extra session, when grave and urgent matters may so require.

21. To approve the laws and promulgate such legislative acts as do not need executive approval.

ART. 78. The President of the Republic shall have power to commute the penalty which may be greater in the general scale of punishment to the penalty immediately inferior thereto, to grant pardons for political offenses, and even for common ones, when public utility may so demand, or when the petitioner has rendered signal services to the nation. A law shall regulate the exercise of this power.

SECTION III.—THE COUNCIL OF STATE.

ART. 79. The President of the Republic shall have a Council of State, consisting of the secretaries of State and nine councilors, five of whom shall be appointed by the Assembly and four by the President of the Republic.

ART. 80. The President of the Republic may appoint temporary councilors during the recess of the Assembly in order to fill the vacancies which may occur.

ART. 81. To be chosen councilor it is required to be over 21 years of age and to be in the exercise of the rights of citizenship.

ART. 82. The councilors shall continue in the exercise of their functions two years.

ART. 83. The attributions of the Council are:

1. To make rules for its internal government.
2. To give its opinion to the President of the Republic in all the matters about which he may consult it.

ART. 84. The councilors of State are responsible for the opinions given by them in opposition to the Constitution and the other laws.

TITLE V.—THE JUDICIAL POWER.

ART. 85. The judicial power is exercised by the judges and tribunals of the Republic; to them belongs the exclusive power of applying the laws in civil and criminal cases.

ART. 86. To be elected magistrate or public prosecutor it is necessary to be in the enjoyment of the rights of citizenship, to be over 21 years of age, to be a lawyer and of the secular estate.

ART. 87. The functionaries of the superior tribunals of justice and the judges of first instance shall continue four years in the exercise of their functions.

ART. 88. The power to render judicial decisions, and to enforce them, belongs exclusively to the tribunals.

ART. 89. The laws shall fix the manner and form according to which the trials shall be conducted.

ART. 90. All the inhabitants of the Republic shall be subject to the course of proceedings established by law.

ART. 91. No case shall have more than three instances, and the same judges shall not take cognizance of a case in different instances.

ART. 92. The judges, whatever their rank or category may be, are personally responsible for every violation of law committed by them, in accordance with the responsibility of the judicial power.

ART. 93. The law constituting the judicial power shall establish everything else concerning the judicial power.

TITLE VI.—THE GOVERNMENT OF THE DEPARTMENTS AND MUNICIPALITIES.

ART. 94. The law divides the national territory into departments in order that the government thereof may be better administered.

ART. 95. The President of the Republic shall appoint, for the government of each department, a political chief whose qualifications and attributions shall be fixed by law.

ART. 96. The law shall organize the municipalities without changing the principle of popular direct election and shall describe the powers belonging to them.

ART. 97. The municipalities shall establish, with the approval of the government, the means which they judge necessary to meet the object of their institution.

ART. 98. The government may, when it deems advisable, or at the request of the municipalities, reform the ordinances of each town and make ordinances for the towns which have none.

TITLE VII.—REFORM OF THE CONSTITUTION.

ART. 99.—The Assembly, by a two-thirds vote, shall have power to order the reform of the Constitution, indicating the article or articles which have to be changed.

ART. 100. The resolution to amend having passed, the executive power shall call a Constituent Assembly, which should meet within the three months following. The resolution mentioned in the preceding article shall be inserted in the call.

ART. 101. The Assembly shall consist of a delegate for each 15,000 inhabitants, and these delegates shall have the same qualifications as are required to be elected deputy.

ART. 102. The ordinary Assembly, as soon as the resolution to reform the Constitution is passed, shall adjourn *sine die*.

ART. 103. The reform having been made, a call shall be issued for the election of deputies for the ordinary legislature.

ART. 104. The present Constitution shall not lose its force and vigor, even when its observance is interrupted by a rebellion.

ART. 105. The amendments made to the Constitution on 23 October 1885 are null and void.

TRANSITORY PROVISIONS.¹

ARTICLE 1. The present amendments to the Constitutional Law shall begin to be in force from the date of their promulgation, when the suspension of the constitutional régime shall also cease.

ART. 2. The power is hereby granted the executive to exercise the attributions set forth in Article 8 of the present law (except those mentioned in §§ 4, 9 and 13) until the day on which the Legislative Assembly meets, to which an account shall be given of the acts committed in the exercise of such attributions.

ART. 3. The provisions of Article 5 of the Constitution shall not prevent the conclusion of the treaties which may now be pending and which were negotiated under the rule of the amendments made in October, 1885.

ART. 4. The suspension of the constitutional régime decreed on 26 June of the present year shall not interrupt the presidential term of General Don MANUEL LISANDRO BARRILLAS, who, in compliance

¹ The Constitution of 1879 was reenacted on 5 November 1887 and these transitory provisions were added. See above, p. 279, notes 2 and 3.

with the provisions of these amendments, shall, therefore, complete his term of office on 15 March 1892.

ART. 5. The executive is hereby given authority to call for a popular election of deputies to the Legislative Assembly, and of president, magistrates and public prosecutors of the courts of justice, for the constitutional period beginning on 15 March 1888, with the power to issue for this purpose the proper electoral laws.

ART. 6. The Constitutional Assembly, before closing its sessions, shall appoint two persons, who shall exercise the functions of *designados* until the next legislature, in use of the power vested in it by § 4 of Article 7 of the present decree, elects those who shall fill the position.

HAITI.

From 1790 to 1804 the French colony of Santo Domingo was blood stained by almost continual disturbances, in the midst of which Toussaint L'Ouverture published the Constitution of 9 May 1801. Gen. Dessalines proclaimed the independence of the island 1 January 1804, and took the title of Emperor under the name of Jacques the First. The new State again took the historic name of Haiti. After the murder of Dessalines (17 October 1806), civil wars ensued, and two States were established under Christophe and Pétion, respectively king of the northern provinces and president of the rest of the island. Upon the death of the former (1820), President Boyer effected the union of the two States and governed in a personal and authoritative manner until the revolution which overthrew him in 1843. The consequence of this revolution was the final separation of the eastern and Spanish part of the island, which took the name of Dominican Republic. Civil wars went on from 1842 to 1847, when Gen. Soulouque reestablished the empire for nine years. After his overthrow Geffrard restored the republic, but the empire returned with his successor, Salnave, who, however, was executed three years later. Since this period the Constitution of the Republic of Haiti has been renewed several times, first on 6 August 1874,¹ and finally, after continually recurring disturbances, on 9 October 1889.² The latter remained in force until the passage of the Constitution which follows.³

CONSTITUTION OF 12 JUNE 1918.⁴

TITLE I.—THE TERRITORY OF THE REPUBLIC.⁵

ARTICLE 1. The Republic of Haiti is one and indivisible, free, sovereign and independent.

¹ French text and English translation in parallel columns in J. I. RODRIGUEZ, *American Constitutions* (Washington, 1906), vol. II, pp. 52–88. Spanish translation in RODRIGUEZ, *op. cit.*, pp. 89–108. French text also in the *British and Foreign State Papers*, 81: pp. 64–87.

² French text in the *British and Foreign State Papers*, 65: pp. 1260–1280.

³ This introductory paragraph is based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, pp. 568–570, and RODRIGUEZ, *op. cit.*, pp. 49–51.

⁴ Translation by HERBERT F. WRIGHT from the French text in *Le Moniteur, Journal officiel de la République d'Haïti* (Port-au-Prince), of 19 June 1918.

⁵ Preceding this title in the official text appear the words, "Chapter First," which seem to have been inserted through error.

Its territory, including the islands adjacent thereto, is inviolable and shall not be alienated through any treaty or through any convention.

ART. 2. The territory of the Republic is divided into departments; each department is subdivided into districts (*arrondissements*); and each district into communes.

The number and the limits of these subdivisions shall be determined by law.

TITLE II.—HAITIANS AND THEIR RIGHTS.

SECTION I.—CIVIL AND POLITICAL RIGHTS.

ART. 3. The rules governing nationality shall be determined by law.

ART. 4. All foreigners who find themselves on Haitian territory shall enjoy the same protection as that extended to Haitians.

ART. 5. The right to own real estate shall be given to foreigners residing in Haiti and to the societies organized by foreigners for purposes of residence, and agricultural, commercial, industrial or educational enterprises.

This right shall cease after a period of five years from the date when the foreigner shall have ceased to reside in the country or the activities of said companies shall have ceased.

ART. 6. Every Haitian citizen over 21 years of age shall be entitled to exercise political rights, if he has the other qualifications required by the Constitution and by law. Foreigners may acquire the Haitian nationality by following the rules established by law. Naturalized Haitians shall be admitted to the exercise of political rights only after five years of residence in the territory of the Republic.

ART. 7. The exercise of political rights shall be suspended by virtue of a judicial condemnation which must have taken place in accordance with the laws of Haiti, carrying with it the suspension of civil rights.

SECTION II.—PUBLIC LAW.

ART. 8. Haitians are equal before the law. They shall be equally admissible to civil and military employments, without any reason for preference other than personal merit or services rendered to the country.

ART. 9. Individual liberty is guaranteed.

No one shall be detained except upon probable cause relating to an act punishable by law and upon the order of a legally competent functionary. For this warrant of arrest to be executed, it shall be necessary:

1. That it state the cause of the arrest and the provision of the law which punishes the imputed act.

2. That notice, together with a copy of the warrant, be given to the accused party at the moment of the arrest.

Except in case of *flagrante delicto*, the arrest shall be executed subject to the forms and conditions above stated.

All arrests and all detentions made in opposition to this provision, and all acts of violence or severity accompanying the arrest are arbitrary acts, against which the aggrieved parties may, without previous authorization, complain before the competent tribunals, and cause the authors or the executors to be prosecuted.

ART. 10. No one shall be tried by other judges than those assigned to him by the Constitution or the law.

ART. 11. Domiciliary visit and seizure of papers shall not be made except by virtue of the law and in the forms provided by it.

ART. 12. No law shall have a retroactive effect.

ART. 13. No penalty shall be established except by law, nor shall any penalty be imposed except in the cases which the law shall determine.

ART. 14. The right of property is guaranteed.

No one shall be deprived of his property except by reason of public utility, and in the cases and in the manner established by law, and upon previous payment of a just indemnity. Property shall not be confiscated for political reasons.

ART. 15. The penalty of death for political offenses is abolished except for the case of treason.

The law shall determine the penalty to be imposed in lieu thereof.

ART. 16. Every one has the right to express his opinions on all matters and to write, print and publish what he thinks. Writings shall not be submitted to previous censorship. Abuses of this right shall be defined and punished by law, without thereby abridging in any way whatever the freedom of the press.

ART. 17. All forms of worship are equally free.

Every one has the right to profess his religion and freely perform his worship, provided he does not disturb the public order.

ART. 18. Teaching is free.

Freedom of teaching shall be exercised under the control and the supervision of the State in accordance with the law.

Primary instruction shall be compulsory. Public instruction shall be gratuitous in all its grades.

ART. 19. Trial by jury is established in all criminal cases and also for political offenses and offenses committed through the press.

ART. 20. Haitians have the right to assemble peaceably and without arms for discussing any matter, provided they comply with the laws

regulating the exercise of this right, but no previous authorization shall be required for this purpose.

This provision shall not be applicable to meetings in public places which shall remain subject in all respects to the police regulations.

ART. 21. Haitians have the right to join and form societies in accordance with the law.

ART. 22. The right of petition shall be personally exercised by one or several individuals, never in the name of a body.

Petitions shall be addressed to the legislative power or to the executive power.

ART. 23. The secrecy of private correspondence entrusted to the mail is inviolable.

The law shall determine who shall be responsible for this violation.

ART. 24. French is the official language. Its employment shall be obligatory in administrative and judicial matters.

ART. 25. No previous authorization shall be required to prosecute public officials for acts done during their administration, except in those cases established by the Constitution.

ART. 26. Nothing shall be added to or taken away from the Constitution by means of law. The letter of the Constitution shall always prevail.

TITLE III.—THE SOVEREIGNTY AND THE POWERS TO WHICH THE EXERCISE THEREOF IS DELEGATED.

ART. 27. The national sovereignty resides in the citizens taken as a whole.

ART. 28. The exercise of this sovereignty shall be delegated to three powers: the legislative power, the executive power and the judicial power.

They shall form the government of the Republic, which is essentially civil, democratic and representative.

ART. 29. Each power shall be independent of the other two in its attributions which it exercises separately.

None of them shall delegate its faculties, nor go beyond the limits prescribed for it.

ART. 30. Individual responsibility shall be formally attached to all public functions.

The law shall govern the procedure to be followed against public officials for acts done during their administration.

CHAPTER I.

SECTION I.—THE LEGISLATIVE POWER.

ART. 31. The legislative power shall be exercised by two assemblies: one Chamber of Deputies and one Senate, which shall form the legislative body.

ART. 32. The number of deputies shall be fixed according to the population, on the basis of one deputy for every 60,000 inhabitants.

While the census of the population is being made, the number of deputies is fixed at 36, apportioned between the arrondissements actually existing, to wit: 3 deputies for the Arrondissement of Port-au-Prince; 2 each for the Arrondissements of Cap-Haïtien, Cayes, Port-de-Paix, Gonaïves, Jérémie, Saint-Marc and Jacmel; and 1 deputy each for the other arrondissements. The deputy shall be elected by a majority of the votes cast by the primary assemblies of the district in conformity with the manner and the conditions provided by law.

ART. 33. To be a member of the Chamber of Deputies, it shall be necessary:

1. To be over 25 years of age.
2. To be in the enjoyment of civil and political rights.
3. To have resided at least one year in the arrondissement to be represented.

ART. 34. The members of the Chamber of Deputies shall be elected for two years, and may be reelected indefinitely. They shall begin to discharge their office the first Monday of April of even numbered years.

ART. 35. In case of vacancy by reason of death, resignation, disqualification of a deputy, or for any other cause, provision shall be made for a successor in his electoral district, only for the remainder of his term, by a special election called immediately by the President of the Republic.

This election shall take place within a period of 30 days after the convocation of the primary assembly, in accordance with Article 107 of the present Constitution.

The same procedure shall take place in case of non-election in one or several districts.

SECTION II.—THE SENATE.

ART. 36. The Senate shall consist of 15 Senators.

Their functions shall last six years and shall begin the first Monday of April of even numbered years.

They may be reelected indefinitely.

ART. 37. The Senators represent the departments, which are five in number, to wit:

- 4 senators for the Department of the West.
- 3 each for the Departments of the North, South and the Artibonite.
- 2 for the Department of the North West.

Senators shall be elected by universal and direct suffrage in the primary assemblies of the several departments in accordance with the manner and the conditions prescribed by law.

Those candidates shall be elected who shall have obtained the highest number of votes in the departments.

In the first election after the adoption of the present Constitution, these elections shall take place in the following manner:

In each department the candidate who shall have obtained the highest number of votes shall be elected senator for this department for a period of six years; the candidate who shall have obtained the next highest number of votes shall be elected for a period of four years.

In each of the Departments of the North, of the South and of the Artibonite, the candidate who shall have obtained the third highest number of votes, and, in the Department of the West, the candidates who shall have obtained the third and fourth highest number of votes, shall be elected for a period of two years.

In the following and in the regular elections, the candidates who shall have obtained the highest number of votes in the several departments shall be elected for the entire period of six years.

The Senate shall be renewed by thirds every two years.

ART. 38. To be elected senator, it shall be necessary:

To be over 30 years of age.

To be in the enjoyment of civil and political rights.

To have resided at least two years in the department to be represented.

ART. 39. In case of vacancy by reason of death, resignation, disqualification of a senator, or any other cause, provision shall be made for a successor in his department only for the remainder of his term, by a special election called immediately by the President of the Republic.

This election shall take place within a period of 30 days after the convocation of the primary assembly, in accordance with Article 107 of the present Constitution.

The same procedure shall take place in case of non-election in one or several departments.

SECTION III.—THE NATIONAL ASSEMBLY.

ART. 40. The two houses shall meet in National Assembly, in the cases provided for by the Constitution.

The powers of the National Assembly shall be limited and shall not be extended to any other purposes than those which are specially assigned to it by the Constitution.

ART. 41. The president of the Senate shall preside over the National Assembly, the president of the Chamber of Commons shall be

the vice-president of it, and the secretaries of the Senate and of the Chamber of Commons shall be the secretaries of the National Assembly.

ART. 42. The attributions of the National Assembly shall be:

1. To elect the President of the Republic and to administer to him the constitutional oath.

2. To declare war, upon the report of the executive power.

3. To approve or to reject treaties of peace and other international treaties and conventions.

ART. 43. In the years of regular presidential elections, the National Assembly shall proceed to the election of the President of the Republic on the second Monday in April and shall not undertake any other work, remaining in permanent session except on Sundays and holidays, until the President shall have been elected.

ART. 44. The election of the President of the Republic shall be made by secret ballot and by an absolute majority.

If, after the first ballot, no candidate has secured the number of votes required for his election, a second ballot shall be taken. If on this second ballot no candidate is elected, the election shall be concentrated on the three candidates who have obtained the highest number of votes. If after three ballots none of the three has been elected, the balloting shall be between the two who have received the greatest number of votes, and the one who secures the majority of votes cast shall be proclaimed President of the Republic.

If the votes of the two candidates are equally divided, the election shall be decided by lot.

ART. 45. In case of vacancy of the office of President, the National Assembly must convene within ten days, with or without convocation of the Council of the Secretaries of the State.

ART. 46. The meetings of the National Assembly shall be public. Nevertheless, it may resolve itself into a secret committee at the request of five members and decide thereafter by an absolute majority whether or not the meeting should continue to be held in public.

ART. 47. In case of urgency at a time when the legislative body is not in session, the executive power may convene the National Assembly in extra session.

He shall communicate to the National Assembly, through a written message, the reasons for this convocation.

ART. 48. The presence in the National Assembly of a majority of each of the two houses is necessary to pass its resolutions; but a minority may adjourn from day to day in order to compel the absent members to attend the meeting, according to the manner and under the penalties which the National Assembly may prescribe.

CHAPTER II.

SECTION I.—THE EXERCISE OF THE LEGISLATIVE POWER.

ART. 49. The seat of the legislative body shall be in the capital of the Republic.

ART. 50. The legislative body shall meet each year, without need of express convocation, on the first Monday of April.

The session shall begin from the date when the bureaux¹ of the two houses are established.

The session shall last three months. In case of necessity, this period may be extended to four months by the executive power or by the legislative body.

The President of the Republic may adjourn the houses. But the adjournment shall not last over one month, and more than two adjournments shall not take place during the course of the same session.

ART. 51. In the interval between sessions, and in case of urgency, the President of the Republic shall call the legislative body to meet in extra session.

He shall explain to them, by means of a message, the reason for this measure.

In the case of being called to meet in extra session, the legislative body shall not take up any other matters foreign to those for which it has been convened.

ART. 52. Each house shall be the judge of the election of its members and shall decide absolutely the contests which may arise on the subject.

ART. 53. The members of each house shall individually take the oath to maintain the rights of the people and to be faithful to the Constitution.

ART. 54. The meetings of the two houses shall be public.

Each house may resolve itself into a secret committee at the request of five members and decide thereafter by an absolute majority whether or not the meeting should continue to be held in public in regard to the same subject.

ART. 55. The legislative power shall make the laws on all subjects of public interest.

The initiative [of the legislation] shall belong to each one of the two houses as well as to the executive power.

Nevertheless, the budgetary law, the law concerning the assessment, distribution and manner of collection of taxes and contributions, the laws having for their object the creation of revenue or increase of the expenses of the State shall be first voted by the Chamber of Deputies.

¹ That is, the officers and clerks necessary for the conduct of business.

In case of disagreement between the two houses in regard to these laws, each house shall draw by lot an equal number of members to form an interparliamentary commission which shall decide the disagreement with finality.

The executive power has the exclusive right to take the initiative with laws regarding the public expenses; and neither of the two houses has the right to increase in whole or in part the expenses proposed by the executive power.

ART. 56. Each house, by its own rules, shall establish its discipline and determine the method under which it shall exercise its attributions.

Each house may impose disciplinary penalties upon its members for reprehensible conduct and may expel a member by the vote of a majority of two thirds of its members.

ART. 57. The members of the legislative body, except in case of *flagrante delicto*, of treason or acts entailing a corporal or ignominious punishment, shall not be prosecuted or arrested by way of repression during the length of the session without the authorization of the house to which they belong.

In no case shall they be arrested while they are attending a meeting of their house or while they are on their way to and from it.

ART. 58. Neither of the two houses shall adopt any resolutions without the presence of an absolute majority of its members; however, a lesser number of members may adjourn from day to day and compel the absent members to attend the meeting according to the manner and under the penalties which each house may prescribe.

ART. 59. No act of the legislative body shall be passed except by a number of votes equal to or greater than the majority of the members present, except when otherwise provided for by the present Constitution.

ART. 60. No bill shall be adopted by either of the two houses without having been voted article by article.

ART. 61. Each house shall have the right to amend and revise the articles and amendments proposed. The amendments voted by one house shall not be made a part of a bill until they have been voted on by the other house; and no bill shall be enacted into law until after it has been voted on in the same form by the two houses. Any bill may be withdrawn before said bill is definitively voted upon.

ART. 62. Every law passed by the legislative body shall be immediately sent to the President of the Republic, who, before promulgating it, has the right to make objections thereto, in whole or in part.

In this case he shall return the law to the house in which it originated, together with his objections. If the law is amended by this house, it shall be sent to the other house, together with the objections.

If the law thus amended is passed by the second house, it shall be sent again to the President to be promulgated.

If the objections are rejected by the house which originally passed the bill, it shall be sent to the other house, together with the objections.

If the second house likewise votes to reject these objections, the law shall be sent to the President, who shall then be obliged to promulgate it.

The rejection of the objections shall be voted in both houses by a majority of two thirds of each house; in this case the vote of each house shall be by yeas and nays and shall be noted down in the margin of the minutes beside the name of each member of the Assembly.

If two thirds of either house shall not meet to consider the rejection of the objections, said objections shall be accepted.

ART. 63. The right to object should be exercised within eight days from the date of the presentation of the law to the President, exclusive of Sundays and days of adjournment of the legislative body, in accordance with Article 50 of the present Constitution.

ART. 64. If, within the period prescribed by the preceding article, the President of the Republic does not make any objection, the law shall be promulgated, unless the session of the legislative body shall have closed before the expiration of that period. In this case the law shall be held in abeyance.

ART. 65. A bill rejected by one of the two houses shall not be re-introduced during the same session.

ART. 66. The laws and other acts of the legislative body shall become official through the *Moniteur* and shall be inserted in the bulletin printed and numbered under the title, *Bulletin des Lois*.

ART. 67. The law shall take its date from the day of its definitive adoption by the two houses; but no laws shall become obligatory until after their promulgation, which is to be made according to law.

ART. 68. No one shall personally present petitions to the legislative body.

ART. 69. Each member of the legislative body shall receive a monthly indemnity of one hundred and fifty dollars, beginning from his taking of the oath.

ART. 70. The office of member of the legislative body is incompatible with any other office under the pay of the State.

CHAPTER III.—THE EXECUTIVE POWER.

SECTION I.—THE PRESIDENT OF THE REPUBLIC.

ART. 71. The executive power shall be exercised by a citizen who shall take the title of President of the Republic.

ART. 72. The President of the Republic shall be elected for four years.

He shall enter upon his duties on 15 May, except when he has been elected to fill a vacancy; in this case he shall be elected for the remainder of the term and he shall enter upon his duties immediately after his election.

The President shall be eligible for immediate reelection. A President who has been reelected shall not be elected for a third term unless after the expiration of a period of four years.

A citizen who has been elected President three times shall not be eligible for that office.

ART. 73. To be elected President of the Republic, it shall be necessary:

1. To have been born of a Haitian father and never to have renounced his nationality.

2. To be over 40 years of age.

3. To be in the enjoyment of civil and political rights.

ART. 74. The President shall, before entering upon his duties, take before the National Assembly the following oath:

I swear before God and before the nation to observe and cause to be observed faithfully the Constitution and the laws of the Haitian people, to respect the rights of the latter, to maintain the national independence and the integrity of the territory.

ART. 75. The President of the Republic shall appoint and remove the secretaries of State.

He shall be charged with seeing to the execution of the treaties of the Republic.

He shall seal the laws with the seal of the Republic and shall promulgate them within the time prescribed by Articles 62, 63 and 64.

He shall be charged with the enforcing of the Constitution and the laws, acts and decrees of the legislative body and of the National Assembly.

He shall issue all the regulations and decrees necessary for this purpose, without, however, the power to suspend or interpret the laws, acts and decrees themselves or to interfere with their enforcement.

He shall make appointments to public offices and positions, only by virtue of the Constitution or of some express provision of a law and under the conditions therein prescribed.

He shall provide according to law for the internal and external safety of the State.

He shall make all international treaties or conventions, subject to the approval of the National Assembly.

He shall have the right to grant pardons and commutation of punishment imposed by final judgments rendered in actual trial,

except in cases of impeachment by the courts or by the Chamber of Deputies, as is provided in Articles 100 and 101 of the present Constitution.

He shall grant amnesty in political matters according to the provisions of the law.

He shall command and direct the armed forces of the Republic and shall confer the grades according to the law.

He shall have power to demand a written report from the chief official of each of the ministerial departments on any subject relating to the conduct of their respective departments.

ART. 76. If the President shall become temporarily unable to exercise his functions, the Council of the Secretaries of State shall be charged with the executive authority so long as the disability exists.

ART. 77. In case of vacancy of the office of President, the Council of the Secretaries of State shall be vested temporarily with the executive power.

It shall immediately convene the National Assembly for the election of a successor for the remainder of the presidential term.

If the legislative body is in session, the National Assembly shall be convened without delay. If the legislative body is not in session, the National Assembly shall be called in accordance with Article 45.

ART. 78. All the acts of the President, except the decrees appointing or removing from office the secretaries of State, shall be countersigned by the secretary of State in charge of the matter concerned.

ART. 79. The President shall have no other powers than those formally attributed him by the Constitution and the special laws enacted by virtue of the Constitution.

ART. 80. At the opening of each session the President, by means of a message, shall render to each of the two houses separately an account of his administration during the year and shall present the general situation of the Republic both at home and abroad.

ART. 81. The President of the Republic shall receive from the public treasury an annual indemnity of twenty-four thousand dollars.

ART. 82. The President shall reside in the National Palace of the capital.

SECTION II.—THE SECRETARIES OF STATE.

ART. 83. The secretaries of State shall be five in number. They shall be distributed among the different ministerial departments as the services of the State may require.

A decree shall determine this distribution in accordance with the law.

ART. 84. To be appointed secretary of State, it shall be necessary:

1. To be over 30 years of age.
2. To be in the enjoyment of civil and political rights.

ART. 85. The secretaries of State shall meet in Council under the presidency of the President of the Republic or of any one of them delegated by the President.

All deliberations of the Council shall be recorded in a book; and the minutes of each session shall be signed by the members of the Council present thereat.

ART. 86. The secretaries of State shall have the right to the floor of each of the two houses as well as to that of the National Assembly, but only to discuss the bills proposed by the executive power and to support its objections or to make any other official communication.

ART. 87. The secretaries of State shall be responsible, each in that which concerns him, both for the acts of their department and for the non-execution of laws relating thereto.

They shall correspond directly with the authorities subordinate to them.

ART. 88. Each secretary of State shall receive from the public treasury an annual indemnity of six thousand dollars.

CHAPTER III [*bis*].—THE JUDICIAL POWER.¹

ART. 89. The judicial power shall be exercised by a Court of Cassation and by inferior courts, the formation and jurisdiction of which shall be established by law.

ART. 90. The judges of all the courts shall be appointed by the President of the Republic.

He shall appoint and remove the officials of the public ministry at the Court of Cassation and the other courts, justices of the peace and their substitutes.

ART. 91. No one shall be appointed judge or officer of the public ministry who is not over 30 years of age, for the Court of Cassation, or over 25 years, for the other courts.

ART. 92. The Court of Cassation shall take no cognizance of the subject-matter of cases. Nevertheless, in all matters, except such as have been passed upon by jury, when the same case shall be presented again by the same parties upon an appeal, even upon an exception, the Court of Cassation, admitting the appeal, shall not remand the case, but shall pass a decision upon the subject matter, in full bench.

ART. 93. The judges of the Court of Cassation, the judges of the courts of appeal and of first instance shall enjoy irremovability.

The law shall regulate the conditions upon which they shall cease to enjoy the privilege of irremovability and the manner of their retirement on account of age or any other disability or by reason of the suppression of the court.

¹ This repetition in the numbering of the chapters is obviously a typographical error.

They shall not be transferred from one court to another or entrusted with other functions, even if superior, without their formal consent.

ART. 94. Judicial functions are incompatible with all other salaried public functions.

Incompatibility resulting from relationship or marriage shall be regulated by law.

The law shall also regulate the conditions required to be a judge of any rank.

ART. 95. Commercial litigation shall be submitted to the courts of the first instance and the justices of the peace, in accordance with the Code of Commerce.

ART. 96. The sittings of the courts shall be public, unless it is deemed that publicity is detrimental to public order or good morals; in this case a declaration to that effect shall be made by the court.

The hearing in cases of political offenses or of offenses committed through the press shall never be secret.

ART. 97. Every decree or decision shall state the grounds upon which it is rendered; it shall be rendered in open court.

ART. 98. The Court of Cassation shall take cognizance and pronounce upon conflicts of attributions in the manner established by law.

It shall be competent in all cases decided by a court martial and brought before it on the ground of lack of competence or excess of jurisdiction of that court.

ART. 99. The Court of Cassation, in full bench, shall decide upon the constitutionality of the laws.

The courts should refuse to apply all those laws which have been declared unconstitutional by the Court of Cassation.

They shall not apply the decrees and regulations of the administration which are not in accordance with the law.

CHAPTER IV.—THE PROSECUTION AGAINST THE MEMBERS OF THE STATE POWERS.

ART. 100. The Chamber of Deputies has the right to impeach the President and indict him before the Senate for high treason or any other crime or offense committed by him in the exercise of his functions.

It may also impeach:

1. The secretaries of State in case of malversation, treason, abuse or excess of their powers or any other crime or offense committed in the exercise of their functions.

2. The members of the Court of Cassation, of one of its sections, or of any officer of the public ministry connected with the Court of Cassation, in case of prevarication.

The impeachment shall not be pronounced except by a majority of two thirds of the members of the Chamber. By virtue thereof, the Chamber indicts the accused before the Senate sitting as a High Court of Justice. At the opening of the hearing each member of the High Court of Justice shall take oath to judge with impartiality and firmness proper to an honest and free man, following his conscience and his intimate conviction.

When the President of the Republic is on trial, the president of the Court of Cassation shall preside.

The High Court of Justice shall not impose any other penalty than deposition, dismissal and deprivation of the right to exercise any public function for not less than one year nor more than five years; but the guilty party may be indicted before the ordinary courts in accordance with the law, if there is reason for imposing other penalties or deciding upon the institution of civil proceedings.

No one shall be tried or sentenced except by a majority of two thirds of the members of the Senate.

The time fixed for the duration of the session of the legislative body in Article 50 of the present Constitution shall not serve to put an end to the prosecution, when the Senate is sitting as a High Court of Justice.

ART. 101. In case of prevarication, any judge or official of the public ministry shall be impeached by one of the sections of the Court of Cassation.

In case of a whole court, the impeachment shall be pronounced by the Court of Cassation, in full bench.

ART. 102. The law shall regulate the mode of procedure against the President of the Republic, the secretaries of State and the judges in the case of crimes or offenses committed by them either in the exercise of their functions or outside thereof.

CHAPTER IV.—COMMUNAL INSTITUTIONS.

ART. 103. There shall be one council for each commune.

The president of the communal council has the title of communal magistrate.

This institution shall be regulated by law.

The law shall determine in the communes or in the arrondissements the civil officials who shall represent directly the executive power.

ART. 104. The following principles must form the bases of the communal institutions:

1. The election by the primary assemblies of the communal councils every two years.

2. The attribution to the communal councils of all that may be of interest to the commune, subject, however, to subsequent ap-

proval of their acts in the cases and in the manner determined by law.

3. The publicity of the meetings of the councils within the limits established by law.

4. The publicity of budgets and accounts.

5. The intervention of the executive power to prevent the councils from going beyond their attributions and doing injury to the general interests.

ART. 105. The communal magistrates shall be paid by their commune.

ART. 106. The communal council shall not spend every month more than one twelfth of the total amount voted for its budget.

CHAPTER V.—PRIMARY ASSEMBLIES.

ART. 107. The primary assemblies shall meet without previous convocation in their respective communes on 10 January of each even-numbered year in the manner and form established by law.

They shall have for their object the election, at the times fixed by the Constitution, of the deputies of the people, the senators of the Republic, the communal councilors, and to decide on the amendments proposed to the Constitution.

They shall not take cognizance of any other matters than those attributed to them by the present Constitution.

They are bound to adjourn *sine die* as soon as this object is accomplished.

ART. 108. The law establishes the conditions required to exercise the right of suffrage in the primary assemblies.

TITLE IV.—FINANCES.

ART. 109. The imposts for the benefit of the State and of the communes shall only be established by a law.

No charge shall be levied on the communes except upon the formal consent thereof.

ART. 110. The laws establishing the imposts shall be enforced only for one year.

ART. 111. No distinction in regard to imposts shall ever be made. No exemption, no increase or decrease of imposts shall be made except by a law.

ART. 112. No pension, gratuity, subvention or subsidy of any kind, to be paid by the public treasury, shall be granted except by virtue of a law proposed by the executive power.

ART. 113. The simultaneous holding of offices under the pay of the State is formally prohibited, except positions in secondary or higher education.

ART. 114. The budget submitted by each secretary of State shall be divided into chapters and must be voted by articles.

The shifting of appropriations is forbidden.

The Secretary of State for Finance shall be bound, on his personal responsibility, not to disburse each month, for the benefit of each ministerial department, more than one twelfth of the amount appropriated in its own budget; an exception may be made for extraordinary cases by decision of the Council of the Secretaries of State.

The general accounts of the receipts and expenditures of the Republic shall be kept by the Secretary of State for Finance under the system of accounting to be established by law.

The fiscal year begins on 1 October and ends on 30 September of the following year.

ART. 115. Every year the legislative body shall settle:

1. The accounts of receipts and expenditures for the preceding year or years.

2. The general budget of the State containing the rough estimate and the portion of the funds assigned annually to each secretary of State. But no resolution or amendment shall be introduced with the budget for the purpose of reducing or increasing the salaries of public officials.

All changes of this nature shall only be effected by an amendment of the law.

ART. 116. The general accounts and the budgets provided for in the preceding article should be submitted to the legislative body by the Secretary of State for Finance at the latest within eight days of the opening of the legislative session.

The examination and the liquidation of the accounts of the general administration and of all accounts against the public treasury shall be made according to the manner established by law.

ART. 117. In case the legislative body, for any reason whatever, should fail to approve the budget of one or more of the ministerial departments before its adjournment, the budget or budgets of the interested departments in force for the current budgetary year shall be maintained for the following budgetary year.

TITLE V.—THE PUBLIC FORCE.

ART. 118. An armed force to be known as the *Gendarmerie d'Haïti* shall be established to preserve order, guarantee the rights of the people and police the cities and the country.

It shall be the only armed force of the Republic.

ART. 119. The regulations for the maintenance of discipline in the Gendarmerie and the repression of the offenses committed by those who compose it shall be established by the executive power. These regulations shall have the force of law.

These regulations shall establish the organization of the courts martial of the Gendarmerie, shall prescribe their powers and shall determine the obligations of their members and the rights of the individuals who are to be judged by them.

The sentences pronounced by courts martial of the Gendarmerie shall be subject only to revision by the Court of Cassation, and this revision shall be confined to questions of jurisdiction and of excess of powers.

TITLE VI.—GENERAL PROVISIONS.

ART. 120. The national colors shall be blue and red horizontally placed.

The coat of arms of the Republic shall consist of a palm tree surmounted by a cap of liberty adorned by a trophy with the legend: “L’Union fait la force.”

ART. 121. No oath shall be required except by virtue of the Constitution or of a law.

ART. 122. The national holidays shall be: That of the Independence, 1 January, and that of Agriculture, 1 May.

The legal holidays shall be determined by law.

ART. 123. No law, decree or rule of the public administration shall be obligatory until it has been published in the form established by law.

ART. 124. All elections shall be made by secret ballot.

ART. 125. The state of siege shall not be declared except where the external or internal security is in imminent peril.

The act of the President of the Republic declaring a state of siege must be countersigned by the majority of the secretaries of State present in the capital.

An account shall be rendered of it at the opening of the houses by the executive power.

ART. 126. The effects of the state of siege shall be regulated by a special law.

ART. 127. The present Constitution and all the treaties actually in force or to be concluded hereafter, and all the laws decreed in accordance with this Constitution or with these treaties, shall constitute the law of the country, and their relative superiority shall be determined by the order in which they are here mentioned.

All the provisions of the laws which are not contrary to the provisions of this Constitution or to the treaties actually in force or to be concluded hereafter, shall be maintained until they have been formally abrogated or amended; but those which are contrary thereto shall be and shall remain abrogated.

TITLE VII.—THE REVISION OF THE CONSTITUTION.

ART. 128. The amendments of the Constitution must be adopted by the majority of votes of all the electors of the Republic. Each of the two branches of the legislative power, or the President of the Republic, through a message to the legislative power, may propose amendments to the present Constitution.

The amendments proposed shall not be subject to popular ratification until after their adoption by a two-thirds majority of each legislative house sitting separately.

These amendments shall then be published immediately in the *Moniteur*.

For three months before voting on the proposed amendments, the texts thereof shall be posted by each communal magistrate in the principal public places of his commune, and shall be printed and published twice a month in the newspapers.

At the next biennial session of the primary assemblies, the proposed amendments shall be submitted to vote, one by one, by yeas and nays, in secret and separate ballot, and those amendments which should have obtained the absolute majority of votes in all the territory of the Republic shall become an integral part of the Constitution from the day on which the legislative body convenes.

SPECIAL ARTICLE.

All the acts of the Government of the United States during its military occupation of Haiti are ratified and validated.

A. No Haitian shall be amenable to civil or criminal prosecutions by reason of any act executed by virtue of orders received during the occupation or under its authority.

/ The acts of the courts martial during the occupation shall not be subject to revision, without prejudice, however, to the right of pardon.

The acts of the executive power performed up to the promulgation of the present Constitution are likewise ratified and validated.

TITLE VIII.—TRANSITORY PROVISIONS.

ART. A. The duration of the mandate of the citizen President of the Republic at the moment of the adoption of the present Constitution shall come to an end on 15 May 1922.

ART. B. The duration of the mandate of the communal councilors existing at the time of the adoption of the present Constitution shall come to an end in January, 1920.

ART. C. The first election of members of the legislative body after the adoption of the present Constitution shall take place on 10 January of an even-numbered year.

The year shall be fixed by a decree of the President of the Republic published at least three months before the meeting of the primary assemblies.

The session of the legislative body then elected shall convene on the constitutional date immediately following the first election.

ART. D. A Council of State, created in accordance with the same principles as those of the decree of 5 April 1916 and composed of 21 members distributed among the different departments, shall exercise the legislative power until the legislative body is constituted, on which date the Council of State shall cease to exist.

ART. E. The irremovability of judges shall be suspended for a period of six months beginning from the date of the promulgation of the present Constitution.

HONDURAS.

The first separate Constitution of the Republic of Honduras dates from 11 December 1825. After the dissolution of the Central American Federation, Honduras remodeled its Constitution on 11 January 1839. This Constitution has been modified on several occasions: 4 February 1848, 20th September 1865, 23 December 1873, 1 November 1880¹ and 14 October 1894. But the wars and dictatorships which succeeded each other almost without interruption for fifty years have caused the suspension or non-observance of these texts, the majority of which have remained dead letters. The Constitution in force today is still that of 1894. Replaced by a new Constitution on 2 September 1904,² it was restored³ shortly after with a single modification (abolishment of the institution of the jury).⁴

CONSTITUTION OF 14 OCTOBER 1894.⁵

[PREAMBLE.]

In 1919 the const. of 1904 was in force in C.M.

We, the representatives of the people of Honduras, having assembled to formulate the fundamental law of the nation, declare and sanction the following Political Constitution.

TITLE I.—THE NATION.

ARTICLE 1. Honduras is a State disjoined from the Republic of Central America. In consequence, it recognizes as a most pressing necessity its reunion with the other States of the dissolved Republic. To this effect the legislative power is authorized to definitively ratify the treaties which aim to accomplish this reunion with one or more of the States of the old Federation.

ART. 2. Honduras is a free, sovereign and independent nation.

ART. 3. The national sovereignty resides essentially in the universality of Hondurans.

¹ English translation in the *British and Foreign State Papers*, 71: pp. 906–921.

² Spanish text and English translation in parallel columns in J. I. RODRIGUEZ, *American Constitutions* (Washington, 1906), vol. I, pp. 360–389. English translation also in the *British and Foreign State Papers*, 100: pp. 1072–1089.

³ See *Mensaje del Presidente* (Tegucigalpa, 1909), p. 10.

⁴ This introductory paragraph is based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, pp. 563–564.

⁵ Translated by ANTONIO M. OPISSO from the official Spanish text.

ART. 4. All public power emanates from the people. The functionaries of the State have no further authority than that expressly given to them by law. All acts executed by them outside of the law are null.

ART. 5. The limits of Honduras and its territorial divisions shall be determined by law.

TITLE II.—HONDURANS.

ART. 6. Hondurans are either natives or naturalized.

ART. 7. The following are natives:

1. Those who are born in Honduras of Honduran parents.
2. Children born in Honduras of foreigners domiciled there and children of a Honduran father or mother born abroad who should choose Honduran nationality.

The provisions of the last paragraph may be modified by treaty, provided there is reciprocity.

ART. 8. Children of the other Republics of Central America who declare before the highest political departmental authorities their desire to become Hondurans are considered as natives.

ART. 9. The following are naturalized:

1. Spanish-Americans who have resided one year in the country and who declare, before the proper authority, their desire to be naturalized therein.
2. Other foreigners who have resided two years in the country and who declare, before the aforesaid authority, their desire to be naturalized therein.
3. Those who obtain naturalization papers from the authority designated by the law.

TITLE III.—FOREIGNERS.

ART. 10. The Republic of Honduras is a sacred asylum for all who may take refuge in its territory.

ART. 11. Foreigners, from the moment of their arrival in the territory of the Republic, are obliged to respect the authorities and to observe the laws.

ART. 12. Foreigners enjoy in Honduras all the civil rights of Hondurans.

ART. 13. They may acquire every kind of property in the country; but with regard to their property, they shall be subject to all the ordinary taxes and to those extraordinary taxes of a general character to which Hondurans are liable.

ART. 14. They shall not present claims or demand any indemnity from the State except in such cases and in such form as Hondurans may do so.

ART. 15. Foreigners shall not have recourse to diplomatic intervention except in cases of denial of justice. For this purpose a judicial decision unfavorable to the claimant is not understood to be a denial of justice. If, in contravention of this provision, they do not terminate their claims in an amicable manner and cause injury to the country, they shall forfeit the right to live therein.

ART. 16. Extradition shall be granted only by virtue of a law or of treaties, for serious common crimes; never for political crimes, even if, in consequence of the latter, a common crime should ensue.

ART. 17. The laws shall establish the form and the cases in which a foreigner may be denied entry into the territory of the nation, or his expulsion ordered, because of his being considered pernicious.

ART. 18. Laws and treaties shall define the use of these guarantees, without the power to diminish or alter them.

ART. 19. The provisions of this title do not modify the treaties now existing between Honduras and other nations.

TITLE IV.—CITIZENS.

ART. 20. All Hondurans over 21 years of age, and those over 18 who are married or know how to read and write, are citizens.

ART. 21. The following are the rights of the citizen: To vote, to apply for public offices and to possess and carry arms, all in accordance with the law.

ART. 21. The rights of citizenship are suspended:

1. By an order for imprisonment or a declaration that there are grounds for indictment.

2. By vagrancy legally established.

3. By disorder of the mental faculties judicially established.

4. By a sentence depriving the subject of political rights, during the service of such sentence.

5. By having been declared a fraudulent debtor, until judicial rehabilitation is obtained.

6. By a sentence which imposes a penalty higher than a correctional penalty.

7. By accepting employment from foreign States without permission of the proper authorities. The Republics of Central America are not considered foreign States.

ART. 23. Active suffrage can not be renounced and is obligatory to all citizens.

ART. 24. Suffrage shall be direct and secret. Elections shall be carried out in the form prescribed by law, and the law shall give a corresponding representation to minorities.

ART. 25. Only citizens over 21 years of age, who are in the exercise of their rights, can qualify for election.

TITLE V.—RIGHTS AND GUARANTEES.

ART. 26. The Constitution guarantees to all the inhabitants of Honduras, whether nationals or foreigners, the inviolability of human life, individual security, liberty, equality and property rights.

INVIOABILITY OF HUMAN LIFE.

ART. 27. Capital punishment is absolutely abolished in Honduras.

INDIVIDUAL SECURITY.

ART. 28. The Constitution recognizes the guarantee of *habeas corpus*. Consequently every person illegally detained, or any other person in his name, has the right to have recourse to the court, verbally or in writing, demanding the production of the person.

ART. 29. Every person has the right to ask for protection against any attempt or arbitrary proceedings of which he may be a victim, and to make effective the exercise of all the guarantees which this Constitution establishes, when he has been wrongfully restrained in the enjoyment thereof, by law or by the acts of any public authority, agent or functionary.

ART. 30. A warrant of arrest which does not emanate from the competent authority, or which has been issued without the legal formalities, is illegal.

ART. 31. Detention for the purpose of inquiry shall not exceed six days.

ART. 32. The solitary confinement of the person detained shall not exceed 24 hours.

ART. 33. No order for imprisonment may be made without full proof before the arrest that a crime has been committed which is punishable with a penalty higher than a correctional penalty and without at least reasonable presumption as to who the author is.

ART. 34. Imprisonment or arrest is permitted, through sentence or judicial order, in such cases and for such periods as are provided by the law. The judicial order shall not be for a period exceeding 30 days.

ART. 35. An offender in *flagrante delicto* may be apprehended by any person for the purpose of handing him over immediately to the authority having the right to arrest.

ART. 36. No one may be imprisoned or detained except in such places as the law determines.

ART. 37. Even with a warrant for imprisonment, no one can be taken to prison, or detained therein, if he furnishes sufficient bail, when a greater penalty than three years is not applicable for the offense.

ART. 38. No one may be judged by special commissions or by judges other than those designated by the law.

ART. 39. Imprisonment for debts is forbidden except in cases of fraud.

ART. 40. The right of defense is inviolable.

ART. 41. In criminal cases no one can be obliged to give evidence against himself or against his spouse or relatives within the fourth degree of consanguinity or the second degree of affinity.

ART. 42. No one may be molested or prosecuted on account of his opinions. Private actions which do not interfere with morality or public order, or which do not injure third parties, will always be beyond the action of the law.

ART. 43. Whipping or beating with cudgels and all kinds of torture are absolutely forbidden. Unnecessary imprisonment and all undue rigor are also forbidden.

ART. 44. The dwelling of every individual is a sacred asylum which shall not be forcibly entered except by the authorities in the following cases:

1. To take out of it a criminal surprised in *flagrante delicto*.
2. When an offense is committed inside of the dwelling; when some scandalous disturbance requiring prompt remedy has taken place therein, or when so requested from the interior of the house.
3. In case of fire, earthquake, flood, epidemic or any other analogous emergency.
4. To release a person unlawfully sequestered.
5. To remove objects sought by virtue of a process, provided there is at least partial proof of the existence of said objects, or to execute a judicial order legally issued.
6. To arrest parties whose imprisonment or detention has been ordered, provided there is at least partial proof that they are concealed in the house to be forcibly entered.

In the two cases last mentioned the forcible entry shall not take place without the written order of the competent authority.

ART. 45. When the dwelling place to be entered is not the domicile of the party pursued, the authority or its agents shall previously ask the permission of the tenant.

ART. 46. The forcible entry of a domicile in those cases which require a written order shall not be made between the hours of seven o'clock in the evening and six o'clock in the morning.

ART. 47. Private correspondence by letter or telegram, private papers and commercial books are inviolable. In no case shall the executive power or the agents thereof intercept, open or detain private letters or telegrams. Correspondence intercepted, whether at post-offices or any other place, shall not be admitted in evidence.

ART. 48. Private correspondence, papers and books shall only be seized by order of a competent court in the cases, whether civil or criminal, which the law may determine; said correspondence must be examined in the presence of the person possessing it, or if absent, in the presence of two witnesses, and those papers which have no bearing upon the matter under investigation shall be returned.

ART. 49. The enactment of laws providing for proscription, confiscation or the establishment of infamous or perpetual penalties is hereby forbidden. The duration of the penalties shall not exceed fifteen years.

ART. 50. Laws shall not have retroactive effect except in criminal cases, where the new law is favorable to the delinquent.

ART. 51. The police force shall only be entrusted to the civil authorities.

ART. 52. No penalty higher than correctional shall be imposed except after a jury has found the delinquent guilty.

LIBERTY.

ART. 53. A slave who enters on the territory of Honduras becomes free. Slave traffic is a crime.

ART. 54. The free exercise of all religions, limited only by morality and public order, is guaranteed.

ART. 55. The civil status of persons shall not be subject to any specified religious belief.

ART. 56. The expression of thought, written or spoken, is free, and the law shall not restrict it. Neither shall the law prevent the circulation of national or foreign printed matter. Offenses committed through the press shall be previously qualified by the jury.

ART. 57. Free education is guaranteed. Education supported by public funds shall be laical, and primary education shall be also gratuitous, obligatory and subsidized by the State. The law shall regulate education without restricting its liberty or the independence of its professors.

ART. 58. The liberty of meeting unarmed and of forming associations for any legal object is guaranteed. The establishment of any kind of monastic associations is forbidden.

ART. 59. All industries are free. Only spirits, gunpowder, saltpeter and tobacco can be made a monopoly for the benefit of the nation.

ART. 60. Monopolies, privileges and concessions can only be established for a limited time for the purpose of stimulating the introduction or improvement of new industries, colonization or emigration, institution of credit and the opening up of means of communication.

ART. 61. Every one is at liberty to dispose of his property, in accordance with the civil law, by sale, donation, will or any other legal title.

ART. 62. Entails and all institutions in favor of religious establishments are prohibited.

ART. 63. Any person or collection of persons has the right to address petitions to the legally established authorities for their decision and to be informed thereof.

ART. 64. Every one is at liberty to enter, remain in, traverse and quit the territory of the nation without a passport.

EQUALITY.

ART. 65. In law there are no charters or personal privileges. The ministers of the different religious societies shall not hold public offices.

ART. 66. Proportionality shall be the basis of direct taxation.

PROPERTY.

ART. 67. No one shall be deprived of his property except by virtue of a law or of a sentence founded on law. Expropriation, when necessary or for public utility, must be authorized by law or by a sentence founded on law, and shall not take place without previous compensation. In case of war previous compensation is not indispensable.

ART. 68. All authors or inventors enjoy the exclusive ownership of their work or inventions for such period as the law determines.

ART. 69. The right of recovery of confiscated property prescribes after fifty years.

ART. 70. Congress alone shall impose national taxes.

ART. 71. No personal service can be exacted except by virtue of the law or a sentence founded on law.

GENERAL PROVISIONS.

ART. 72. The enumeration of rights and guarantees made in this Constitution does not exclude other rights and guarantees not enumerated but arising from the principle of sovereignty of the people and of the republican form of government.

ART. 73. The laws which regulate the exercise of these guarantees shall become ineffective in so far as they diminish, restrict or alter them.

ART. 74. In case of external war a state of siege may be declared in the whole Republic or any part thereof. The state of siege will

last as long as the circumstances which caused it may require; but shall not exceed sixty days without a fresh declaration, and shall never alter the guarantees as set forth in Articles 27, 43 and 49.

The state of siege shall also be declared in case of disturbances of the public peace in the interior, being limited to the place or to the territory where disturbances of the order exist, and may be extended if so required for the security of the Republic.

ART. 75. In case of an epidemic, sanitary regulations may be issued in opposition to or in restriction of the guarantees contained in Articles 44, 47, in so far as relates to the detention of correspondence, 58, 64 and 71.

TITLE VI.—THE FORM OF GOVERNMENT.

ART. 76. The government of Honduras is republican, democratic and representative. It is exercised by three independent powers: Legislative, executive and judicial.

ART. 77. None of the constituted powers shall perform any acts altering the established form of Government or impairing the integrity of the territory or the national sovereignty.

TITLE VII.—THE LEGISLATIVE POWER.

ART. 78. The legislative power is exercised by a Congress of Deputies which will assemble in the capital of the Republic on the first of January of each year without need of previous convocation.

ART. 79. The sessions of Congress shall last sixty days and may be extended for forty days more, when so required by matters of actual interest.

ART. 80. Congress shall also hold extraordinary sessions when convoked by the executive, in which case it will occupy itself solely with the business stated in the decree convoking it.

ART. 81. After Congress has been installed in the capital, it may resolve to move to another place.

ART. 82. On the twenty-first day of December of each year the deputies shall assemble in preparatory meetings, and with the concurrence of five at least they shall organize the directory, in order to issue the necessary orders for the installation of Congress.

ART. 83. Two thirds of the members composing Congress shall be sufficient to constitute a quorum.

ART. 84. Five deputies may convoke an extraordinary session of Congress at any place in the Republic, whenever the executive has prevented its sessions or has dissolved them.

ART. 85. Deputies shall be elected for four years and may be re-elected indefinitely. Every two years they shall be renewed by halves. The first renewal shall be made by lot, and the subsequent ones by order of seniority.

ART. 86. The following shall not be elected deputies:

1. The secretaries and under-secretaries of State.
2. The employees of the executive power who exercise general or departmental jurisdiction.
3. Soldiers in service.
4. Contractors for public works or services paid for with funds of the State, and those who by reason of said contracts may have claims in their own interest.

5. Debtors in arrears of the public treasury, and those who have pending accounts for the administration of its funds.

6. The relatives of the President of the Republic within the fourth degree of consanguinity or the second degree of affinity.

ART. 87. Deputies from the day of their election shall enjoy the following prerogatives:

1. Personal immunity from being accused or sentenced without previous declaration of Congress to the effect that they may be prosecuted.

2. No civil action shall be brought against them from thirty days before, or until fifteen days after, the ordinary or extraordinary sessions of Congress, except in case of counter-claim.

3. Not to be subject to military service without their consent from the time of election until the end of their term of office.

4. Not to be banished from the Republic or held in confinement during the period for which they have been elected.

5. Not to be responsible for their opinions or their parliamentary initiative.

ART. 88. Deputies are not obliged to accept employment from the executive. Should they voluntarily accept any of the offices enumerated in Article 86, they shall *ipso facto* cease to be deputies and their successor shall be elected.

ART. 89. The election of deputies to Congress shall take place on the basis of one sitting deputy and one substitute for every ten thousand inhabitants. In the event of there being fractions, their representation shall be determined by law.

TITLE VIII.—THE ATTRIBUTIONS OF THE LEGISLATIVE POWER.

ART. 90. The following attributions belong to Congress:

1. To open and close its sessions, certify the elections of its members upon the presentation of their credentials and receive their promise according to law.

2. To summon the respective substitutes in case of the absolute non-attendance or legal disqualification of the sitting member and order the filling of the vacancies which may occur.

3. To accept the resignation of its members for legal reasons duly approved.

4. To regulate its internal management.
5. To decree, interpret, reform and abrogate laws.
6. To create and suppress public offices, provide pensions and decree honors.

7. To grant pardons and amnesties and commute sentences.

8. To provide for everything relative to the security and defense of the Republic.

9. To scrutinize the votes for the President and the Vice-President of the Republic and the magistrates of the Supreme Court of Justice, and declare the election of those citizens who have obtained an absolute majority.

10. In case of there being no absolute majority, to elect the President, Vice-President and magistrates from among the three citizens who have obtained for each office the greatest number of popular votes.

11. When several elections concur in a single individual, preference shall be determined in the following order: 1. President; 2. Vice-President; 3. deputy; 4. magistrate. The election as a sitting member has preference over that of substitute.

12. To receive the constitutional promise from the public officials it may elect or declare elected and to accept or refuse their resignations.

13. To designate every year three citizens to exercise the executive power in the order of their election in cases of vacancy of the Presidency or Vice-Presidency of the Republic, provided for in the Constitution.

14. To declare that there are grounds for impeachment of the President, the Vice-President, deputies, magistrates of the Supreme Court, secretaries of State and diplomatic agents during the term of their offices.

15. To change the residence of the supreme powers for grave reasons.

16. To decree rewards and grant temporary privileges to authors and inventors and to such as introduce or improve new industries of general utility.

17. To decree subsidies to promote new industries or improve existing ones.

18. To grant subventions for purposes of public utility.

19. To grant or refuse permission to Hondurans to accept employment from other nations.

20. To approve or disapprove the conduct of the executive.

21. To approve, modify or disapprove the contracts entered into by the executive in the cases provided for in Article 60, or when their effect has to be extended to the following presidential term.

22. To approve, modify or disapprove the treaties concluded with other nations.
23. To regulate land and maritime commerce.
24. To approve or disapprove the accounts of public expenditures.
25. To fix annually the budget of expenditures, taking the probable revenues as a basis thereof.
26. To levy taxes.
27. To regulate the payment of the national debt.
28. To decree the alienation of national property or its application to public uses.
29. To contract loans.
30. To open ports and to create and suppress custom-houses.
31. To decree the weight, fineness and type of national currency.
32. To declare war and conclude peace.
33. To fix in each ordinary session the number of the forces of the permanent army.
34. To allow or forbid the passage of troops belonging to another country through the territory of the Republic.
35. To declare the Republic or any part thereof in a state of siege in accordance with the law.
36. To confer the rank of general of brigade or division on the recommendation of the executive.
37. To grant naturalization papers to foreigners.
38. To appoint the members of the Court of Accounts and the Fiscal General of the Treasury.

ART. 91. The legislative power shall not settle or declare the civil status of persons or grant academic or literary degrees.

ART. 92. The faculties of the legislative power, with the exception of those which refer to the installation of high public officials in office, can not be delegated.

TITLE IX.—THE FORMATION, SANCTION AND PROMULGATION OF THE LAW.

ART. 93. Only the deputies, the President of the Republic through the secretaries of State and the Supreme Court of Justice in matters of its competence can introduce laws.

ART. 94. No bill shall be definitively voted until it has been considered three times on separate days except in cases of urgency supported by two thirds of the votes. Every proposal having for its object to declare the urgency of a law must be preceded by a statement of the motives on which it is founded.

ART. 95. Every bill, as soon as it is approved by Congress, shall be dispatched to the executive, at the latest, within three days after it has been passed, so that the executive may sanction it and may cause it to be promulgated as law.

ART. 96. The promulgation of a law shall be effected with the following formula: "Therefore, let it be carried out."

ART. 97. Should the executive power find reasons for not sanctioning the bill, it shall be returned to Congress within ten days with the formula, "Return to Congress," setting forth the reasons upon which it bases its disapproval. If, within the said period it does not object, the bill shall be held to be sanctioned and shall be promulgated as law. Should the executive return the bill, Congress shall subject it to a reconsideration; and if it is ratified by two thirds of the votes, it shall be dispatched again to the executive with this formula: "Ratified constitutionally"; and the executive shall publish it without delay.

ART. 98. If Congress votes a bill at the end of its sessions which the executive considers advisable not to sanction, the latter is obliged immediately to inform Congress, so that it may remain assembled for ten days beginning from the day the executive received the bill; and should this not be done, the law will be considered as sanctioned.

ART. 99. The sanction of the executive is not necessary for the following acts or resolutions:

1. For elections made or declared by Congress, or for resignations accepted or refused by it.
2. For declarations that there are grounds for indictment.
3. For the budget law.
4. For decrees relating to the conduct of the executive.
5. For the rules it may form for its internal management.
6. For resolutions to temporarily change its residence to some other place and to suspend or extend its sessions.
7. For treaties or contracts which Congress disapproves.

ART. 100. Whenever a bill not introduced by the Supreme Court of Justice has for its object the reformation or abrogation of any of the provisions contained in the Codes of the Republic, it shall not be discussed without hearing first the opinion of that tribunal. The court shall publish its report within such period as Congress may designate. This provision does not extend to laws of political, economic or administrative character.

TITLE X.—THE EXECUTIVE POWER.

ART. 101. The executive power is exercised by a citizen who is called President of the Republic; in default thereof, by a Vice-

President, and in default of the latter, by one of the Designates in the order of their appointment.

ART. 102. The President, the Vice-President and the Designate must be citizens in the exercise of their rights, over 21 years of age and natives of Honduras.

ART. 103. The President and Vice-President shall be elected by popular and direct vote, and their election shall be declared by Congress, as is prescribed.

ART. 104. The presidential term shall be for four years and shall commence on 1 February.

A citizen who has proprietorially exercised the Presidency shall not be reelected nor be elected Vice-President for the following term. Neither shall his relatives within the fourth degree of consanguinity or the second degree of affinity be elected President or Vice-President.

ART. 105. No citizen who has occupied the constitutional Presidency during the last six months of the presidential term, nor his relatives within the degrees stated in the foregoing article, shall be elected President.

ART. 106. In case of absolute default of the President of the Republic, the executive power shall be in charge of the Vice-President; and in default of the latter, the corresponding Designates in the order of their election. The Designate shall finish out the presidential term, should such vacancy occur within the last year; but should it occur before the first three years have elapsed, a new presidential election must be proceeded with one month after the vacancy has occurred. In case of temporary disability, the functions of the President shall be exercised by the Vice-President and the Designates in the order of their election.

ART. 107. Until the person designated by law has taken charge of the Presidency, the executive power shall be exercised by the Council of Ministers, and the latter shall immediately call the new official to give him charge of office, if Congress has not assembled.

TITLE XI.—THE DUTIES AND ATTRIBUTIONS OF THE EXECUTIVE POWER.

ART. 108. The President of the Republic has the general administration of the country. His attributions are:

1. To exercise command as chief of the land and naval forces.
2. To defend the independence and the honor of the nation, and the integrity of its territory.
3. To carry out and provide for the fulfillment of the laws, issuing for this purpose the necessary decrees and orders without altering their spirit.

4. To appoint the secretaries and under-secretaries of State and the other officials of the executive department, in accordance with the law.

5. To preserve the internal peace and security of the Republic, and to repel all external attack or aggression.

6. To give to the officials of the judicial power the force and assistance which they may require to make their decisions effective.

7. To remove officials of his own free appointment.

8. To see that all officials of the Republic fulfill the duties which are imposed upon them by law, without interfering in the exercise of their functions.

9. To grant amnesties, whenever public convenience demands it, during the recess of Congress.

10. To commute sentences in accordance with the law during the recess of Congress.

11. To convoke Congress to extraordinary sessions or to propose the prorogation of the ordinary ones.

12. To declare war and make peace and to permit or forbid the passage of troops of another country through the territory of the Republic, when circumstances do not permit the assembling of Congress to decide the matter.

13. To submit through the respective secretaries of State, within the first eight days after the assembling of Congress, a detailed report or memorial of all the branches of the administration.

14. To conclude treaties and any other diplomatic negotiations, submitting them to the ratification of Congress at the next session.

15. To direct foreign relations, to appoint diplomatic and consular agents of the Republic, and to receive ministers and admit consuls of foreign nations.

16. To cause the revenue of the State to be collected and to regulate the disposal thereof in accordance with the law.

17. In case of invasion or rebellion, if the resources of the State should be insufficient, to decree a general and proportional loan, voluntary or forced, of the disposal of which he shall give an account to Congress at the next session.

18. To confer military grades from sub-lieutenant to colonel and those of general of brigade and division on the field of battle to military officers who distinguish themselves by their conduct; submitting the appointments of generals to the approval of Congress at its next session.

19. To dispose of the military forces and to organize and distribute them in accordance with the law as the necessities of the Republic may require.

20. To grant letters of marque and reprisal.

21. To declare the Republic or a part thereof in a state of siege in accordance with the law during the recess of Congress, with the obligation of rendering an account to Congress, at its first meeting, of the use that he may have made of this power.

22. To grant naturalization papers in accordance with the law.

23. To grant or deny permission to Hondurans, during the recess of Congress, to accept employment from another nation.

24. To direct and promote public instruction and to provide for the education of the people.

25. To sanction the laws and exercise the right of veto when necessary, and to promulgate without delay those legislative enactments which do not require the sanction of the executive.

26. To order, during the recess of Congress, the filling of vacancies among the deputies and the magistrates of the Supreme Court in accordance with the law, at the latest one month after the vacancies have occurred.

27. To appoint *ad interim*, during the recess of Congress, the members of the Court of Accounts and the Fiscal General of the Treasury.

28. To publish monthly the report of receipts and expenditures of the public revenues.

29. To keep watch on the legal exactness of the currency, and to look after the uniformity of weights and measures.

30. To exercise the supreme command of the police force.

ART. 109. The orders of the executive power which do not emanate from the corresponding ministry shall not be obeyed. The President and the ministers shall be jointly responsible for the orders they may issue in contravention of the Constitution and the laws.

ART. 110. Whenever the President of the Republic may consider it advisable to place himself at the head of the army, he shall entrust the executive power to the citizen who must replace him under the Constitution; and he shall become invested only with the character of General-in-Chief and with the attributions of Commanding General.

TITLE XII.—THE SECRETARIES OF STATE.

ART. 111. There shall be from three to six secretaries of State, and the executive shall apportion between them the transaction of business.

ART. 112. The secretaries of State must be native or naturalized Hondurans and over 21 years of age.

ART. 113. The following shall not be secretaries of State: Contractors of public works or services who are to be paid by the nation; those who by reason of said contracts may hold claims for their own

interests; debtors of the public treasury, and those who have accounts pending in favor of the latter, for administration of funds.

ART. 114. The secretaries of State may assist at the deliberations of Congress without the right to vote, and they must attend whenever they are called, and answer the interpellations which any deputy may make to them in regard to administrative matters, excepting those of the Departments of War and of Foreign Relations, when they consider it necessary to maintain reserve, until Congress orders them to answer.

ART. 115. The under-secretaries of State must have the same qualifications as the secretaries, and they shall substitute the latter by ministration of the law.

TITLE XIII.—THE JUDICIAL POWER.

ART. 116. The judicial power of the Republic shall be exercised by a Supreme Court of Justice composed of five magistrates, who shall reside at the capital, and by the inferior courts and judges which the law establishes.

ART. 117. To be a magistrate it is required to be a lawyer and over 25 years of age.

ART. 118. Magistrates of the Supreme Court shall be elected by the people, and may be reelected.

ART. 119. Three substitute magistrates shall likewise be elected, who shall substitute for the sitting magistrates, and must have the same qualifications as the latter. In case the vacancy is absolute, the executive power shall issue a call for elections to fill the place of the sitting magistrate, and the election shall be declared by the Supreme Court.

ART. 120. The Supreme Court of Justice shall appoint the magistrates of the Courts of Appeals, the departmental and sectional inferior judges and the officials of the public ministry in accordance with the law. The justices of the peace shall be elected by popular vote in the respective municipal districts.

ART. 121. Persons who are related within the fourth degree of consanguinity or the second degree of affinity shall not be magistrates or judges in the same tribunal.

If two or more persons related within said degrees are elected, the one obtaining the highest number of votes shall be given preference, and in case of equal number of votes, the one who is the senior lawyer shall be preferred. The election of the others shall be replaced.

ART. 122. The term of office of magistrates, departmental or sectional judges and officials of the public ministry shall be four years and they shall take possession of their posts on 1 February.

ART. 123. The Supreme Court shall accept or refuse the resignations of the officials of its appointment, and shall grant leave of absence both to the latter and to its own members.

Departmental and sectional judges shall accept or refuse the resignations and grant leave of absence to the justices of the peace.

ART. 124. The law shall regulate the organization and attributions of the tribunals of justice.

ART. 125. The power to judge and to carry judgments into effect is vested in the courts and other tribunals of justice. It is their business to apply the laws in concrete cases legally brought before them, and to refuse to carry them out when they are contrary to the Constitution.

ART. 126. A jury is established in those places where there are departmental or sectional judges who shall sit in all criminal cases which must be heard before a court of record. The law shall regulate this institution.

ART. 127. The Supreme Court of Justice, in addition to the attributions conferred upon it by law, shall exercise the following attributions:

1. To formulate its internal regulations.

2. To take cognizance of official and common offenses, committed by high public officials, when Congress has declared that there are grounds for their indictment.

3. To authorize the lawyers and notaries, licensed within or outside of the Republic, to exercise their profession, with the exceptions established in the treaties, and to suspend them in accordance with the law.

4. To declare that there are grounds for impeachment of the members of the Court of Accounts, of the Fiscal General of the Treasury and of the principal national and departmental officials which the law may determine, for offenses committed by them in the discharge of their duties.

5. To take cognizance of prize cases, extradition cases and other cases which should be judged in accordance with international law.

ART. 128. Direct proceedings may also be established before the Supreme Court of Justice, against the constitutionality of a law in regard to matters not within the jurisdiction of the courts, by any person whose legal rights may be injured by reason of the application of that law in a concrete case. The law shall regulate the use of this recourse.

ART. 129. The administration of justice in the Republic is gratuitous.

ART. 130. The members of the courts of justice shall not, during their term of office, hold any other office carrying jurisdictional powers.

ART. 131. Courts of justice may demand the assistance of the armed forces for the enforcement of their decrees, and should this be denied them, or in case it is not available, they may require such assistance from the citizens. The public official who should unduly refuse to give assistance shall incur liability.

ART. 132. No person having the free administration of his property may be deprived of the right to put an end to his civil cases through a compromise or arbitration.

ART. 133. The same judge shall not act in his official capacity in different stages of the same case.

ART. 134. No power or authority shall order pending suits to be moved to its jurisdiction nor reopen cases which have terminated.

TITLE XIV.—THE BUDGET.

ART. 135. The budget shall be voted by Congress according to the bill presented by the executive power.

ART. 136. The bill for the budget shall be presented by the respective minister, within a fortnight after Congress is convened.

ART. 137. All expenditures made outside of the law are illegal, and, in case of failure to comply with their respective duties, the President, the respective minister, the members of the Court of Accounts, and the employees who intervened in the matter shall be jointly responsible for the amount expended.

ART. 138. The budget of the ordinary expenditures of the public administration shall not exceed the probable receipts estimated by the national Congress.

TITLE XV.—THE PUBLIC TREASURY.

ART. 139. The following form the public treasury of the nation.

1. All its real and movable property.
2. Any sums to its credit.
3. The product of the duties, taxes and imposts.

ART. 140. The executive power shall not enter into contracts of importance which may compromise the national treasury without the previous publication of the proposal in the official journal and the reception of public bids. Contracts which are made for the purpose of providing for the needs of war, and those which, from their nature, can only be entered with certain persons, are excepted.

ART. 141. In order to fiscalize the administration of the national treasury, there will be a Higher Auditorship or Superior Court of Accounts whose attributions shall be to examine, approve or disapprove the accounts of those who administer public funds, and to return to the executive the orders which are not in accordance with the law for the purposes which may be determined by the law.

ART. 142. The members of this Court must be over 21 years of age, and must not be creditors or debtors of the public treasury, nor have accounts pending therewith. Their number, organization and attributions shall be determined by law.

ART. 143. There will be a Fiscal General who shall represent the interests of the public treasury. His attributions shall be determined by law.

TITLE XVI—THE ARMY.

ART. 144. The public force is established to insure the rights of the nation, the compliance with the law and the preservation of public order.

ART. 145. No armed body shall deliberate. Military obedience shall be regulated by law and military ordinances.

ART. 146. Military service is compulsory. Every Honduran from 21 to 30 years of age is a soldier in the active army, and from 30 to 40 years of age, in the reserve. The law shall provide for the organization of the militia, and shall establish the causes for exemption from service.

Commissioned military officers, after reaching the age of 40 years, have the right to resign their commissions and become separated from the service.

ART. 147. Military offenses shall be subject to military jurisdiction.

TITLE XVII.—THE DEPARTMENTAL GOVERNMENT..

ART. 148. For the public administration the territory of the nation is divided into departments, the number and limits of which shall be determined by law. In each one of the said departments there shall be the officials which the law may determine.

ART. 149. In the departmental government no one shall be permitted to exercise at the same time, unless *ad interim* and for a period not to exceed three months, political, military and treasury functions.

TITLE XVIII.—THE MUNICIPAL GOVERNMENT.

ART. 150. The municipal government is autonomous, and shall be vested in municipal corporations directly elected by the people.

The law shall regulate the organization and attributions of municipal corporations. The number of their members shall be proportional to their population. The attributions of municipal corporations shall be purely economical and administrative.

ART. 151. Municipal corporations shall levy, according to law, the local taxes, and shall manage the property and funds of the community for the benefit of the same, rendering an account of their

administration to the Court established by law. They shall submit annually a detailed report of receipts and expenditures.

ART. 152. Municipal corporations shall freely appoint their own employees, and those police agents whose salaries are to be paid out of the municipal funds.

ART. 153. In the exercise of their own functions municipal corporations shall be wholly independent of the other powers, but in no case shall they violate the general laws of the country. They shall be responsible before the courts of justice for any acts which they may commit collectively or individually.

ART. 154. Municipal corporations have the power to commute, according to law, sentences imposed for misdemeanors.

Municipal corporations have also the right to take action on matters of police, sanitation and public instruction, provided said action is not in opposition to the Constitution and general laws.

ART. 155. No member of the municipal corporations shall be compelled to accept another position or be called to the military service.

TITLE XIX.—THE RESPONSIBILITY OF PUBLIC EMPLOYEES.

ART. 156. Every employee or public functionary, when entering on the discharge of his duties, shall make the following promise:

I promise to be faithful to the Republic, and to comply and make others comply with the Constitution and the laws.

ART. 157. Every public functionary is responsible for his own acts.

ART. 158. The President of the Republic, deputies, justices of the Supreme Court, secretaries of State and diplomatic ministers shall be answerable before Congress for the offenses committed by them in the exercise of their functions. Congress, after following the course of procedure for such cases, determined by its rules, shall declare whether or not there are grounds for their indictment, in order to place the offender at the disposal of the competent court. The same declaration shall be required before instituting proceedings for common offenses, against the President of the Republic, the secretaries of State and justices of the Supreme Court.

ART. 159. Notwithstanding the approval which Congress may give to the conduct of the executive, the President and secretaries of State may be accused for official offenses. If these public officials have remained in the country, the right to bring such proceedings against them shall become prescribed five years after they have ceased in their office.

ART. 160. Public employees who violate any of the rights and guarantees set forth in this Constitution shall be civilly and criminally responsible. They may be accused without need of filing a bond for libel. They shall not be pardoned nor their sentences commuted

within the constitutional period, nor during the following one. The offenses and the penalties which they may be liable for shall not prescribe until after the said two periods.

ART. 161. Whenever a public functionary, against whom a declaration should have been made to the effect that there are grounds for his indictment, should be acquitted, he shall be reinstated in the exercise of his functions.

TITLE XX.—CONSTITUTIONAL LAWS.

ART. 162. The following are constitutional laws: Press laws, laws regarding a state of siege, laws granting the right of asylum (*amparo*) and electoral laws.

TITLE XXI.—REFORMS OF THE CONSTITUTION AND CONSTITUTIONAL LAWS.

ART. 163. The reforms of this Constitution shall only be effected by two thirds of the votes of the representatives in Congress in ordinary session setting forth the article or articles which need reform, and stating whether or not the reform is to be absolute.

As soon as the reform is decreed, Congress shall convoke a Constituent Assembly in order that the latter may proceed to reform it; the decree containing the proposed reforms to be contained in the decree of convocation.

ART. 164. The Constituent Assembly shall be elected in the same manner as Congress, and shall have the same number of representatives, with the same immunities.

ART. 165. In no case shall a reform of the articles of the Constitution forbidding the reelection of the President or of his substitute, and establishing the duration of the presidential term be decreed so as to be effective during the current term, or during the following term.

ART. 166. The constitutional laws may be reformed in the same manner as the Constitution, or by two ordinary Congresses with two thirds of the votes.

ART. 167. The National Constituent Assembly entrusts this Constitution, and the rights consecrated therein, to the patriotism of all Hondurans.

FINAL ARTICLE. The present Constitution shall commence to take effect on 1 January 1895; the Constitution of 1 November 1880 being annulled from that date.¹

¹ The signatures of 41 deputies follow.

ITALY.

The victorious campaigns of Napoleon in 1796 and 1797 constituted the starting-point of a series of political revolutions in Italy which ended in the successive annexation of all the parts of Italy to the Kingdom of Sardinia and the formation of the Kingdom of Italy in 1861. From 1797 to 1849 there were 23 constitutions or statutes in force in Italy. Of all of these the *Statuto fondamentale* of the Kingdom of Sardinia of 4 March 1848 was the only one to survive and it still forms the Constitution of the Kingdom of Italy. This Statute, promised by King Charles Albert in a famous proclamation of 18 February 1848, was published the following month and was put into force in the annexed territories by successive decrees.¹ Many of the provisions of this Statute have fallen into disuse, although not expressly repealed. In this number are generally classed Articles 1, 28 (Paragraph 2), 53, 62 (Paragraph 2), 76, 77 and 80. A Law of 17 March 1861 conferred on Victor Emmanuel II and his successors the title of King of Italy, and a Law of 3 February 1871 transferred the capital of the Kingdom to Rome. The position of the Holy See is governed by the Law of 13 May 1871, called the "Law of Guarantees," which was declared to be a fundamental law of the Kingdom by the Council of State (2 March 1878). Nevertheless, since the Holy See has not ceased to protest against the annexation of the Papal States, this law has remained the unilateral work of the Italian government.²

FUNDAMENTAL STATUTE OF 4 MARCH 1848.³

[PREAMBLE.]

We, Charles Albert, by the Grace of God, King of Sardinia, Cyprus and Jerusalem, Duke of Savoy, Genoa, etc., etc., Prince of Piedmont,

¹ Lombardy, decree of 7 December 1859; Emilia, decree of 18 March 1860 and law of 15 April 1860; Tuscany, decree of 22 March and law of 15 April 1860; Sicily, Marches, Umbria and Neapolitan Provinces, law of 17 December 1860; Province of Venice, decree of 28 July 1866; Roman Provinces, decree of 9 October and law of 31 December 1870.

² This introductory paragraph is based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. I, pp. 672-674.

³ English translation in W. F. DODD, *Modern Constitutions* (Chicago, 1909), vol. II, pp. 5-16, and by S. M. LINDSAY and L. S. ROWE in the *Supplement to the Annals of the American Academy of Political and Social Science*, November, 1894 (Philadelphia, 1894). French translation in DARESTE, *op. cit.*, pp. 674-685. German translation in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 642-656. The translation given here is based on that in DODD.

etc., etc., etc., with the fidelity of a king and the affection of a father, are about today to fulfill all that we promised our most beloved subjects in our proclamation of the eighth of last February, whereby we desired to show, in the midst of the extraordinary events then transpiring throughout the country, how much our confidence in our subjects increased with the gravity of the situation, and how, consulting only the impulse of our heart, we had fully determined to make their condition conform to the spirit of the times and to the interests and dignity of the nation.

We, believing that the broad and permanent representative institutions established by this Fundamental Statute are the surest means of cementing the bonds of indissoluble affection that bind to our Italian crown a people that has so often given us ample proof of their faithfulness, obedience and love, have determined to sanction and promulgate this Statute, in the belief that God will bless our good intentions, and that this free, strong and happy nation will ever show itself more deserving of its ancient fame and thus merit a glorious future.

Therefore, we, with our full knowledge and royal authority and with the advice of our Council, have ordained and do hereby ordain and declare in force the fundamental perpetual and irrevocable Statute and law of the monarchy as follows.

ARTICLE 1. The Catholic, apostolic and Roman religion is the only religion of the State.¹ Other cults now existing are tolerated, in conformity with the law.

ART. 2. The State is governed by a representative monarchical government. The throne is hereditary according to the Salic Law.²

ART. 3. The legislative power shall be exercised collectively by the King and two houses, the Senate and the Chamber of Deputies.³

ART. 4. The person of the King is sacred and inviolable.

ART. 5. To the King alone belongs the executive power. He is the supreme head of the State; commands all land and naval forces; declares war; makes treaties of peace, alliance, commerce and other treaties, communicating them to the houses as soon as the interest and security of the State permit, accompanying such notice with opportune explanations. Treaties involving financial obligations or alterations of the territory of the State shall not take effect until after they have received the approval of the houses.

ART. 6. The King appoints to all of the offices of the State, and makes the necessary decrees and regulations for the execution of the laws, without suspending their execution or granting exemptions.

¹ See below, the Law of 13 May 1871. The Law of 19 June 1848 reads as follows: "Difference of religion shall entail no distinction as regards the enjoyment of civil and political rights and eligibility to civil and military positions."

² Law of 2 July 1890 on the status of the royal family.

³ In case of political necessity, the Italian government frequently takes legislative measures by means of law decrees, and this procedure is considered justified by the commentators on this Statute.

ART. 7. The King alone approves and promulgates the laws.

ART. 8. The King may grant pardons and commute sentences.¹

ART. 9. The King convokes the two houses every year. He may prorogue their sessions and dissolve the Chamber of Deputies, but in the latter case he shall convoke another within a period of four months.

ART. 10. The initiative in legislation shall belong both to the King and to each of the two houses. All bills, however, levying imposts or contributions or approving the budgets or accounts of the State shall first be presented to the Chamber of Deputies.

ART. 11. The King attains his majority upon the completion of his 18th year.

ART. 12. During the King's minority, the prince who is his nearest relative in the order of succession to the throne, shall be regent of the Kingdom, provided he be 21 years of age.

ART. 13. Should the prince upon whom the regency devolves be still in his minority and this duty pass to a more distant relative, the regent who actually takes office shall continue in the regency until the King becomes of age.

ART. 14. In the absence of male relatives the regency shall devolve upon the Queen Mother.

ART. 15. In default also of a Queen Mother, the regent shall be elected by the legislative houses, convened within 10 days by the ministers.

ART. 16. The preceding provisions with reference to the regency are applicable in case the King who has attained his majority is physically incapable of reigning. Under such circumstances, if the heir presumptive to the throne be 18 years of age, he shall be regent of full right.

ART. 17. The Queen Mother shall be guardian of the King until he has completed his 7th year; from this time his guardianship shall pass into the hands of the regent.

ART. 18. All rights pertaining to the civil power in matters of ecclesiastical benefices and in the execution of all regulations whatsoever coming from foreign countries shall be exercised by the King.²

ART. 19. The civil list of the Crown shall remain, during the present reign, at an amount equal to the average for the past 10 years.

The King shall continue to have the use of the royal palaces, villas and gardens and their appurtenances, and also of all chattels without distinction pertaining to the Crown, of which a speedy inventory shall be made by a responsible ministry.

¹ The King also exercises the right of amnesty (Code of Penal Procedure, Art. 830).

² The clause, "regulations from foreign countries," refers to papal decrees, ecclesiastical ordinances and orders; at the time of the adoption of this Statute Rome was foreign territory.

In future the above-mentioned civil list shall be fixed for the duration of each reign by the first legislature subsequent to the King's accession to the throne.¹

ART. 20. The property which the King now possesses in his own right, together with that to which he may hereafter acquire title, either for a consideration or gratuitously in the course of his reign, shall form his private patrimony.

The King may dispose of his private patrimony either by acts during his life or by will, without being bound by the provisions of the civil law which limit the amount disposable. In all other cases, the King's patrimony shall be subject to the laws that govern other property.

ART. 21. The law shall provide an annual civil list for the hereditary prince when he has attained his majority, and even earlier in case of his marriage; for the allowances to the princes of the royal family and of royal blood, under the above-mentioned conditions; for the dowries of the princesses and for the dowries of the queens.

ART. 22. Upon ascending the throne, the King, in the presence of the houses, in joint session, shall take the oath to observe faithfully the present Statute.

ART. 23. The regent, before entering on the duties of that office, shall take the oath to be faithful to the King and to observe faithfully this Statute and the laws of the State.

THE RIGHTS AND DUTIES OF CITIZENS.

ART. 24. All inhabitants of the Kingdom,² whatever their rank or title, are equal before the law.

All shall equally enjoy civil and political rights and shall be eligible to civil and military office, except as otherwise provided by law.

ART. 25. All shall contribute without distinction to the burdens of the State, in proportion to their possessions.

ART. 26. Individual liberty is guaranteed.

No one shall be arrested or brought to trial except in the cases provided by law and in the forms which it prescribes.

ART. 27. The domicile is inviolable. No domiciliary search shall take place except by virtue of law and in the forms which it prescribes.

ART. 28. The press shall be free, but the law may suppress abuses of this freedom.³

¹ At present the civil list has been fixed at 16,050,000 lire.

² Law of 17 May 1906 on naturalization.

³ Edict of 26 March 1848, amended by many later laws.

Nevertheless, Bibles, catechisms, liturgical and prayer books shall not be printed without the previous consent of the bishop.¹

ART. 29. All property, without exception, is inviolable.

Nevertheless, when the public interest, legally ascertained, requires it, a person may be bound to give it up, in whole or in part, upon payment of a just indemnity in accordance with the law.²

ART. 30. No tax shall be levied or collected without the consent of the houses and the approval of the King.

ART. 31. The public debt is guaranteed.

All obligations of the State to its creditors are inviolable.

ART. 32. The right to assemble peaceably and without arms is recognized, subject, however, to the laws that may regulate its exercise in the interest of the public welfare.³

This provision is not applicable to meetings in public places or places open to the public, which remain entirely subject to police laws.

THE SENATE.

ART. 33. The Senate shall be composed of members, appointed for life by the King without limit of numbers, who have attained the age of 40 years and who have been chosen from the following categories of citizens:

1. Archbishops and bishops of the State.
2. The president of the Chamber of Deputies.
3. Deputies after having served in three legislatures, or after six years of service.
4. Ministers of State.
5. Ministers secretaries of State.
6. Ambassadors.
7. Envoys extraordinary, after three years of such service.
8. The first presidents and presidents of the Courts of Cassation and of the Court of Accounts.
9. The first presidents of the Courts of Appeal.
10. The attorney general of the Courts of Cassation, and the prosecutor general, after five years of service.
11. The presidents of the chambers of the Courts of Appeals, after three years of service.
12. The councilors of the Courts of Cassation and of the Court of Accounts, after five years of service.
13. The attorneys general and fiscals general of the Courts of Appeal, after five years of service.

¹ The second paragraph of this article has been practically abrogated.

² Law of 25 June 1865.

³ Law of 23 December 1888 on public security, coordinated with the new Penal Code by the Decree of 30 June 1889.

14. General officers of the land and naval forces.

Major generals and rear admirals, however, should have five years of active service in that grade.

15. The councilors of State, after five years of service.

16. The members of the Councils of Division,¹ after three elections to their presidency.

17. The intendants general,² after seven years of service.

18. Members of the Royal Academy of Sciences,³ after seven years of membership.

19. Regular members of the Superior Council of Public Instruction, after seven years of service.

20. Those who by their services or eminent merit have done honor to their country.

21. Persons who, for at least three years, have paid direct property or business taxes to the amount of 3,000 lire.⁴

ART. 34. The princes of the royal family are, by that very fact, members of the Senate. They shall take rank immediately after the president. They shall enter the Senate at the age of 21 and have a vote at 25.

ART. 35. The president and vice-presidents of the Senate shall be appointed by the King.⁵

The Senate shall choose its own secretaries from among its own members.

ART. 36. The Senate may be constituted a High Court of Justice by decree of the King to try crimes of high treason and attempts upon the safety of the State, and to try ministers impeached by the Chamber of Deputies.⁶

In this case, the Senate is not a political body. It shall not then occupy itself with any other judicial matters than those for which it was convened, under penalty of nullity.

ART. 37. No senator shall be arrested except by virtue of an order of the Senate, except in case of *flagrante delicto*. It alone is competent to judge of the imputed misdemeanors of its members.

ART. 38. Legal documents as to births, marriages and deaths of members of the royal family shall be presented to the Senate and deposited by that body among its archives.

¹ At the time of the adoption of this Statute the "Division" in Piedmont corresponded to the "Province" in modern Italy. The Councils of Division are therefore the elective representative bodies of the Provinces, now known as the Provincial Councils.

² Now called "prefects."

³ This provision has been extended to six other academies.

⁴ In 1916 there were 395 senators and 6 members of the royal family.

⁵ Law of 6 June 1889 fixes the term of office.

⁶ Regulation of 20 December 1900 on the procedure before the Senate constituted as a High Court of Justice.

THE CHAMBER OF DEPUTIES.

ART. 39. The elective house shall be composed of deputies chosen by the electoral colleges in conformity with the law.¹

ART. 40. No deputy shall be admitted to the Chamber who is not a subject of the King, 30 years of age, in the enjoyment of civil and political rights and in the possession of the other qualifications required by law.²

ART. 41. Deputies represent the nation as a whole, and not the several provinces in which they were elected.

No binding instructions shall be given to them by the electors.

ART. 42. Deputies are elected for five years; their mandate ceases *ipso facto* at the expiration of this period.

ART. 43. The president, vice-presidents and secretaries of the Chamber of Deputies are chosen by the Chamber from among its own members at the beginning of each session, for the entire session.

ART. 44. If a deputy ceases for any reason to perform his duties, the college which elected him shall be called upon at once to proceed with a new election.

ART. 45. During the sessions no deputy shall be arrested, except in case of *flagrante delicto*, nor be proceeded against in criminal matters without the previous consent of the Chamber.

ART. 46. No warrant of arrest for debts³ shall be executed against a deputy during the sessions of the Chamber, nor within a period of three weeks preceding or following the same.

ART. 47. The Chamber of Deputies has the right to impeach ministers of the King and to bring them to trial before the High Court of Justice.

PROVISIONS COMMON TO BOTH HOUSES.

ART. 48. The sessions of the Senate and of the Chamber of Deputies begin and end at the same time.

Every meeting of one house at a time when the other is not in session is illegal and its acts are entirely void.

ART. 49. Senators and deputies before being admitted to the exercise of their functions take the oath to be faithful to the King.

¹ The election of deputies is now controlled by the Decree of 28 March 1895, which is a consolidation of all laws in force passed before that date. Italy is divided into 508 districts, each of which elects 1 deputy. Voters must possess the following qualifications: (1) Be Italian citizens; (2) have attained the age of 21 years; (3) be able to read and write; (4) have successfully passed the examinations in the subjects comprised in the course of compulsory elementary education. The fourth qualification is not required of officials, graduates of colleges, professional men, of those who pay an annual direct tax of not less than 19.80 lire, of those who pay an agricultural rental of 500 lire, of those who pay house rent of from 150 to 400 lire according to the population of the commune in which they live, of those who have served 2 years in the army, and of certain other less important classes. The Electoral Law received slight modifications by the Laws of 5 December 1897, 7 April 1898 and 19 May 1901.

² Parliamentary incompatibilities are governed by the Law of 5 July 1887.

³ The Mancini Law of 6 December 1877 has done away with personal arrest for debts.

to observe faithfully the Statute and the laws of the State and to perform their functions with the inseparable welfare of King and country as the sole end in view.¹

ART. 50. The office of senator or deputy shall not carry with it any compensation or indemnity.²

ART. 51. Senators and deputies shall not be called to account for opinions expressed or votes given in the houses.

ART. 52. The sessions of the houses are public.

Nevertheless, upon the written request of 10 members secret sessions may be held.

ART. 53. Sessions and deliberations of the houses are not legal or valid if an absolute majority of their members is not present.

ART. 54. Action on any question shall be taken only by a majority of the votes cast.

ART. 55. All bills shall first be submitted for preliminary examination to committees elected by each house. Any proposition discussed and approved by one house shall be transmitted to the other for its consideration and approval; and then it shall be presented to the King for his approval.

Bills shall be discussed article by article.

ART. 56. Any bill rejected by one of the three legislative powers shall not again be introduced during the same session.

ART. 57. Every person who has attained his majority has the right to send petitions to the houses, which shall order them to be examined by a committee and, on report of the committee, shall decide whether such petitions are to be taken into consideration; in case of an affirmative decision they shall be referred to the competent minister or deposited in the offices³ for action at the proper time.

ART. 58. No petition may be presented in person to either house.

Legally organized bodies alone shall have the right to petition under a collective name.

ART. 59. The houses shall not receive any deputation, nor give hearing to others than their own members, ministers, and commissioners of the government.

ART. 60. Each house shall be the sole judge of the qualifications and elections of its own members.

ART. 61. The Senate and the Chamber of Deputies shall make their own rules and regulations respecting their methods of procedure in the performance of their respective duties.⁴

¹ Law of 30 December 1882 on the political oath.

² Senators and deputies receive free passage on the railroads (Decree of 26 December 1861).

³ The Chamber of Deputies is divided into 9 sections (*uffizi*), among which legislative business is divided by the president of the Chamber.

⁴ The Internal Regulations of the Senate bear the date of 17 April 1883 (amended in 1900 and 1902); those of the Chamber of Deputies are of 1 July 1900 (amended in 1901 and 1904).

ART. 62. The Italian language is the official language of the houses. The use of French shall, however, be permitted to the members coming from districts where French is used, and in replying to them.¹

ART. 63. Votes shall be taken by rising and sitting, by division, or by secret ballot.

The latter method, however, shall always be employed for the final vote on a law and in all cases of a personal character.

ART. 64. No one shall at the same time be senator and deputy.

THE MINISTERS.

ART. 65. The King appoints and dismisses his ministers.²

ART. 66. The ministers have no vote in either house unless they are members thereof.

They shall have entrance to both houses and shall be heard upon request.

ART. 67. The ministers are responsible.

Laws and governmental acts shall not take effect until they shall have received the signature of a minister.

THE JUDICIARY.

ART. 68. Justice emanates from the King and shall be administered in his name by the judges whom he appoints.

ART. 69. Judges appointed by the King, except cantonal judges, shall be irremovable after three years of service.³

ART. 70. Courts, tribunals and judges shall be retained as at present existing. No modification shall be introduced except by law.⁴

ART. 71. No one shall be withdrawn from his ordinary legal jurisdiction.

It shall, therefore, not be lawful to create extraordinary tribunals or commissions.⁵

¹ This clause applied principally to Savoy and Nice, which became a part of France by the terms of the Treaty of 24 March 1860.

² Decree of 25 August 1876 on the attributions of the Council of Ministers. Law of 12 February 1888 reorganizing the central administration of the State and providing under-secretaries of State for each ministry. Law of 3 May 1888 on the reelection of ministers and under-secretaries of State. Law of 8 April 1906 determining the composition of the staffs of the president of the Council, of the ministers and of the under-secretaries of State.

³ Two decrees, dated 10 October 1907, instituted a Superior Council on the Magistracy and fixed the method of promotion of judicial personnel. Law of 14 July 1907 on the guarantees and discipline of the magistracy.

⁴ The Law on the Organization of the Judiciary dates from 6 December 1865 (amended by the Laws of 18 July 1904 and 14 July 1907). Organic Law of 8 June 1874 on the jury and the Court of Assizes. Organic Law of 14 August 1862 on the Court of Accounts.

⁵ The Code of Penal Procedure, however, in Article 766 provides that, in case of reasonable suspicion, or on the grounds of public safety, a person may be removed for trial from the regularly constituted jurisdiction.

ART. 72. The proceedings of courts in civil cases and the hearings in criminal cases shall be public, as provided by law.

ART. 73. The interpretation of the laws, in the form obligatory upon all citizens, belongs exclusively to the legislative power.

GENERAL PROVISIONS.

ART. 74. Communal and provincial institutions and the boundaries of the communes and provinces shall be regulated by law.¹

ART. 75. Military conscriptions shall be regulated by law.²

ART. 76. A communal militia shall be established upon a basis fixed by law.³

ART. 77. The State retains its flag, and the blue cockade is the only national one.⁴

ART. 78. The knightly orders now in existence shall be maintained with their endowments, which shall not be used for other purposes than those specified in the acts by which they were established.

The King may create other orders and prescribe their constitutions.

ART. 79. Titles of nobility shall be borne by those who have a right to them. The King may confer new titles.

ART. 80. No one may receive decorations, titles or pensions from a foreign power without the authorization of the King.

ART. 81. All laws contrary to the present Statute are abrogated.

TRANSITORY PROVISIONS.

ART. 82. This Statute shall go into effect on the day of the first meeting of the two houses, which shall take place immediately after the elections. Until that time urgent public service shall be provided for by royal ordinances according to the mode and form now in vogue, excepting, however, the authentications and registrations in the courts which are from now on abolished.

ART. 83. In the execution of this Statute the King reserves to himself the right to make the laws for the press, elections, communal militia and the reorganization of the Council of State.

Until the publication of the laws for the press, the regulations now in force on this subject shall remain valid.

ART. 84. The ministers are entrusted with and are responsible for the execution and full observance of these transitory provisions.

¹ All of the laws relating to provincial and communal organizations were codified first by the Decree of 10 February 1889, secondly by the Decree of 4 May 1898 and thirdly by the Decree of 21 May 1908. The Kingdom is divided into provinces, circondari, mandamenti, and communes, and the system of provincial and communal government is to a large extent copied from France.

² The laws on the organization of the army were codified by the Decree of 14 July 1898 (amended by the Laws of 7 July 1901 and 24 December 1908).

³ The national guard has been suppressed.

⁴ The Italian tricolor of green, white and red was adopted by the Proclamation of 23 March 1848—an act regarded as legal, because the Statute was not in force according to the terms of Article 82.

LAW OF GUARANTEES OF 13 MAY 1871.¹

LAW ON THE PREROGATIVES OF THE SUPREME PONTIFF AND OF THE HOLY SEE AND ON THE RELATIONS OF THE STATE WITH THE CHURCH.

TITLE I.—PREROGATIVES OF THE SUPREME PONTIFF AND OF THE HOLY SEE.

ARTICLE 1. The person of the Supreme Pontiff is sacred and inviolable.

ART. 2. Any attempt against the person of the Supreme Pontiff and the provocation to commit such an attempt shall be punished with the same penalty as similar offenses against the person of the King.

Public offenses and insults committed directly against the person of the Supreme Pontiff, by speech, by act or by the means indicated in Article 1 of the Law on the Press shall be punished with the penalty fixed by Article 19 of the said law.

The crimes above mentioned shall be proceeded against by the public prosecutor and tried by the Courts of Assizes.

The discussion of religious matters shall be entirely free.

ART. 3. The Italian Government grants to the Supreme Pontiff, within the Kingdom, sovereign honors, and guarantees to him the preeminence customarily accorded to him by Catholic sovereigns.

The Supreme Pontiff may maintain the usual number of guards for his person and for the custody of the palaces, without prejudice to the obligations and duties of such guards, according to the laws in force in the Kingdom.

ART. 4. The dotation of an annual income of 3,225,000 lire is reserved for the Holy See.

With this sum, equal to that of the Roman budget for "holy apostolic palaces, sacred college, ecclesiastical congregations, secretary of state and diplomatic corps abroad," it is intended to provide for the Supreme Pontiff and for the various ecclesiastical needs of the Holy See, for the ordinary and extraordinary maintenance and custody of the apostolic palaces and their annexes, for the compensation and pensions of the guards mentioned in the preceding article and of the attachés of the pontifical court, and for casual expenses; as well as for the regular maintenance and custody of the museums and library attached to the apostolic palaces, and for the compensation and pensions of their employees.

This dotation shall be entered in the great book of the public debt as a perpetual and inalienable income in the name of the Holy See, and during the vacancy of the See, it shall continue to be paid to supply all the needs of the Roman Church during such interval.

¹ English translation in DODD, *op. cit.*, pp. 16–21, and in the *British and Foreign State Papers*, 65: pp. 638–642. French translation in DARESTE, *op. cit.*, pp. 685–690.

It shall remain exempt from every form of State, provincial or communal taxation or other burden, and shall not be diminished even in case the Italian government should later decide to assume the expenses of the museums and of the library.

ART. 5. Besides the dotation mentioned in the preceding article the Supreme Pontiff shall have the use of the apostolic Vatican and Lateran palaces with all buildings, gardens and lands appertaining thereto, and also the villa of Castel Gandolfo with all its appurtenances.

These palaces, the villa and its annexes, as well as the museums, the library and the collections of art and of archæology connected therewith, are inalienable and are exempt from all taxation or charges and from seizure for a public purpose.

ART. 6. During the vacancy of the pontifical chair no judicial or political authority shall for any reason hinder or limit the personal liberty of cardinals.

The government shall see to it that assemblies of conclave and of ecumenical councils are not disturbed by external violence.

ART. 7. No public official or agent of the public force in the performance of the duties of his office shall enter the places or palaces which are the permanent or temporary residence of the Supreme Pontiff, or in which a conclave or ecumenical council is in session, without the authorization of the Pope, conclave or council.

ART. 8. Papers, documents, books or registers deposited in pontifical offices or congregations, invested with a purely spiritual character, shall be free from the legal processes of visit, search or sequestration.

ART. 9. The Supreme Pontiff shall be entirely free to fulfill all the functions of his spiritual ministry, and to this end may affix to the doors of basilicas and churches of Rome notices relating to such ministry.

ART. 10. Ecclesiastics at Rome who officially take part in the promulgation of acts pertaining to the spiritual ministry of the Holy See shall not on this account be subjected to any examination, investigation or control by the civil authorities.

Every foreigner invested with ecclesiastical office at Rome shall enjoy all the personal guarantees competent to Italian citizens, in accordance with the laws of the Kingdom.

ART. 11. Envoys of foreign governments to the Holy See shall be entitled within the Kingdom to all the prerogatives and immunities accorded to other diplomatic agents, according to the usages of international law.

All offenses against them shall be subject to the same penalties as are provided for offenses against envoys of foreign powers to the Italian government.

Envoys of the Holy See to foreign governments shall, within the territory of the Kingdom, be entitled to privileges and immunities of the same character while going to or returning from their mission.

ART. 12. The Supreme Pontiff corresponds freely with the episcopacy and with the whole Catholic world, without any interference from the Italian government.

To this end he shall have the right to establish his own postal and telegraph offices at the Vatican or at any of his other residences, served by employees chosen by himself.

The pontifical post office may transmit sealed packages of correspondence directly to foreign offices, or may send them through the Italian offices. In either case, transmission of dispatches or correspondence bearing the papal stamp shall be exempt from all taxation or charges within Italian territory.

Couriers sent out in the name of the Supreme Pontiff are, within the Kingdom, placed on an equal footing with couriers of foreign governments.

The pontifical telegraph office shall be connected with the telegraphic system of the State at the expense of the State.

Telegrams sent by the pontifical office with pontifical authentication shall be received and transmitted within the Kingdom in the same manner as telegrams of State and without charge.

Telegrams of the Supreme Pontiff or sent by his order, which bear the papal stamp, shall enjoy the same privileges if presented to any telegraph office of the Kingdom.

Telegrams addressed to the Supreme Pontiff shall be exempt from the tax imposed upon those who receive telegrams.

ART. 13. Within the city of Rome and within the six suburbicarian sees, the seminaries, academies, colleges and other Catholic institutions founded for the education and training of ecclesiastics shall continue under the sole control of the Holy See, without any interference from the educational authorities of the Kingdom.

TITLE II.—RELATIONS OF THE STATE WITH THE CHURCH.

ART. 14. Every special restriction upon the exercise of the right of members of the Catholic clergy to assemble is abolished.

ART. 15. The government renounces the right to an apostolic legation in Sicily, and to appointment or nomination in the presentation of the major benefices throughout the Kingdom.

Bishops shall not be required to swear fidelity to the King.

Major and minor benefices may be conferred only upon Italian citizens, except in the city of Rome and in the suburbicarian sees.

Nothing is changed with respect to the presentation of benefices of royal patronage.

ART. 16. The *exequatur* and royal *placet* and all other forms of government authorization for the publication or execution of ecclesiastical acts are abolished.

But, until otherwise provided by a special law mentioned in Article 18, such *exequatur* and royal *placet* shall be required for acts disposing of ecclesiastical property and for appointments to major and minor benefices, except those in the city of Rome and in the suburban sees.¹

The provisions of the civil laws relating to the creation and management of ecclesiastical institutions, and to the sale of their property, remain unchanged.

ART. 17. In spiritual and disciplinary matters there shall be no claim or appeal against decisions of ecclesiastical authorities, nor shall such decisions be recognized or executed by the civil authorities.

The determination of the legal effects of such decisions and of other acts of the ecclesiastical authority shall belong to the civil authorities.

If, however, such acts are contrary to the laws of the State or opposed to public order, or encroach upon the rights of individuals, they shall be of no effect and, if they constitute offenses, shall be subject to the criminal laws.

ART. 18. A future law shall provide for the reorganization, preservation and administration of the ecclesiastical property within the Kingdom.²

ART. 19. In all the matters which form the object of the present law, regulations now in force contrary to this law are repealed.

¹ Decree of 25 June 1871 containing provisions for the *exequatur* and the royal *placet*.

² See the Law of 19 June 1873 on the suppression of religious corporations in Rome, etc.

JAPAN.

In 1867 the Shogun, until then the real ruler of Japan, surrendered his powers to the Emperor. The disappearance of the Shogunate weakened the feudal system, which was, however, made the basis of the first representative organization. In February, 1868, a superior council and seven ministerial departments were organized; a deliberative assembly was convened, its members to be composed of delegates appointed by the feudal chiefs. In the same year the Emperor took an oath that "the system of a deliberative assembly should be adopted and that all measures should be taken in conformity with public opinion." The organization of government upon a feudal basis proved unsatisfactory; the deliberative assembly was abolished in 1870, and the feudal régime itself was suppressed in 1871.

An agitation in favor of national representative institutions began in 1874, but those in charge of the government considered such a step premature; in 1878 representative provincial councils were created. Beginning in 1880 a vigorous political propaganda was conducted in favor of the establishment of a representative assembly; an imperial edict of 12 October 1881 announced that the first Imperial Diet would be convened in 1890.

Between 1881 and 1889 important reforms were made in the organization of the government. The Constitution was promulgated on 11 February 1889, and at the same time were issued the Imperial House Law, the Imperial Ordinance concerning the House of Peers, the Law of the Houses, the Electoral Law for members of the House of Representatives, and the Law of Finance. The first Diet was formally opened on 29 November 1890.¹

CONSTITUTION OF 11 FEBRUARY 1889.²

CHAPTER I.—THE EMPEROR.

ARTICLE 1. The Empire of Japan³ shall be reigned over and governed by a line of Emperors unbroken for ages eternal.

¹ These introductory paragraphs are reprinted from W. F. DODD, *Modern Constitutions* (Chicago, 1909), vol. II, p. 23. There is also a very good account in F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, pp. 686-687.

² The translation given here is reprinted from DODD, *op. cit.*, pp. 24-33, and was adopted by him almost without change from the official English translation issued from Tokyo in 1889; the difficulty of obtaining revision makes it necessary to give this Constitution in the untechnical language in which it here appears. English translation also in the *British and Foreign State Papers*, 81: pp. 289-295. French translation in DARESTE, *op. cit.*, pp. 687-696. German translation in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 924-933.

³ The island of Hokushu and the Nansai Islands have no representatives in the Imperial Diet.

ART. 2. The imperial throne shall be succeeded to by imperial male descendants, according to the provisions of the Imperial House Law.¹

ART. 3. The Emperor is sacred and inviolable.

ART. 4. The Emperor is the head of the Empire, combining in himself the rights of sovereignty, and exercises them, according to the provisions of the present Constitution.

ART. 5. The Emperor exercises the legislative power with the consent of the Imperial Diet.

ART. 6. The Emperor gives sanction to laws and orders them to be promulgated² and executed.

ART. 7. The Emperor convokes the Imperial Diet, opens, closes and prorogues it, and dissolves the House of Representatives.

ART. 8. The Emperor, in consequence of an urgent necessity to maintain public safety or to avert public calamities, issues, when the Imperial Diet is not sitting, imperial ordinances in the place of laws.

Such imperial ordinances are to be laid before the Imperial Diet at its next session, and when the Diet does not approve the said ordinances, the government shall declare them to be invalid for the future.

ART. 9. The Emperor issues, or causes to be issued, the ordinances³ necessary for the carrying out of the laws, or for the maintenance of the public peace and order, and for the promotion of the welfare of the subjects. But no ordinance shall in any way alter any of the existing laws.

ART. 10. The Emperor determines the organization of the different branches of the administration, and the salaries of all civil and military officers, and appoints and dismisses the same. Exceptions especially provided for in the present Constitution or in other laws shall be in accordance with the respective provisions (bearing thereon).

ART. 11. The Emperor has the supreme command of the army and navy.

ART. 12. The Emperor determines the organization and peace standing of the army and navy.

ART. 13. The Emperor declares war, makes peace and concludes treaties.

ART. 14. The Emperor proclaims a state of siege.

The conditions and effects of a state of siege shall be determined by law.

¹ By the Imperial House Law of 11 February 1889 (62 articles), the succession is in the male descendants of the Emperor, in accordance with the law of primogeniture; when the Emperor has no descendants, the crown goes to the male relative of the nearest collateral male line. English translation of this law in the *British and Foreign State Papers*, 81: pp. 295-301.

² Ordinances of 1881 and 1886 govern the forms of promulgation.

³ A law of 1889 authorizes the Emperor to sanction his ordinances with a penalty.

ART. 15. The Emperor confers titles of nobility, rank, orders and other marks of honor.

ART. 16. The Emperor orders amnesty, pardon, commutation of punishment and rehabilitation.

ART. 17. A regency shall be instituted in conformity with the provisions of the Imperial House Law.

The regent shall exercise the powers appertaining to the Emperor, in his name.

CHAPTER II.—RIGHTS AND DUTIES OF SUBJECTS.

ART. 18. The conditions necessary for being a Japanese subject shall be determined by law.¹

ART. 19. Japanese subjects may, according to qualifications determined in laws or ordinances, be appointed to civil or military offices equally, and may fill any other public offices.

ART. 20. Japanese subjects are amenable to service in the army or navy, according to the provisions of law.

ART. 21. Japanese subjects are amenable to the duty of paying taxes, according to the provisions of law.

ART. 22. Japanese subjects shall have the liberty of abode and of changing the same within the limits of law.

ART. 23. No Japanese subject shall be arrested, detained, tried or punished, unless according to law.²

ART. 24. No Japanese subject shall be deprived of his right of being tried by the judges determined by law.

ART. 25. Except in the cases provided for in the law, the house of no Japanese subject shall be entered or searched without his consent.

ART. 26. Except in the cases mentioned in the law, the secrecy of the letters of every Japanese subject shall remain inviolable.

ART. 27. The right of property of every Japanese subject shall remain inviolable.

Measures necessary to be taken for the public benefit shall be provided by law.³

ART. 28. Japanese subjects shall, within limits not prejudicial to peace and order, and not antagonistic to their duties as subjects, enjoy freedom of religious belief.

ART. 29. Japanese subjects shall, within the limits of law, enjoy the liberty of speech, writing, publication,⁴ public meeting and association.⁵

¹ Law of 1899 on nationality.

² Code of Penal Procedure of 1887.

³ Law of 1889 on expropriation for the public benefit.

⁴ Law of 1893 on the press gave way to a new law in 1909.

⁵ Law of 1893 on freedom of assembly and association.

ART. 30. Japanese subjects may present petitions, by observing the proper forms of respect and by complying with the rules specially provided for the same.

ART. 31. The provisions in the present chapter shall not affect the exercise of the powers appertaining to the Emperor, in times of war or in cases of national emergency.

ART. 32. Each and every one of the provisions contained in the preceding articles of the present chapter, that are not in conflict with the laws or the rules and discipline of the army and navy, shall apply to the officers and men of the army and navy.

CHAPTER III.—THE IMPERIAL DIET.

ART. 33. The Imperial Diet shall consist of two houses; a House of Peers and a House of Representatives.¹

ART. 34. The House of Peers shall, in accordance with the Ordinance concerning the House of Peers,² be composed of the members of the imperial family, of the orders of nobility, and of those persons who have been nominated thereto by the Emperor.

ART. 35. The House of Representatives shall be composed of members elected by the people, according to the provisions of the electoral law.³

¹ The internal organization of the two houses is regulated by the Law of the Houses of 11 February 1889 (see below, Article 51). The president and vice-president of the House of Peers are nominated by the Emperor from among the members, and the president and vice-president of the House of Representatives are nominated by the Emperor from among three candidates, elected by the House. The presidents of both houses receive an annual salary of 5,000 yen; vice-presidents, 3,000 yen; elected and nominated members of the House of Peers and members of the House of Representatives, 2,000 yen, besides traveling expenses.

² By the Imperial Ordinance of 11 February 1889 (13 articles) concerning the House of Peers, the latter is composed of *a*. male members of the Imperial family of full age; *b*. princes and marquises of the age of 25 and upwards; *c*. counts, viscounts and barons of the age of 25 and upwards, who have been elected by the members of their respective orders, never to exceed one fifth of each order; *d*. persons above the age of 30 years, who have been nominated members by the Emperor for meritorious services to the State or for erudition; *e*. persons who shall have been elected in each city (*Fu*) and prefecture (*Ken*) from among and by the 15 male inhabitants thereof, above the age of 30 years, paying therein the highest amount of direct national taxes on land, industry or trade, and have been nominated by the Emperor. The term of membership under *c* and *e* is seven years; under *a*, *b* and *d*, for life. The number of members under *d* and *e* must not exceed the number of other members. In 1917, the total number of peers was 364 (see *The Statesman's Year-book*, 1917, p. 1058). English translation of this law in DODD, *op. cit.*, pp. 33–35.

³ The Electoral Law of 11 February 1889 was amended in 1900 and 1908. The members of the House number 379, a fixed number being returned from each electoral district. The proportion of the number of members to the population is one to about 136,522. Voting is by secret single ballot. The right to vote is enjoyed by male subjects of not less than full 25 years of age, who have been permanent and actual residents in the electoral district for not less than a year and who pay land tax to the amount of not less than 10 yen (about \$5) in a year for more than one year, or direct taxes other than land tax to the amount of not less than 10 yen in a year for more than two years or of land tax together with other direct national taxes to the amount of not less than 10 yen in a year for more than two years. In general, male subjects of not less than 30 years of age are eligible to the House, without any qualification arising from payment of taxes. Disqualified for membership are the imperial household officials, priests, students, teachers of elementary schools, government contractors and election officials.

ART. 36. No one shall at one and the same time be a member of both houses.

ART. 37. Every law requires the consent of the Imperial Diet.

ART. 38. Both houses shall vote upon projects of law submitted to them by the government, and may respectively initiate projects of law.

ART. 39. A bill, which has been rejected by either the one or the other of the two houses, shall not be again brought in during the same session.

ART. 40. Both houses may make representations to the government as to laws or upon any other subject. When, however, such representations are not accepted, they can not be made a second time during the same session.

ART. 41. The Imperial Diet shall be convoked every year.

ART. 42. A session of the Imperial Diet shall last during three months. In case of necessity, the duration of a session may be prolonged by imperial order.

ART. 43. When urgent necessity arises, an extraordinary session may be convoked, in addition to the ordinary one.

The duration of an extraordinary session shall be determined by imperial order.

ART. 44. The opening, closing, prolongation of session, or prorogation of the Imperial Diet shall be effected simultaneously for both houses.

In case the House of Representatives has been ordered to dissolve, the House of Peers shall at the same time be prorogued.

ART. 45. When the House of Representatives has been ordered to dissolve, members shall be caused by imperial order to be newly elected, and the new House shall be convoked within five months from the day of dissolution.

ART. 46. No debate shall be opened and no vote shall be taken in either house of the Imperial Diet, unless not less than one third of the whole number of the members thereof is present.

ART. 47. Votes shall be taken in both houses by absolute majority. In the case of a tie, the president shall have the casting vote.

ART. 48. The deliberations of both houses shall be held in public. The deliberations may, however, upon demand of the government or by resolution of the house, be held in secret sitting.

ART. 49. Both houses of the Imperial Diet may respectively present addresses to the Emperor.

ART. 50. Both houses may receive petitions presented by subjects.

ART. 51. Both houses may enact, besides what is provided for in the present Constitution and in the Law of the Houses, rules necessary for the management of their internal affairs.

ART. 52. No member of either house shall be held responsible outside the respective houses, for any opinion uttered or for any vote given in the house. When, however, a member himself has given publicity to his opinions by public speech, by documents in print or in writing, or by any other similar means, he shall, in the matter, be amenable to the general law.

ART. 53. The members of both houses shall, during the session, be free from arrest, unless with the consent of the house, except in cases where taken *in flagrante delicto*, or of offenses connected with a state of internal commotion or with a foreign trouble.

ART. 54. The ministers of State and the delegates of the government may, at any time, take seats and speak in either house.

CHAPTER IV.—THE MINISTERS OF STATE AND THE PRIVY COUNCIL.

ART. 55. The respective ministers of State¹ shall give their advice to the Emperor, and be responsible for it.

All laws, imperial ordinances and imperial rescripts of whatever kind, that relate to the affairs of State, require the countersignature of a minister of State.

ART. 56. The Privy Council shall, in accordance with the provisions for the organization of the Privy Council, deliberate upon important matters of State, when they have been consulted by the Emperor.

CHAPTER V.—THE JUDICIAL POWER.

ART. 57. The judicial power shall be exercised by the courts of law according to law, in the name of the Emperor.

The organization of the courts of law shall be determined by law.²

ART. 58. The judges shall be appointed from among those who possess proper qualifications according to law.

No judge shall be deprived of his position, unless by way of criminal sentence or disciplinary punishment.

Rules for disciplinary punishment shall be determined by law.

ART. 59. Trials and judgments of a court shall be conducted publicly. When, however, there exists any fear that such publicity may be prejudicial to peace and order, or to the maintenance of public morality, the public trial may be suspended by provision of law or by the decision of the court.

¹ The Council of Ministers in its present form dates from 1885, but its organization is governed by an ordinance of 1889. The Council is composed of 10 ministers:

1. Prime Minister.	6. Minister of Marine.
2. Minister of Foreign Affairs.	7. Minister of Justice.
3. Minister of the Interior.	8. Minister of Instruction.
4. Minister of Finances.	9. Minister of Agriculture and Commerce.
5. Minister of War.	10. Minister of Communications.

² The institution of the Court of Cassation dates from 1875. A law of 1891 governs the organization of the courts. The jury system does not exist in Japan.

ART. 60. All matters that fall within the competency of special tribunals shall be specially provided for by law.

ART. 61. No suit which relates to rights alleged to have been infringed by the illegal measures of the executive authorities, and which should come within the competency of the Court of Administrative Litigation, specially established by law,¹ shall be taken cognizance of by a court of law.

CHAPTER VI.—FINANCE.²

ART. 62. The imposition of a new tax or the modification of the rates (of an existing one) shall be determined by law.

However, all such administrative fees or other revenue having the nature of compensation shall not fall within the category of the above clause.

The raising of national loans and the contracting of other liabilities to the charge of the national treasury, except those that are provided in the budget, shall require the consent of the Imperial Diet.

ART. 63. The taxes levied at present shall, in so far as they are not remodeled by a new law, be collected according to the old system.

ART. 64. The expenditure and revenue of the State require the consent of the Imperial Diet by means of an annual budget.

Any and all expenditures exceeding the appropriations set forth in the titles and paragraphs of the budget, or that are not provided for in the budget, shall subsequently require the appropriation of the Imperial Diet.

ART. 65. The budget shall be first laid before the House of Representatives.

ART. 66. The expenditures of the Imperial House shall be defrayed every year out of the national treasury, according to the present fixed amount for the same, and shall not require the consent thereto of the Imperial Diet, except in case an increase thereof is found necessary.

ART. 67. Those expenditures already fixed and based upon the powers belonging to the Emperor by the Constitution, and such expenditures as may have arisen by the effect of law, or that relate to the legal obligations of the government, shall neither be rejected nor reduced by the Imperial Diet, without the concurrence of the government.

ART. 68. In order to meet special requirements, the government may ask the consent of the Imperial Diet to a certain amount as a continuing expenditure fund, for a previously fixed number of years.

ART. 69. In order to supply deficiencies, which are unavoidable, in the budget, and to meet requirements unprovided for in the same, a reserve fund shall be provided in the budget.

¹ This law was promulgated in 1890.

² The Law of 11 February 1889 on finances (33 articles), which governs budgetary questions, was completed by a law of 1890.

ART. 70. When the Imperial Diet can not be convoked, owing to the external or internal condition of the country, in case of urgent need for the maintenance of public safety the government may enact all necessary financial measures, by means of an imperial ordinance.

In the case mentioned in the preceding clause, the matter shall be submitted to the Imperial Diet at its next session, and its approbation shall be obtained thereto.

ART. 71. When the Imperial Diet has not voted on the budget, or when the budget has not been brought into actual existence, the government shall carry out the budget of the preceding year.

ART. 72. The final account of the expenditures and revenue of the State shall be verified and confirmed by the Board of Audit, and it shall be submitted by the government to the Imperial Diet, together with the report of verification of the said board.

The organization and competency of the Board of Audit shall be determined by a special law.¹

CHAPTER VII.—SUPPLEMENTARY RULES.

ART. 73. When it may become necessary in future to amend the provisions of the present Constitution, a project to that effect shall be submitted to the Imperial Diet by imperial order.

In the above case, neither House shall open the debate, unless not less than two thirds of the whole number of members are present, and no amendment shall be passed, unless a majority of not less than two thirds of the members present is obtained.

ART. 74. No modification of the Imperial House Law shall be required to be submitted to the deliberation of the Imperial Diet.

No provision of the present Constitution can be modified by the Imperial House Law.

ART. 75. No modification shall be introduced into the Constitution, or into the Imperial House Law, during the time of a regency.

ART. 76. Existing legal enactments, such as laws, regulations, ordinances, or by whatever names they may be called, shall, so far as they do not conflict with the present Constitution, continue in force.

All existing contracts or orders, that entail obligations upon the government, and that are connected with expenditure, shall come within the scope of Article 67.

¹ Law of 1889.

LIBERIA.

The Republic of Liberia had an American origin. It is composed almost exclusively of negroes whom different colonization societies have directed to certain points on the Ivory Coast since 1822. These colonies, situated beside each other, formed a union in 1837 (Commonwealth of Liberia) under Thomas Buchanan, its first governor. But it was not until ten years later that a convention actually met to solemnly proclaim the independence of the new State and give it a Constitution. This Constitution modeled after that of the United States of America bears the date of 26 July 1847 and it was ratified by the people in the following September. At the biennial election held on 7 May 1907, several amendments were adopted by a two-thirds vote of the people.¹

CONSTITUTION OF 26 JULY 1847,² AS AMENDED 7 MAY 1907.³

PREAMBLE.

The end of the institution, maintenance, and administration of government, is to secure the existence of the body politic, to protect it, and to furnish the individuals who compose it with the power of enjoying in safety and tranquillity, their natural rights, and the blessings of life; and whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity, and happiness.

Therefore, we, the people of the Commonwealth of Liberia, in Africa, acknowledging with devout gratitude the goodness of God, in granting to us the blessings of the Christian religion, and political, religious, and civil liberty, do, in order to secure these blessings for ourselves and our posterity, and to establish justice, insure domestic peace, and promote the general welfare, hereby solemnly associate, and constitute ourselves a free, sovereign, and independent State, by the name of the Republic of Liberia, and do ordain and establish this Constitution, for the government of the same.

¹ This introductory paragraph is based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, pp. 656-657.

² Passed at Monrovia by unanimous consent of the people of the Commonwealth. English text in the *British and Foreign State Papers*, 35: pp. 1301-14.

³ These amendments, which were adopted by a two-thirds vote at the biennial election, 7 May 1907, are here inserted in their proper places. English text in a printed pamphlet in the State Department files (cf. *Papers Relating to Foreign Relations of the United States*, Washington, 1910, part 2, pp. 831-2).

ARTICLE I.—BILL OF RIGHTS.

SECTION 1.—NATURAL AND INALIENABLE RIGHTS OF ALL MEN.

All men are born equally free and independent, and have certain natural, inherent, and inalienable rights; among which are the rights of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness.

SECT. 2.—ALL THE POWER IS INHERENT IN THE PEOPLE. GOVERNMENT INSTITUTED FOR THEIR BENEFIT.

All power is inherent in the people; all free governments are instituted by their authority, and for their benefit, and they have the right to alter and reform the same when their safety and happiness require it.

SECT. 3.—RIGHT OF ALL MEN TO WORSHIP GOD ACCORDING TO THE DICTATES OF THEIR OWN CONSCIENCES.

All men have a natural and inalienable right to worship God according to the dictates of their own consciences, without obstruction or molestation from others; all persons demeaning themselves peaceably, and not obstructing others in their religious worship, are entitled to the protection of law, in the free exercise of their own religion, and no sect of Christians shall have exclusive privileges or preference over any other sect; but all shall be alike tolerated; and no religious test whatever shall be required as a qualification for civil office, or the exercise of any civil right.

SECT. 4.—THERE SHALL BE NO SLAVERY WITHIN THIS REPUBLIC.

There shall be no slavery within this Republic. Nor shall any citizen of this Republic, or any person resident therein, deal in slaves, either within or without this Republic, directly or indirectly.

SECT. 5.—THE PEOPLE HAVE A RIGHT TO ASSEMBLE, INSTRUCT REPRESENTATIVES, AND PETITION THE GOVERNMENT.

The people have a right at all times, in an orderly and peaceable manner to assemble and consult upon the common good, to instruct their representatives, and to petition the government, or any public functionaries for the redress of grievances.

SECT. 6.—JUSTICE WITHOUT DENIAL. TRIAL BY JURY. HEARD IN PERSON OR BY COUNSEL, &C.

Every person injured shall have remedy therefor, by due course of law; justice shall be done without sole denial or delay; and in all

cases, not arising under martial law or upon impeachment, the parties shall have a right to a trial by jury, and to be heard in person or by counsel, or both.

SECT. 7.—HELD TO ANSWER, IN WHAT CASE. NOT TO GIVE EVIDENCE AGAINST HIMSELF, &C.

No person shall be held to answer for a capital or infamous crime, except in cases of impeachment, cases arising in the army or navy, and petty offences, unless upon presentment by a grand jury; and every person criminally charged, shall have a right to be seasonably furnished with a copy of the charge, to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favour; and to have a speedy, public, and impartial trial by a jury of the vicinity. He shall not be compelled to furnish or give evidence against himself; and no person shall for the same offence be twice put in jeopardy of life or limb.

SECT. 8.—NOT DEPRIVED OF LIFE, LIBERTY, &C., BUT BY JUDGMENT OF PEERS OR THE LAW OF THE LAND.

No person shall be deprived of life, liberty, property, or privilege, but by judgment of his peers, or the law of the land.

SECT. 9.—NO PLACES SEARCHED, UNLESS UPON WARRANT LAWFULLY ISSUED.

No place shall be searched, nor person seized, on a criminal charge or suspicion, unless upon warrant lawfully issued, upon probable cause supported by oath, or solemn affirmation, specially designating the place or person, and the object of the search.

SECT. 10.—EXCESSIVE BAIL NOT REQUIRED. CONTRACTS, &C., NOT IMPAIRED. NO EX POST FACTO LAW.

Excessive bail shall not be required, nor excessive fines imposed, nor excessive punishments inflicted. Nor shall the legislature make any law impairing the obligation of contracts; nor any law rendering any act punishable, in any manner in which it was not punishable when it was committed.

SECT. 11.—ELECTION BY BALLOT. QUALIFICATION FOR SUFFRAGE.

All elections shall be by ballot; and every male citizen of 21 years of age, possessing real estate, shall have the right of suffrage.

SECT. 12.—TO KEEP AND BEAR ARMS. MILITARY SUBORDINATION TO THE CIVIL AUTHORITY.

The people have a right to keep and to bear arms for the common defence. And as in time of peace, armies are dangerous to liberty,

they ought not to be maintained, without the consent of the legislature; and the military power shall always be held in exact subordination to the civil authority, and be governed by it.

SECT. 13.—PRIVATE PROPERTY NOT TO BE TAKEN FOR PUBLIC USE WITHOUT, &C.

Private property shall not be taken for public use without just compensation.

SECT. 14.—GOVERNMENT, POWERS DIVIDED. NOT TO INCLUDE JUSTICES OF THE PEACE.

The powers of this government shall be divided into three distinct departments: legislative, executive, and judicial; and no person belonging to one of these departments shall exercise any of the powers belonging to either of the others. This section is not to be construed to include justices of the peace.

SECT. 15.—LIBERTY OF THE PRESS NOT RESTRAINED. SPEAK, WRITE, AND PRINT BEING RESPONSIBLE; INDICTMENTS FOR LIBELS; JURY DETERMINE LAW AND FACTS, &C.

The liberty of the press is essential to the security of freedom in a State; it ought not, therefore, to be restrained in this Republic.

The printing press shall be free to every person who undertakes to examine the proceedings of the legislature, or any branch of government; and no law shall ever be made to restrain the rights thereof. The free communication of thoughts and opinions, is one of the invaluable rights of man, and every citizen may freely speak, write, and print, on any subject, being responsible for the abuse of that liberty.

In prosecutions, for the publication of papers, investigating the official conduct of officers, or men in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases.

SECT. 16.—NO IMPOST OR DUTIES WITHOUT THE CONSENT OF THE PEOPLE OR THEIR REPRESENTATIVES.

No subsidy, charge, impost, or duties, ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people, or their representatives in the legislature.

SECT. 17.—LEGISLATURE TO DIRECT WHAT SUITS AND HOW BROUGHT AGAINST THE REPUBLIC.

Suits may be brought against the Republic in such manner, and in such cases as the legislature may by law direct.

SECT. 18.—WHO ARE SUBJECT TO THE LAW MARTIAL, &C.

No person can, in any case, be subjected to the law martial, or to any penalties or pains, by virtue of that law (except those employed in the army or navy, and except the militia in actual service) but by the authority of the legislature.

SECT. 19.—RIGHT OF THE PEOPLE TO CAUSE THEIR PUBLIC OFFICER TO RETURN TO PRIVATE LIFE.

In order to prevent those who are vested with authority from becoming oppressors, the people have a right at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life, and to fill up vacant places, by certain and regular elections and appointments.

SECT. 20.—PRISONERS BAILABLE. WRIT OF HABEAS CORPUS, BENEFIT OF, &C.

That all prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident or presumption great; and the privilege and benefit of the writ of habeas corpus shall be enjoyed in this Republic, in the most free, easy, cheap, expeditious, and ample manner, and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a limited time, not exceeding 12 months.

ARTICLE II.—LEGISLATIVE POWERS.

SECT. 1.—LEGISLATURE TO CONSIST OF TWO BRANCHES. STYLE OF ENACTMENTS.

That the legislative power shall be vested in a legislature of Liberia, and shall consist of two separate branches, a House of Representatives and a Senate, to be styled the legislature of Liberia, each of which shall have a negative on the other, and the enacting style of their acts and laws shall be: "It is enacted by the Senate and House of Representatives of the Republic of Liberia in Legislature assembled."

SECT. 2.—HOUSE OF REPRESENTATIVES. NUMBER AND QUALIFICATION OF MEMBERS. TERM OF SERVICE.

The representatives shall be elected by and for the inhabitants of the several counties of Liberia, and shall be apportioned among the several counties of Liberia, as follows: The county of Montserrado shall have 4 representatives, the county of Grand Bassa shall have 3, and the county of Sinoe shall have 1, and all counties hereafter

which shall be admitted into the Republic shall have 1 representative, and for every 10,000 inhabitants 1 representative shall be added. No citizen shall be a representative who has not resided in the county in which he resides seven whole years immediately previous to his election, and who shall not, when elected, be an inhabitant of the county by which he was elected, and does not own real estate of not less value than 600 dollars in the county which he represents, and who shall not have attained the age of 23 years. The representatives shall be elected quadrennially and shall serve four years from the time of their election.¹

SECT. 3.—VACANCIES IN THE LEGISLATURE, HOW FILLED.

When a vacancy occurs in the representation of any county by death, resignation or otherwise, it shall be filled by a new election.

SECT. 4.—SPEAKER AND OFFICERS OF THE HOUSE, HOW ELECTED; POWER OF IMPEACHMENT.

The House of Representatives shall elect their own speaker and other officers; they shall also have the sole power of impeachment.

SECT. 5.—SENATE; NUMBER AND QUALIFICATION OF MEMBERS. TERM OF SERVICE.

The Senate shall consist of 2 members from Montserrado County, 2 from Bassa County, 2 from Sinoe County, and 2 from each county which may be hereafter incorporated into this Republic. No citizen shall be a senator who shall not have resided nine whole years immediately previous to his election in the Republic of Liberia, and who shall not, when elected, be an inhabitant of the county which he represents, and who does not own real estate of not less value than 1,000 dollars in the county which he represents, and who shall not have attained the age of 25 years. The senator for each county who shall obtain the highest number of votes shall retain his seat eight years, and the one who was elected at the biennial election May, A. D. 1905, shall retain his seat for six years and all who are afterward elected eight years.²

¹ As amended 7 May 1907. Previously it was required, among other qualifications, that the representative reside in his county two whole years and own real estate of not less value than 150 dollars in his county; representatives were elected biennially and served two years.

² As amended 7 May 1907. Previously it was required, among other qualifications, that the senator reside in the Republic three whole years and own real estate of not less value than 200 dollars; senators served four years, one senator from each county being elected every two years.

SECT. 6.—IMPEACHMENTS, HOW TRIED. JUDGMENT IN SUCH CASES.

The Senate shall try all impeachments; the senators being first sworn or solemnly affirmed to try the same impartially, and according to law, and no person shall be convicted but by the concurrence of two thirds of the senators present. Judgment in such cases shall not extend beyond removal from office, and disqualification to hold an office in the Republic; but the party may be tried at law for the same offence.

When either the President or Vice-President is to be tried, the Chief Justice shall preside.

SECT. 7.—CENSUS, WHEN TAKEN. ONE REPRESENTATIVE FOR EVERY TEN THOUSAND INHABITANTS.

It shall be the duty of the legislature, as soon as conveniently may be after the adoption of this Constitution, and once at least in every ten years afterwards, to cause a true census to be taken of each town, and county of the Republic of Liberia; and a representative shall be allowed every town, having a population of 10,000 inhabitants; and for every additional 10,000 in the counties after the first census, 1 representative shall be added to that county, until the number of representatives shall amount to 30; afterwards 1 representative shall be added for every 30,000.

SECT. 8.—EACH BRANCH OF THE LEGISLATURE SHALL BE JUDGE OF THE ELECTION AND QUALIFICATIONS OF ITS MEMBERS. WHAT SHALL BE A QUORUM. MAY COMPEL THE ATTENDANCE OF ABSENT MEMBERS. MAY EXPEL A MEMBER.

Each branch of the legislature shall be judge of the election returns and qualifications of its own members. A majority of each shall be necessary to transact business, but a less number may adjourn from day to day, and compel the attendance of absent members. Each house may adopt its own rules of proceedings, enforce order, and with the concurrence of two thirds, may expel a member.

SECT. 9.—ADJOURN, NEITHER HOUSE SHALL FOR MORE THAN TWO DAYS WITHOUT THE CONSENT OF THE OTHER.

Neither house shall adjourn for more than two days without the consent of the other; and both houses shall always sit in the same town.

SECT. 10.—BILLS OR RESOLUTIONS, HOW PASSED. TO BE PRESENTED TO THE PRESIDENT FOR APPROVAL.

Every bill or resolution which shall have passed both branches of the legislature, shall, before it becomes a law, be laid before the

President for his approval; if he approves, he shall sign it; if not, he shall return it to the legislature with his objections; if the legislature shall afterwards pass the bill or resolution by a vote of two thirds in each branch, it shall become a law. If the President shall neglect to return such bill or resolution to the legislature, with his objections for five days after the same shall have been so laid before him, the legislature remaining in session during that time, such neglect shall be equivalent to his signature.

SECT. 11.—SENATORS AND REPRESENTATIVES FREE FROM ARREST, EXCEPT, &C.

The senators and representatives shall receive from the Republic a compensation for their services to be ascertained by law; and shall be privileged from arrest except for treason, felony, or breach of the peace while attending at, going to, or returning from the session of the legislature.

ARTICLE III.—EXECUTIVE POWER.

SECT. 1.—PRESIDENT OF THE REPUBLIC, HOW ELECTED. TERM OF OFFICE. COMMANDER-IN-CHIEF. POWER TO MAKE TREATIES. NOMINATE, APPOINT, AND COMMISSION PUBLIC OFFICERS. FILL VACANCIES IN CERTAIN OFFICES. INFORM THE LEGISLATURE OF THE CONDITION OF THE REPUBLIC. RECOMMEND PUBLIC MEASURES, REMIT FORFEITURES, AND GRANT PARDONS, EXCEPT IN CASES OF IMPEACHMENTS. MAY REQUIRE INFORMATION FROM PUBLIC OFFICERS. MAY CONVENE THE LEGISLATURE, AND MAY ADJOURN THE TWO HOUSES.

The supreme executive power shall be vested in a President, who shall be elected by the people and shall hold his office for the term of four years.¹ He shall be commander-in-chief of the Army and Navy. He shall, in the recess of the legislature, have power to call out the militia, or any portion thereof, into actual service in defence of the Republic. He shall have power to make treaties, provided the Senate concur therein, by a vote of two thirds of the senators present. He shall nominate, and with the advice and consent of the Senate, appoint and commission all ambassadors and other public ministers and consuls, Secretaries of State, of War, of the Navy, and of the Treasury, Attorney-General, all judges of courts, sheriffs, coroners, marshals, justices of the peace, clerks of courts, registers, notaries public, and all other officers of State, civil and military, whose appointment may not be otherwise provided for by the Constitution or by standing laws. And in the recess of the Senate, he may fill any vacancies in those offices until the next session of the

¹ As amended 7 May 1907. Previously the presidential term was two years.

Senate. He shall receive all ambassadors and other public ministers. He shall take care that the laws be faithfully executed; he shall inform the legislature from time to time of the condition of the Republic, and recommend any public measures for their adoption, which he may think expedient. He may after conviction remit any public forfeitures and penalties, and grant reprieves and pardons for public offences except in cases of impeachment. He may require information and advice from any public officer, touching matters pertaining to his office. He may on extraordinary occasions convene the legislature, and may adjourn the two houses whenever they can not agree as to the time of adjournment.

SECT. 2.—VICE-PRESIDENT ELECTED IN THE SAME MANNER AND FOR THE SAME TERM AS THE PRESIDENT. QUALIFICATIONS THE SAME. PRESIDENT OF THE SENATE. CASTING VOTE. PRESIDENT OF THE REPUBLIC IN CASE OF THE REMOVAL OF THE PRESIDENT. LEGISLATURE MAY PROVIDE FOR THE CASES OF REMOVAL.

There shall be a Vice-President, who shall be elected in the same manner and for the same term as that of the President, and whose qualifications shall be the same; he shall be President of the Senate, and give the casting vote when the house is equally divided on any subject. And in case of the removal of the President from office, or 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 legislature may by law provide for the cases of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly until the disability be removed or a President shall be elected. When a vacancy occurs in the Vice-Presidency by death, resignation or otherwise, after the regular election of the President and Vice-President, the President shall immediately order a special election to fill said vacancy.¹

SECT. 3.—SECRETARY OF STATE. KEEP THE RECORDS OF THE STATE AND PAPERS OF THE LEGISLATURE. SHALL ATTEND UPON THE PRESIDENT OR LEGISLATURE WHEN REQUIRED.

The Secretary of State shall keep the records of the State, and all the records and papers of the legislative body, and all other public records and documents not belonging to any other department, and shall lay the same when required before the President or legislature. He shall attend upon them when required, and perform such other duties as may be enjoined by law.

¹ This last sentence was added 7 May 1907.

SECT. 4.—SECRETARY OF THE TREASURY. GIVE BONDS TO THE ACCEPTANCE OF THE LEGISLATURE. EXHIBIT ACCOUNTS WHEN REQUIRED. MONEYS DRAWN FROM THE TREASURY BY WARRANT IN CONSEQUENCE OF APPROPRIATION.

The Secretary of the Treasury or other persons who may by law be charged with the custody of the public moneys, shall before he receive such moneys give bonds to the State, with sufficient sureties, to the acceptance of the legislature, for the faithful discharge of his trust. He shall exhibit a true account of such moneys when required by the President or legislature, and no moneys shall be drawn from the treasury, but by warrant from the President, in consequence of appropriation made by law.

SECT. 5.—CERTAIN PUBLIC OFFICERS, THEIR TERM OF OFFICE. MAY BE REMOVED WITHIN THAT TIME. WHAT OFFICERS HOLD THEIR OFFICE AT THE PLEASURE OF THE PRESIDENT.

All ambassadors and other public ministers and consuls, the Secretary of State, of War, of the Treasury, and of the Navy, the Attorney-General and Postmaster-General, shall hold their offices during the pleasure of the President. All justices of the peace, sheriffs, coroners, marshals, clerks of courts, registers, and notaries public, shall hold their offices for the term of two years from the date of their respective commissions, but may be removed from office within that time by the President at his pleasure; and all other officers whose term of office may not be otherwise limited by law, shall hold their offices during the pleasure of the President.¹

SECT. 6.—REMOVAL FROM OFFICE FOR OFFICIAL MISCONDUCT; HOW AND BY WHOM.

Every civil officer may be removed from office by impeachment, for official misconduct. Every such officer may also be removed by the President upon the address of both branches of the legislature, stating their particular reason for his removal.

SECT. 7.—QUALIFICATION OF THE PRESIDENT.

No person shall be eligible to the office of President, who has not been a citizen of this Republic for at least twelve years previous to

¹ This section was amended on 7 May 1907 to read as follows: "All ambassadors and other officers (as named in said section) and all other officers whose term of office may not be otherwise limited by law, shall hold their offices for four years or during the time of the President, but said officers may be removed from office at any time by the President for official misconduct."

his election, and who shall not have attained the age of 35 years, and who is not possessed of unencumbered real estate of not less value than 3,000 dollars.¹

SECT. 8.—COMPENSATION OF THE PRESIDENT. SHALL NEITHER BE INCREASED NOR DIMINISHED, &C. OATH OR AFFIRMATION BEFORE ENTERING ON THE EXECUTION OF HIS OFFICE.

The President shall at stated times receive for his services compensation, which shall neither be increased nor diminished during the period for which he shall have been elected: and 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 Republic of Liberia, and will, to the best of my ability, preserve, protect and defend the Constitution and enforce the laws of the Republic of Liberia.

[SECTION 9.]²

For the purposes of counsel and advice, all Ex-Presidents shall be *ex-officio* members of the Senate, and shall be entitled to discuss all matters before that body, but shall not be entitled to vote thereon.

The members of the cabinet, shall also be *ex-officio* members of the legislature, and shall be privileged to attend either branch for the purpose of discussing or advising upon any matter appertaining to their respective departments.

ARTICLE IV.—JUDICIAL DEPARTMENT.

SECT. 1.—JUDICIAL POWER, HOW VESTED. JUDGES HOLD THEIR OFFICE DURING GOOD BEHAVIOUR. HOW REMOVED. SALARIES MAY BE INCREASED, BUT NOT DIMINISHED. SHALL NOT RECEIVE OTHER PERQUISITES OR EMOLUMENTS.

The judicial power of this Republic shall be vested in one Supreme Court, and such subordinate courts as the legislature may from time to time establish. The judges of the Supreme Court, and all other judges of courts, shall hold their office during good behaviour, but may be removed by the President, on the address of two thirds of both houses for that purpose, or by impeachment and conviction thereon. The judges shall have salaries established by law, which

¹ As amended 7 May 1907. Previously it was required to be a citizen for five years, to be 35 years of age and to be possessed of unencumbered real estate of the value of 600 dollars.

² This amendment of 7 May 1907 has been inserted here as Section 9, although its proper place is not indicated in the official sources.

may be increased but not diminished during their continuance in office. They shall not receive other perquisites or emoluments whatever from parties or others on account of any duty required of them.

SECT. 2.—SUPREME COURT, ORIGINAL AND APPELLATE JURISDICTION.
WHAT CASES.

The Supreme Court shall have original jurisdiction in all cases affecting ambassadors or other public ministers and consuls, and those to which a county shall be a party. In all other cases the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the legislature shall from time to time make.

SECTION 3.¹

The judges of the Supreme Court of the Republic shall be the Chief Justice and two Associate Justices.

SECTION 4.¹

No person shall be appointed judge of any of the courts of records of this Republic, who has not resided in the Republic at least seven whole years, immediately previous to his appointment by the President.

Each judge of the Supreme Court must, at the time of his appointment by the President, be possessed of unencumbered real estate of not less value than 1,500 dollars, and attained the age of 35 years; and every judge of any of the subordinate courts of records of this Republic must, at the time of his appointment by the President, be possessed of unencumbered real estate of not less value than 1,000 dollars, and attained the age of 30 years.

ARTICLE V.—MISCELLANEOUS PROVISIONS.

SECT. 1.—COMMONWEALTH; LAWS OF TO REMAIN IN FORCE UNTIL REPEALED BY THE LEGISLATURE.

All laws now in force in the Commonwealth of Liberia, and not repugnant to the Constitution, shall be in force as the laws of the Republic of Liberia until they shall be repealed by the legislature.

SECT. 2.—OFFICERS UNDER THE COMMONWEALTH TO HOLD OFFICES UNTIL OTHERS SHALL BE APPOINTED AND COMMISSIONED IN THEIR STEAD.

All judges, magistrates, and other officers now concerned in the administration of justice in the Commonwealth of Liberia, and all

¹ Sections 3 and 4 were added 7 May 1907.

other existing civil and military officers therein, shall continue to hold and discharge the duties of their respective offices in the name and by the authority of the Republic, until others shall be appointed and commissioned in their stead, pursuant to the Constitution.

SECT. 3.—TOWNS AND MUNICIPAL CORPORATIONS UNDER THE LAWS OF THE COMMONWEALTH TO RETAIN THEIR EXISTING ORGANIZATION AND AUTHORITY.

All towns and municipal corporations within the Republic, constituted under the laws of the Commonwealth of Liberia, shall retain their existing organizations and privileges, and the respective officers thereof shall remain in office, and act under the authority of this Republic, in the same manner and with the like powers as they now possess under the laws of said Commonwealth.

SECT. 4.—FIRST ELECTION OF OFFICERS UNDER THIS CONSTITUTION. HOW ELECTED, RETURNS MADE, AND NOTICE GIVEN.

The first election of President, Vice-President, senators and representatives shall be held on the first Tuesday in October, in the year of our Lord 1847, in the same manner as election of members of the Council are held in the Commonwealth of Liberia; and the votes shall be certified and returned to the Colonial Secretary, and the result of the election shall be ascertained, posted and notified by him, as is now by law provided in case of such members of Council.

SECT. 5.—ELECTIONS WHERE HELD. TO WHOM RETURNS OF VOTES SHALL BE MADE. ORGANIZATION OF THE LEGISLATURE. VOTES FOR PRESIDENT, BY WHOM COUNTED AND DECLARED. FAILING A MAJORITY OF VOTES FOR ANY ONE CANDIDATE, THE SENATORS AND REPRESENTATIVES, IN CONVENTION, SHALL ELECT A PRESIDENT.

All other elections of President, Vice-President, senators and representatives shall be held in the several counties of this Republic on the second Tuesday in October in every four years;¹ to be held and regulated in such manner as the legislature may by law prescribe. The returns of votes shall be made to the Secretary of State, who shall open the same, and forthwith issue notices of the election to the persons apparently so elected senators and representatives, and all such returns shall be by him laid before the legislature at its next ensuing session, together with a list of the names of the persons who appear by such returns to have been duly elected senators and representatives; and the persons appearing by said returns to be duly

¹ As amended 7 May 1907. Previously the elections were biennial and were held on the first Tuesday in May.

elected, shall proceed to organize themselves accordingly as the Senate and House of Representatives. The votes for President shall be sorted, counted and declared by the House of Representatives. And if no person shall appear to have a majority of such votes, the senators and representatives present shall, in convention, by joint ballot, elect, from among the persons having the three highest number of votes, a person to act as President for the ensuing term.

SECT. 6.—MEETING OF THE LEGISLATURE AT LEAST ONCE IN EVERY YEAR.

The legislature shall assemble once at least in every year, and such meeting shall be on the first Monday in January, unless a different day shall be appointed by law.

SECT. 7.—OFFICERS REQUIRED TO SUBSCRIBE ON OATH OR AFFIRMATION.
BY WHOM THE OATH OR AFFIRMATION SHALL BE ADMINISTERED, &C.

Every legislator and other officer appointed under this Constitution shall, before he enters upon the duties of his office, take and subscribe a solemn oath or affirmation to support the Constitution of this Republic, and faithfully and impartially to discharge the duties of such office. The presiding officer of the Senate shall administer such oath or affirmation to the President, in convention of both houses; and the President shall administer the same to the Vice-President, to the senators and to the representatives in like manner. When the President is unable to attend, the Chief Justice of the Supreme Court may administer the oath or affirmation to him at any place, and also to the Vice-President, senators and representatives in convention. Other officers may take such oath or affirmation before the President, Chief Justice, or any other person who may be designated by law.

SECT. 8.—A MAJORITY OF THE VOTES REQUIRED FOR THE ELECTION OF
CERTAIN OFFICERS.

All elections of public officers shall be made by a majority of the votes, except in cases otherwise regulated by the Constitution or by law.

SECT. 9.—OFFICERS ONLY CREATED WHICH THE PRESENT CIRCUMSTANCES
REQUIRE.

Officers created by this Constitution, which the present circumstances of the Republic do not require that they shall be filled, shall not be filled until the legislature shall deem it necessary.

SECT. 10.—THE RIGHT OF CERTAIN PROPERTY SECURED TO THE WIFE,
WHICH CAN ONLY BE ALIENATED BY HER.

The property of which a woman may be possessed at the time of her marriage, and also that of which she may afterwards become possessed, otherwise than by her husband, shall not be held responsible for his debts, whether contracted before or after marriage.

Nor shall the property thus intended to be secured to the woman be alienated otherwise than by her free and voluntary consent, and such alienation may be made by her either by sale, devise or otherwise.

SECT. 11.—THE WIDOW'S SHARE OF INSOLVENT ESTATES.

In all cases in which estates are insolvent, the widow shall be entitled to one third of the real estate during her natural life, and to one third of the personal estate, which she shall hold in her own right, subject to alienation by her, by devise or otherwise.

SECT. 12.—NONE BUT A CITIZEN IS ENTITLED TO HOLD REAL ESTATE,
EXCEPT, &C.

No person shall be entitled to hold real estate in this Republic, unless he be a citizen of the same. Nevertheless, this article shall not be construed to apply to colonization, missionary, educational or other benevolent institutions, so long as the property or estate is applied to its legitimate purposes.

SECT. 13.—NONE BUT PERSONS OF COLOUR SHALL BE ADMITTED TO CITIZEN-
SHIP.

The great object of forming these colonies being to provide a home for the dispersed and oppressed children of Africa, and to regenerate and enlighten this benighted continent, none but ^{Negroes or} persons of Negro descent¹ shall be admitted to citizenship in this Republic.

SECT. 14.—PRIVATE INDIVIDUALS SHALL NOT PURCHASE LAND FROM THE
ABORIGINES.

The purchase of any land by any citizen or citizens from the aborigines of this country for his or their own use, or for the benefit of others, on estate or estates in fee simple, shall be considered null and void to all intents and purposes.

¹ As amended 7 May 1907. Previously "none but persons of colour" were admissible to citizenship.

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Monsieur
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SECT. 15.—THE IMPROVEMENT OF THE NATIVE TRIBES. THE APPOINTMENT OF SUITABLE PERSONS TO VISIT AND INSTRUCT THEM. THE LEGISLATURE TO MAKE APPROPRIATION FOR THAT PURPOSE.

The improvement of the native tribes and their advancement in the arts of agriculture and husbandry being a cherished object of this government, it shall be the duty of the President to appoint in each county some discreet person, whose duty it shall be to make regular and periodical tours through the country for the purpose of calling the attention of the natives to those wholesome branches of industry, and of instructing them in the same; and the legislature shall, as soon as it can conveniently be done, make provisions for these purposes by the appropriation of money.

SECT. 16.—THE EXISTING REGULATIONS OF THE AMERICAN COLONIZATION SOCIETY RELATIVE TO IMMIGRANTS TO REMAIN THE SAME UNTIL REGULATED BY COMPACT, &C.

The existing regulations of the American Colonization Society in the Commonwealth relative to emigrants shall remain the same in the Republic until regulated by compact between the Society and the Republic; nevertheless, the legislature shall make no law prohibiting emigration. And it shall be among the first duties of the legislature to take measures to arrange the future relations between the American Colonization Society and this Republic.

SECT. 17.—THIS CONSTITUTION MAY BE ALTERED. HOW AND WHEN.

This Constitution may be altered whenever two thirds of both branches of the legislature shall deem it necessary; in which case the alterations or amendments shall first be considered and approved by the legislature, by the concurrence of two thirds of the members of each branch, and afterwards by them submitted to the people, and adopted by two thirds of all the electors at the next biennial meeting for the election of senators and representatives.

LIECHTENSTEIN.

This principality, whose origin dates back to 1712 and which was raised to an Imperial Principality by Emperor Charles VI in 1719, is the only one which continued to follow the fortunes of Austria after the reconstitution of the German Empire under the hegemony of Prussia. Since 1866 it has had no confederative alliance, but has enjoyed close relations with Austria by virtue of various treaties. Its first Constitution, dated 9 November 1818,¹ was promulgated in pursuance of Article 13 of the Act of the German Confederation. Several modifications made in this Constitution in 1848 and 1849 were abolished in part in 1852. The Constitution of 1818 remained in force until the Prince, John II, promulgated the Constitution of 26 September 1862, which since that date has been modified in separate provisions by the Laws of 19 February 1878, 29 December 1895 and 11 October 1901.²

CONSTITUTION OF 26 SEPTEMBER 1862.³

[PREAMBLE.]

We, John II, by the grace of God, Sovereign Prince of Liechtenstein, Duke of Troppau, Count of Rietberg, etc., etc., etc., make known by these presents that the Constitution of our Principality has, as a result of the wishes expressed by our faithful Estates and with the advice and constitutional sanction of the assembled Diet, been ordered as follows.

CHAPTER I.—THE PRINCIPALITY AND ITS GOVERNMENT.

ARTICLE 1. The Principality of Liechtenstein, in the union of its two provinces of Vaduz and Schellenberg, forms an indivisible and unalterable unit and as such is a part of the German Confederation.

ART. 2. The Prince is the head of the State, unites in his person all State rights, and exercises them according to the provisions laid down in the present Constitution.

His person is sacred and inviolable.

¹ English translation in the *British and Foreign State Papers*, 5: pp. 1192–1194.

² This introductory paragraph is based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. I, p. 532. There is a fuller account in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 656–657.

³ Translated by E. H. ZEYDEL from the German text in POSENER, *op. cit.*, pp. 657–672.

ART. 3. The government is hereditary in the princely house of Liechtenstein in accordance with the house laws. The latter also regulate the questions that may arise as to the majority of the Prince and of the hereditary prince, and questions pertaining to guardianship.

CHAPTER II.—THE GENERAL RIGHTS AND DUTIES OF SUBJECTS.

ART. 4. Sojourning within the boundaries of the Principality carries with it the duty of obeying its laws and on the other hand forms the basis for legal protection.

ART. 5. The acquisition of all political rights is permitted to every subject in accordance with the provisions of this Constitution.

ART. 6. The laws provide for the origin and acquisition and for the deprivation and loss of political rights and of citizenship.

ART. 7. The provincial laws provide the general legal standard for all subjects, and all subjects are equal before the law.

ART. 8. Freedom of the person and of external religious worship are guaranteed by this Constitution.

Freedom of communicating thought through the press shall be regulated by a special law.

ART. 9. As a rule no one may be deprived of his ordinary judge nor arrested and punished in a way other than that provided by law in given cases and under observance of the legal forms.

Except when a person is caught *in flagrante delicto*, his arrest may take place only by virtue of an official order with the reasons stated therein.

ART. 10. Every person who is arrested must be informed of the reasons for his arrest immediately, at the latest within 24 hours after his arrest, and he must be granted a hearing by the officials of the court. If the arrest was not made by the court which is competent to continue the proceedings, the arrested person must be delivered to the competent court.

ART. 11. Every person against whom a charge has been made shall, unless there is conclusive evidence of a crime against him, be immediately released from custody after the deposit of a suitable bail or security to be fixed by the court.

ART. 12. Domiciliary search shall take place only in unavoidable instances and by virtue of an order granted by the competent court, under observance of the legal forms. This order must be presented in writing to the owner of the domicile.

ART. 13. The arrested person has the right, under the supervision of the competent court, to communicate with his relatives orally or in writing concerning his family relations, and, during the examination, to secure through his own means better food than the ordinary.

This right may be curtailed or formally prohibited by the court because of abuse or for other reasons of importance.

ART. 14. Property or other rights and privileges may be demanded for purposes of the State or of a community only in the cases and forms prescribed by the law and in consideration of full indemnity, which must be paid previously.

ART. 15. The Constitution guarantees the release by sale of all existing tithes, also of ground taxes in accordance with the provisions of a law, which does not, however, exclude the possibility of a friendly agreement.

ART. 16. All confiscation of property is prohibited, but the confiscation of separate articles which have served or may serve as the tool or means of a crime or a violation is henceforth permitted.

ART. 17. Exclusive commercial and industrial privileges for a limited period will be regulated by a special law in agreement with the laws of the Confederation thereto pertaining.

ART. 18. The right of forming societies is regulated by a law and is protected by the Constitution.

ART. 19. The right of making complaints is guaranteed.

Consequently every subject has the right to complain, to the authorities which are immediately superior, about the conduct or acts of public officials injurious to his interest and in violation of the Constitution, the laws, or the regulations. Such complaints, if necessary, may be prosecuted to the highest authorities. If the complaint is rejected by the superior authorities, the said authorities must furnish the petitioner with the reasons for their decision.

ART. 20. The right of petitioning the Diet is guaranteed, and not only individual subjects and others acting in their interests, but also communes and corporations may present their wishes and requests to the Diet through a member thereof.

ART. 21. Every man capable of bearing arms is liable to be called to the defense of the country in case of need, until he has passed his sixtieth year.

The law determines the obligations of military service and the ordinary and extraordinary military duties in time of war as well as of peace, in accordance with the laws of the Confederation thereto pertaining.¹

ART. 22. A communal law which is to be promulgated shall be based on the following points:

a. Free choice of the communal president by the communal assembly.

¹ Here and elsewhere the term "Confederation" refers to the German Confederation to which Liechtenstein belonged prior to 1866. See the introductory paragraph above, p. 375.

- b. Independent administration of property and of local police under supervision of the government.
- c. The administration and regulation of the poor laws and of the schools.
- d. The right of the commune to grant citizenship.
- e. Freedom of settlement of subjects in every commune.

CHAPTER III.—THE AUTHORITY OF THE STATE, ITS EXERCISE, AND THE OFFICIALS OF THE STATE.

ART. 23. The Prince represents the State in all its relations with foreign States.

Without the consent of the Diet neither the State as a whole nor any part thereof, nor any property of the State, may be sold by treaties with foreign States, and no sovereign right or royal prerogative of the State may be relinquished or otherwise disposed of in favor of a foreign State; moreover, no new burden may be imposed upon the Principality or its subjects and no obligation may be contracted which might violate the rights of the subjects.

ART. 24. Without the cooperation and the consent of the Diet no law may be promulgated, rescinded, modified or authentically interpreted.

However, the Prince will without the cooperation of the Diet take measures required for the execution and administration of the laws, as well as make regulations concerning the right of supervision and administration and issue the proper ordinances. The Prince will also in cases of urgency take the necessary precautions for the safety and welfare of the State.

ART. 25. These provisions are applied by the laws in practice in police matters of the country.

ART. 26. All laws and ordinances which are at variance with an express provision of the present Constitution are hereby rescinded.

Such legal provisions as are not in accord with the spirit of this Constitution shall be submitted to a constitutional revision.

ART. 27. The governing power, which is in the hands of the Prince, shall, in conformity with the provisions of this Constitution, be exercised by responsible State officials appointed by the Prince.

ART. 28. The organization of the State authorities shall be regulated by the Prince through decrees, but these decrees must be based on the constitutional provision that the authorities have their official residence in the Principality.

ART. 29. All laws and ordinances and all decrees, which issue from the Prince or a regency, must, in order to gain validity, be countersigned by a responsible official who is present in the land.

Further regulations on this subject are reserved for a special law, which shall form an integral part of the Constitution.

ART. 30. The head of the government shall give to the Diet at every regular session detailed information as to the revenues and expenditures of the country and shall submit to it the government's rough estimate of revenues and expenditures for the next year. These expenditures shall include only sums necessary for the internal administration and foreign relations, since the Prince retains for himself none of the revenues. Finally the sovereign makes the necessary proposals for the manner of covering the expenditures which are required.

ART. 31. The government has the right of incurring necessary expenditures which were unforeseen and were not included in the budget, subject to the approval of the competent State authorities who must report to the Diet at its next session on the necessity of making the expenditures, as well as give an account of the use to which the funds were put and also secure the approval of the Diet.

ART. 32. Funds saved in separate items of the budget may not be used to cover deficits in others.

ART. 33. The courts of law are administered in the name of the Prince by approved and responsible judges.

ART. 34. In matters pertaining to the administration of justice and in legal proceedings, the courts, within the bounds of their legal efficacy, are independent of all influence of the government.

ART. 35. The fisc and the princely domanial authorities are subject to the jurisdiction of the ordinary courts.

ART. 36. Beside the ordinary courts, compromise and arbitral courts are established for the exercise of judicial functions in civil affairs. The appointment and selection of these, as well as the method of procedure, depend on the wish of the parties.

ART. 37. All courts must append reasons to their decisions and findings.

ART. 38. The Prince has the exclusive right over the disposition of the army, the formation of the same, disciplinary measures and the right to issue all orders concerning the military service without the consent of the Diet.

Legal provisions not referring to the aforementioned subjects shall hereafter be made only with the consent of the Diet.

CHAPTER IV.—THE REPRESENTATION OF THE COUNTRY IN GENERAL AND ITS POWERS IN PARTICULAR.

ART. 39. The Diet is the legal organ of all the subjects and as such it is obliged to protect their rights in relation to the government, according to the provisions of the Constitution; it shall furthermore

promote to the utmost the general welfare of the Prince and of the land, with faithful devotion to the principles of the Constitution.

ART. 40. The powers of the Diet shall extend especially over the following subjects:

a. Constitutional cooperation in legislation.

b. Granting of taxes.

c. Cooperation in military conscription.

d. The right of petitioning and complaining with regard to the State administration in general, as well as its separate branches, finally the right to propose a complaint on the subject of violation of the Constitution and of the laws on the part of responsible State officials.

ART. 41. The right of initiative in legislation, i. e., the introduction of bills, may be exercised by both the Prince and the Diet. If a bill is rejected by either party, it can not be introduced again in the same Diet without essential modification.

ART. 42. With respect to defects and abuses resulting from the administration or the practice of law or arising from representations, petitions and complaints submitted to the Diet by individuals or corporations, the Diet shall always have the right to submit representations and complaints directly to the Prince and to request that such defects and abuses be remedied. To this category belong also complaints against State officials because of violation of the Constitution, alienation of public moneys, extortion, bribery or gross neglect of official duties; such complaints may be submitted by the Diet directly to the Prince. In every case, the remedying of the causes for complaints or the result of the examination shall be reported to the Diet or the committee.

ART. 43. Without the consent of the Diet no direct or indirect tax nor any other State dues or general contribution, whatever name they may bear, shall be imposed and raised. The consent of the Diet shall be expressly mentioned in the proclamation of the tax.

The method of apportioning and distributing all public dues and contributions among persons and goods, as well as the method of raising said dues and expenditures, require the consent of the Diet.

Dues and contributions which are necessary to cover recognized and approved outlays in the State budget and such as are required for the fulfilment of general obligations of the Confederation, and which are therefore sufficiently justified, may not be refused.

ART. 44. The granting of taxes usually takes place at every ordinary session of the Diet.

ART. 45. With regard to the fiscal administration of the country a budget covering all revenues and expenditures for the next fiscal period shall be submitted to the Diet for its examination, criticism and approval; this budget is to be as complete as possible, and a pro-

posal with regard to the taxes that must be levied is to be appended thereto. With regard to the expired fiscal period a careful account of the expenditure of the sums approved and raised in accordance with the budget is to be submitted by the government, under reservation of approval of justified transgressions and with the right of holding the government responsible in those cases of transgression which are not justified.

ART. 46. The Diet, in conjunction with the Prince, has the right to dispose of the assets of the State treasury.

ART. 47. The Diet has the right to decide upon the flotation of loans to the State treasury to cover extraordinary needs; without its consent no loan may be undertaken for the country.

ART. 48. The salary and pension budgets shall be communicated to the Diet for its approval, in so far as the salaries and pensions are paid wholly or partially out of the State treasury.

Claims for pensions on the part of officials in general shall be regulated by a special law.

ART. 49. The levy of troops is subject to legislation. The Diet gives its consent to the annual levy which, however, may not be refused as far as the provisions of the Confederation require.

ART. 50. All agreements with ecclesiastical authorities must be submitted to the Diet as far as they are affected by legislation.

CHAPTER V.—ECCLESIASTICAL FOUNDATIONS AND EDUCATIONAL INSTITUTIONS.

ART. 51. Church property and the property of foundations for religious, educational and charitable institutions are under the protection of the Constitution.

ART. 52. The administration of the property of educational and charitable institutions shall be regulated by proper legislation.

ART. 53. The property of the Church and of foundations can only be disposed of in accordance with the conditions of the charter of foundation, and, in the absence thereof, according to their original purposes.

Only in cases where these purposes can no longer be attained may the property be used for other purposes, and then only with the consent of those interested, and, in so far as public institutions are concerned, only with the consent of the Diet.

ART. 54. Provision shall be made for the necessary educational institutions, especially the elementary schools, the non-classical and industrial high schools, also for the education and support of teachers; the care of these matters shall be commended to the especial attention of the entire State representation.

CHAPTER VI.—THE ELECTION OF THE DEPUTIES TO THE DIET.

ART. 55. The Diet consists of 15 members. Three of these are appointed by the Prince from among the inhabitants of the Principality who are entitled to vote; of the rest of the members seven are elected by electors from the highlands and five by electors from the lowlands.¹

ART. 56. The election of the electors takes place independently in each commune in such a way that two electors represent every 100 inhabitants. In this computation a total of more than 50 inhabitants is considered a complete unit of 100.

ART. 57. All subjects of Liechtenstein who are of the male sex, enjoy their full civil rights and reside in the Principality² are actively and passively entitled to vote.

ART. 58. The primary voters exercise their right of suffrage in the commune in which they find themselves at the time of the election. The electors must be chosen from their own electoral communes.

ART. 59. Every voter can exercise his right of suffrage in person only.

ART. 60. The following are excluded from the active and passive right of suffrage and are therefore neither entitled to vote nor to be elected:

a. Persons who have been deprived of the free disposition of their property or enjoy support as paupers.

b. Persons against whom bankruptcy proceedings have been declared or who have undertaken compromise proceedings with their creditors, during the proceedings and after the conclusion of the same, in case they have not been declared innocent.

c. Persons who have been punished because of a crime or an offence or a transgression committed for the sake of gain or against public decency, also persons who by a decision of a court have been sentenced to a degradation of office.³

ART. 61. If an elected deputy should be appointed to a permanent paid official position, or if a change takes place in the official position of an elected member of the Diet, who is at the same time a spiritual or temporal official of the State, a new election must take place, in which case the departing member may be reelected if his new position permits it.

ART. 62. The proclamation of the Diet elections is in the hands of the government. In the proclamation the communes are directed to

¹ Amended by the Law of 19 February 1878 (*Liechtensteinisches Landes-Gesetzblatt*, 1878, No. 2).

² The following clause was rescinded by the Law of 19 February 1878: "who have reached their 24th year and follow an independent vocation on their own account."

³ Amended by the Law of 19 February 1878; the loss of suffrage rights was formerly conditioned by menial service and support as a pauper; in the case laid down under Section c a person formerly lost his rights of suffrage also if acquittal was only the result of insufficient evidence.

conduct the elections of the electors on a stated day according to law.

ART. 63. This notice must be given at least 21 days before the election. Within the first 8 days following, the communal president with the cooperation of a commission of at least 4 members, to be chosen by the commune, must draw up the election list of the primary voters and determine the number of electors according to Article 56. The commission appoints one of its number secretary. The election list is publicly posted 14 days before the election of the deputies; a copy is at the same time sent to the government.

Claims against these election lists must be made to the president of the commune within 48 hours, and the president immediately submits them to the head of the government. The latter makes a provisional decision, which is to be in force during the elections. As soon as the Diet has been constituted, it shall render final decision in the matter.

ART. 64. At least six days before the election of the deputies the election of the electors takes place in the communal building, after the election day, determined in conjunction with the government, has been previously published by the president of the commune. The notice in which this is done shall invite all voters to fulfil their duties and shall call attention to the consequences ensuing in case of unwarranted absence from the elections.

ART. 65. The voting for the electors must be carried on in the presence of a princely electoral commissioner and must be under the direction of the communal president and the commission which assisted in the preparation of the election list.

The commune is at liberty to assign to this commission two additional citizens as registrars.

ART. 66. Votes are cast according to the list singly and for as many electors as must be chosen by the commune. The members of the electoral commission vote first. Vote by proxy is prohibited.

ART. 67. In these elections a relative majority of votes decides, and in case of a tie the matter is decided by lot.

ART. 68. The election secretary draws up a careful protocol of the election proceedings, and each separate vote is recorded therein with reference to the election list and the duplicate.

ART. 69. After the election is completed, the result is publicly posted in the commune and reported by the electoral commission to the government.

ART. 70. As soon as the electors have been regularly appointed in all communes, the head of the government publishes the day, hour and place of the election of the delegates to the Diet, which is to take place separately in the highlands and lowlands.¹

¹ Amended by the Law of 19 February 1878.

ART. 71. The electoral commissions are formed from the heads of the electoral districts in question, and the presidents of the communes in which, according to the direction of the government, the elections are to take place, preside. The election, too, is to be attended by a princely commissioner.¹

ART. 72. The electors must appear punctually on the appointed day and at the specified time at the place where the election is to be held, and they shall prove their identity by presentation of their voting card. The voting cards are issued to the electors by the communal electoral commissions and contain only the date of the election, the name of the person elected and the number of votes cast for him.

ART. 73. The president of the electoral commission at the appointed hour, without regard to the number of electors present, opens the proceedings of the election of the deputies with an address in which he invites the electors to cast their votes with only the concern for the general good and the welfare of the land in mind, irrespective of all minor considerations and special interests. Hereupon the electors proceed to the voting, and they are permitted to increase the legally constituted electoral commissions by adding out of their own number from 3 to 5 registrars, if they wish to make use of this right.¹

ART. 74. Each elector must designate as his choice the number of candidates for the office of deputy allowed to his district. This designation is made in writing on ballots which are deposited into the urn which is ready for the purpose. The ballot must contain the names of the deputies voted for, and they must be written plainly and definitely, so that there may be no ambiguity as to the choice of persons.

In case of a tie between two candidates the matter is decided by lot. The lots are always drawn in the presence of all the electors, and if the interested parties are not present in person, the two oldest electors are appointed representatives for the drawing. If an election can not be completed on the same day, it is continued on the next.

After the completion of the election of the deputies the substitutes are elected in the same way. There are to be 3 substitutes for the highlands and 2 for the lowlands.¹

ART. 75. The secretary of the commune in which the election takes place, chosen for this purpose, shall draw up a careful protocol of the election proceedings, and the votes shall be entered upon it as well as upon the voting list and the duplicate list.

ART. 76. If in the voting there should be doubt as to the identity of an elected person, the electoral commission renders a provisional decision in the matter.

¹ Amended by the Law of 19 February 1878.

The same procedure is followed, if, before the beginning of the voting, objection is made against an elector who has appeared with his voting card. Final decision in the matter is rendered by the Diet, which shall take up the question immediately after it has been constituted.

ART. 77. When the voting is completed, the results thereof are published by the president of the commission, in accordance with the number of votes of the assembled electors.

ART. 78. Absolute majority is required for the validity of the election of deputies to the Diet. In case of a tie the matter is decided by lot.

ART. 79. If an absolute majority has not been attained in the first ballot, a second election must be held, which is, of course, restricted to the number of delegates who have not attained an absolute majority in the preceding ballot.

Otherwise the second ballot is conducted in precisely the same way as the first; the election is not limited by any other restriction and is conditioned only by the number of candidates as a result of the first election.

ART. 80. If the election is not completed by the second ballot, a relative majority will decide in the third ballot, and only the names of those candidates mentioned in the second ballot may be voted on.

ART. 81. In case of a tie between two candidates the matter is decided by lot. The drawing of the lot always takes place in the presence of all electors, and if the participants are not present in person, the two oldest electors are appointed representatives for the drawing. If an election can not be completed on the same day, it is continued on the next.

After the completion of the election of the deputies, the 5 substitutes are elected in the same way.

ART. 82. A person elected to the office of deputy may decline the position, but must within ten days after being informed of his election declare his intention to the head of the government. If no such declaration is made, the election is accepted. A person who has accepted an election may be dismissed from the Diet only for valid reasons.

ART. 83. A State official who has been elected to the Diet must secure the permission of the government. Such permission will, however, be granted in every case, except for very important reasons. In case such permission is refused, the substitute enters the Diet.

ART. 84. If father and son should be elected deputy at the same time, the son shall be excluded unless the father voluntarily agrees to resign.

ART. 85. Vacancies so caused will be filled by summoning the substitutes.

ART. 86. After the completion of the entire electoral proceedings the election protocol with all its annexes is submitted to the head of the government, and those who have been elected receive for their legitimation an election document containing the signatures of all persons who participated in the conduct and authentication of the elections. They shall submit a receipt for this document within the period stipulated in Article 82.

ART. 87. All primary voters shall take part in the election of electors. Those who without good reason absent themselves from the election, are liable to a fine of 1 gulden, which accrues to the poor-house fund. The electoral commission decides on the validity of excuses for absence. The validity of the elections of deputies and substitutes is not conditioned by the appearance of any fixed number of electors.¹

ART. 88. If the prescribed forms were not observed in the course of the election, or if the requisite legal qualities are not found in the persons elected, or if illegal influences and punishable activities made themselves felt, the election is null and void.

If one or more unqualified persons participated in the voting, the elections are nevertheless considered valid if the difference in the number of votes resulting thereby has no effect on the majority of votes attained by the person elected. If the latter is not the case, the election is void. The Diet, which is to be informed of the validity or invalidity of the elections, orders an investigation, if necessary, in case illegal practices have been discovered, at the proposal of the government. Such investigations are conducted through the regular legal channels.

The government shall decree new elections immediately, if an election has been manifestly conducted in such a way as to make its invalidity clear.

CHAPTER VII.—THE DIET.

ART. 89. The Assembly of Deputies, summoned in a regular, legal way, forms the constitutional organ of the Diet.

ART. 90. The Prince alone has the right to call ordinary and extraordinary sessions of the Diet, to close them, and to prorogue or dis-

¹ As amended by the Law of 19 February 1878. This article formerly read: "All primary voters shall take part in the election of electors. At least two thirds of the persons entitled to the suffrage must cast their vote in the election of deputies to the Diet. If the election can not be held because of the lack of this number of electors, those electors who did not appear must defray the expenses of the proposed elections among themselves or with mutual responsibility. Only those shall be excepted who were prevented by *force majeure* from being present at the electoral proceedings. The decision of the electoral commission in this matter is final."

solve the Diet for three months for important reasons which must in every case be communicated to the Assembly.

ART. 91. The Prince will convene the Diet as often as he considers it necessary for the transaction of important and urgent matters pertaining to the country.

ART. 92. Ordinarily the Diet must be summoned once a year, at the latest between 15 and 31 October.¹

ART. 93. After the dissolution of the Diet a new election must be ordered within four months, and the newly elected members of the Diet must be summoned.

Within the same period a prorogued Diet, too, must be convened again.

ART. 94. An extraordinary Diet must be summoned after every change in the government; it must be called within 30 days after the said change in government has taken place. If the Diet has previously been dissolved, the elections are to be hastened so that the new Diet may convene at the latest 60 days after the change in government has been effected.

ART. 95. The regular sequence of ordinary sessions of the Diet can not be broken because of an extraordinary session.

ART. 96. All the rights accruing to the Diet can only be exercised in the legally constituted Assembly.

ART. 97. Upon convening, the Diet, under the presidency of its senior presiding member, elects a president and a vice-president for the transaction of business. Both elections require subsequent confirmation by the Prince.

ART. 98. The deputies and substitutes are elected for a period of 4 years.²

ART. 99. The departing members of the Diet may be reconfirmed in so far as they were named by the Prince, or they may be reelected in so far as they received their membership by election.

ART. 100. If a member of the Diet named by the Prince should die, lose his personal qualifications or be permanently prevented from attending the sessions, a new member of the Diet is named by the Prince.

ART. 101. The deputies shall as a rule not be elected prior to 6 weeks before the convening of the Assembly. The Diet is convened by a princely decree in which the day and the hour of the meeting of the Diet shall be specified.

¹ Amended by the Law of 11 October 1901. Formerly Article 92 read: "Ordinarily the Diet must be summoned once a year, namely between 15 and 31 May."

² As amended by the Law of 19 February 1878. Formerly Article 98 read:

"The deputies are appointed and elected for a period of 6 years. Half of those elected must always depart after 3 years and shall be replaced by newly elected members.

"In the first assembly those who are to depart are chosen by lot, thereafter by sequence."

ART. 102. After having been summoned the deputies shall appear personally at the seat of the government, where their meeting takes place. Vote by proxy is not permitted. In case of legal hindrance the deputy in question shall notify the government thereof, if possible before the opening of the Diet. If the hindrance is permanent, a substitute must be summoned.

ART. 103. The Diet is opened by the Prince in person or by a plenipotentiary with fitting ceremony, on which occasion all newly entering members swear the following oath:

I swear that I will obey the Constitution and the existing laws and observe the welfare of the country without private considerations, according to my own convictions. So help me God!

Members who enter after the opening of the session have this oath administered to them by the president of the Diet.

ART. 104. Decisions made by the Diet are to be executed as soon as possible and are to be published by the government at the latest at the time of the meeting of the Diet Committee in the month of August.

The laws shall be published with the notice that they have been examined by the government and approved by the Diet.

ART. 105. The Diet is closed by the Prince in person or by a princely commissioner.

ART. 106. At the time of the dissolution of every Diet and at the time of the adjourning of an ordinary Diet, a Committee must be elected, for which the former members are again eligible, as far as they retain their seats in the Diet. In order to complete this election the Assembly must always be permitted to meet, even immediately after its dissolution. If extraordinary conditions should make it impossible to hold such meetings, the former members [of the Committee] or their representatives must continue the business of the Committee.

ART. 107. No member of the Diet may be arrested in the course of a session without the consent of the Diet, unless he be caught *in flagrante delicto*.

In the latter case the Diet shall immediately be informed of the reasons for the arrest which has occurred.

ART. 108. If a member of the Diet should be arrested during the last 6 weeks before the opening of the Diet, the Committee shall immediately be informed of the reasons for the arrest.

ART. 109. During a session of the Diet the deputies receive from the public treasury a suitable *per diem* allowance.

CHAPTER VIII.—THE DIET COMMITTEE.

ART. 110. As long as the Diet is not in session, there will be a Committee to take its place and to transact all business which requires the cooperation of the popular representation.

ART. 111. The Diet Committee consists of the president and of 2 other members of the Diet, one from the highlands and one from the lowlands. In case the president is prevented, the vice-president takes his place, and in case the 2 Committee members are prevented, they are represented by substitutes.¹

ART. 112. The members of the Committee and their substitutes are elected by all the deputies from their own number.¹

ART. 113. The Committee has the right and the duty:

a. To see that the Constitution is preserved, that the decisions of the Diet are executed and that the Diet is again called in due time after it has been dissolved or adjourned.

b. To examine the public treasury reports and to submit directions thereon to the Diet subject to the decision of the latter.

c. To sign bonds and mortgages which are to be drawn up to the treasury, with reference to a previous decision of the Diet.

d. To take charge of special commissions entrusted to it by the Diet, with reference to preparations for future transactions of the Diet.

e. To report to the Prince in cases of urgency and to submit remonstrances, protests and complaints in case constitutional rights are jeopardized and violated.

f. In accordance with the exigencies of the case, to propose the convening of an extraordinary Diet, which proposal will not be refused if the exigency is proved.²

ART. 114. The Committee can not enter into any permanent obligation for the country and is responsible to the Diet for its conduct of business.

ART. 115. The Committee must meet annually in August at the seat of the government in order to attend to its business.

ART. 116. The Committee must be present *in toto* to make its decisions valid.

ART. 117. The duties of the Committee cease with the opening of the next Diet and are continued after an adjournment of the latter or after the close of an extraordinary session.

ART. 118. During their sessions the members of the Committee draw the same *per diem* allowance as is determined for the deputies to the Diet.

CHAPTER IX.—GUARANTEE OF THE CONSTITUTION.

ART. 119. After its proclamation the present Constitution becomes binding as constitutional law for all subjects of the country.

¹ Amended by the Law of 19 February 1878.

² Supplemented by the Law of 29 December 1895 concerning additional provisions on the prerogatives of the Diet Committee: "As long as the Diet is not assembled, petitions may, in urgent and important cases and on condition that the legal prerogatives of the princely authorities are not violated, be submitted to the Diet Committee. The right of initiative belonging to the Diet Committee is not affected by the aforementioned provisions."

ART. 120. All laws, decrees and ordinances which are at variance with the content of this Constitution are hereby repealed.

ART. 121. Without the consent of the government and the Diet no changes may be made in this Constitution.

Proposals for amendments or interpretations of this Constitution, which may be made by the government as well as by the Diet, require on the part of the latter a unanimous vote of the members present in the Diet or a majority vote of three fourths of the members in two consecutive ordinary sessions of the Diet. Proposals made by the government are to be acted upon in the same way.

ART. 122. If there should be doubt as to the interpretation of separate provisions of the Constitution which can not be removed by an agreement between the government and the Diet, the decision shall be left to the Arbitral Court of the Confederation.

ART. 123. Every successor to the throne will, before he receives hereditary homage, pronounce in a written document, in which reference is made to his princely honors and dignity, that he will rule the Principality of Liechtenstein in accordance with the Constitution and the laws, that he will maintain its integrity and observe the princely rights inseparably and unchangeably.

ART. 124. All State officers and appointed officials, as well as all local presidents, shall now and hereafter swear the following oath upon entering office:

I swear fidelity to the Prince, obedience to the laws and observance of the Constitution.

All of them, without exception, are responsible for the exact observance of the Constitution in their sphere of activity.¹

¹ Here follow the attestation and signature of John II.

LUXEMBURG.

By Article 67 of the Act of the Congress of Vienna of 9 June 1815,¹ the Grand Duchy of Luxemburg was assigned to the crown of the Netherlands. After the Treaty of London of 19 April 1839,² the King of Holland took the title of King Grand-Duke and gave Luxemburg a separate Constitution on 12 October 1841.³ The draft of a new Constitution in 127 articles was adopted on 23 June 1848 and sanctioned on 9 July following. But a reaction was not long in setting in. In 1856 William III proposed a revision of the Constitution to the Chamber, but the latter refused to approve the King's project. Whereupon he issued a decree pronouncing its dissolution and promulgating at the same time the revised Constitution (27 November 1856).⁴ The German Confederation gave its approval to this *coup d'état* (29 January 1857). Following the dissolution of the German Confederation (1866), the Treaty of London of 11 May 1867 established the neutrality of the Grand Duchy, which remained outside of the new North German Confederation. A new Constitution was promulgated on 17 October 1868 and this is the one in force today. The death of the King Grand-Duke William III on 23 November 1890 resulted in the separation of the crowns of Luxemburg and the Netherlands on account of the difference in the laws of succession,⁵ and the crown of Luxemburg passed to Adolphus, Duke of Nassau. The Nassau Family Pact bears the date of 30 June 1783. A Family Statute (*Familienstatut*), the official text of which is in German, was promulgated on 16 April 1907, and a law of 10 July 1907 gave it the force of a law.⁶

¹ French text in the *British and Foreign State Papers*, 2 : p. 37.

² French text in the *British and Foreign State Papers*, 27 : pp. 990-1003. and 37 : pp. 1320-1330.

³ French text in the *British and Foreign State Papers*, 44 : pp. 869-875.

⁴ French text in the *British and Foreign State Papers*, 46 : pp. 1249-1262.

⁵ William's daughter succeeded to the throne of Holland, but the Salic Law governed succession in Luxemburg. This law, however, is subordinate to the Nassau Family Pact, which provides for the succession in the case of complete extinction of males. Hence Marie Adelaide succeeded her father, William, the son and successor of Adolphus.

⁶ This introductory paragraph is based on F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. I, pp. 150-151.

CONSTITUTION OF 17 OCTOBER 1868¹CHAPTER I.—THE TERRITORY AND THE GRAND DUKE.²

ARTICLE 1. The Grand Duchy of Luxemburg forms an independent, indivisible and inalienable and perpetually neutral State.³

ART. 2. The limits and chief-towns of the judicial or administrative arrondissements, of the cantons and of the communes may be changed only by virtue of a law.

ART. 3. The crown of the Grand Duchy is hereditary in the family of Nassau, conformably to the Pact of 30 June 1783, to Article 71 of the Treaty of Vienna of 9 June 1815⁴ and to Article 1 of the Treaty of London of 11 May 1867.⁵

ART. 4. The person of the Grand Duke is sacred and inviolable.

ART. 5. The Grand Duke of Luxemburg reaches his majority at the age of 18 years. When he assumes the reins of government, he takes, as soon as possible, in the presence of the Chamber of Deputies or of a deputation appointed by it, the following oath:

I swear to observe the Constitution and the laws of the Grand Duchy of Luxemburg, to maintain the national independence and the integrity of the territory, as well as public and individual liberty, as also the rights of all and of each of my subjects, and to employ for the preservation and the increase of the general and individual prosperity, as a good sovereign ought, all the means which the laws place at my disposal. So help me God!

ART. 6. If, at the death of the Grand-Duke, his successor is a minor, the regency is exercised conformably to the Family Pact.

ART. 7. If the Grand Duke finds it impossible to reign, he is provided with a regency as in the case of minority.

In case of vacancy of the throne, the Chamber provides provisionally for the regency.

A new Chamber, convoked in double number within the period of 30 days, provides definitively for the vacancy.

¹ Translated by OTIS G. STANTON from the French text in the *British and Foreign State Papers*, 58: pp. 249-261. French text also in DARESTE, *op. cit.*, pp. 151-168, and PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 674-684.

² To make the text agree with actual conditions, the words "King Grand-Duke" found in the original text are everywhere replaced by "Grand Duke."

³ Treaty of London of 11 May 1867, approved by the Law of 21 June 1867.

⁴ Article 71 of the Treaty of Vienna of 9 June 1815 (French text in the *British and Foreign State Papers*, 2: p. 39) reads as follows: "The right and order of succession established between the two branches of the House of Nassau by the Act of 1783 [German text in MARTENS, *Recueil de Traités*, 1st edition, vol. II, pp. 405-422], called the *Nassauischer Erbverein*, is maintained and transferred from the four principalities of Orange-Nassau to the Grand Duchy of Luxemburg."

⁵ Article 1 of the Treaty of London of 11 May 1867 (French text in the *British and Foreign State Papers*, 57: p. 34) reads in part as follows: "His Majesty the King of the Netherlands, Grand Duke of Luxemburg, maintains the bonds which attach the said Duchy to the House of Orange-Nassau, by virtue of the treaties which have placed this State under the sovereignty of His Majesty the King Grand-Duke, his descendants and successors."

ART. 8. At his entrance upon his functions, the Regent takes the following oath:

I swear fidelity to the Grand Duke; I swear to observe the Constitution and the laws of the country. So help me God!

CHAPTER II.—THE LUXEMBURGERS AND THEIR RIGHTS.

ART. 9. The quality of Luxemburger is acquired, preserved and lost according to the rules determined by the civil law.

The present Constitution and the other laws relative to political rights determine what are, beyond this quality, the conditions necessary for the exercise of these rights.

ART. 10. Naturalization is granted by the legislative power.

Naturalization assimilates the foreigner to the Luxemburger, for the exercise of political rights.

Naturalization granted to the father is available to his minor child, if the latter declares, within two years of his majority, intention to claim this privilege.¹

ART. 11. There is in the State no distinction of orders.

The Luxemburgers are equal before the law; they alone are admissible to civil and military employments, save exceptions which may be established by a law for particular cases.

ART. 12. Individual liberty is guaranteed.

No one shall be prosecuted except in the cases provided by the law and in the form which it prescribes.

Outside of the case of *flagrante delicto*, no one shall be arrested except by virtue of a judge's warrant with the reasons stated therein, which must be served at the moment of the arrest or, at the latest, within 24 hours.

ART. 13. No one shall be deprived, against his will, of the judge whom the law assigns to him.

ART. 14. No penalty shall be established or applied except by virtue of the law.

ART. 15. The domicile is inviolable. No domiciliary visit shall take place except in the cases provided for by the law and in the form which it prescribes.

ART. 16. No one shall be deprived of his property, except by reason of public utility, in the cases and in the manner established by the law and in consideration of a just and prior indemnity.²

ART. 17. The penalty of confiscation of property shall not be established.

ART. 18. The penalty of death in political matters, civil death and branding are abolished.

¹ Two laws (12 November 1848 and 27 January 1878) govern naturalization matters.

² Laws of 17 December 1859 and 4 March 1896 on expropriation by reason of public utility.

ART. 19. Liberty of religion, that of its public exercise, as well as the liberty to express one's religious opinions, are guaranteed, except for the repression of offenses committed on the occasion of the use of these liberties.

ART. 20. No one shall be compelled to concur, in any manner whatever, in acts and ceremonies of a religion nor observe the rest days thereof.

ART. 21. Civil marriage must always precede the nuptial benediction.

ART. 22. The intervention of the State in the nomination and installation of the heads of religions, the mode of nomination and of revocation of the other ministers of religions, the faculty for both to correspond with their superiors and to publish their acts, as well as the relations of the Church with the State, constitute the object of conventions to be submitted to the Chamber of Deputies for the provisions which necessitate its intervention.

ART. 23. The State takes care that every Luxemburger receives primary instruction.

It creates establishments of intermediate instruction and the necessary courses of higher education.

The law determines the means of providing for public instruction, as well as the conditions of supervision by the government and the communes; it regulates, besides, everything relating to education.¹

Every Luxemburger is free to make his studies in the Grand Duchy or abroad and to attend the universities of his choice, under the provisions of the law on the conditions of admission to the employments or the exercise of certain professions.

ART. 24. Liberty to manifest one's opinions by word in all matters and the liberty of the press are guaranteed, except for the repression of offenses committed on the occasion of the exercise of these liberties.²

Censorship shall never be established.

No caution-money shall be exacted from writers, publishers or printers.

Stamp-duties on native newspapers and periodical writings are abolished.

The publisher, printer or distributor shall not be sued, if the author is known, if he is a Luxemburger and domiciled in the Grand Duchy.

ART. 25. Luxemburgers have the right to assemble peaceably and without arms, if they conform to the laws which regulate the exercise of this right, without the power to submit it to a prior authorization.

¹ Law of 20 April 1881 concerning compulsory education. Laws of 20 April 1881 and 6 June 1898 on primary education. Law of 23 April 1878 on secondary education.

² Law of 20 July 1869 on the press, and the Penal Code.

This provision does not apply to assemblies in the open air, political, religious or otherwise; these assemblies remain entirely subject to the laws and police regulations.

ART. 26. Luxemburgers have the right to form associations. This right shall not be subjected to any prior authorization.

The establishment of every religious corporation must be authorized by a law.¹

ART. 27. Every one has the right to address, to the public authorities, petitions signed by one or several persons.

The constituted authorities alone have the right to address petitions in the collective name.

ART. 28. The secrecy of letters is inviolable.

The law determines who are the agents responsible for the violation of the secrecy of letters confided to the post.

The law shall regulate the guarantee to be given for the secrecy of telegrams.

ART. 29. The use of the German and French languages is optional. Their use shall not be limited.

ART. 30. No prior authorization is required to enter suits against public functionaries for acts of their administration, except what is decreed with regard to members of the government.

ART. 31. Public functionaries, to whatever order they belong, the members of the government excepted, shall not be deprived of their functions, honors and pensions, except in the manner determined by the law.

CHAPTER III.—THE SOVEREIGN POWER.

ART. 32. The Grand Duke exercises the sovereign power conformably to the present Constitution and to the laws of the country.

SECTION 1.—THE PREROGATIVE OF THE GRAND DUKE.

ART. 33. The Grand Duke exercises alone the executive power.

ART. 34. The Grand Duke sanctions and promulgates the laws. He makes known his decision within 6 months from the vote of the Chamber.

ART. 35. The Grand Duke appoints to the civil and military offices, conformably to the law, and saving exceptions established by it.

No function salaried by the State shall be created except by virtue of a legislative provision.

ART. 36. The Grand Duke makes the regulations and decrees necessary for the execution of the laws, without the power ever to suspend the laws themselves or to dispense with their execution.

¹ In practice, religious corporations may be freely established in the Grand Duchy; the intervention of the legislature is required only if they desire to acquire civil personality.

ART. 37. The Grand Duke commands the armed force, declares war and makes treaties. He informs the Chamber thereof, as soon as the interest and safety of the State permit it, adding suitable communications.

Treaties of commerce and those which can burden the State or bind the Luxemburgers individually, and, in general, all those bearing on a matter which can only be regulated by a law, have effect only after having received the assent of the Chamber. No cession, no exchange, no 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 the patent articles.

ART. 38. The Grand Duke has the right to remit or to reduce the penalties pronounced by the judges, except what is decreed relative to the members of the government.

ART. 39. The Grand Duke has the right to coin money, in execution of the law.

ART. 40. The Grand Duke has the right to confer titles of nobility, without the power ever to attach thereto any privilege.

ART. 41. The Grand Duke confers military and civil orders, observing in this respect what the law prescribes.

ART. 42. The Grand Duke may cause himself to be represented by a prince of the blood, who shall have the title of lieutenant of the Grand Duke and shall reside in the Grand Duchy.

This representative shall take oath to observe the Constitution before exercising his powers.

ART. 43. The civil list is fixed at 200,000 francs per annum. It may be changed by law at the commencement of each reign.¹

ART. 44. The Government House in Luxemburg and the Chateau of Walferdange are set aside for the residence of the Grand Duke during his stay within the country.

ART. 45. The dispositions of the Grand Duke must be countersigned by a responsible councilor of the crown, with the exception of those which have for their object the bestowal on foreigners of decorations not destined to recompense services rendered to the Grand Duchy.

SECTION 2.—LEGISLATION.

ART. 46. The assent of the Chamber of Deputies is required for every law.

ART. 47. The Grand Duke addresses to the Chamber proposals or bills which he wishes to submit for its adoption.

¹ These figures were not changed on the accession of Grand Duke Adolphus (1891) and Grand Duke William (1905).

The Chamber has the right to propose bills to the Grand Duke.

ART. 48. The interpretation of laws by way of authority shall take place only by the law.

SECTION 3.—JUSTICE.

ART. 49. Justice is rendered in the name of the Grand Duke by the courts and tribunals.

Decrees and judgments are executed in the name of the Grand Duke.

CHAPTER IV.—THE CHAMBER OF DEPUTIES.

ART. 50. The Chamber of Deputies represents the country.

The deputies vote without consulting with their constituents and shall have in view only the general interests of the Grand Duchy.

ART. 51. The organization and the mode of election of the Chamber are regulated by the law.¹

The electoral law fixes the number of deputies according to the population. This number shall not exceed 1 deputy for 4,000 inhabitants, nor be less than 1 deputy for 5,500 inhabitants.²

The election is direct.

ART. 52. To be elector or eligible, it is necessary :

1. To be a Luxemburger by birth or to be naturalized.
2. To enjoy civil and political rights.
3. To be 25 years of age.
4. To be domiciled within the Grand Duchy.

No other condition of eligibility shall be required.

To be elector, there must be joined to these four conditions those determined by the law and there must be paid, besides, the qualification tax, to be fixed, which shall not exceed 30 francs nor be less than 10 francs.³

ART. 53. The following shall not be electors nor eligibles :

1. Those condemned to corporal or infamous punishment.
2. Those who have been condemned for theft, swindling or breach of trust.
3. Those who obtain aid from a public charitable institution.
4. Those who are in a state of declared bankruptcy, bankrupts and interdicts, and those for whom judicial counsel has been named.

¹ Electoral Code of 5 March 1884 (203 articles) governs legislative and communal elections. This code was amended successively in 1885, 1886, 1892, 1901, 1904 and 1906.

² According to Article 176 of the Electoral Code, cantons elect 1 deputy for each 5,000 inhabitants, fractions over 3,000 counting as 5,000. The number of deputies at present is 50.

³ The electoral qualification tax, after having been reduced from 30 to 15 francs by the Law of 30 June 1892, was further reduced to the minimum of 10 francs by the Law of 22 June 1901 (Electoral Code, Article 1).

ART. 54. The mandate of deputy is incompatible :

1. With the functions of member of the government.
2. With those of prosecuting magistrates.
3. With those of member of the Chamber of Accounts.
4. With those of district commissioner.
5. With those of receiver or accountable agent of the State.
6. With military functions above the grade of captain.

The functionaries finding themselves in a case of incompatibility have the right to choose between the mandate confided to them and their functions.

ART. 55. The incompatibilities provided by the preceding article do not constitute an obstacle to the establishment of others by the law in the future.¹

ART. 56. Deputies are elected for 6 years. They are renewed by halves every 3 years, according to the order of the series determined by the electoral law.

In case of dissolution, the Chamber of Deputies is renewed integrally.

ART. 57. The Chamber verifies the powers of its members and decides the contests which arise on this subject.

On their entrance into office, they take the oath which follows :

I swear fidelity to the Grand Duke, obedience to the Constitution and to the laws of the State. So help me God !

This oath is taken in public session, under the direction of the president of the Chamber.

ART. 58. The deputy, appointed by the government to a salaried position which he accepts, ceases immediately to sit, and resumes his functions only by virtue of a new election.

ART. 59. All laws are submitted to a second vote, unless the Chamber, in accord with the Council of State, sitting in public session, decides otherwise.

There shall be an interval of at least three months between the two votes.²

ART. 60. At each session the Chamber names its president and its vice-president, and organizes its bureau.

ART. 61. The meetings of the Chamber are public, with the exceptions to be determined by regulations.

¹ Article 8 of the Law of 8 May 1872 on the rights and duties of functionaries reads as follows : " The exercise of public functions under the pay of the State is incompatible with the mandate of deputy. The acceptance of this mandate entails by that very fact the resignation of public functions." A law of 18 February 1885 (Article 100) decided that the functions of the judicial order would henceforth be incompatible with those of deputy.

² After the vote on a bill as a whole, the president consults the Chamber as to whether there should or should not be a second vote. If the Chamber decides on a second vote, the bill is sent to the Council of State which decides in its turn whether there should or should not be a second vote.

ART. 62. Every resolution is carried by an absolute majority of the votes. In case of a tie vote, the proposition under consideration is rejected.

The Chamber may pass a resolution only so long as a majority of its members are present.

ART. 63. The votes are cast aloud or by sitting and rising. On the laws as wholes the vote is always taken by roll-call and aloud.

ART. 64. The Chamber has the right of inquiry. The law regulates the exercise of this right.

ART. 65. A bill can be adopted by the Chamber only after having been voted article by article.

ART. 66. The Chamber has the right to amend or to divide the articles and the amendments proposed.

ART. 67. It is forbidden to present petitions to the Chamber in person.

The Chamber has the right to return to the members of the government the petitions which are addressed to it.

The members of the government shall give explanations on their contents whenever the Chamber shall request it.

The Chamber does not occupy itself with any petition having individual interests for its object, unless it tend to the redressing of grievances resulting from illegal acts admitted by the government or the authorities, or the decision to intervene be within the competence of the Chamber.

ART. 68. No deputy can be prosecuted or investigated because of opinions and votes put forth by him in the exercise of his functions.

ART. 69. No deputy can, during the continuance of the session, be prosecuted or arrested by way of repression, except with the authorization of the Chamber, save in case of *flagrante delicto*.

No bodily constraint can be exercised against one of its members during the session, except with the same authorization.

The detention or the prosecution of a deputy is suspended during the session and for all its length, if the Chamber requires it.

ART. 70. The Chamber determines by its own regulations the mode according to which it exercises its attributions.¹

ART. 71. The meetings of the Chamber are held in the place of residence of the administration of the Grand Duchy.

ART. 72. The Chamber meets each year in ordinary session at the time fixed by the regulations.²

The Grand Duke can convoke the Chamber in extraordinary session.

¹ These regulations bear the date of 5 December 1877.

² The ordinary session begins the first Tuesday after 3 November.

Every session is opened and closed by the Grand Duke in person, or else in his name by a legal representative appointed for this purpose.

ART. 73. The Grand Duke can adjourn the Chamber. However, the adjournment can not exceed the term of a month, nor be renewed in the same session, without the assent of the Chamber.

ART. 74. The Grand Duke can dissolve the Chamber.

New elections are proceeded with within three months of the dissolution at the latest.

ART. 75. There is granted to each deputy out of the treasury of the State, by way of indemnification, a sum of five francs per day of attendance or for traveling expenses. Those who live in the city where the session is held do not enjoy any indemnification.

CHAPTER V.—THE GOVERNMENT OF THE GRAND DUCHY.

ART. 76. The Grand Duke regulates the organization of his government, which is composed of at least 3 members.¹

There shall be, besides the government, a Council called to deliberate on the bills and the amendments which might be proposed thereto to regulate questions of administrative litigation, and to give its advice on all other questions which shall be referred to it by the Grand Duke or by the laws.

The organization of this Council and the manner of exercising its attributions are regulated by the law.²

ART. 77. The Grand Duke appoints and recalls the members of the government.

ART. 78. The members of the government are responsible.

ART. 79. There is between the members of the government and the Grand Duke no intermediary authority.³

ART. 80. The members of the government or the commissioners which replace them have admittance to the Chambers, and must be heard when they request it.

The Chamber can request their presence.

ART. 81. In no case can the oral or written order of the Grand Duke release a member of the government from responsibility.

ART. 82. The Chamber has the right to accuse the members of the government.

¹ Two decrees (9 July 1857 and 16 November 1878) organize the government. A decree of 8 February 1878 organizes the bureaux of the government. Since 1901 there are six divisions of the public service.

² Organic Law of the Council of State of 16 January 1866.

³ In spite of this constitutional provision, a Law of 11 December 1872 organized a secretariate to serve as intermediary between the sovereign and the government. This secretariate sat at The Hague, but, since the personal union between Luxemburg and the Netherlands ceased, it sits in Luxemburg.

A law shall determine the cases of responsibility, the penalties to be inflicted and the mode of procedure, either on the accusation admitted by the Chamber or on the prosecution by the injured parties.¹

ART. 83. The Grand Duke can pardon a convicted member of the government only on the request of the Chamber.

CHAPTER VI.—JUSTICE.²

ART. 84. Disputes which have civil rights for their object are exclusively within the jurisdiction of the tribunals.

ART. 85. Disputes which have political rights for their object are within the jurisdiction of the tribunals, save for exceptions established by the law.

ART. 86. No tribunal or contentious jurisdiction can be established except by virtue of a law. No commissions or extraordinary tribunals under any denomination whatsoever can be created.

ART. 87. The organization of a Superior Court of Justice is provided for by a law.

ART. 88. The hearings of the tribunals are public, unless this publicity be dangerous for order or morals, and, in this case, the tribunal declares it by a judgment.

ART. 89. Every judgment states the grounds therefor. It is pronounced in public audience.

ART. 90. Justices of the peace and judges of the tribunals are appointed directly by the Grand Duke.

The counselors of the court and the presidents and vice-presidents of the tribunals of arrondissement are appointed by the Grand Duke on the advice of the Superior Court of Justice.

ART. 91. The judges of the tribunals of arrondissement and the counselors are appointed for life.

No one of them can be deprived of his position or suspended except by a judgment.

The removal of one of these judges can take place only by a new nomination and with his consent.

However, in case of infirmity or of misconduct, he can be suspended, recalled or removed, following the conditions determined by the law.

ART. 92. The salaries of members of the judicial order are fixed by law.

ART. 93. Except in cases provided by the law, no judge can accept salaried functions from the government, unless he exercises them gratuitously, without prejudice however to the cases of incompatibility determined by the law.

¹ These accusations are carried before the Superior Court of Justice.

² Organic Law of 18 February 1885 on the organization of the judiciary

ART. 94. Particular laws regulate the organization of military tribunals, their attributions, the rights and obligations of the members of these tribunals and the duration of their functions.

There may be tribunals of commerce in places determined by the law. It regulates their organization, their attributions, the mode of nomination of their members and the duration of the functions of these last.

ART. 95. The courts and tribunals apply general and local decrees and regulations only so far as they are in conformity with the laws.

The Superior Court of Justice shall regulate conflicts of attributions according to the manner determined by the law.

CHAPTER VII.—THE PUBLIC FORCE.

ART. 96. Everything concerning the armed force is regulated by the law.¹

ART. 97. The organization and the attributions of the gendarmery constitute the object of a law.

ART. 98. A civic guard can be formed whose organization is regulated by the law.

CHAPTER VIII.—FINANCES.

ART. 99. No impost to the profit of the State can be established except by law.

No loan to the profit of the State can be contracted without the assent of the Chamber.

No real estate of the State can be alienated, if the alienation is not authorized by the law.

No creation to the profit of the State, of a road, canal, railroad, great bridge or considerable vessel can be decreed except by virtue of a special law.

No charge burdening the budget of the State for more than one fiscal period can be established except by a special law.

No communal charge or imposition can be established except with the consent of the communal council.

The law determines the exceptions, which experience shall demonstrate necessary with regard to communal imposition.

ART. 100. Imposts to the profit of the State are voted annually.

The laws which establish them have force only for one year, if they are not renewed.

ART. 101. No privilege can be established in the matter of imposts.

No exemption or moderation can be established except by a law.

ART. 102. Outside of the cases formally excepted by the law, no payment can be exacted from citizens or public establishments except by right of impost to the profit of the State or of the commune.

¹ Law of 16 February 1881 on the organization of the armed force.

ART. 103. No pension, retainer or gratuity at the expense of the treasury can be accorded except by virtue of the law.

ART. 104. Each year the Chamber decrees the law of accounts and votes the budget.

All the receipts and expenditures of the State must be carried in the budget and in the accounts.

ART. 105. A Chamber of Accounts is charged with the examination and the liquidation of the accounts of the general administration and of all those accountable to the public treasury.

The law regulates its organization, the exercise of its attributions and the mode of nomination of its members.¹

The Chamber of Accounts sees to it that no article of expenditure of the budget is exceeded.

No transfer from one section of the budget to another can be made except by virtue of a law.

However, members of the government can effect, in their offices, transfers of surpluses from one article to another in the same section, on condition that they justify them before the Chamber of Deputies.

The Chamber of Accounts agrees on the accounts of the different administrations of the State and is charged with collecting for this purpose all necessary information and vouchers. The general account of the State is submitted to the Chamber of Deputies with the observations of the Chamber of Accounts.²

ART. 106. The salaries and pensions of ministers of religions are at the expense of the State and regulated by the law.

CHAPTER IX.—THE COMMUNES.³

ART. 107. There shall be in each commune a communal council elected directly by the inhabitants having the qualifications required to be electors; the composition, organization and attributions of this council are regulated by the law.

The burgomaster is appointed and recalled by the Grand Duke, who can choose him outside of the council.

The communal council decides on all that is of purely communal interest, excepting the approval of its acts in the cases and in the manner which the law determines.

The communal agents or employees, those of the municipal, forestry and rural police are appointed and recalled in the manner determined by the law.

¹ Laws of 9 January 1852 and 27 January 1865.

² Law of 9 January 1852 on the accountability of the State.

³ Law of 24 February 1843 on the organization of communes and districts, amended by the Laws of 15 November 1854 and 10 December 1860, by the Law of 2 December 1861, by the Constitution and by the Law of 5 March 1884. The communal elections are governed by the Law of 5 March 1884 on legislative and communal elections. The qualification tax of electors in communal matters is 10 francs of direct imposts. See notes under Articles 51 and 52, above.

No communal tax can be established or suppressed without the authorization of the Grand Duke.

The accounts and budgets are made public.

The Grand Duke can suspend or annul the acts of the communal authorities which exceed their attributions or which are contrary to the law or general interest. The law regulates the consequences of this suspension or annulling.

The Grand Duke has the right to dissolve the council.

ART. 108. The editing of the acts of the civil State and the keeping of the registers are exclusively among the attributions of the communal authorities.

CHAPTER X.—GENERAL PROVISIONS.

ART. 109. The city of Luxemburg is the capital of the Grand Duchy and the seat of government.

The seat of government can not be removed except temporarily, for grave reasons.

ART. 110. No oath can be imposed except by virtue of the law; it determines the formula thereof.

All civil public functionaries, before entering upon office, take the following oath:

I swear fidelity to the Grand Duke, obedience to the Constitution and to the laws of the State. So help me God!

ART. 111. Every foreigner within the territory of the Grand Duchy enjoys the protection accorded to persons and to property, save exceptions established by the law.

ART. 112. No law, or decree or regulation of general or communal administration, is obligatory except after having been published in the form determined by the law.

ART. 113. No provision of the Constitution can be suspended.

ART. 114. The legislative power has the right to declare that there is occasion to proceed to the revision of such constitutional provision as it designates.

After this declaration, the Chamber is dissolved *ipso facto*.

A new one shall be convoked, conformably to Article 74 of the present Constitution.

This Chamber determines in common accord with the Grand Duke on the points submitted for revision.

In this case the Chamber shall not have power to deliberate, if at least three fourths of the members who compose it are not present; and no change shall be adopted, if it does not receive at least two thirds of the votes.

ART. 115. No change in the Constitution can be made during a regency.

CHAPTER XI.—TRANSITORY AND SUPPLEMENTARY PROVISIONS.

ART. 116. Until provision is made by a law, the Chamber of Deputies shall have the discretionary power to accuse a member of the government, and the Superior Court, in general assembly, shall try him, characterizing the offense and determining the penalty.

Nevertheless, the penalty must not exceed that of imprisonment, without prejudice to the cases expressly provided for by the penal laws.

The councilors of the court forming part of the Chamber shall abstain from all participation in the procedure and the judgment.

ART. 117. From the day when the Constitution shall be executory, all laws, decrees, orders, regulations and other acts which are contrary to it are abrogated.

ART. 118. The death penalty, abolished in political matters, is replaced by the penalty immediately inferior, until it is determined upon by the new law.

ART. 119. While awaiting the conclusion of the conventions provided by Article 22, the present provisions relative to religious worship remain in force.

ART. 120. Until the promulgation of the laws and regulations provided by the Constitution, the laws and regulations in force continue to be applied.

ART. 121. The Constitution of the Estates of 12 October 1841 is abolished.

All the authorities preserve and exercise their attributions, until it shall have been otherwise provided conformably to the Constitution.¹

¹ Here follow the signatures of the Grand Duke and five State officials.

MONTENEGRO.

The Principality of Montenegro was not established in its present form until 1/13 January 1852. Three years later a general Code in 95 articles was promulgated. This Code was a sort of compendium of all the national institutions, political as well as civil, penal and financial, and it proclaimed the equality of all citizens before the law, the inviolability of their rights, as well as regulated the succession to the throne. In 1868 a beginning in constitutional reform was inaugurated, when certain financial powers and the direction of administrative affairs were conferred upon a Senate. Eleven years later the Prince abolished the Senate and created a Council of State, composed of eight members, half elected by the Prince, half by all the male inhabitants bearing or having borne arms. The legislative and executive powers were exercised, in accord with the sovereign, by this Council of State and by a Council of Ministers. The independence of Montenegro had just been recognized by Article 26 of the Treaty of Berlin of 13 July 1878.¹ Two articles of this treaty imposed upon Montenegro equality of religious confessions (Article 27) and inviolability of property (Article 20). The present Constitution was granted by a Proclamation of 18/31 October 1905. A Chamber of 62 deputies was elected on 14 November, and the Prince took oath before it to the new Constitution in the meeting of 6 December.²

CONSTITUTION OF 6/19 DECEMBER 1905.³

[PREAMBLE.]

We, Nicholas I, by the grace of God Prince and Hospodar of Montenegro, grant and publish this Constitution for the Principality of Montenegro.

¹ French text in the *British and Foreign State Papers*, 69: pp. 749-767; English translation in EDWARD HERTSLET, *Map of Europe by Treaty*, vol. IV (London, 1891), pp. 2759-2799.

² This introductory paragraph is based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, pp. 294-295.

³ Translated by OTIS G. STANTON from the French text in the *British and Foreign State Papers*, 98: pp. 419-440. German translation in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 685-705.

PART I.—THE FORM OF GOVERNMENT; THE PRINCE HOSPODAR; THE TERRITORY AND RELIGION OF THE STATE.

ARTICLE 1. The Principality of Montenegro is an hereditary and constitutional monarchy with national representation.

ART. 2. The Prince Hospodar is head of the State and, as such, possesses all the rights of the supreme power and exercises them according to the provisions of the present Constitution. His person is inviolable and irresponsible. He can not in any case be impeached.

ART. 3. The Prince Hospodar exercises the legislative power in concert with the national representation.

ART. 4. The Prince Hospodar sanctions and promulgates the laws. No law can come into force unless the Prince Hospodar sanctions and promulgates it.

ART. 5. The Prince Hospodar is the supreme head of the army.

ART. 6. The Prince Hospodar is the protector of all the religions recognized in Montenegro.

ART. 7. The Prince Hospodar represents the country in all its relations with foreign States. He declares war, concludes treaties of peace and alliance and communicates them to the national representation in so far as and when the interests and security of the country permit it. For treaties of commerce, for those whose execution exacts outlays of money from the treasury, necessitates a modification of the laws of the country, or limits the private and public rights of Montenegrin subjects, the approval of the Skupshtina¹ is necessary.

ART. 8. The Prince Hospodar appoints all the functionaries of the State. All the authorities of the country exercise their functions in his name and under his supreme surveillance.

ART. 9. The Prince Hospodar confers the military grades conformably to the provisions of the laws.

ART. 10. The Prince Hospodar has the right to coin money.

ART. 11. The Prince Hospodar confers decorations, titles and other distinctions.

ART. 12. The Prince Hospodar has the right of amnesty.

ART. 13. The Prince Hospodar has the pardoning power in criminal cases; he can mitigate, diminish, or completely remit penalties.

There can be no suspension of examination and trial in progress, for non-political criminals.

ART. 14. The Prince Hospodar and his family must belong to the Eastern Orthodox religion.

ART. 15. The heir apparent and the other members of the reigning family can not marry without the permission of the Prince Hospodar.

ART. 16. The Prince Hospodar resides in the country, and if, in case of necessity, he leaves Montenegro, for some time, he is repre-

¹ The name of the National Assembly.

sented by the Crown Prince. In case the latter should be prevented from representing the Prince Hospodar, the constitutional authority of the Principality shall be exercised by the Council of Ministers, conformably to the instructions which the Prince Hospodar shall have given them within the limits of the Constitution. The Prince Hospodar announces to the people by a proclamation his departure from the country and the nomination of his representative.

ART. 17. The Prince Hospodar convokes the National Skupshtina in ordinary or extraordinary session. He opens and closes the meetings of the National Skupshtina personally by a discourse from the throne, and through the medium of the Council of Ministers by means of a message or ukase. The Prince Hospodar has the right to adjourn the National Skupshtina and to dissolve it. The ukase of adjournment and of dissolution of the Skupshtina must be countersigned by all the ministers.

ART. 18. In Montenegro Prince Nicholas I Petrovitch Niégosch¹ reigns.

Under the name of reigning house is included: the Sovereign Prince, the Sovereign Princess, the Crown Prince, the Crown Princess.

Members of the reigning house are: the father and the grandfather of the Sovereign Prince, the ascendants in direct line, then the sons, the brothers, the wives of the brothers, the daughters, the sisters, the nephews (sons of the brothers), the grandsons and the granddaughters.

No other relative, either by blood or by marriage, is considered a member of the reigning family and can not, by consequence, enjoy any prerogative or any right of preference over the other Montenegrin subjects.

ART. 19. The male descendants are called to the succession by order of primogeniture as it is prescribed by the special statute of family on the succession to the throne.

ART. 20. The Prince Hospodar and the heir to the throne attain their majority at 18 years of age.

ART. 21. In case of death of the Prince Hospodar, the heir to the throne immediately takes the power as Prince Hospodar of Montenegro and notifies the people of his accession to the throne by a proclamation.

He convokes the National Skupshtina within the thirty days following the death of the late Prince Hospodar in order to take before it the oath prescribed by the Constitution. In case the Skupshtina should be dissolved without the new one having been yet elected, it is the old one which should be assembled for this purpose.

¹ See the Law of 28 August 1910 (p. 429, below), which proclaimed Prince Nicholas King.

It would be the same if the Prince Hospodar abdicated during his lifetime in favor of his heir.

ART. 22. In taking possession of the power, the Prince Hospodar takes before the National Skupshtina the following oath:

In ascending the throne and taking possession of the power as Prince Hospodar of Montenegro, I swear before the Almighty God and before all the Saints to defend the Constitution, to govern according to the Constitution and the laws and, in all my tendencies and my acts, to have the well-being of the country before my eyes.

As I have sincerely sworn, may God aid me and the Holy Gospel and this cross which I embrace with faith and love. Amen.

ART. 23. If at the death of the Prince Hospodar the heir to the throne is not of age, the constitutional princely authority shall be exercised until his majority by a regency composed of three members.

ART. 24. The regents are appointed by the Prince Hospodar in his will; if he has not made provision in this regard, by the Skupshtina.

ART. 25. The testament by which the Prince Hospodar nominates the regents of the Prince must be written and signed by his own hand,

The members of the Council of Ministers sign as witnesses on the back of the testament.

The testament must be written in triplicate which, sealed under the seal of the Prince Hospodar, are deposited one with the Council of State, one with the Supreme Tribunal, and the third in the hands of the Keeper of the Seals.

ART. 26. If the Prince Hospodar has not designated the regents by his testament, the constitutional authority is exercised provisionally by the Council of Ministers, which announces it by a proclamation and convokes the Skupshtina for the election of the prince regents, a month, at the latest, from the day of the death of the Prince Hospodar.

ART. 27. If the Princess Mother is living, she must constitute part of the regency and the National Skupshtina chooses the other two regents.

ART. 28. The regents are chosen solely from among subjects Montenegrin by birth; they must be of the Orthodox religion, enjoy all the civil rights, be forty years old, be ministers, or councillors of State, or envoys accredited to a foreign court, presidents of the Supreme Tribunal or of the Control General of the State or brigadiers; or have exercised one of these functions.

ART. 29. The election of the regents is always done by secret ballot.

ART. 30. The regents receive per annum, as salary, the fifth of the civil list of the Prince Hospodar, which they divide among themselves in equal parts.

The regents before taking possession of the princely authority take oath that they will be faithful to the Prince Hospodar, and that they will govern according to the Constitution and the laws of the country; after which they announce by a proclamation, the taking possession of the princely authority. If they are named by the testament, they take the oath before the Skupshtina, which they must convoke, at the latest, a month after the death of the Prince Hospodar; in the other case they take the oath before the Skupshtina which has elected them.

ART. 31. During the minority of the Prince Hospodar, no change can be made in the Constitution.

ART. 32. If one of the regents dies or is prevented from exercising his functions, he is replaced by the President of the Council of State.

ART. 33. The princely regency shall direct the education of the minor Prince Hospodar.

ART. 34. If the Prince Hospodar dies without leaving male descendants and the Princess is pregnant, the princely power shall be exercised provisionally to the moment of the delivery, by the President of the Council of State, the President of the Council of Ministers and the President of the Supreme Tribunal; after the delivery the princely regents shall be elected conformably to Article 28 of the present Constitution.

ART. 35. The civil list of the Prince Hospodar is fixed by a law. It can not be increased without the authorization of the Skupshtina nor diminished without the consent of the Prince Hospodar.

ART. 36. The territory of the Principality of Montenegro can not be divided or alienated. Its frontiers can be neither diminished nor modified without an agreement between the Prince Hospodar and the Skupshtina.

ART. 37. Montenegro is divided into departments, the departments into arrondissements, the arrondissements into communes.

ART. 38. The arms of the Principality of Montenegro are the two-headed white eagle, surmounted by the imperial crown, holding in his talons, the imperial scepter at the right and the globe at the left; on the breast, a silver lion on a field of gules.

ART. 39. The national colors are: Red, blue, white.

ART. 40. The State religion of Montenegro is the Eastern Orthodox. The Montenegrin Church is autocephalous.

It does not depend on any foreign church, but it preserves unity of dogmas with the Œcumenical Eastern Orthodox Church.

All the other recognized religious confessions are free in Montenegro.

PART II.—THE NATIONAL REPRESENTATION.

ART. 41. The national representation is the Skupshtina. It replaces the meetings, the assemblies and the conferences hitherto existing in Montenegro.

ART. 42. The Prince Hospodar convokes the Skupshtina regularly every year on Saint Luke's Day (18/31 October), and designates the locality where it is to meet. He can also convoke it in extraordinary session, if grave and urgent affairs of State demand it.

ART. 43. The deputies are elected for four years.

ART. 44. If the elections take place after the dissolution of the National Skupshtina, the period of four years begins the day of the inauguration of the Skupshtina newly elected.

ART. 45. The Skupshtina is composed of deputies elected by the people and of deputies who form part of it because of their position, namely, the Metropolitan of Montenegro, the Archbishop of Antivari (Serbian Primate), the Mufti of Montenegro, the President and the members of the Council of State, the President of the Supreme Tribunal, the President of the Control General of the State and three brigadiers appointed by the Prince Hospodar.

ART. 46. The elections of deputies are direct.

ART. 47. Each arrondissement and each chief-town of department, also the city Dulcigno, elects one deputy each.

ART. 48. Every Montenegrin citizen of age is elector by right, without regard to the sum which he pays as taxes.

ART. 49. The following Montenegrin citizens lose temporarily their electoral rights:

1. Those who are sentenced to prison, until they have recovered their civil rights.

2. Those who are, as a consequence of some transgression, condemned to the loss of civil honors, this during the continuance of the penalty.

3. Bankrupts.

4. Those who are under guardianship.

5. Those who have entered the service of a foreign State without the authorization of the Montenegrin government.

ART. 50. The officers, non-commissioned officers and soldiers of the active army are not electors.

ART. 51. The vote is essentially personal and can not be cast except in one single place, namely, in the arrondissement or the city where the elector is registered.

ART. 52. Every citizen who does not have the right to vote is ineligible.

ART. 53. Every Montenegrin citizen to be eligible must be thirty years old, have his domicile fixed in Montenegro (exceptions made

for those who live abroad, charged with some official mission), enjoy all the civil rights, and pay to the State at least 15 crowns per annum under the form of contributions or of impost, or of contributions and impost together.

ART. 54. Functionaries forming part of the administrative authorities (police) are ineligible.

ART. 55. All deputies must live in Montenegro, but they are not obliged to reside in the arrondissement or in the city where they have been elected.

ART. 56. To be proclaimed deputy-elect in an arrondissement or a city, it is necessary to obtain the absolute majority of the votes cast.

ART. 57. If no candidate obtains the absolute majority, the election is recommenced, limited to the two candidates having obtained the largest number of votes; in case of tie, lot decides.

ART. 58. Every candidate elected in two or more districts must choose before the Skupshtina. In the other districts, where he had been elected, they proceed to a new election not later than within a month.

ART. 59. In case of invalidation, of resignation, or of death, complementary elections must be held, not later than a month from the day when the seat became vacant.

ART. 60. Each deputy represents the entire nation and not solely his electors.

Thus the electors can not give an imperative mandate to the deputy, to whom his experience and his conscience must alone dictate his acts and his orders.

ART. 61. In its first meeting, under the presidency of the oldest member, the Skupshtina is divided by drawing lots into committees which shall each elect a member to serve on the commission charged with the verification of the mandates of the deputies.

ART. 62. Only the National Skupshtina verifies the mandates of its members, and validates or invalidates them.

ART. 63. All deputies, on entering upon office, take the following oath:

I swear before the only God to be faithful to the Prince Hospodar, to defend faithfully the Constitution and to have in view in the exercise of my functions only the prosperity of the Prince Hospodar and of the country. May God aid me then in this world and in the other.

ART. 64. The National Skupshtina, every time it is convoked, chooses among its members and by secret vote a president, a vice-president and two secretaries.

ART. 65. The Prince Hospodar opens and closes the National Skupshtina. He can inaugurate it personally by a discourse from the throne, or through the medium of the Council of Ministers by a message or by a ukase.

ART. 66. The Prince Hospodar can adjourn the National Skupshtina which has been convoked, but for a period not exceeding more than three months; he can also dissolve it and cause new elections to be held.

The new elections must take place at the latest within a period of four months and the new Skupshtina must be convoked at the latest six months after the dissolution.

ART. 67. The National Skupshtina responds by an address to the discourse from the throne by which the Prince Hospodar inaugurates the session.

ART. 68. The meetings of the Skupshtina are held publicly or with closed doors. The doors must be closed on request of the President of the Skupshtina, of the government, or of ten deputies.

ART. 69. The Skupshtina can deliberate or debate only if more than half of all the deputies are present at the meeting. Its decisions to be valid, must be adopted by the absolute majority of the votes cast.

ART. 70. The vote of the Skupshtina is by roll-call and by standing and sitting, exception being made for the cases provided by Articles 29 and 64 of the Constitution.

PART III.—THE COMPETENCE OF THE NATIONAL ASSEMBLY.

ART. 71. The legislative power is exercised by the Skupshtina and the Prince Hospodar.

ART. 72. Within the competence of the National Skupshtina are all questions reserved to it by the Constitution, and those which the Prince submits to it by special right through the intermediary of the government.

ART. 73. No law can be promulgated or abrogated or modified or considered as obligatory without the consent of the National Skupshtina.

ART. 74. Orders relative to putting in force laws, even those which the Prince Hospodar promulgates by virtue of his supreme right of sovereignty and control, are given by the executive power.

The approval of the Skupshtina must be mentioned in each decree of promulgation of law. Decrees for putting laws in force must make mention of the law from which they are derived.

ART. 75. If in the interval between parliamentary sessions the security of the State should be menaced by external or internal dangers, the Prince Hospodar would have the right to take, on the proposal of the Council of Ministers, all the measures necessary for the safeguarding of the country; his decisions shall have the force of law. These laws extraordinarily promulgated should be notified to the Skupshtina at its first meeting.

ART. 76. The laws and decrees promulgated by the Prince Hospodar in virtue of Articles 74 and 75 of the present Constitution are equally obligatory for all the citizens and for all the authorities.

ART. 77. No impost or contribution, direct or indirect, can, in any case, be established or notified without the approval of the Skupshtina.

ART. 78. The government can make to the Skupshtina and the Skupshtina can make to the government any proposition relative to the creation of a new law, or to the modification or the completion or the interpretation of an already existing law, but definitive projects can be presented only by the government. The government only can submit to the Skupshtina the proposal to grant a gift, a recompense, or a subvention.

ART. 79. The ministers have the right to be present at the sessions of the Skupshtina. They can take part in all the discussions of the order of the day, have the floor at their request, and possess the right to speak, in the last resort, after the close of the discussion.

ART. 80. The Prince Hospodar can delegate, on the proposal of a minister, commissioners of the government, who shall be able to intervene in the discussions of the National Skupshtina, whether instead of said minister or with him, and give the Skupshtina the explanations which it may demand.

These commissioners enjoy in the case the same rights as the ministers.

ART. 81. Neither the ministers nor the commissioners have the right to vote if they are not deputies.

ART. 82. The Skupshtina is obliged to deliberate at first on the projects submitted by the government and in the first place the budget.

The government, on its side, shall study, as soon as possible, the proposals which the Skupshtina shall have indicated to it as urgent.

ART. 83. Every proposition emanating from the government or from the deputies, and, in general, every project, before being brought into discussion must be referred to one of the parliamentary committees.

ART. 84. The committees are required, before submitting their report to the Skupshtina, to hear the observations of the minister or the commissioner of the government.

ART. 85. The government is always obliged to furnish to the committees on their request, the necessary explanations.

ART. 86. The Skupshtina has the right to invite, of itself, the ministers or their commissioners to give it the necessary explanations. The latter are required to give them in all cases, except those where this communication would be harmful to the interests of the country,

concerns a secret of State, or would by its premature divulgence be prejudicial to the interests of Montenegro.

ART. 87. The government can withdraw a bill submitted to the Skupshtina so long as the latter has not definitely voted it.

ART. 88. If the Skupshtina passes a bill, adding thereto amendments or additions rejected by the government, the latter can either withdraw it completely or reintroduce it in the same Skupshtina, either modifying the reasons or changing the bill itself.

ART. 89. If the Skupshtina rejects a bill, the government can submit it to the same Skupshtina after having modified it, or wait for the opportunity to present it to the next Skupshtina in its primary form.

ART. 90. The Skupshtina can not make the vote on the budget depend on any question not having correlation with it.

ART. 91. The Skupshtina submits the budget when it has passed it for the approval of the Prince Hospodar.

If the National Skupshtina estimates that the sums asked for in the budget are susceptible of being diminished or suppressed, it shall state the grounds for its proposal, enumerating the chapters in which economies are possible without injuring the interests of the State.

ART. 92. The government shall examine, in detail, the propositions which the Skupshtina shall submit to it by virtue of Article 91 and take account of them so far as possible unless that action could injure the interests of the State.

If the amendments proposed by the Skupshtina are not agreed to by the government and if the explanations of the government do not, on the other hand, satisfy the Skupshtina, the budget of the preceding year is applicable for the current year the same as if the Skupshtina is adjourned before passing the budget. In this case, the Prince Hospodar shall promulgate an ordinance, countersigned by all the ministers, which shall have the force of law.

ART. 93. The State can not contract a loan without the consent of the Skupshtina.

If extraordinary and urgent circumstances necessitate the issuing of a loan, the Skupshtina must be convoked in extraordinary session. If circumstances do not permit the convoking of the Skupshtina in extraordinary session, the Prince Hospodar can, on the proposal of the Council of Ministers and in agreement with the Council of State contract a State loan to the amount of 200,000 crowns. By the same procedure, the Prince Hospodar can, in case of urgency, order the treasury to make payment, not provided constitutionally, to the amount of 50,000 crowns.

In the two cases the government shall notify the statement of these acts to the Skupshtina at the first ordinary session and inform it of the reasons which have dictated its conduct.

ART. 94. Each decision of the National Skupshtina must be sanctioned by the Prince Hospodar and as far as possible in the same session.

ART. 95. The Skupshtina has the right to make inquiries on the subject of electoral and purely administrative questions.

ART. 96. The Skupshtina can receive written complaints relative to affairs already regulated by the competent ministers but it can not accord an audience to the complainants.

The Skupshtina admits only written petitions.

ART. 97. The deputy is not answerable for what concerns his participation in the work of the Skupshtina. No accounting can, at any time, be demanded of him on the subject of the votes he has cast in the Skupshtina.

If a deputy offends, in his discourse to the Skupshtina, one or more of its members, the president has the right and the duty of suspending the sitting for half a day. In the following meeting the president shall propose to the Skupshtina the temporary exclusion of the offender.

If a deputy employs in the Skupshtina expressions containing, against anyone whatever, offenses considered by the penal code as being misdemeanors or transgressions, the deputy can be denounced to the competent tribunal, but on the authorization of the Skupshtina.

ART. 98. During the continuance of the session and the five days preceding, the deputies can neither be imprisoned nor handed over to the tribunals.

ART. 99. No authority can in the course of the parliamentary session summon a deputy nor imprison him if the Skupshtina does not authorize an inquiry against him. Exception is made for one taken *in flagrante delicto* in crime.

ART. 100. If a deputy is taken *in flagrante delicto* in crime in the course of the parliamentary session, he can be arrested, but it is necessary to inform the Skupshtina immediately, and no action can be brought against the delinquent before the Skupshtina has decided whether there is occasion to proceed against him.

ART. 101. The deputies can meet in a sitting of the Skupshtina only on the invitation of the Prince Hospodar. They can not continue their discussions when the meetings are broken up or adjourned, or when the Skupshtina has been dissolved.

ART. 102. The deputies who do not reside in the city where the Skupshtina is convoked receive from the treasury of the State traveling expenses and a daily compensation provided by a special law.

ART. 103. A special law shall regulate the labors of the Skupshtina.

PART IV.—THE MINISTERS.

ART. 104. The Prince Hospodar appoints and recalls the ministers.

ART. 105. The Council of Ministers presides over the administration of the State. It is subject directly to the Prince Hospodar.

ART. 106. The Council of Ministers is composed of the ministers appointed for the different branches of the administration of the State. The Prince Hospodar chooses one from among these latter as President of the Council.

ART. 107. The ministers swear before the Prince Hospodar to be faithful to him and to observe conscientiously the Constitution and the laws of the country.

ART. 108. The ministers are responsible for their official acts before the Hospodar and the National Skupshtina. Every official act signed by the Prince Hospodar must be countersigned by the competent minister.

ART. 109. Only a Montenegrin citizen can be minister.

ART. 110. Ministers who have resigned can be kept at the disposal of the Prince Hospodar for a year at the utmost; if, at the expiration of this period they no longer accept the post which they occupied before being appointed ministers, or an analogous situation, they can be retired, after having completed in the service of the State, the minimum of years prescribed by the law on civil functionaries.

The resigned ministers, who, before being ministers, had not been in the service of the State, can obtain a situation yielding a salary of 4,000 crowns. If a post of this importance is not vacant, they shall have a right to a pension corresponding to the said situation, on condition that they have been ministers the minimum of years prescribed by the law on civil functionaries.

ART. 111. A minister can be impeached:

1. If he commits an act of treason against the country or the sovereign.
2. If he violates the Constitution.
3. If he lets himself be suborned.
4. If, through cupidity, he causes damages to the State.
5. If he violates the laws in the cases specified in the law on ministerial responsibility.

ART. 112. Ministers can be impeached by the Prince Hospodar and by the Skupshtina.

The proposal to impeach a minister must be written and contain the counts of the indictment. If it is the Prince Hospodar who accuses the minister, the President of the Council of Ministers submits the act of accusation to the Skupshtina; if it is the Skupshtina

which is accuser, the act of accusation must be signed by a third at least of the deputies.

ART. 113. The right to make complaint against a minister lasts five years, starting from the day when he has committed the act with which he is reproached.

ART. 114. Two thirds of all the deputies present at the Skupshtina are necessary to impeach a minister.

ART. 115. The minister impeached is tried by a tribunal composed of the members of the Council of State and of the Supreme Tribunal.

ART. 116. The Prince Hospodar can not pardon a condemned minister, nor suspend an examination begun, except on the proposal of the Skupshtina.

ART. 117. A special law shall fix the different cases of ministerial responsibility, the penalties applicable to their offenses, and the procedure.

PART V.—THE COUNCIL OF STATE.

ART. 118. The Council of State is composed of six members.

The members of the Council of State are appointed by the Prince Hospodar, who also names its President. The latter remains in charge so long as the Prince Hospodar does not replace him.

ART. 119. The councillors of State must be Montenegrin subjects, be 35 years of age, have followed a regular course of studies in a foreign faculty or a special superior school equivalent to a faculty, and have passed ten years in the service of the State, unless they have been ministers.

ART. 120. The Council of State has the following functions:

1. To study the bills which the government submits to the Skupshtina and to give its advice.

2. To give the government its appreciation on the matters which it submits to it.

3. To deliberate on the complaints against ministerial decisions in administrative questions in dispute.

The decisions of the Council of State are obligatory for the ministers.

4. To settle conflicts between the different administrative authorities and between the administrative and judicial authorities.

5. To judge functionaries of State in the capacity of a disciplinary tribunal.

6. To approve partial payments effected on a general credit fixed by the budget for an extraordinary need as well as the transfers made to provide for the public works.

7. To approve the naturalization of a foreigner in exceptional cases.

8. To approve arrangements made between the State and individuals which would be considered useful to the State.

9. To approve State loans and extraordinary credits in the cases specified in Article 93 of the present Constitution.

10. To deliberate on complaints given out against decrees which violate the rights of individuals guaranteed by the law. If the decree injures an interest of the State, materially in favor of individuals, the Control General of the State has the right to lodge a complaint before the Council of State in the name of the State.

11. To deliberate on protests against ministerial decisions in questions where the minister is not competent or exceeds his competence.

12. To decide on the sale of real estate belonging to the departments, to the arrondissements and to the communes.

13. To decide on the abandonment of irrecoverable credits.

14. To demand from the Control General of the State reports on the accounts of the State.

15. To decide on protests against the decisions of the Control General of the State.

16. To execute the affairs which are reserved to it according to the laws.

ART. 121. A special law shall regulate the labors of the Council of State.

PART VI.—THE ARMY.

ART. 122. Every Montenegrin subject is subject to military service.

ART. 123. A special law establishes the age at which one owes military service, the manner of serving, and the exemptions as well as the grades existing in the army and the manner of gaining and of losing the said grades.

ART. 124. A special law establishes the organization of the army whose formation is fixed by the Prince Hospodar by a regulation.

ART. 125. The Prince Hospodar establishes by regulation instructions on military discipline and disciplinary punishments.

ART. 126. The soldiers, non-commissioned officers and officers in active service are, during their presence with the colors, judged by the military tribunals, but only for penal actions.

ART. 127. A special law shall establish the composition, the organization and the competence of the military tribunals.

PART VII.—THE CHURCH, SCHOOLS AND BENEVOLENT INSTITUTIONS.

ART. 128. All the religious confessions recognized by the State have the right to exercise their cult freely and publicly.

ART. 129. The internal administration of the Eastern Orthodox Church belongs either to the Montenegrin Metropolitan or to the Episcopal Synod.

The administration of the internal ecclesiastical affairs of the Catholic Church belongs to the archbishopric of Antivari.

The internal administration of the Mussulman religious confession belongs to the Montenegrin Mufti.

ART. 130. The spiritual authorities of all the religious confessions recognized by the State are subject to the surveillance of the Minister of Instruction and of Cults.

ART. 131. The organization of the ecclesiastical authorities and of the theological faculty of the Eastern Orthodox Church is established by a law on the basis of an agreement between the Minister of Instruction and the Episcopal Synod.

ART. 132. The ecclesiastical authorities try the clergy for offenses which they commit in the exercise of their sacerdotal functions except for crimes arising from the penal code.

ART. 133. Religious persons and ecclesiastical institutions are subject to the laws of the country in what concerns their civil relations and their property; for what concerns the internal organization and administration they must abide by a regulation which the government must approve.

ART. 134. Protests against abuses by the spiritual authorities of all the religious confessions recognized by the State must be presented to the Minister of Instruction and of Cults.

ART. 135. The correspondence of the spiritual authorities of the Eastern Orthodox Church with foreign ecclesiastical authorities and synods must be authorized by the Minister of Instruction and of Cults.

The correspondence of other religious confessions with foreign spiritual authorities must be submitted for the approval of the Minister of Instruction and of Cults.

ART. 136. Every act directed against the Eastern Orthodox Church (proselytism) is forbidden.

ART. 137. No spiritual authority can publish and execute, in Montenegro, the official acts and orders of foreign spiritual authorities, councils and synods without the authorization of the Minister of Public Instruction and of Cults.

ART. 138. Primary instruction is obligatory and gratuitous in the public schools.

ART. 139. All public and private schools, all literary and scientific societies and other scientific institutes are subject to the surveillance of the Minister of Public Instruction and of Cults.

ART. 140. Institutions of charity and of works having an ecclesiastic or scientific object, founded by individuals, must be ap-

proved by the authorities. Their property and their endowments can not be considered as property of the State, and can not be destined for other objects than those for which they have been established.

ART. 141. The clergy of the Eastern Orthodox Church has its own fund founded by previous withdrawals from salaries and from which it receives its retirement conformably to the existing law.

PART VIII.—THE JUDICIAL AUTHORITY.

ART. 142. The judges are independent. Justice is exercised in the name of the Prince Hospodar.

ART. 143. There exist tribunals of arrondissement, of department, and the Supreme Tribunal.

ART. 144. In the cities designated by law the arrondissement judicial authority of first instance is exercised by the communal tribunals.

ART. 145. All judges are appointed by the Prince Hospodar.

They can not be transferred, dismissed, or retired, except by virtue of the law relative to magistrates.

ART. 146. The tribunals judge and render their decisions conformably to the laws of the country.

ART. 147. The law has no retroactive effect to the detriment of rights acquired by preceding laws.

ART. 148. A tribunal or a judicial authority can not be established except by virtue of a law.

ART. 149. No tribunal can enter any action whatever, if it is incompetent.

ART. 150. The trials are public, exception being made for the case where the court shall find it necessary to proclaim closed doors on account of moral or public order.

ART. 151. Each sentence or decision must have the grounds stated from the provisions of the law on which it is based.

ART. 152. Every accused person must have counsel from the moment when he has been put in accusation. If he does not choose counsel for himself, the tribunal shall appoint one officially for him.

ART. 153. Blood relatives in direct line to any degree whatever, in lateral line to the fourth generation (eight degrees), and by marriage to the second generation (four degrees), can not serve at the same time in the same tribunal or judge in the same affair.

ART. 154. He only can be judge who is a Montenegrin subject and who has finished regularly his studies in a faculty of law, not to mention other conditions desired by the law.

To be judge in a departmental tribunal, it is necessary to be 25 years old and to have served two years in the judicial administra-

tion; to form part of the Supreme Tribunal, one must be 30 years old. To be president of a departmental tribunal, it is necessary to have served at least four years as a judge of a departmental tribunal or as secretary to the Minister of Justice or of the Supreme Tribunal. To be president and member of the Supreme Tribunal, it is necessary to have served at least six years as a judge of a departmental tribunal.

PART IX.—THE FINANCES OF THE STATE.

ART. 155. Each Montenegrin subject owes to the State imposts and taxes, which are paid in proportion to the wealth.

ART. 156. The Prince Hospodar and the members of the reigning house pay neither impost nor taxes.

ART. 157. No one can be exempted from paying imposts and taxes except in the cases provided by the law.

ART. 158. The Skupshtina approves the budget every year, which is valid only for one year.

ART. 159. The budget must be submitted to the Skupshtina at the beginning of the session. At the same time the balance sheet of the preceding year must be presented to the Skupshtina.

ART. 160. All the revenues and expenditures must be registered in the final budget.

ART. 161. If the Skupshtina has not been able to approve the new budget before the commencement of the budgetary year, it shall prolong temporarily the budget of the year just past until the new budget is voted.

ART. 162. If the Skupshtina is dissolved or adjourned before it has passed the budget, the budget of the current year is likewise valid for the following year.

PART X.—THE PROPERTY OF THE STATE.

ART. 163. The property of the State consists of all the real estate and personal property and all the property rights which the State acquires and preserves.

ART. 164. The property of the State can not be alienated, pledged, or hypothecated except with the consent of the Skupshtina.

ART. 165. The right of monopoly belongs to the State. It can transfer this right to others, but only for a period determined by the laws.

ART. 166. Mines are the property of the State in a proportion established by the laws.

ART. 167. Concessions, of any kind whatever, can be granted only for a determined period and by a special law.

ART. 168. The property of the State is administered by the Minister of Finance, conformably to the provisions of the laws.

ART. 169. The property of the State must be distinguished from the private property of the Prince Hospodar. The Prince Hospodar disposes freely of his property during his life and at his death. Sentence 2 of Article 2 of the present Constitution is not applicable to the property of the Prince Hospodar.

PART XI.—THE CONTROL GENERAL OF THE STATE.

ART. 170. The Control General of the State is established for the review of the accounts. It constitutes a special authority and a Court of Accounts.

ART. 171. The Control General of the State has a president and two members.

The president and the members of the Control General of the State are chosen by the Assembly among the candidates which the Council of State proposes to it in double number of posts vacant.

ART. 172. To be president or member of the Control General of the State it is necessary to be a Montenegrin subject, be 30 years of age, have pursued a regular course of studies in a faculty or in a special superior school equivalent to a faculty and have passed ten years in the service of the State or have been Minister of Finance; or else, have served as a superior functionary in the financial administration and have had at least ten years of service. But the president or one of the members of the Control must have completed regularly his studies in a faculty of law.

ART. 173. The Control General of the State examines, corrects and liquidates the accounts of the administration of the State and of all those who have accounts to render to the treasury of the State.

It watches to see that the credits made by the budget are not exceeded; it closes the accounts of all the administrations of the State and is required to obtain all the vouchers and necessary informations.

ART. 174. The general budget of the State is submitted to the Skupshtina with the observations of the Control General of the State, at the latest, two years after the end of each budgetary year.

ART. 175. A special law regulates the organization and the competence of the Control General of the State, as well as the formation of its personnel.

PART XII.—COMMUNES AND JUDICIAL PERSONS.

ART. 176. Communes have their autonomy conformably to the provisions of the laws.

ART. 177. To administer the affairs of communes, there are: the communal tribunal, the communal commission and the communal council.

ART. 178. Communal elections are direct.

ART. 179. Every Montenegrin subject of age paying imposts or taxes has the right to vote at communal elections.

ART. 180. Communal authorities, outside of communal affairs, are obliged to occupy themselves with affairs which the law attributes to them concerning the State.

ART. 181. Every citizen and all real property must belong to a commune and support all communal charges.

ART. 182. The commune can not establish any impost without the approval of the communal council.

ART. 183. The commune can not contract a loan without the authorization of the communal council.

ART. 184. A law establishes in what cases the approval of the legislative power or of the government is necessary to create an impost or contract a loan.

ART. 185. The departments, arrondissements and communes can possess property.

ART. 186. A new commune can not be created nor the limits of communes already existing be modified without the approval of the legislative power.

ART. 187. No juridical person can exist without the approval of the State.

ART. 188. Juridical persons can possess property which must support the charges of the State and of the communes.

ART. 189. A special law regulates the organization and the competence of the communal authorities and the relations existing between them and the authorities of the State.

PART XIII.—THE SERVICE OF THE STATE.

ART. 190. All Montenegrin subjects have the same rights to all the employments in all the branches of the service of the State, provided they satisfy the conditions prescribed by the Constitution and the laws.

Foreign subjects can not be accepted in the service of the State except on the basis of a contract.

ART. 191. For the nomination and the advancement of functionaries, their conduct, their aptitudes and their knowledge must be taken into consideration.

ART. 192. Every functionary is responsible for his official acts.

ART. 193. Functionaries, at the time of entering the service of the State, swear to be faithful and obedient to the Prince Hospodar and to observe conscientiously the Constitution and the laws.

ART. 194. The law regulates the employments, the salaries of functionaries and the hierarchy in the service of the State.

ART. 195. Functionaries have the right to retirement.

The law establishes on what conditions a functionary can have the right to retirement and to be retired.

There exists a special fund, formed by previous deductions from the salaries of functionaries, which assures the pension of functionaries, their widows and their children.

If this fund is insufficient, the treasury shall supply the deficit.

PART XIV.—THE CONSTITUTIONAL RIGHTS OF MONTENEGRIN CITIZENS.

ART. 196. All Montenegrin citizens are equal before the law.

ART. 197. The Constitution guarantees to each one his personal liberty.

ART. 198. No suit can be brought against any one whomsoever except in cases provided by the law.

ART. 199. No one can be arrested or deprived of his liberty except in the cases and according to the provisions specified by the law.

ART. 200. No one can be judged without having been heard or summoned by legal process to defend himself.

ART. 201. No one can be judged by an incompetent tribunal.

ART. 202. Penalties can be established only by the law and applied only for acts punishable according to the law.

ART. 203. Capital punishment for crimes purely political is abolished.

Attempts against the person of the Prince Hospodar and against the members of the reigning house are excepted.

Those cases, also, are excepted where the purely political crime is accompanied by an action punishable, according to law, by capital punishment, and cases punished by the death penalty according to military law.

ART. 204. The domicile of Montenegrin citizens is inviolable.

The authorities can make no search of the domicile except in the cases and in the manner provided by the law.

ART. 205. The penalty of confiscation of property is forbidden; only those objects are liable to seizure which are the product of a punishable action, have served, or were destined to perpetrate this punishable act.

ART. 206. Property of whatever character is inviolable.

ART. 207. No one can be obliged to give his property for public needs; the right of property can be limited only in the cases permitted by the law in consideration of an indemnity.

ART. 208. Liberty of conscience is unlimited.

The recognized religious confessions are free and protected by the law in so far as the exercise of their cult does not offend public order and morals.

ART. 209. Every Montenegrin citizen has the right, within the limits of the law, to manifest his ideas by speech, writing, the press, and engraving.

ART. 210. The press is free.

Censorship, warning and every preventive measure capable of preventing the issue, sale and publication of writings and of journals are forbidden except in the cases provided for by the law on the press.

ART. 211. Epistolary and telegraphic privacy is inviolable except in case of war or judicial inquiry.

ART. 212. Citizens have the right to assemble in peace according to the law.

ART. 213. Citizens have the right of assembly when it concerns objects which are not contrary to the laws.

ART. 214. Citizens have the right to protest against illegal processes by the authorities.

ART. 215. Every citizen is free to renounce the Montenegrin nationality, after having performed his military service and having been acquitted of the duties which he may have towards the State or individuals.

ART. 216. Foreigners domiciled on Montenegrin territory enjoy the protection of the Montenegrin laws in what concerns their individuality and their property.

They are obliged to support the communal charges and those of the State in so far as international treaties are not opposed thereto.

ART. 217. Extradition is not admitted for crimes purely political.

PART XV.—THE CONSTITUTION OF THE STATE.

ART. 218. The Constitution can not be suspended either partially or as a whole.

ART. 219. The proposal to modify, complete, or interpret the Constitution can be made only by the Prince Hospodar or the Skupshtina.

Such a proposal must cite particularly the Articles to be modified, completed, or interpreted.

ART. 220. In order that a proposal of modification, completion, or interpretation of the Constitution may be adopted, it must be passed

by two thirds of the deputies present and the Skupshtina must take the same decision in two regular consecutive sessions.

ART. 221.—1. Up to the presentation of the bills provided in the present Constitution, the present laws remain in force, so far as they are not in contradiction with the provisions of the present Constitution.

2. The princely government shall prepare on the basis of the present Constitution the bills most necessary, which, discussed by the Council of State and approved by the Prince Hospodar, shall have the force of provisional laws, until the Skupshtina has discussed and passed them in its ordinary sessions.

3. The princely government shall elaborate first:

- (1) A bill on the election of deputies applicable only to the election for the first parliamentary period.
- (2) A bill on the internal regulation of the Skupshtina.
- (3) A bill on ministerial responsibility.

These three projects, submitted to the discussion of the Council of State and sanctioned by the Prince Hospodar, shall enter in force provisionally until the first ordinary session of the Skupshtina.

4. The Council of State is abolished in its present form, and the Prince Hospodar can appoint the president and the members of the Council of State without regard to the provisions of the present Constitution. The Council of State thus constituted shall exercise the functions provided by the present Constitution at the latest until the end of the second ordinary parliamentary period. Then the nomination of the president and the members of the Council of State shall be proceeded with, conformably to Articles 118 and 119 of the present Constitution.

5. The Supreme Tribunal and the departmental tribunals shall be completed, in case of need, without regard to the provisions of the present Constitution at the latest up to the end of the second ordinary parliamentary period. After this period, those who shall not have the qualifications provided by the present Constitution shall no longer be able to exercise their functions.

6. The nomination of the president and the members of the Control General of the State must be made conformably to the provisions of the present Constitution, before the end of the second parliamentary period at the latest.

7. The following laws shall be submitted to the Skupshtina in its first ordinary session:

The law on the budget of the State.

The law on the internal regulation of the Skupshtina.

The law on ministerial responsibility.

Others absolutely necessary for the entrance into force of the present Constitution.

ART. 222. The present Constitution enters into force on 6/19 December 1905.¹

LAW OF 28 AUGUST 1910 PROCLAIMING PRINCE NICHOLAS KING.²

ARTICLE 1. The Principality of Montenegro is proclaimed Kingdom of Montenegro.

ART. 2. Prince Nicholas I Petrovitch Niégosch is proclaimed, by the grace of God, Hereditary King of Montenegro. The King and Queen shall have the title of "Majesty."

ART. 3. The Hereditary Prince Danilo is proclaimed the heir to the throne of Montenegro. The Hereditary Prince, the Hereditary Princess and their children shall have the title of "Royal Highness."

ART. 4. All the other children, male or female, of their Majesties shall receive the title of "Royal Highness," and the grandchildren of the latter the title of "Highness."

ART. 5. This law comes into force when signed by the Prince Hospodar, and in all the laws of the land the words "Prince" and "Princely" shall be replaced by "King" and "Royal."

¹ In the publication of the Constitution by Nicholas I on Saint Nicholas Day, 1905, the following sentence is appended immediately after Article 222: "We order all our ministers to publish the present Constitution and to watch over its observation, the authorities to apply it and all and each to obey it."

² Published and sanctioned by Nicholas I, Cetinje, 28 August 1910, after passage by the Skupshtina. Translation reprinted from the *British and Foreign State Papers*, 105: p. 991.

NICARAGUA.

Shortly after the dissolution of the Central American Union, the State of Nicaragua proclaimed its independence (April 1838) and gave itself, on 12 November 1838, a new Constitution to replace its Federal State Constitution which was dated 8 April 1826. After the bloody wars which troubled the Republic from 1855 to 1857, and the overthrow of the adventurer, William Walker, a Constituent Assembly met at Managua and amended the Constitution on 19 August 1858.¹ The Constitution of 1858, little respected by the political parties which successively contended for the power, gave way in 1893 to a new text adopted by a Constituent Assembly at Managua on 10 December.² After the revolution of 1896, the Constitution received important amendments by a law of 15 October 1896.³ The sixth Constitution, dated 30 March 1905,⁴ gave way to the present Constitution on 10 November 1911.⁵

CONSTITUTION OF 10 NOVEMBER 1911.⁶

[PREAMBLE.]

In the presence of God, we, the representatives of the Nicaraguan people, in Constituent Assembly hereby decree and sanction the following Political Constitution.

TITLE I.—THE NATION.

ARTICLE 1. Nicaragua is a free, sovereign and independent nation. Its territory which comprises the adjacent islands is situated between the Atlantic and Pacific Oceans and the Republics of Honduras and Costa Rica.

¹ English translation in the *British and Foreign State Papers*, 72 : pp. 1045–1064.

² English translation in the *British and Foreign State Papers*, 86 : pp. 1090–1109.

³ English translation of this law in the *British and Foreign State Papers*, 94 : pp. 385–392.

⁴ Spanish text and English translation in parallel columns in J. I. RODRIGUEZ, *American Constitutions* (Washington, 1906), vol. I, pp. 300–324.

⁵ This introductory paragraph is based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, p. 565.

⁶ Translated by ANTONIO M. OPISSO from the official Spanish text as published at Managua, 1912.

ART. 2. The sovereignty is one, inalienable and imprescriptible, and resides essentially in the people, from whom the officials provided for by the Constitution and laws derive their powers. In consequence no compacts or treaties shall be concluded which are contrary to the independence or integrity of the nation, or affect its sovereignty in any way, except such as may look toward union with one or more of the Republics of Central America.

ART. 3. Public officials shall have no other powers than those expressly conferred on them by law. All acts performed by them outside the law are void.

TITLE II.—THE FORM OF GOVERNMENT.

ART. 4. The government of Nicaragua is republican, democratic, representative and centralized. It consists of three independent powers: The legislative, the executive and the judicial.

TITLE III.—RELIGION.

ART. 5. The majority of Nicaraguans profess the Catholic, Apostolic and Roman religion. The State guarantees the free exercise of this form of worship, as well as all others, provided they are not contrary to Christian morals and public order; the enactment of laws favoring or restricting certain forms of worship being prohibited.

TITLE IV.—EDUCATION.

ART. 6. The teaching of any lawful industry, trade or profession is free. Primary instruction shall be compulsory, and that financed by the State shall also be gratuitous. As regards professional instruction, the law shall determine what professions require the granting of a degree previous to the exercise thereof, and the formalities for obtaining it.

TITLE V.—NICARAGUANS.

ART. 7. Nicaraguans are native or naturalized.

ART. 8. The following are natives:

1. Persons born in Nicaragua, of parents who are Nicaraguans or domiciled foreigners.

2. Children who are born abroad of a Nicaraguan father or mother, provided they choose Nicaraguan nationality.

ART. 9. The following are naturalized:

1. Natives of other Central American Republics, who reside in Nicaragua, and declare their desire to be Nicaraguans before the competent authority.

2. Foreign women who marry Nicaraguans.

3. Spanish Americans who have resided one year in the country, and other foreigners who have resided there two years, provided they declare their desire to become naturalized before the proper authority.

4. Persons who have secured naturalization papers according to law.

ART. 10. The following persons shall forfeit their Nicaraguan nationality:

1. Those who while residing in Nicaragua voluntarily secure naturalization in a foreign country not situated in Central America. However, they shall recover their Nicaraguan nationality by re-establishing their domicile in Nicaragua at whatever time this may occur.

2. Nicaraguan women who marry foreigners, provided they acquire the nationality of their husbands according to the law of the nation of the latter, but they shall recover Nicaraguan nationality upon becoming widows, if they lose the nationality of their husbands by reason of this cause.

ART. 11. The provisions of this title may be modified by treaties, on condition of reciprocity.

TITLE VI.—FOREIGNERS.

ART. 12. The Republic of Nicaragua shall be a safe asylum for any person seeking refuge in its territory.

ART. 13. Foreigners in Nicaragua shall enjoy all the civil rights of Nicaraguans; they are obliged to respect the authorities and to obey the laws, and, in regard to property acquired by them in the country, they shall be subject to all ordinary or extraordinary taxes levied against Nicaraguans.

ART. 14. Foreigners shall not be allowed to lay claims against or demand any indemnity of the State, except in the cases and in the manner in which Nicaraguans may do so.

ART. 15. Foreigners may resort to diplomatic channels only in case of denial of justice. The fact that any executory judgment is unfavorable to the claimant shall not be considered as such denial. If, in contravention of this provision, they shall not amicably terminate the claims which they have raised, they shall forfeit the right to dwell in the country.

ART. 16. Extradition for political crimes is prohibited, even though a common law crime arises therefrom.

Treaties and the law shall specify the cases in which extradition may take place for grave common law crimes.

ART. 17. The law shall establish the cases and the manner in which foreigners may be refused admission to, or be expelled from, the country.

TITLE VII.—CITIZENS.

ART. 18. All Nicaraguans who have reached the age of twenty-one years shall be citizens, as well as all those who have reached the age of eighteen who are married, or who are able to read and write.

ART. 19. The following are the rights of citizens:

1. Suffrage.
2. To hold public office.
3. To have and bear arms; all in accordance with the law.

ART. 20. The rights of a citizen are suspended:

1. By a warrant for imprisonment or a declaration that there are grounds for indictment.
2. By a sentence involving disfranchisement of the exercise of political rights, during the term of the sentence.
3. By a sentence imposing a penalty greater than a correctional penalty, as long as rehabilitation has not been obtained.
4. By mental incapacity.
5. By being a fraudulent debtor.
6. By notoriously vicious conduct.
7. By ingratitude toward one's parents, or unrighteous abandonment of wife or minor legitimate children.

A previous legal declaratory decree shall be necessary in case of the grounds set forth under Paragraphs 4, 5, 6 and 7.

8. By acting in Nicaragua in the employ of foreign (not Central American) nations without the permission of the legislative power.

ART. 21. The right to vote is individual and can not be delegated.

ART. 22. Suffrage shall be direct and public. Elections shall be held at the time and in the manner prescribed by law.

TITLE VIII.—RIGHTS AND GUARANTEES.

ART. 23. The inhabitants of the Republic, whether Nicaraguans or foreigners, shall be guaranteed individual safety, liberty, equality, and property rights.

ART. 24. The death penalty shall be inflicted only for the crime of high treason committed in a foreign war in the face of the enemy, and for the atrocious crimes of assassination, parricide and arson or robbery, resulting in death, and under grave circumstances specified by the law.

ART. 25. The Constitution recognizes the guarantee of the *habeas corpus*. Consequently every inhabitant of the Republic has the right to the recourse of the exhibition of the person.¹

ART. 26. A warrant of arrest, not issued from the competent authority or in accordance with the legal formalities, is illegal.

ART. 27. Detention pending inquiry into common law offenses shall not exceed eight days, plus the time required to cover distance, for the purpose of placing the accused at the disposal of the competent judge.

ART. 28. A criminal caught *in flagrante delicto* may be apprehended by any person in order to be delivered immediately to the authority having the power to arrest.

ART. 29. A warrant for imprisonment shall not be issued, unless there is ample evidence given beforehand that a punishable act deserving a penalty greater than a correctional penalty has been committed, and unless there is at least a grave presumption as to who is its author.

ART. 30. Imprisonment or arrest as a penalty or as a means to enforce judicial orders is permissible in the cases and for the period prescribed by law.

ART. 31. No person shall be tried by special commissions nor by judges other than by those designated by law prior to the commission of the deed giving rise to the action.

ART. 32. No public authority shall be permitted to remove to another court cases pending before the competent authority, nor to reopen proceedings which have terminated.

In criminal matters an appeal may be allowed for revision of finished cases in which a penalty greater than a correctional penalty has been imposed. The laws shall regulate the exercise of this right.

ART. 33. In criminal matters the placing of a person under oath in regard to his own deeds is prohibited.

ART. 34. No person may be deprived of the right of defense. Trials shall always be public.

ART. 35. The infliction of perpetual or infamous penalties, whipping and all kinds of torture are prohibited.

ART. 36. Persons under arrest or imprisoned shall not be deprived of the right of communication except by virtue of a written order from the proper authority, and then for a period not to exceed three days, and only for grave crimes.

ART. 37. Nobody shall be kept prisoner or detained in any other place than the public ones intended for that purpose, unless the law

¹ That is to say, the person of the prisoner, so that the reasons for his detention may be stated.

so permits and the guilty or detained party expressly consents thereto.

ART. 38. The dwelling of every person shall constitute a safe and inviolable asylum to be forcibly entered only by the authorities in the following cases:

1. In the actual pursuit of a criminal or in order to take a criminal caught *in flagrante delicto*.

2. On demand from the inside of the house because a crime is being committed therein, or because of a scandalous disorder requiring prompt remedy.

3. In case of conflagration, earthquake, flood, epidemic or analogous events.

4. In order to remove objects sought by virtue of a process, there being at least partial proof beforehand of the existence of said objects, or in order to carry out a legally issued order of the court.

5. In order to liberate a person who is being unlawfully sequestered.

6. In order to apprehend a criminal against whom a warrant for arrest or imprisonment for crime has been issued, there being at least partial proof beforehand that he is hiding in the house to be entered.

In the last three cases the forcible entry shall not be made without a written order from a competent authority.

ART. 39. When the dwelling to be forcibly entered is not that of the criminal who is being pursued, the permission of the owner or occupant shall first be requested.

ART. 40. In the cases in which a written order from the authority is required, the house shall not be forcibly entered between the hours of 7 P. M. and 8 A. M. without the consent of the owner or occupant.

ART. 41. Epistolary correspondence is inviolable. That which is purloined from postoffices or from any other place shall not be admissible as evidence against anyone.

ART. 42. Private papers may be seized only by virtue of an order from a competent judge in the criminal or civil cases determined by law; and they shall be examined in the presence of the owner or, in his absence, in that of two witnesses, and such papers as do not relate to the matter under investigation shall be returned.

ART. 43. No one shall be molested or persecuted on account of his opinions. Private acts which do not disturb public order or are not contrary to morals and do not cause injury to third parties shall always be beyond the pale of the law.

ART. 44. All persons may communicate their thoughts freely by word of mouth or in writing without previous censorship, being liable according to law for any abuse of this freedom.

ART. 45. The enactment of proscriptive, confiscatory or retroactive laws or laws imposing infamous punishment shall be prohibited.

ART. 46. The right to reclaim confiscated property is imprescriptible.

ART. 47. Imprisonment for debts is prohibited.

ART. 48. Freedom of assembly without arms and of associating for any lawful purpose is guaranteed.

ART. 49. Entails are prohibited.

ART. 50. Every person has the right to address petitions to the legally constituted authority, and to have them decided upon and be informed of the decision reached in regard to them.

ART. 51. Every person has the right to enter and leave the Republic, and to remain within its territory and to pass through it, in strict obedience to the laws.

ART. 52. Every service which ought not to be rendered gratuitously according to law shall be fairly remunerated.

ART. 53. The law does not recognize personal privileges.

ART. 54. Every legally capacitated person is free to dispose of his property under any legal title, but in no case shall entails be established.

In testamentary successions there shall be compulsory assignments only in behalf of the descendants, ascendants and consorts, with the preference and limitations established by law.

ART. 55. Congress alone can negotiate loans or levy direct or indirect taxes; and all authorities are prohibited from negotiating the former or levying the latter without its authorization, save the exceptions established by the Constitution.

ART. 56. Proportionality shall be the basis for direct taxation.

ART. 57. No one can be deprived of his property except by virtue of a judgment rendered by a competent authority or by reason of public utility. The expropriation in the latter case must be specifically prescribed by law or by judgment based on the law, and shall not be carried out without previous indemnification.

In case of domestic or foreign war it is not necessary that this indemnification be previous.

ART. 58. No person having the free right to administer his property shall be deprived of the right to terminate his civil law suits by compromise or arbitration.

ART. 59. Every author, inventor, or owner of a trade-mark shall enjoy the exclusive ownership of his work or discovery or mark, and in the manner and during the time prescribed by law.

ART. 60. No penalty greater than a correctional penalty shall be inflicted for common offenses without a verdict first being rendered by a jury as to the guilt of the accused party.

ART. 61. Monopolies in the interest of private individuals are prohibited.

ART. 62. The declaration of a state of siege may temporarily suspend the guarantees mentioned, except:

1. That which establishes the inviolability of human life, with its exceptions.

2. That which prohibits trial by judges not designated by the law.

3. That which prohibits the infliction of infamous or perpetual penalties, whipping and any kind of torture.

4. That which prohibits the enactment of retroactive or confiscatory laws.

5. Those embodied in Articles 55 and 56.

6. The legal immunities of public officials.

ART. 63. The laws regulating the exercise of constitutional guarantees shall be void in so far as they may diminish, restrict or impair them.

ART. 64. An official who without legal authority should restrict any of the guarantees contained in this title shall be liable for damages commensurate with the injury caused, without prejudice to other legal responsibilities.

TITLE IX.—THE LEGISLATIVE POWER.

ART. 65. The legislative power is vested in a Congress composed of two houses: The Senate and the Chamber of Deputies.

ART. 66. Congress shall assemble in the capital of the Republic on the fifteenth day of December of each year without the necessity of a call. It shall hold 45 regular sessions subject to extension to 15 more.

ART. 67. It shall also hold extraordinary sessions when convoked by the executive; and in this case it shall deal only with the matters submitted to it by the latter.

ART. 68. Congress may also convene or continue its sessions in any other town of the Republic without a call by the executive, but in no case shall the legal quorum be supplied by uninstalled substitutes.

ART. 69. The election of deputies shall be by popular suffrage, direct and public. The departments of the Republic shall be divided for this purpose into as many electoral districts as they contain multiples of 15,000 inhabitants, a district being added for fractions over 8,000. Each district shall elect a sitting deputy and a substitute.

The regions of Cape Gracias a Dios and San Juan del Norte shall each be considered as an electoral district.

ART. 70. Each department shall be entitled to elect one sitting and one substitute senator for every two deputies. Should the number

of deputies be an odd one, another sitting and another substitute senator shall be elected.

ART. 71. The law shall make the necessary demarcations for the elections.

ART. 72. Five days before the date set for Congress to convene, the deputies and senators shall assemble and form their respective preparatory caucuses; and in the presence of at least five members of each house they shall organize the directories and shall draw up the necessary regulations for the assembling of their members and the solemn installation of Congress.

ART. 73. One half plus one of the senators and deputies shall be sufficient in each house for its legal installation.

ART. 74. Deputies shall continue four years in the exercise of their office, and shall be renewed by halves every two years.

ART. 75. Senators shall continue six years in the exercise of their office, and shall be renewed by thirds every two years.

ART. 76. To be a deputy, it is required: to be a citizen in the exercise of his rights, of the secular estate and over 25 years of age.

ART. 77. To be a senator, it is required: to be a citizen in the exercise of his rights, of the secular estate and over 40 years of age.

ART. 78. The following shall not be eligible as members of the legislative power:

1. Persons who have held office by appointment of the executive within two months preceding the election.

2. The magistrates of the courts of justice and the officials under them.

3. Relatives of the President of the Republic within the second degree of consanguinity or affinity.

4. Those who have managed or collected public funds while they have not cleared themselves in this respect.

ART. 79. The representatives in Congress shall enjoy, from the date of their election, the following prerogatives:

1. Personal immunity from being accused or tried for official or common law crimes, unless Congress first declares that there are grounds for their indictment.

2. They shall not be subject to civil suit from thirty days before the regular sessions of Congress, or from the date of a decree calling an extra session, until fifteen days after the termination of either.

If the suits are pending, the proceedings shall be suspended during the session.

3. They shall not be called into military service without their consent.

4. They shall not be banished from the Republic, confined or deprived of their liberty on any ground, even during a state of siege,

unless Congress declares that there are grounds for their indictment.

ART. 80. Members of Congress may accept offices from the executive power during recess; but during sessions they may only accept the offices of secretary of State, diplomatic agent, or professor of education. In either case they shall forfeit their character of representative by the acceptance of any office, except the last two mentioned.

ART. 81. The executive shall give an account to the respective houses, when they are in session, of all appointments he has made, in order that they may order the vacancies filled. During recess of Congress, it shall be the duty of the executive to order the vacancies filled.

ART. 82. The houses shall open and close their sessions at the same time; and neither of them shall suspend or extend them for more than three days without the concurrence of the other.

TITLE X.—RIGHTS COMMON TO THE CHAMBERS.

ART. 83. It belongs to each of the houses, without the interference of the other:

1. To regulate the order of its sessions and everything relating to its internal management.
2. To pass upon the election and credentials of its members.
3. To compel their attendance.
4. To accept, by a two-thirds vote, the resignations of its members founded on duly verified legal grounds.
5. To order reelections in case of missing, deceased, resigned or incapacitated members.
6. To ask the executive for a statement of the receipts and expenditures of all or any of the accounts as well as for a detailed report on any branch of the administration.
7. To suggest a joint session to the other house.

TITLE XI.—ATTRIBUTIONS OF CONGRESS WHEN IN JOINT SESSION.

ART. 84. It belongs to Congress:

1. To regulate the order of its sessions.
2. To regulate the votes, to certify and declare the election of the President and Vice-President of the Republic, and to elect these officers in the cases provided by the Constitution.

The President shall be that duly qualified citizen who receives the absolute majority of the votes of all qualified voters. If no person receives such a majority, Congress shall elect the President from among the two who have obtained the greatest number of votes, even though this number should be equal for both. The same rule shall be observed in the election of the Vice-President.

Ties occurring in the popular election or in that made by Congress shall be settled by lot, whenever this measure is necessary in order to apply the rules of the present article.

3. To elect each year two Designates who, in the order of their election, shall exercise the Presidency of the Republic, when there is an absolute or temporary default of the President and Vice-President.

It is indispensable that the election of the Designates be limited to members of the national legislature who fulfill the conditions required for being President of the Republic.

4. To elect the magistrates of the Supreme Court of Justice and of the Courts of Appeal.

5. To act on the resignations of the President and Vice-President of the Republic and of the magistrates of the Courts of Justice.

6. To declare by a two-thirds vote when there are grounds for the impeachment of the President, Vice-President, senators, deputies, magistrates, secretaries of State and diplomatic agents of the Republic.

7. To extend for the executive the period established for the publication of laws and other provisions.

8. To administer the constitutional oath to those public officials whom it elects or declares elected.

9. To declare the preference, when the same person is elected as a member of different branches of the supreme powers, in the following order:

1. President of the Republic.
2. Vice-President of the Republic.
3. Senator.
4. Deputy.

TITLE XII.—ATTRIBUTIONS OF CONGRESS WHEN IN SEPARATE SESSION.

ART. 85. It belongs to Congress, when convened in separate session:

1. To enact, construe, revise and repeal laws.
2. To create and abolish offices, establish pensions, confer honors and grant amnesties.
3. To take all suitable measures for the safety and defense of the Republic.
4. To change the residence of the supreme powers for grave causes.
5. To decree prizes and grant temporary privileges to authors or inventors of things of general utility, and to persons who have introduced new industries or improved existing ones.

6. To grant subventions or premiums on objects of public utility which contribute toward establishing new industries or promoting agriculture.

7. To approve or disapprove the conduct of the executive.

8. To approve, modify or reject the treaties concluded with foreign nations.

9. To regulate maritime and land commerce.

10. To approve or disapprove the accounts of public expenditures.

11. To fix the budget annually.

12. To determine the duties of the officials of the Republic and designate the territorial jurisdictions within which they are to act.

13. To levy taxes.

14. To decree the alienation or lease of national property and the application thereof to public uses, or to authorize the executive to do so on conditions suitable to the Republic. The public revenues or taxes shall not be alienated or leased out.

15. To authorize loans and to regulate the payment of the national debt, or to determine the conditions on which the executive shall do so.

16. To open up ports, create, transfer or abolish custom-houses, or lay down the rules in accordance with which the executive may do so.

17. To fix the weight, fineness, value, type and denominations of national money, and to regulate the system of weights and measures.

18. To declare war and to conclude peace or authorize the executive to do so.

19. To fix the strength of land and naval forces at each regular session.

20. To permit or refuse the passage of troops of another country through the territory of the Republic, and to authorize the departure of national troops from Nicaragua. During a state of war, the executive power shall have these attributions.

21. To declare a state of siege and even to suspend the constitutional order of things throughout the Republic, or any part thereof, when the public peace is threatened or in case of foreign aggression. Such a declaration or suspension shall last sixty days, at the most, according to circumstances, a new declaration by Congress being necessary to prolong it.

22. To confer the grades of general of brigade and of division.

23. To grant pardons or commutations of sentence at the instance of the executive power after receiving a detailed report from the Supreme Court of Justice.

24. To award prizes or rewards for eminent services.

25. To approve or disapprove the contracts concluded by the executive with private individuals or with companies, regarding loans, colonization, navigation and other works of general utility, provided they are permitted by the Constitution and involve temporary privileges or affect the property of the nation, or when money not appropriated in the budget is available.

26. To permit the foundation of *montepíos*¹ and banks of issue.

27. To determine the coat of arms and the flag of the Republic.

28. To grant or refuse permission to Nicaraguans to accept offices from foreign countries, when the duties thereof are to be discharged in Nicaragua.

ART. 86. The legislative power can not supply or declare the civil status of persons, or confer academic or literary degrees.

ART. 87. The powers of the legislative power can not be delegated, except the authority to legislate in the departments of Interior, Police, Charity and Public Instruction, which may be delegated to the executive power during the recess of Congress; and the powers relating to the administration of the constitutional oath to officials whom it elects or declares elected.

ART. 88. In the measures and laws enacted by Congress, the following formula shall be used: "The Senate and the Chamber of Deputies of the Republic of Nicaragua decree, resolve or declare: (here follows that which is decreed or resolved). Given in the Sessions Hall of Congress" (when in joint session), or of the house in which the measure originated (when in separate session), place and date. Then follow the signatures of the President and secretaries of Congress or of the house, as the case may be. Upon the measure being approved in the other house, the latter shall say: "To the Executive Power, the Chamber of the Senate or Chamber of Deputies" (as the case may be), setting down the proper place and date with the signatures of the presiding officer and secretaries concerned.

ART. 89. All motions of the legislative power shall be enacted in the form of law or resolutions.

ART. 90. Every bill or resolution may originate in either of the houses, only measures relating to taxes or imposts being reserved to the Chamber of Deputies.

ART. 91. Only the deputies and the senators in their respective houses, the ministers on behalf of the executive and the Supreme Court of Justice in matters pertaining to their branch have the right to recommend such bills, resolutions or declarations as they may deem convenient.

¹ Public or private establishments intended to give aid to certain persons.

ART. 92. When a bill is passed by one house, it shall go as an original measure to the other, which shall take it under consideration, and may pass it or not, or amend it. In the latter case, the bill shall be considered as originating in the house which revises it.

ART. 93. No bill shall be finally passed until subjected to two deliberations on different days, except in case of urgency, as determined by two thirds of the votes, when there shall be only one deliberation.

ART. 94. Every bill upon being passed by Congress in separate session shall be forwarded to the executive within three days at the latest after passage in order that he may give it his sanction and have it promulgated as a law within ten days.

ART. 95. If the President, with the advice and consent of the Council of Ministers, should find objections to sanctioning the bill, he shall return it to Congress within five days, setting forth the reasons on which he bases his dissension. If he does not object to it within the period mentioned, it shall be considered as being sanctioned, and shall be published as a law. When the executive returns the bill, Congress shall subject it to a further deliberation in joint session, and if it is then ratified by two thirds of the votes, it shall be again forwarded to the executive with this formula: "Ratified constitutionally"; whereupon the executive shall cause it to be published without delay.

ART. 96. When Congress passes a bill during the last five days of its session, and the executive deems it inexpedient to sanction it, he shall immediately give notice to Congress in order that it may remain in session for ten days beginning from the date on which the autograph was transmitted to him; if he fails to do this, the law shall be considered sanctioned.

ART. 97. When a bill has been rejected, it can not be brought forward again until the next legislature.

ART. 98. The sanction of the executive is necessary in the following decrees and resolutions:

1. In elections made or declared by Congress and in resignations accepted or declined.

2. In regulations issued by Congress or by the houses for their internal government.

3. In resolutions for convening, for transferring its seat to another place, and for suspending or extending its sessions.

4. In the budgetary law.

5. In decrees relating to the conduct of the executive.

6. In declarations that there are grounds for impeachment.

ART. 99. Whenever the purpose of a bill not emanating from the Supreme Court of Justice is to revise or repeal provisions of the Civil Code, Penal Code, Code of Commerce, Mining Code or Code of

Procedure, it shall not be discussed without hearing the opinion of said Court, which shall give it either during the same session or that of the next year, according to the extent, importance, or urgency of the bill.

ART. 100. The formula which is to be used in publishing the laws is the following: "The President of the Republic to the inhabitants thereof, Know ye that Congress has ordained as follows (here the text and signatures). Therefore let it be enforced."

TITLE XIII.—THE EXECUTIVE POWER.

ART. 101. The executive power shall be held by a citizen called the President of the Republic, in his default by the Vice-President, and in the default of the latter by one of the Designates according to their order.

ART. 102. The President of the Republic, the Vice-President and the Designates must be citizens in the exercise of their rights, over 30 years of age, of the secular estate and natives of Nicaragua.

ART. 103. The election of President and Vice-President of the Republic shall be by popular vote, direct and public.

ART. 104. The term of office of the President and Vice-President of the Republic shall be four years, and shall begin on the first of January. No citizen who holds the office of President, either as the duly elected incumbent or accidentally, shall be eligible to the office of President or Vice-President for the next term.

ART. 105. No person shall be elected President or Vice-President who is related by consanguinity or affinity in a direct line, or up to the fourth degree inclusive in a collateral line, with the President of the Republic or with the person holding the office of President during the last six months prior to the election.

ART. 106. In case of the absolute or temporary default of the President of the Republic, the executive power shall devolve upon the Vice-President, and in default of the latter upon one of the Designates in the order of their election. In the latter case, should Congress be in session, it shall be its duty to authorize the entrustment of the office to the Representative whom it may designate, who must fulfill the requirements for President of the Republic.

ART. 107. Until the person designated by law enters upon the office of President of the Republic, the executive power shall be exercised by the Minister of the Interior, who shall give up possession to the new official if Congress is not in session.

ART. 108. The President shall not leave the country during the exercise of his functions without permission of Congress, nor shall he do so at the end of his term, if there are proceedings pending against him for official or common-law offenses.

TITLE XIV.—DUTIES AND ATTRIBUTIONS OF THE EXECUTIVE POWER.

ART. 109. The President of the Republic is the Chief Magistrate of the nation and Commander-in-Chief of the land and naval forces. He has charge of the general administration of the country, which he shall carry on through the ministers or secretaries of State and the respective under-secretaries.

ART. 110. The law shall determine the number of secretaries of State and the distribution of duties among them.

ART. 111. The attributions of the executive power are as follows:

1. To defend the independence and the honor of the nation and the integrity of its territory.

2. To enforce and have enforced the Constitution and laws, issuing the necessary decrees and orders for the purpose, without altering the spirit of the former.

- 3 To appoint secretaries and under-secretaries of State and the other executive officers.

4. To preserve the domestic peace and security of the Republic and repel all attacks and aggressions from abroad.

5. To afford the functionaries of the judicial power such aid and force as they may need to make their decisions effective.

6. To remove the employees appointed by his own free will.

7. To recommend to Congress, when required by the public welfare, amnesties, pardons or commutations of sentence of criminals, and to grant amnesties during the recess of Congress.

8. To call extra sessions of Congress, when the interests of the nation require.

9. To present to the legislative power through the secretaries of State within fifteen days from the date on which Congress convenes a detailed report on the administrative branches, an itemized account of the proceeds and expenditures of the revenues, and the budget of expenses for the ensuing year, pointing out improvements of which the legislation may be susceptible.

10. To conclude treaties and any other diplomatic negotiations, submitting the same to Congress for its ratification.

11. To direct foreign relations, to appoint consuls, agents or diplomatic ministers of the Republic, and to admit and receive those appointed by foreign nations.

12. To cause the revenues of the Republic to be collected and expended in accordance with the law.

13. To confer military grades in time of peace up to the rank of colonel, inclusive, and the higher grades up to general of division in the field; and to recommend to Congress the conferring of these latter grades in time of peace.

14. To assemble the military forces of land and sea, organize them and distribute them in accordance with the law and the needs of the Republic.

15. To grant letters of marque and reprisal.

16. To declare a state of siege and even suspend the constitutional order, during the recess of Congress, in the cases and under the conditions provided in Paragraph 21 of Article 85.

17. To grant naturalization papers.

18. To direct and encourage public instruction, to diffuse popular education, and exercise supreme supervision over private institutions of learning.

19. To sanction laws, use the veto power in appropriate cases, and promulgate without delay all legislative measures which do not require the sanction of the executive.

20. To order the vacancies of deputies and senators filled, during the recess of the legislative power, within one month at the latest from the time they occur.

21. To publish monthly statements of the receipts and expenditures of the public revenues.

22. To watch over the legal exactness of money, and to decide what may be proper regarding the admission and circulation of foreign money. To see to the uniformity of weights and measures, and in general to exercise supreme police supervision.

23. To attend to the internal security and external defense of the country.

24. To conclude contracts for the purpose of supplying the needs of the administration and to submit to the ratification of Congress those which relate to loans, colonization, navigation and other works of utility, as well as those which involve temporary privileges or affect national property, or when money not appropriated in the budget is available.

25. To declare war with the authorization of Congress and to conclude peace when the convenience of the nation requires.

26. To direct the operations of war as Commander-in-Chief of the national army and navy. When he wishes to place himself at the head of the army, he shall commit the office of President to the person who is to take his place in accordance with the Constitution, and he shall remain invested solely with the character of Commander-in-Chief and with the attributions of Commanding General.

27. To see that Congress convenes on the date set by the Constitution, taking the necessary measures for the purpose in due time.

28. To grant patents in order to guarantee for a certain period literary property and useful inventions applicable to new industries or to the improvement of those already existing.

29. To designate, during the recess of Congress, the place where the government authorities shall transfer their seat when serious reasons arise for taking this step.

30. To raise the necessary force in order to repel any invasion or to quell rebellions, and in these cases to decree taxes or loans and give an account to Congress at its next session.

31. To dispose the land and naval forces for the defense and security of the Republic in order to maintain order and tranquillity therein, and for any other purpose demanded by the public service.

32. To rehabilitate, in accordance with the law, those citizens who may be suspended in the exercise of their rights.

33. To take the necessary measures in order that the elections may be held at the time prescribed by law, and in order that the rules provided by the law may be observed.

34. To close or open ports during the recess of Congress.

35. To adopt regulations governing his attributions.

36. To adopt suitable measures for taking the census of the population and other branches of the national statistics.

37. To establish special rules for the temporary government of regions which are uninhabited or which are inhabited by uncivilized natives.

38. To determine the rules to which the occupation or alienation of vacant public lands shall be subject, and to devote these lands to colonization and useful enterprises.

39. To suspend the execution of the death penalty whenever requested to take the initiative in commuting a sentence, being obliged to give an account to Congress at its next session.

ART. 112. When the public tranquillity is threatened, the executive may issue warrants of arrest against persons presumed to be guilty, and examine them, placing them at the disposal of the competent judges within ten days; but if it is necessary in the opinion of the executive to confine in the interior or to expel from the Republic any persons suspected of conspiracy or treason, he shall decide on the proper steps to be taken in the Council of Ministers and with the votes of two sitting senators. If public order is disturbed, the concurrence of the senators shall not be indispensable.

ART. 113. The President and his ministers and senators, as the case may be, shall be responsible for the measures adopted by them against the Constitution and the laws. In civil matters the responsibility shall be joint.

TITLE XV.—SECRETARIES OF STATE.

ART. 114. The secretaries of State must be citizens in the exercise of their rights, natives of Nicaragua, of the secular estate and over 25 years of age.

All decrees, resolutions and orders of the President of the Republic must be authorized by the secretaries of State within their respective branches.

ART. 115. The following persons can not be secretaries of State:

1. Contractors for public works or services on account of the nation.

2. Persons who as a result of their contracts have claims in their own interest against the public treasury.

3. Debtors of the public treasury.

4. Persons administering public funds, until their accounts are finally settled.

5. Relatives of the President of the Republic within the second degree of consanguinity or affinity.

ART. 116. The secretaries of State may attend, without voting, the deliberations of the legislative power, and they shall be obliged to attend whenever called upon and answer inquiries made of them by any representative in regard to the affairs of the administration, except those relating to war and foreign relations, when secrecy is deemed necessary, unless the house decides to the contrary.

TITLE XVI.—THE JUDICIAL POWER.

ART. 117. The judicial power of the Republic shall be exercised by a Supreme Court of Justice, by the Courts of Appeal, and by the judges and other employees which the law may establish. The Supreme Court shall reside at the capital, and shall be composed of five sitting magistrates. There shall be also two substitute magistrates.

There shall be three Courts of Appeal, one situated in the city of Granada, another at León, and the third at Bluefields. The first two shall be composed of six sitting magistrates, three for each of the two sections, civil and criminal; that of Bluefields shall have three sitting magistrates, and two substitute magistrates. The inferior judges shall be determined by statute.

The magistrates of the Supreme Court and of the Courts of Appeal shall be appointed by Congress in joint session. The term of office of the former shall be six years, and that of the latter four years.

Congress may create other Courts of Appeal.

ART. 118. The magistrates must be citizens in the exercise of their rights, of the secular estate, lawyers and over 30 years of age.

ART. 119. Persons connected by relationship of consanguinity within the fourth degree, or of affinity within the second degree, can not be magistrates or judges in the same court.

If two or more persons related within these degrees are elected, the person receiving the highest number of votes shall be preferred, and in case of a tie, the senior lawyer.

The election of the others shall be made over again.

ART. 120. The law shall regulate the organization of the judicial power and the administration of justice.

ART. 121. The right to judge and carry out judgments belongs to the courts and the other tribunals of justice.

ART. 122. The tribunals and judges of the Republic shall preferably apply:

1. The Constitution and constitutive laws.
2. The laws and legislative decrees.
3. The executive decrees and resolutions.

In no case shall they apply provisions or revisions made by virtue of an official communication.

ART. 123. The Supreme Court of Justice shall furthermore exercise the following attributions:

1. To adopt its internal rules.
2. To take exclusive cognizance of official and common offenses committed by the high officials, when Congress has declared that there are grounds for their impeachment.
3. To authorize lawyers, court clerks, or notaries who have been admitted within or outside the Republic to the practice of their profession, and to suspend and reinstate them in accordance with the law.
4. To take cognizance of appeals against the resolutions of the Court of Accounts.
5. To take cognizance of appeals for review and for asylum in the cases provided by law.
6. To take cognizance of maritime prize cases, and of the other matters referred to it by law.
7. To appoint inferior judges, forensic physicians and registrars of the property in accordance with the law.
8. To accept the resignations of the employees appointed by it, and even to remove them before the expiration of their term of office, with or without stating grounds for doing so, it being necessary in the latter case that the resolution be adopted unanimously.
9. To decide the protests made against ordinances issued by municipalities and other local administrative corporations, when contrary to the Constitution and the laws.

ART. 124. Any person injured in his rights by the application of a law in a particular case may challenge the constitutionality thereof directly before the Supreme Court of Justice, provided the law relates to matters not triable before the courts of justice.

ART. 125. The administration of justice in the Republic shall be gratuitous.

ART. 126. Members of courts of justice shall not hold any office filled by popular election, or carrying with it additional jurisdiction.

ART. 127. Courts of justice may demand the aid of the armed forces for the execution of their decisions and if the armed forces are refused them, or are unavailable, they may demand such aid from the citizens. Any official or citizen who unduly refuses to render that aid shall incur liability.

ART. 128. In no case shall there be more than three instances, and the same judges shall not officiate in more than one thereof.

ART. 129. In civil matters, the jury may be called upon to pass on the facts when so requested by the parties, and in this case the judge shall merely apply the law.

ART. 130. The magistrates of the courts of justice shall enjoy the same immunities and prerogatives as the representatives in Congress, except the exemption from civil suit.

ART. 131. The magistrates of the Supreme Court of Justice may, with a voice but without a vote, attend the deliberations of either of the legislative houses, or of both in joint session, whenever they relate to matters originating in said court or to those dealt with in Article 99.

TITLE XVII.—THE BUDGET.

ART. 132. The budget shall be passed by Congress in view of the recommendations of the executive and judicial powers, within their respective spheres.

ART. 133. The budget bill shall be presented by the Minister of the Treasury fifteen days at the latest after Congress convenes.

ART. 134. All expenditures made outside of the budget are unlawful, and the official ordering them and the disbursing officer shall be jointly responsible for the amount expended, without prejudice to whatever penalties may be incurred according to law.

ART. 135. The treasury of the nation shall comprise:

1. All its real and movable property.

2. All outstanding credits.

3. All duties, imposts and taxes paid into the treasury by the inhabitants of the Republic.

ART. 136. For the administration of the public revenues, there shall be a general office for collection and disbursement as well as such other offices as may be necessary.

ART. 137. In order to hold the office of Treasurer General, it shall be necessary to be over 30 years of age, a citizen in the exercise of his rights, and of well-known good conduct, and not be a creditor or debtor to the public treasury or have accounts pending therein.

ART. 138. For the purpose of exercising the supervision of the national treasury, there shall be a Court of Accounts, which shall be in charge of examining and finally settling the accounts kept by officers administering public interests.

The members of this Court must fulfill the same requirements as the Treasurer General, but all employees except the president may be appointed when they are over 25 years of age. Their number, organization and attributions shall be determined by the law, and their appointments as well as that of the Treasurer General belong to the executive power.

ART. 139. No public authority, official or corporation can conclude contracts in which property or funds belonging to the nation or to local boards are involved for any purpose, without previously calling for bids and publishing proposals made. Cases are excepted in which, owing to the nature of the contracts, these must be concluded with certain individuals, or in which, owing to the small amount involved, it is not necessary to call for bids. The law shall regulate this matter.

TITLE XVIII.—THE ARMY.

ART. 140. The public forces are established for the sake of assuring the rights of the nation, the enforcement of law and the maintenance of public order.

ART. 141. The discipline of the army shall be regulated by military laws and ordinances. No armed body shall be allowed to deliberate or to exercise the right of petition.

Soldiers in actual service shall not be permitted to hold offices filled by popular election.

ART. 142. Military service is compulsory, but in time of peace this duty may be discharged through substitutes. Every male Nicaraguan from 18 to 45 years of age is a soldier in the army. The law shall provide for the proper organization, and specify the grounds for exemption from service.

Ministers of any form of religious worship shall render service in the army only as chaplains or in the ambulance service.

ART. 143. There shall be no attractive jurisdiction, and military persons in actual service shall be subject to military jurisdiction for purely military offenses.

TITLE XIX.—DEPARTMENTAL GOVERNMENT.

ART. 144. For purposes of political administration, the territory of the Republic shall be divided into departments, and there may be districts, the number and boundaries of which shall be fixed by law.

TITLE XX.—MUNICIPAL GOVERNMENT.

ART. 145. The local government of the towns shall be in charge of municipalities elected by the popular, public and direct vote of the citizens of the respective towns in accordance with the law.

ART. 146. The number of members of the municipalities shall be determined by law, taking into account the number of inhabitants of each town.

ART. 147. The attributions of the municipalities shall be purely economic and administrative. They shall be determined by law, as shall also the requirements laid down in order to become a member thereof.

ART. 148. Municipalities may freely levy local taxes in accordance with the Constitution and the general laws, submitting them to the approval of the executive when they affect solely the interests of the respective town or of the department to which it belongs, and to the legislative power when they impose burdens on one or more other departments, even though indirectly.

ART. 149. Municipalities shall administer the funds of the community for the benefit of the latter, rendering an account to the superior authority established by law, and they shall publish annually a detailed report of the receipts and expenditures of their funds.

ART. 150. In the exercise of their exclusive functions, they shall be independent of the other authorities, but in no case shall they act against the general laws of the country; and they shall be responsible collectively and individually before the courts of justice for any abuses they may commit.

ART. 151. Municipalities shall appoint their own officials, and they may also appoint local police agents for purposes of order, security, sanitation, comfort, improvement and recreation, and they may enact regulations on this subject, subject to the general laws.

ART. 152. The members of the municipalities shall not be obliged to discharge any other duties, not even military service in time of war.

ART. 153. Municipal resolutions having the character of local laws shall be submitted for the approval of the executive.

TITLE XXI.—THE RESPONSIBILITY OF PUBLIC OFFICIALS.

ART. 154. Every public official upon assuming office shall take an oath to observe and cause to be observed the Constitution and the laws, and shall be responsible for his acts.

ART. 155. The President of the Republic, senators, deputies, magistrates of the courts of justice, secretaries and under-secretaries of State and ministers and diplomatic agents shall be responsible before Congress for common offenses and for official offenses which they

may commit in the exercise of their functions, for the purpose of declaring whether or not there are grounds for their indictment and placing the culprit at the disposal of the competent court.

ART. 156. Once a judgment has been pronounced declaring a person guilty of an official offense, the guilty party can not be granted a pardon.

ART. 157. Notwithstanding the approval which Congress may give to the conduct of the executive, the President and the secretaries of State may be indicted for official offenses up to five years after they have ceased in the exercise of their office.

ART. 158. When it has been declared that there are grounds for the indictment of a public official in the full exercise of his duties, and the latter has been freed of the charge, he shall resume the discharge of his duties.

TITLE XXII.—CONSTITUTIVE LAWS.

ART. 159. The following laws are constitutive: the press law, the martial law and the law of asylum (*amparo*).

TITLE XXIII.—THE REFORM OF THE CONSTITUTION AND OF CONSTITUTIVE LAWS.

ART. 160. Whenever a partial reform of the Constitution or constitutive laws is deemed appropriate, this may be done, observing the following rules:

1. The bill shall be presented by two or more members of the houses and read twice, with an interval of four days.

2. Upon being taken up for debate, it shall be referred to a committee which shall present its report thereon within six days.

3. The report shall be read twice, on different days.

4. When the revised law has been approved by two thirds of the votes in each one of the houses, it shall be published by the press.

5. The reform shall be without legal effect until it has received the approval of two thirds of the votes in the next legislature, after a lapse of two years, in compliance with the usual procedure.

ART. 161. The reform of the articles of the Constitution which forbid the reelection of the person who exercises the Presidency of the Republic shall not be effective during the period in which said reform is made, nor in the following one.

ART. 162. Treaties or compacts referred to in the last part of Article 2 shall be ratified by a two thirds vote of each house, and by this act the Constitution shall be considered as amended, notwithstanding the provisions of this title.

ART. 163. An absolute constitutional reform may not be made until after a lapse of ten years, and for this purpose the regulations

of Article 160 shall be observed. A declaration to this effect having been made, a Constituent Assembly shall be convened.

ART. 164. The ordinary Congress, upon declaring that the Constitution should be entirely reformed, shall close its sessions and become *ipso facto* dissolved.

TITLE XXIV.—GENERAL PROVISIONS.

ART. 165. The present Constitution supersedes that of 30 March 1905 and the Law of Guarantees of 15 September 1910; moreover it declares the Constitution signed on 4 April of the present year by the previous Constituent Assembly to be null and void.

ART. 166. Until revised or repealed other laws shall remain in force, provided they are not contrary to the provisions of this Constitution.

ART. 167. The present Constitution shall go into force on 1 March 1912.

TITLE XXV.—TRANSITORY PROVISIONS.

ART. 168. Pending the convening of the first Constitutional Congress elected in the manner and at the time established by the electoral law decreed by the present Constituent Assembly, the latter shall continue to discharge its duties and those which belong to the ordinary Congress in accordance with the Constitution.

For this purpose it can suspend its sessions and reopen them whenever it deems it proper.¹

ART. 169. The renewal of the deputies during the first biennial period shall be made by lot, as shall also be that of the senators during the first and the second biennial periods.

ART. 170. The decrees of the present Constituent Assembly in regard to the appointments of President and of Vice-President of the Republic and magistrates of the courts of justice shall remain in full force and effect for the time which they respectively comprise.¹

ART. 171. The decrees of 18 May, 15 July and 14 October last regarding the creation, attributions and powers of the Mixed Commission shall likewise remain in full force and effect, notwithstanding the provisions of this Constitution. The present National Constituent Assembly shall without any restriction enact such reformatory and supplementary laws and provisions as may be conducive to the objects stated in such decrees.

ART. 172. As soon as the Constitution is promulgated, all public employees shall take the oath in legal form to strictly and faithfully observe all its provisions.²

¹ This article has been declared ineffective by decree of the National Constituent Assembly of 4 April 1913.

² Here follow the signatures of 40 deputies and the presidential decree of promulgation.

PANAMA.

After having constituted part of Colombia as a State, then (since 1886) as a simple province, the territory of Panama became independent during the civil war of 1898–1902. This independence has not been formally recognized by Colombia, although an attempt in this direction was made in the treaty which it concluded with the State of Panama and the United States in January, 1909.¹ By a treaty concluded 18 November 1903,² the State of Panama ceded to the United States, in consideration of a sum of \$10,000,000 and an annual rent of \$250,000 a zone of territory necessary for the construction of the Panama Canal. The Constitution of the new State bears date of 13 February 1904; it was sanctioned the fifteenth of the same month by the junta of the provisional government. A legislative decree of 6 June 1904 modified Article 73, No. 18 (pardoning power). The electoral law (No. 89) dates from 7 July 1904.³

CONSTITUTION OF 13 FEBRUARY 1904.⁴

[PREAMBLE.]

We, the representatives of the people of Panama, assembled in National Convention for the purpose of constituting the nation, maintaining order, guaranteeing justice, promoting the general welfare and securing the benefits of liberty for ourselves, our posterity and all men who may inhabit the Panaman soil, invoking the protection of God, do ordain, decree and establish for the Panaman nation the following Constitution.

TITLE I.—THE NATION AND ITS TERRITORY.

ARTICLE 1. The Panaman people hereby constitute themselves an independent and sovereign nation, ruled by a republican and demo-

¹ English text of the three treaties in *Papers relating to the Foreign Relations of the United States, 1909* (Washington, 1914), pp. 223–233. These treaties being of a tripartite nature are non-operative owing to the failure of Colombia to ratify them.

² English text in *Papers relating to the Foreign Relations of the United States, 1904* (Washington, 1905), pp. 543–551, and *British and Foreign State Papers*, 96: pp. 553–561.

³ This introductory paragraph is based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, pp. 567–568.

⁴ Spanish text and English translation in parallel columns in J. I. RODRIGUEZ, *American Constitutions* (Washington, 1906), vol. I, pp. 392–422. English translation also in the *British and Foreign States Papers*, 98: pp. 950–970, and *Papers relating to the Foreign Relations of the United States, 1904* (Washington, 1905), pp. 562–587. The translation given here is based upon the one in RODRIGUEZ.

cratic government, under the denomination of the Republic of Panama.

ART. 2. The sovereignty resides in the nation, which shall exercise it through its representatives in the manner established by this Constitution and under the conditions therein expressed.

ART. 3. The territory of the Republic is the same which, under the Act of 27 February 1855, additional to the Granada Constitution of 1853, formed the State of Panama, and became afterwards, in 1886, the Department of Panama, with its islands, and the continental and insular territory which was awarded to the Republic of Colombia by the President of the French Republic on 11 September 1900.¹ The territory of the Republic remains subject to the jurisdictional restrictions stipulated or which may be stipulated in public treaties with the United States of North America for the construction, maintenance or sanitation of any route of interoceanic transit.

The boundaries with the Republic of Colombia shall be determined by public treaties.

ART. 4. The territory of the Republic is divided into the provinces of Bocas del Toro, Cocle, Colon, Chiriqui, Los Santos, Panama and Veraguas. The provinces are divided into municipalities.

The National Assembly may increase or decrease the number of the former and of the latter, or change their boundaries.

ART. 5. The territory, together with the public property forming a part thereof, belongs to the nation.

TITLE II.—NATIONALITY AND CITIZENSHIP.

ART. 6. The following are Panamans:

1. All those born or who may be born in the territory of Panama, whatever the nationality of their fathers may be.

2. Children of Panaman father or mother, born in another territory, if they take up their domicile in the Republic and express their intention to become Panamans.

3. Foreigners, who have resided for over ten years in the Republic, professing some science, art or industry, or owning some real estate, or capital in circulation, if they declare, before the Panaman municipal authority of the territory in which they reside, their intention of being naturalized in Panama. Six years residence will suffice if they are married and have a family in Panama, and three years if they are married to a Panaman woman.

4. Colombians who, having taken part in the movement for the independence of the Republic of Panama, declare or have declared, before the municipal council of the district in which they reside, their intention to become Panamans.

¹ French text in the *British and Foreign State Papers*, 92: pp. 1038-1040.

ART. 7. Panaman nationality is lost :

1. By taking out naturalization papers in a foreign country and acquiring a domicile therein.
2. By accepting employment or honors from another government without the permission of the President of the Republic.
3. By refusing to indorse the movement for the independence of the nation, if the one who does so was born in Panama.
4. By engaging in the service of a hostile nation.

Nationality can only be recovered through rehabilitation by the National Assembly.

ART. 8. It is the duty of all Panamans to serve the nation as may be provided by law, and they as well as all foreigners residing within the territory of the Republic must submit to the Constitution and the laws, and respect and obey the authorities.

ART. 9. Foreigners shall enjoy in Panama the same rights as are granted to Panamans by the laws of the nation to which the foreigners belong, unless something to the contrary has been stipulated in public treaties, or, in the absence thereof, by the provisions of the law.

ART. 10. Naturalized or domiciled foreigners shall not be bound to take up arms against the land of their birth.

ART. 11. All Panamans over 21 years of age are citizens of the Republic.

ART. 12. Citizenship consists in the right of voting in the elections of public officers and in the capacity to hold public offices with authority and jurisdiction.

ART. 13. Citizenship, once acquired, is only lost :

1. As a penalty in accordance with the law, but rehabilitation may be obtained through the National Assembly.
2. By loss of the Panaman nationality, according to the national Constitution.

ART. 14. Citizenship is suspended :

1. By criminal prosecution, as soon as the arrest of a citizen is ordered by the court.
2. By legal inability to freely administer property.
3. By habitual drunkenness.

TITLE III.—INDIVIDUAL RIGHTS.

ART. 15. The authorities of the Republic are constituted for the protection of all persons, whether residents or visitors, in their lives, honor and property, for the securing of reciprocal respect of all natural, constitutional and legal rights, and for the prevention and punishment of crime.

ART. 16. Panamans and foreigners are equal before the law. There shall be no exemptions or personal privileges.

ART. 17. Every person has the right to present respectful petitions to the authorities, on matters of public or private interest, and to receive a prompt reply.

ART. 18. Public corporations legally authorized have the right to be recognized as juridical persons, and to perform, as such, civil acts and enjoy the guarantees set forth in this title, with the general limitations established by the laws for reasons of general welfare.

ART. 19. There shall be no slaves in Panama. He who being a slave, sets foot in the territory of the Republic, shall be free.

ART. 20. All the inhabitants of the Republic have the right to assemble peacefully and unarmed, and to form associations for all the legitimate purposes of life.

ART. 21. Every person shall be free to travel within the boundaries of the Republic and change residence, without the necessity of a permit, passport or other similar requisite, with the exceptions which the laws provide concerning the giving of security in land in judicial cases and concerning immigration.

ART. 22. No one shall be tried or sentenced except by competent judges or courts, by virtue of the laws existing prior to the commission of the offense, and in the form established by these laws.

Officials who exercise authority or jurisdiction may punish, nevertheless, for contempt, without previous trial, any one who may be insulting or disrespectful to them while discharging their duties; and military commanders and captains of vessels may inflict summary punishment in order to check insubordination, maintain order or repress crimes committed on board and away from port.

ART. 23. No one shall be molested in his person or family, or be placed in prison or under arrest, or detained, or have his home searched, except by virtue of a warrant issued by competent authority, with the legal formalities and for reasons previously set forth in the laws.

In no case shall there be detention, imprisonment, or arrest for debts or purely civil obligations, unless it is by judicial order for failure to give bond when required by law.

Offenders caught *in flagrante delicto* may be arrested and taken before the judge by any person whatever.

ART. 24. All persons detained or imprisoned without the legal formalities, or in violation of the Constitution or the laws, shall be set at liberty upon their own request or that of any other person. The law shall determine the form of this summary proceeding.

ART. 25. No one is bound to testify in criminal matters against himself, or against his consort, or against any member of his family within the fourth degree of consanguinity or the second of affinity.

ART. 26. The profession of all religions is free, as is also the practice of all forms of worship, without any other restriction than

respect for Christian morality and public order. It is recognized, however, that the Catholic religion is that of the majority of the inhabitants of the Republic, and the law shall provide that it be aided in founding a theological seminary in the capital and in sending missions to the native tribes.

ART. 27. Every one may freely express his opinions, either orally or in writing, through the press, or in any other way, without being subject to censorship, when referring to official acts of public functionaries.

Legal responsibility shall, however, be incurred when the honor of persons is assailed by any of these means.

ART. 28. Correspondence and other private documents are inviolable, and neither the former nor the latter shall be seized or examined, except by order of competent judicial authority and with the formalities prescribed by law. In all cases secrecy shall be maintained with regard to matters having no bearing on the object of the seizure or examination.

ART. 29. All persons are free to engage in any honorable trade or occupation without necessity of belonging to guilds or professional associations.

The authorities shall exercise supervision over the industries and professions in so far as they may affect public morality, safety and health. The proper diploma shall be required for the practice of medical professions and their auxiliary branches.

ART. 30. Obligations of a civil character arising out of contracts or of acts, facts, or omissions capable to produce them shall not be impaired or annulled by either the executive or the legislative power.

ART. 31. The laws shall determine everything relating to the civil status of persons, and the rights and duties arising out of it.

ART. 32. Laws shall not have retroactive effect.

In criminal matters, however, a permissive or favorable law shall be applied in preference to a restrictive or unfavorable one, even if it be subsequent.

ART. 33. Rights acquired in accordance with the laws shall not be encroached upon or disregarded by subsequent laws.

When the application of a law enacted for reasons of public utility results in the conflict of the rights of private persons with the recognized necessity of the said law, the private interests shall yield to the public interests. Expropriations which may be considered necessary, however, shall require full and previous indemnification.

ART. 34. Donations, *inter vivos* or testamentary, made in conformity with the laws, for purposes of charity or public instruction, shall not be changed or modified by legislation.

ART. 35. Private persons are not responsible before the authorities except for violation of the Constitution or of the laws. Public offi-

cials are responsible for the same cause, and also for exceeding their authority, or for dereliction in the performance of their duties.

ART. 36. In case of flagrant violation of a constitutional provision to the detriment of any person, an order from a superior will not exempt from responsibility the agent executing it.

Private soldiers, while on duty, are expected from this provision, the responsibility falling solely, in this case, upon the superior who gives the order.

ART. 37. Games of lot and chance shall not be permitted in the territory of the Republic. The law shall enumerate the games prohibited.

ART. 38. There shall be no official monopolies.

ART. 39. There shall be no entailment of real estate, nor irredeemable obligations.

ART. 40. Every author or inventor shall enjoy the exclusive ownership of his work or invention during the time and in the manner prescribed by law.

ART. 41. No one is obliged to pay a tax or duty which has not been legally established and which is not collected in the manner prescribed by the laws.

ART. 42. No one shall be deprived of his property, either in whole or in part, except as a penalty or by general taxation according to the laws.

For grave reasons of public utility, defined by law, condemnation of private property or of rights may be made by judicial order, but the payment of the declared value shall be made before the owner is dispossessed of them.

ART. 43. Buildings devoted to any form of worship, theological seminaries and the residences of bishops and parish priests shall not be subject to taxation, and shall only be occupied in case of urgent public necessity.

ART. 44. In no case shall the penalty of confiscation of property be established by law.

ART. 45. Prisons are places of security and expiation and not of cruel punishment; consequently, all severity which is not necessary for the custody and correction of the prisoners is forbidden.

ART. 46. The laws shall fix the degree of responsibility which public officials of any class incur by encroaching on the rights guaranteed by the provisions of this title.

ART. 47. The individual rights recognized and guaranteed in Articles 21, 23, 24, 27, 28 and 42 may be temporarily suspended in all or in part of the Republic, when the safety of the State shall require it, in case of foreign war or internal commotion threatening the public peace.

This suspension shall be decreed by the National Assembly, if it is in session; if it is not in session and the danger is imminent, the

President of the Republic may order the suspension by means of a decree signed by all his secretaries. In this case, the President, in the same decree of suspension, shall convene the National Assembly in order to explain to it the reasons upon which the decree was based.

ART. 48. The National Assembly is prohibited from enacting laws which may diminish, restrict or impair any of the individual rights mentioned in the present title, without a previous amendment to the Constitution, except in the cases provided for by the latter.

TITLE IV.—SUFFRAGE.

ART. 49. All citizens over 21 years of age are entitled to the exercise of suffrage, except those who may be under a judicial interdiction and those who are judicially disfranchised on account of crime.

The law may provide that certain elections be held in two grades, and, in this case, it shall determine the qualifications of the electors of the second grade.

The election of the President ~~and Vice-President~~ of the Republic shall always be made by the direct vote of the citizens.¹

ART. 50. The laws shall fix the degree of responsibility incurred by public officials who, by their acts, encroach on the rights recognized in this title.

TITLE V.—THE PUBLIC POWERS.

ART. 51. The government of the Republic is divided into three powers, namely: Legislative, executive and judicial.

ART. 52. All the public powers are limited and exercise their respective attributions separately.

TITLE VI.—THE LEGISLATIVE POWER.

ART. 53. The legislative power is exercised by a body called the National Assembly, composed of as many deputies as correspond to the electoral districts, at the rate of one for every 10,000 inhabitants and one in addition for a fraction of not less than 5,000, elected for a period of four years.

There shall be substitutes to take the places of the regular incumbents in case they fail to appear absolutely or temporarily.

ART. 54. The National Assembly shall meet, without the necessity of a call, in the capital of the Republic, every two years, on the first day of September.

ART. 55. The duration of the regular sessions of the National Assembly shall be ninety days, which, in case of necessity, the As-

¹ This paragraph was added by Article 4 of the Legislative Act of 14 March 1917 (below, p. 478).

sembly itself shall extend for as much as thirty days. The President of the Republic may call an extra session for such period as he may indicate and to deal exclusively with such matters as he may submit to it.

ART. 56. To be a deputy to the National Assembly, it is required to be a citizen in the exercise of his rights and to have attained the age of 25 years.

ART. 57. The members of the National Assembly shall not be responsible for their opinions or votes, given orally or in writing, in the discharge of their duties, and at no time or by any authority shall they be prosecuted on this account.

ART. 58. The President of the Republic, the secretaries of State, the magistrates of the Supreme Court of Justice and the Attorney-General of the nation shall not be elected deputies to the Assembly unless six months after they have ceased to exercise their functions. Citizens who have exercised the executive power shall be affected by the same disability.

ART. 59. In like manner no other official shall be eligible as a deputy to the Assembly who is vested with jurisdiction or command in an electoral district and has exercised his authority therein ninety days before the day of election.

ART. 60. For twenty days before the opening of the sessions, during the said sessions and for twenty days thereafter, no member of the National Assembly shall be subject to criminal trial without the assent of the Assembly.

In cases of *flagrante delicto*, the culprit may be arrested and immediately placed at the disposal of the said body. Members shall likewise be free from civil actions during the same period.

ART. 61. No increase of *per diem* or mileage allowances shall become effective until after the term of the members of the Assembly which voted the said increase shall have expired.

ART. 62. The deputies of the Assembly shall not enter, directly or indirectly, into any contract with the administration, nor shall they accept from any one powers of attorney to transact business connected with the government.

ART. 63. In cases of temporary or permanent absence of a member of the National Assembly, his place shall be filled by the legal substitute.

When any deputy withdraws from the sessions, or is replaced by a substitute, the former shall be entitled to the mileage of the journey to the capital and the latter to that of the return to his own domicile.

ART. 64. The President of the Republic shall not confer on the deputies of the Assembly other offices than those of secretary of State, governor of a province, or diplomatic or consular agent.

The acceptance of any one of those offices shall cause the deputy to lose his seat.

ART. 65. The legislative functions of the National Assembly are:

1. To issue national codes and the laws necessary for the administration of the government in all its branches, and to revise or repeal them.

2. To determine the flag and the coat-of-arms of the Republic.

3. To create or abolish offices, and specify their functions, duties and attributions; to fix the terms of office and to designate salaries.

4. To grant or refuse its approval to public treaties negotiated by the executive power: without such approval they can neither be ratified nor exchanged.

5. To approve or disapprove contracts or agreements made by the President of the Republic with private persons, companies or political entities, in which the nation may be interested, if they have not been previously authorized, or if the formalities prescribed by the National Assembly have not been observed, or if any of the stipulations therein contained are not in accordance with the law authorizing them.

6. To grant authority to the executive power to conclude treaties, negotiate loans, alienate national property and exercise other functions within the limits of the Constitution.

7. To declare war, and to authorize the executive power to make peace.

8. To designate the place where the supreme branches of the public powers must be located.

9. To divide the territory of the Republic into electoral districts.

10. To define or regulate the appropriation or adjudication of public lands.

11. To fix the strength of the standing army in time of peace.

12. To organize the national police.

13. To promote and encourage public education, sciences and arts.

14. To decree the construction of public buildings which may be necessary for the State, and of all other public works which are to be undertaken at national expense.

15. To promote and subsidize useful or beneficial enterprises worthy of furtherance and support.

16. To enact such laws as shall be proper for taking the census of the population and gathering national statistics.

17. To grant amnesties, but if any civil liability is incurred with respect to private persons, the Republic shall be obliged to pay the indemnities.

18. To organize the public credit.

19. To acknowledge the national debt and regulate the service thereof.

20. To make appropriations for the expenses of the administration, upon examination of the estimates presented by the executive power, which may or may not be approved.

If for any reason whatever the appropriation bill is not passed by the National Assembly, the act of the preceding year shall continue in force.

21. To create such imposts, taxes and revenues as may be necessary to carry on the public service.

22. To decree the alienation of national property or its application to public uses.

23. To determine the fineness, weight, value, form, type, and denominations of the national coins, and to regulate the system of weights and measures.

24. To increase or diminish the number of provinces and municipal districts, and to change their boundaries.

25. To frame regulations for its internal administration.

ART. 66. The judicial functions of the National Assembly are:

1. To take cognizance of charges and complaints made against the President of the Republic or the person in charge of the executive power, in cases involving their responsibility, the secretaries of State, the magistrates of the Supreme Court of Justice and the Attorney-General of the nation.

2. To try the President of the Republic or the person in charge of the executive power, in accordance with this Constitution; the secretaries of State, the magistrates of the Supreme Court of Justice and the Attorney-General of the nation, when charged with offenses committed in the performance of their functions, against the safety of the State, the free operation of the public powers or in violation of the national Constitution and laws.

The procedure to be followed in such cases and the penalties to be imposed shall be determined by law.

ART. 67. The executive functions of the National Assembly are:

1. To inspect the credentials of its own members and to decide whether or not the said credentials are in the form prescribed by law.

2. To rehabilitate those who have lost citizenship.

3. To accept or refuse to accept the resignations of the President of the Republic or the Designates (*Designados*).

4.¹

When, for any reason, the National Assembly fails to elect Designates, those formerly elected shall continue as such in their order.

¹ Practically repealed by Article 9 of the Legislative Act of 14 March 1917 (below, p. 479). This clause originally read as follows: "To elect at the ordinary session, and for a term of two years, three Designates, who, in the absence of the President of the Republic and in the order of their election, shall exercise the executive power."

5. To appoint the judges of the Court of Accounts.

6. To appoint a fiscal inspector of all the treasury offices of the Republic.

7. To appoint commissions for the demarcation of the boundaries of the nation.

8. To call upon the secretaries of State for such oral or written reports as it may need.

9. To examine and finally approve at each ordinary session the general account of the treasury submitted by the executive power.

10. To grant leaves of absence to the President of the Republic or to the person in charge of the executive power.

11. To permit or refuse the sojourning of foreign war-vessels in the ports of the Republic when the stay is longer than two months.

ART. 68. The National Assembly is forbidden:

1. To allow by decree gratuities, indemnities, pensions or other expenditures not intended for the settlement of debts or rights recognized in accordance with the existing law, except as provided in Article 65.

2. To pass acts of proscription or persecution against persons or corporations.

3. To pass resolutions of approval or censure of official acts.

4. To make suggestions to public officers.¹

TITLE VII.—THE EXECUTIVE POWER.

ART. 69. The executive power is exercised by a magistrate to be called President of the Republic, who shall have for the discharge of his functions the number of secretaries determined by law.

The President shall enter upon the discharge of his constitutional functions on the first day of October following that of his election, and shall remain in office for a term of four years.

The law shall determine the names of the departments and the order of precedence of the secretaries.

ART. 70. To be President of the Republic it is required:

1. To be a Panamanian by birth.

2. To be at least 35 years of age.²

ART. 71. The President-elect of the Republic, or the citizen who takes his place, shall assume possession of his charge before the president of the Assembly and shall take the following oath of office:

I swear before God and before the country that I shall faithfully comply with the Constitution and the laws of Panama.

ART. 72. If, for any reason whatever, the President of the Republic can not assume possession before the president of the National As-

¹ See Article 6 of the Legislative Act of 14 March 1917 (below, p. 478).

² See Article 7 of the Legislative Act of 14 March 1917 (below, p. 478).

sembly, he shall do so before the president of the Supreme Court of Justice, and failing this, before two witnesses.

ART. 73. The attributions of the President of the Republic are:

1. To appoint and remove, freely, the secretaries of State, the governors of the provinces and persons holding any national offices whatsoever, whose appointment does not belong to other officials or bodies.

2. To see to the preservation of public order.

3. To conduct the diplomatic and commercial relations with other nations, freely to appoint and receive the respective agents, and to conclude public treaties and conventions which shall be submitted to the National Assembly for its approval.

4. To take care that the National Assembly shall meet on the day appointed by the Constitution or by the resolution or decree by which extraordinary sessions may be called, and to take in good time the necessary measures for the payment to the deputies of the mileage allowed them by law.

5. To submit at the beginning of each legislature, on the first day of its ordinary sessions, a message relating to the affairs of the administration.

6. To furnish the Assembly with such special reports as the latter may request.

7. To sanction and promulgate the laws, obey them and see to their exact execution.

8. To submit to the National Assembly, within the first ten days of the regular sessions, the budget of receipts and expenditures for the following two years, and the general account of the budget and of the treasury.

9. To supervise the collection and administration of the revenues of the Republic and to order their disbursement in accordance with the laws.

10. To conclude administrative contracts for the performance of services and the execution of public works in accordance with the fiscal laws, with the obligation of reporting thereon to the Assembly in its ordinary sessions.

11. To grant patents of useful inventions in conformity with the laws.

12. To issue naturalization papers in conformity with the laws.

13. To allow Panamans, who request it, to accept positions or distinctions from foreign governments.

14. To control, regulate and supervise national public instruction.

15. To take care that the public institutions of the nation are properly conducted.

16. To sanction, promulgate and enforce all sanitary regulations enacted by the National Board of Health.

17. To appoint the magistrates of the Supreme Court of Justice, the Attorney-General of the nation, and the public prosecutors and their deputies, in accord with the conditions required by law.¹

18. To grant pardons to those guilty of political offenses and commutations of sentences, in accordance with the law regulating the exercise of this power.²

19. To grant military grades, according to the Constitution and the laws.

20. To dispose of the public forces as supreme chief of the nation.

ART. 74. All acts of the President of the Republic, except the appointments or removals of his secretaries of State, shall be without any validity or force unless they are countersigned by the secretary of the department to which they pertain, who *ipso facto* becomes responsible therefor.

ART. 75. The President of the Republic or the person in charge of the executive power may discontinue the discharge of his duties during a leave of absence which shall be granted by the National Assembly, or, during the recess of the latter, by the Supreme Court of Justice.

In case of illness, a previous notice to either body will suffice.

ART. 76. The President, in the exercise of his functions and in the public interest, may visit, for such time as he may deem proper, any part of the Republic.

ART. 77. The emoluments allowed by law to the President of the Republic shall not be changed during the term for which they have been fixed.

ART. 78. The President of the Republic, or whoever acts in his place, shall be held responsible only in the following cases:

1. For going beyond his constitutional powers.

2. For committing acts of violence or coercion in elections, or preventing the constitutional meeting of the National Assembly, or obstructing the latter and the other public bodies or authorities established by the Constitution, in the exercise of their functions.

3. For high treason.

In the first two cases the penalty shall be no other than removal from office, and, if the President has ceased to exercise his functions, the penalty shall be disqualification from holding any other public office.

In the latter case the common law shall be applied.

ART. 79. In the temporary or permanent absence of the President of the Republic, the executive power shall be vested in one of the Designates³ in the order in which they have been elected.

¹ See Article 8 of the Legislative Act of 14 March 1917 (below, p. 478).

² As amended by the Law of 19 September 1906.

³ See Article 9 of the Legislative Act of 14 March 1917 (below, p. 479).

The only cases of permanent absence of the President are his death, his accepted resignation or his removal.

The person in charge of the executive power shall enjoy the same preeminence and exercise the same attributions as the President of the Republic, whose place he fills.

ART. 80. To be a Designate (*Designado*) the same qualifications shall be required as for being President of the Republic.

ART. 81. When in the absence of the President the vacancy can not for any reason be filled by the Designate, the Presidency shall be exercised by the secretary of State whom the Cabinet Council selects by a majority of votes.

ART. 82. A citizen who has been elected President of the Republic shall not be reelected for the following term, if he has filled the office of President within the eighteen months immediately preceding the new election.¹

ART. 83. Citizens called upon to fill the office of President and having so filled it within the six months preceding the date of election of the new President, and any relative of his within the fourth civil degree of consanguinity or the second of affinity, shall also be barred from election to this office.²

TITLE VIII.—THE DEPARTMENTS OF STATE.

ART. 84. The distribution of business according to its nature among the several departments of State devolves upon the President of the Republic.

ART. 85. In order to be a secretary of State the same qualifications are necessary as for being a deputy to the National Assembly.

ART. 86. The secretaries of State are the sole organs of communication between the executive power and the National Assembly; they may introduce bills and take part in the debates.

ART. 87. Each secretary of State shall present to the National Assembly, within ten days after the beginning of each legislature, a detailed report or memorial on the condition of the business of his department and on such reforms as he may deem advisable to introduce.

ART. 88. The National Assembly may summons the secretaries of State to appear before it whenever advisable.

ART. 89. The Cabinet Council shall be composed of all the secretaries of State and shall be presided over by the President of the Republic.

¹ See Article 10 of the Legislative Act of 14 March 1917 (below, p. 479).

² See Article 11 of the Legislative Act of 14 March 1917 (below, p. 479).

TITLE IX.—THE JUDICIAL POWER.

ART. 90. The judicial power shall be exercised in the Republic by a Supreme Court of Justice, by such inferior and ordinary courts as the law may establish, and by any other special tribunals or commissions which may be created in accordance with public treaties.

The Assembly shall exercise certain judicial functions.

ART. 91. The Supreme Court of Justice shall consist of five magistrates, appointed for four years.¹ There shall be five substitutes, also appointed for four years, who shall fill, in their order, any temporary vacancy.

In the event of permanent vacancy a new appointment shall be made.

The magistrate who accepts a government office shall vacate his position.

ART. 92. The appointment of the magistrates and judges of the ordinary courts, which the law may establish, shall be made by the court or judge immediately superior in rank.

ART. 93. To be a magistrate of the Supreme Court of Justice it is required to be a Panaman by birth or by adoption, to have resided in the Republic for over fifteen years, to be over 30 years of age, to be in the full enjoyment of civil and political rights, to be a graduate in law, or have practiced at least for ten years as a lawyer of good standing, or discharged, during an equal period, the duties of judge or prosecuting attorney, and to have never been sentenced for common offenses.

The same qualifications shall be required of magistrates of the courts of justice that may be established by law.

ART. 94. No magistrate or judge shall be suspended from his office except in the cases and with the formalities provided by law, nor shall he be removed except by virtue of a judicial sentence.

ART. 95. The law shall determine the cases of criminal character which shall be tried by jury.

ART. 96. Justice shall be administered gratuitously throughout the territory of the Republic.

ART. 97. The law shall determine the salaries of the officers of the judiciary, and such salaries shall be neither increased nor decreased during the term for which such officers shall have been appointed.

TITLE X.—THE MAKING OF LAWS.

ART. 98. Laws shall originate in the National Assembly at the suggestion of its members or of the secretaries of State.

¹ See Article 8 of the Legislative Act of 14 March 1917 (below, p. 478).

Exempt from this provision are laws concerning civil jurisprudence and judicial procedure, which shall not be enacted except at the suggestion of the respective standing committees of the Assembly, or of the magistrates of the Supreme Court of Justice.

ART. 99. No legislative act shall become law until it shall have received the approval of the National Assembly in three debates on separate days, a majority of the votes and the sanction of the executive power.

ART. 100. The second debate on a bill shall not be closed, nor shall the bill be voted on in a third debate, without the presence of a majority of the members composing the Assembly.

ART. 101. After a bill is passed by the Assembly, it shall be sent to the executive power, and if approved, it shall be promulgated as a law. If not approved, it shall be returned to the Assembly with a statement of the objections thereto.

ART. 102. The executive power has 6 days to return a bill with his objections, when the said bill shall consist of not more than 50 articles; 10 days, when the bill contains from 51 to 200 articles; and 15 days, when there are more than 200 articles.

ART. 103. If, at the expiration of those terms, the executive power fails to return the bill with his objections, the bill shall become a law and shall be promulgated. But if the Assembly adjourns before the expiration of the said terms, it shall be the duty of the executive power to publish the bill, whether approved or objected to, within ten days after the date of adjournment of the National Assembly.

ART. 104. All bills objected to in their entirety by the executive power shall be reconsidered by the Assembly in third debate; those objected to only in part shall be reconsidered in second debate for the sole purpose of taking the objection of the executive power into account.

ART. 105. The executive power shall sanction every bill which, having been reconsidered, shall be passed by a two-thirds vote of the deputies present at the debate, provided that their number be not less than that required for a quorum.

If the executive power objects to a bill on the ground of unconstitutionality, and the National Assembly insists upon its passage, the bill shall be referred to the Supreme Court of Justice, which shall render its decision within six days. If the action of the Assembly is sustained by the Court, the executive power shall be bound to sanction and promulgate the bill as a law; if the bill is pronounced unconstitutional, it shall be sent to the archives.

ART. 106. If the executive power fails to sanction the laws within the time and under the condition set forth in this title, they shall be sanctioned and published by the president of the Assembly.

ART. 107. Every law shall be promulgated within six days after its approval.

ART. 108. The laws may be accompanied by an explanatory preamble, and their enacting clause shall be as follows: "The National Assembly of Panama decrees."

ART. 109. Bills upon which no action has been taken at a session shall not be reintroduced except as new bills in another session.

TITLE XI.—PUBLIC PROSECUTION.

ART. 110. Public prosecution shall be conducted by an Attorney-General of the Nation, by the public prosecutors and deputies, and by such other officers as the law may designate. Municipal deputies shall be elected by the executive power out of lists of three presented by the respective municipal councils. When one of the list of three has been elected, the other two shall be held as substitutes in the order established by the executive power.¹

ART. 111. It shall be the duty of the officers in charge of public prosecution to defend the interests of the nation; to see to the enforcement of the laws, execution of judicial sentences and administrative orders; to watch the official acts of public officials and to prosecute offenses and misdemeanors that disturb social order.

ART. 112. The term of office of the Attorney-General shall be four years.²

ART. 113. The same qualifications as are required to be a magistrate of the Supreme Court of Justice shall be required to be Attorney-General of the nation.

ART. 114. The special duties of the Attorney-General of the nation shall be:

1. To see that all the public officials in the service of the nation properly discharge their duties.

2. To arraign before the Supreme Court such officials as must be tried by that body.

3. To see that the other officers of public prosecution faithfully discharge their duties and to take appropriate action to hold them responsible for all derelictions committed by them.

4. To appoint and remove at his discretion all his immediate subordinates, and such other duties as the law may ascribe to him.

TITLE XII.—THE NATIONAL TREASURY.

ART. 115. The Republic of Panama holds in ownership:

1. All property within the territory that belonged, by whatsoever title, to the Republic of Colombia.

¹ The last two sentences were added by Article 12 of the Legislative Act of 14 March 1917 (below, p. 479).

² See Article 2 of the same Act (below, pp. 477-478).

2. The rights and actions which the Republic of Colombia had within or without the country by reason of the sovereignty it exercised over the territory of the Isthmus of Panama.

3. The property, revenues, lands, securities, rights and actions that belonged to the former Department of Panama.

4. The vacant lands, salt deposits, lode and placer mines, or mines of any other character, and those of precious stones, without prejudice to lawfully acquired rights.

ART. 116. The power of coining money of legal tender, of whatever description, is vested in the nation and can not be transferred. There shall be no private banks of issue.

ART. 117. No paper money shall be made legal tender in the Republic. Consequently, it shall be optional for any one to refuse notes or other certificates, whether it be of official or of private origin, in which he has no confidence.

ART. 118. The landed property in the Republic shall not be transferable to foreign governments, except as stipulated in public treaties.

ART. 119. No expenditure of public money shall be made without authority of law.

No moneys appropriated for one purpose shall be applied to any other purpose not provided for in the budget.

ART. 120.¹ The executive power can not vote an extraordinary allowance, except in the following cases:

1. Whenever any public calamity occurs.

2. Whenever there is need to attend to some obligations which affect national honor or unavoidable expenses for international courtesy.

3. In case of disturbance of public order.

These allowances shall be granted by the Cabinet under the joint responsibility of the President and his secretaries of State, and the reasons for this action shall be recorded in each case and submitted to the National Assembly at its ordinary sessions.

ART. 121. No indirect tax shall be collected or increased until three months after the date of the promulgation of the law establishing the same.

¹ As amended by Article 13 of the Legislative Act of 14 March 1917 (below, p. 480). This article originally read as follows:

"Should the necessity arise to make an expenditure, which in the judgment of the executive power can not be avoided, during a recess of the National Assembly and for which no fund or an insufficient fund may have been appropriated, an additional or extraordinary allowance may be granted to the department concerned.

Such allowance shall be granted by the Cabinet Council, under its joint responsibility, and the reasons for this action shall be recorded.

The approval of such allowances belongs to the National Assembly."

TITLE XIII.—THE PUBLIC FORCE.

ART. 122. All Panamans are bound to take up arms whenever demanded by public necessity, for the defense of national independence and the institutions of the country.

The law shall determine the conditions for exemption from military service.

ART. 123. The law shall organize the military service and the national police.

ART. 124. The nation may maintain a standing army for its defense.

Impressment is prohibited.

ART. 125. The public force is not a deliberative organization. It shall not assemble unless by order of the lawful authority and shall not make petitions except upon subjects relating to the good service and the morality of the army, and in accordance with the laws of their establishment.¹

ART. 126. Offenses committed by military persons while on active duty, or in connection therewith, shall be tried by courts-martial, or military tribunals, in accordance with the provisions of the Military Code.

ART. 127. The national government alone shall have the power to import and manufacture arms and ammunition.

TITLE XIV.—THE PROVINCES.

ART. 128. There shall be in each province a governor, whose appointment and removal shall be at the pleasure of the President of the Republic, and whose powers and duties shall be defined by law.

ART. 129. There shall be in each municipal district a corporation that shall be styled municipal council and consist of the number of members determined by law and elected directly by popular vote.

ART. 130. Municipal districts are autonomous as to their internal affairs, but they can not contract debts without the authorization of the National Assembly.

ART. 131. The municipal councils shall, by means of their own resolutions or of regulations issued by technical boards or commissions, provide all that may be necessary for the government of the district; levy local taxes and make local expenditures within the bounds established by the fiscal system of the nation, and exercise such other functions as may be ascribed to them by law.

ART. 132. There shall be in each municipal district a mayor appointed as provided by law, whose duty it shall be to discharge administrative functions in the municipality as the agent of the governor and mandatory of the people.

¹ See Article 14 of the Legislative Act of 14 March 1917 (below, p. 480).

TITLE XV.—GENERAL PROVISIONS.

ART. 133. Primary instruction shall be compulsory, and, when public, shall be free. There shall also be schools of arts and trades and institutions of secondary and professional instruction at the expense of the nation.

The law shall decentralize public instruction and assign to it special revenues.

ART. 134. There shall be in Panama no office whose powers and duties shall not be particularized by law or regulations, and no public officer shall receive two or more salaries from the national treasury except under the provisions that may be made by law in special cases.

ART. 135. Ministers of religious denominations shall not hold any office, employment or public trust in the Republic, whether personal, civil or military, except such positions as are connected with public charity or education.

ART. 136. The government of the United States of America shall have the power to intervene in any part of the Republic of Panama to reestablish public peace and constitutional order, in the event of their being disturbed, if the said nation, by public treaty, assumes the obligation of guaranteeing the independence and sovereignty of this Republic.

TITLE XVI.—AMENDMENTS TO THE CONSTITUTION.

ART. 137. This Constitution may be amended through a legislative measure enacted in legal form, transmitted by the government to the next ordinary National Assembly for its final consideration, discussed anew by the later and approved by two thirds of the members constituting the Assembly.

TITLE XVII.—TRANSITORY PROVISIONS.

ART. 138. In order to secure for posterity a part of the pecuniary advantages derived from the negotiations for the construction of the interoceanic canal, the sum of six million dollars is hereby set aside for investment in securities bearing a fixed annual interest. The said investment shall be regulated by law.

ART. 139.¹ (Amended Dec 26, 1917)

ART. 140. The first President of the Republic shall be elected by the National Convention by an absolute majority of votes on the day

¹ Repealed by the Legislative Act of 14 March 1917. This article read as follows:

"The law shall impose the penalty of death only for murder when accompanied by circumstances of atrocious character; and this shall be done only as long as no good penal establishments or real penitentiaries exist in the Republic."

of the promulgation of this Constitution. He shall take possession of the post immediately and shall exercise his functions until 30 September 1908.

The Designates shall be elected on the same day as the President, and their term of office shall expire on 30 September 1906.

ART. 141. Any citizen who has taken an active part in securing the independence of the Republic may, even if not a Panamanian by birth, be elected the first constitutional President of the Republic of Panama.

ART. 142. As soon as this Constitution is sanctioned by the board of provisional government of the Republic, the Convention shall lose its character as such and assume all the functions attributed to the National Assembly, the prohibition contained in Article 64 not applying to the delegates to the Convention.

ART. 143. Before the date on which the first National Assembly is to meet, the Constitutional National Convention shall again exercise the legislative functions, whenever it may be called in extraordinary session by the executive power.

ART. 144. The first National Assembly shall meet on 1 September 1906.

ART. 145. All the acts of the board of provisional government from 3 November 1903 to 15 January of the present year are hereby expressly ratified.

ART. 146. Existing monopolies and other privileges shall continue until the expiration of the respective lawful contracts, unless it is found possible to reach some equitable agreements with the possessors thereof for their immediate termination.

ART. 147. All laws, decrees, regulations, orders and other provisions which may be in force at the time this Constitution is promulgated shall continue to be observed, in so far as they are not contrary to it or to the laws of the Republic of Panama.

ART. 148. This Constitution shall take effect, as far as the supreme branches of the government are concerned, from the day on which it is sanctioned; and as far as the Republic is concerned, fifteen days after its publication in the *Gaceta Oficial*.

LEGISLATIVE ACT OF 14 MARCH 1917 AMENDING THE CONSTITUTION.¹

ARTICLE 1. There shall be no death penalty in Panama.

ART. 2. The National Assembly shall elect by the absolute majority of the votes of the total number of its members the Attorney-General of the nation and two substitutes who shall replace the former when

¹ Translated by ANTONIO M. OPISSO from the official Spanish text.

permanently or temporarily absent. These officials shall be elected for a period of five years.

SECTION. In the event of absence for any reason of the sitting and substitute Attorney-Generals, the executive power may, during the recess of the National Assembly, fill such vacancy until the Assembly shall meet either in ordinary or extraordinary session and proceed to a new election.

ART. 3. Any person may engage in any honest trade or occupation for which he may be fitted. The law and the authorities shall regulate or inspect the professions and industries as to everything pertaining to the individual aptitude and morality and public safety and health.

ART. 4. At the end of Article 49 the following clause shall be added:

The election of the President and Vice-President of the Republic shall always be made by the direct vote of the citizens.

ART. 5. Governors of provinces and mayors of the districts shall be elected by popular direct vote and for a period of four years. The first election for these offices shall be made in 1920.

ART. 6. The National Assembly is hereby forbidden:

1. To charge to the public treasury any indemnity which has not been previously declared by the judicial power, or to approve any items for payment of pensions or retirements which have not been previously granted in accordance with the pre-existing general laws.

2. To decree the banishment or prosecution of persons or corporations.

3. To pass resolutions in praise of official acts.

ART. 7. The term of office of the President of the Republic shall be four years. Children of Panaman father or mother born abroad may be elected President or Vice-President of the Republic, provided they have chosen Panaman nationality and have resided in the country for over 20 years.

Panaman citizens born in Colombia who took part in the movement of separation of Panama and who were members of the provisional government of the Republic may also be elected President or Vice-President of the Republic.

ART. 8. Clause 17 of Article 73 of the Constitution shall be thus amended:

17. To appoint, according to the conditions required by the Constitution and the laws, the magistrates of the Supreme Court of Justice for a period of five years, renewing one every year, and the public prosecutors for a period of four years.

Transitory paragraph. The magistrates first appointed in accordance with the foregoing provision shall hold office for the following periods: The first shall hold office 1 year; the second, 2 years; the third, 3 years; the fourth, 4 years; and the fifth, 5 years of the ordinary constitutional period.

This provision shall go into force in 1920.

ART. 9. When a temporary or absolute vacancy of the office of the President of the Republic shall occur, the executive power shall be exercised by a magistrate who shall be known as the Vice-President of the Republic and who shall be elected on the same day and in the same manner and for the same period as the President.

SECT. 1. Only death, resignation or dismissal of the President shall cause absolute vacancy.

SECT. 2. When the Vice-President should substitute the President during the latter's temporary absence, he shall use the title of Vice-President of the Republic in charge of the executive power; when he should fill the office by reason of absolute vacancy, he shall assume the title of President of the Republic.

SECT. 3. Whenever in this Constitution¹ or in the laws reference is made to the Designates for the executive power, it shall be understood that the magistrate to whom said provisions are applicable is the Vice-President.

SECT. 4. Whenever an absolute vacancy of the office of President or Vice-President occurs, the secretary of State elected by a majority of votes at a cabinet meeting shall take charge provisionally while the Assembly convenes in extraordinary session for the sole purpose of appointing the President and the Vice-President of the Republic for the remainder of the running period.

ART. 10. A citizen who has been elected President of the Republic can not be reelected for the term immediately following. Neither can a citizen, who, having been called to fill the office of President by reason of absolute vacancy of the titular President, has held such office for any length of time, be elected President of the Republic for the term immediately following.

ART. 11. A citizen who has been called to fill the Presidency of the Republic by reason of accidental or temporary absence of the titular President and who should have exercised such office within the six months preceding the day of the election for the new President, can not be elected to that office for the term immediately following.

SECTION. The prohibitions established in regard to the election of President of the Republic shall be made extensive to those persons related to the ineligible citizen within the fourth degree of consanguinity and the second degree of affinity.

ART. 12. The following clause shall be added to Article 110 of the Constitution:

Municipal deputies shall be elected by the executive power out of lists of three presented by the respective municipal councils. When one of the list of three has been elected, the other two shall be held as substitutes in the order established by the executive power.

¹ See Articles 79 and following.

ART. 13. Article 120 shall read as follows:

The executive power can not vote an extraordinary allowance, except in the following cases:

1. Whenever any public calamity occurs.

2. Whenever there is need to attend to some obligations which affect national honor or unavoidable expenses for international courtesy.

3. In case of disturbance of public order.

These allowances shall be granted by the Cabinet under the joint responsibility of the President and his secretaries of State, and the reasons for this action shall be recorded in each case and submitted to the National Assembly at its ordinary sessions.

ART. 14. The public military or police force is not a deliberative organization. Its members can not take part in electoral matters nor vote. They shall not assemble, unless by order of the proper authority, and shall not make petitions, except upon subjects relating to the good service and the morality of the army or of the police, and in accordance with the laws of their establishment.

ART. 15 (*transitory*). The deputies elected in 1918 shall remain in office for six years. The following elections shall take place in 1924, and shall continue thereafter to be held every four years, the same days as the elections for President.

ART. 16. Article 139 of the National Constitution is hereby abrogated; Articles 68, 79, 82, 83, 112, 120 and 125 and Clause 4 of Article 67 are subrogated, and Articles 70 and 91 thereof are modified.

PERSIA.

The form of government in Persia up to the year 1906 was, in its most important features, similar to that of Turkey. The Shah, within the limitations imposed by the Mohammedan religion, was an absolute ruler, generally regarded by the people as the vice-gerent of the Prophet. As a result of the troubles provoked by the unpopularity of the grand vizier (Ain-ed-Douleh), the Shah (Mozaffer-ed-Din) published a rescript ¹ under date of 5 August 1906 (14 Jomada II 1324) announcing that "a National Council (*Mejlis*) would be elected from among the princes, savants, Kajars, nobles, proprietors, business men and workmen," to deliberate upon necessary reforms. An Electoral Law was published on 9 September (20 Rajab)² and elections were held in the beginning of October. On 7 October the Shah opened in person the First *Mejlis*. Its leaders rapidly drew up a Constitution, which the Shah signed on 30 December (14 Dulkaada), a few days before his death. His son, Mohammed Ali, succeeded him (8 January 1907). Although the new Shah was opposed to representative government and vigorously opposed all efforts of the constitutionalist party, the latter won over the leaders of the conservatives, and, as a result, the Shah accepted, on 7 October 1907 (29 Shaaban 1325), the Supplementary Constitutional Law.

The First *Mejlis* was forcibly dissolved, with bloodshed, by the notorious Colonel Liakhoff, the Russian commander of the Shah's Cossack brigade, in the *coup d'état* of 23 June 1908, and a rescript was issued on 22 November which abolished the Constitution. Civil war became so intense that Russia determined to employ military intervention. The profound impression produced in Persia by the fall of the Sultan Abdul Hamid II at Constantinople caused the Shah to sign a rescript reestablishing the old Constitution "without any alteration" and opening the parliament, but, before a new electoral law could be drafted, constitutionalist troops occupied Teheran (13 July 1909). Three days later an extraordinary assembly of representatives of the Persian people deposed the Shah Mohammed Ali, and, in conformity with the Constitution, proclaimed

¹ English translation of the Shah's firman is given in *British and Foreign State Papers*, 101: p. 526; E. G. BROWNE, *The Persian Revolution of 1905-1909* (Cambridge, 1910), pp. 353-354; and E. G. BROWNE, *A Brief Narrative of Recent Events in Persia* (London, 1909), pp. 65-66.

² English translation in BROWNE, *The Persian Revolution*, pp. 355-361, and *A Brief Narrative*, pp. 67-74; French translation in the *Annuaire de législation étrangère*, 36 (1906): pp. 754-757.

his minor son, Ahmed Mirza, Shah under a regency, which was terminated on 21 July 1914, when the young Shah was declared to be of age.¹

CONSTITUTION OF 30 DECEMBER 1906.²

[PREAMBLE.]

In the name of God the All Merciful!

Whereas by Our Firman of 5 August 1906,³ We commanded the institution of a National Assembly for the progress and welfare of the State and nation, the strengthening of the foundations of the kingdom and the carrying out of the laws of His Holiness the Prophet; and whereas, in accordance with the clause by which it is provided that, as each individual member of the State has a right to take part in the superintendence and decision of public affairs, We therefore have permitted the election and appointment of deputies on behalf of the nation; and whereas the National Assembly has been opened through Our gracious benevolence, We have decreed the following articles of constitutional regulations for the National Assembly, including the duties and functions of the Assembly and its limitations and relations towards government departments.

THE INSTITUTION OF THE ASSEMBLY.

ARTICLE 1. The National Assembly has been instituted in accordance with the Imperial Firman of 5 August 1906.

ART. 2. The National Assembly is the representative of the whole Persian nation, which shares in political and domestic affairs.

ART. 3. The National Assembly shall be composed of members elected at Teheran and in the provinces, and the place of their meeting shall be at Teheran.

ART. 4. The number of deputies for Teheran and the provinces is at present, in accordance with an Electoral Law separately promulgated, 162 persons, but if necessary may be increased to 200.

ART. 5. The deputies shall be elected for two whole years. This period shall begin from the day on which all the provincial deputies

¹ These introductory paragraphs are based upon E. G. BROWNE, *The Persian Constitutional Movement* (London, 1918); F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (Paris, 1910), vol. II, pp. 684-685; and the two works by BROWNE mentioned in note 1, p. 481. Cf. also *The Statesman's Year-book* (1916, 1917 and 1918).

² Translation based upon the English translations in the British Parliamentary Paper *Persia. No. 1* (1909) (London, 1909) [Cd. 4581]; *British and Foreign State Papers*, 101: pp. 527-534; E. G. BROWNE, *The Persian Revolution of 1905-1909* (Cambridge, 1910), pp. 362-371; and E. G. BROWNE, *A Brief Narrative of Recent Events in Persia* (London, 1909), pp. 75-86.

³ See above, p. 481, note 1.

assemble at Teheran. After the lapse of two years deputies must be again elected, but the people are at liberty to reelect members if they are pleased with them.

ART. 6. The Teheran deputies shall have the option of instituting the Assembly and starting discussion and debates. Their decisions by majority during the absence of the provincial deputies will be valid, and are to be carried out.

ART. 7. When debates are started, at least two thirds of the members must be present, and when questions are put to the vote, three quarters of the members present give their votes. A majority shall be obtained only when more than half of those present in the Assembly record their votes.

ART. 8. The time of recess and of sitting of the National Assembly shall be fixed by the Assembly itself, according to the internal regulations. After the summer recess, the Assembly must again sit and begin its labors on 8 October, which is the date of the celebration of the opening of the First Assembly.

ART. 9. The National Assembly may convene extraordinary sittings during the recess.

ART. 10. When the Assembly opens, an address must be submitted to His Imperial Majesty, and it shall afterwards have the honor of receiving an answer from that royal and august quarter.

ART. 11. As soon as members of the National Assembly join, they must take and subscribe to the following oath:

Form of the Oath.

We who have signed below invite God to be our witness, and we take oath by the Koran that, so long as the rights of the Assembly and the members of the Assembly are protected and carried out in accordance with these regulations, we will carry out the duties entrusted to us, as well as possible, with the greatest sincerity and straightforwardness, and to our best ability, and we will be true and truthful to our just Sovereign, and will not be traitors to the foundations of sovereignty or the rights of the nation, and we will have no other object but the advantage and the interests of the government and nation of Persia.

ART. 12. No person on any pretext whatever, shall have the right to proceed against any member of the Assembly, without the knowledge and approval of the National Assembly. Should by chance one of the members be guilty of a public offense or crime, and should he be arrested *in flagrante delicto*, the carrying out of punishment must be with the knowledge of the Assembly.

ART. 13. In order that the result of the discussions of the National Assembly should be carried out, their proceedings must be public. Newspaper reporters and the public have the right to be present and to listen, in accordance with the internal regulations, but without

the right of speaking. Newspapers may print all the debates of the Assembly without altering their meaning, so that the public should be aware of all their proceedings. Everyone, subject to his paying due regard to the public good, may discuss them in the public press, so that no matter should be hidden from anyone. Therefore, all newspapers, so long as their publications are not contrary to any of the articles of the Constitution of the nation or State, are empowered to print matters of public utility, such as the debates of the Assembly and the observations of the people on those debates. Should any one publish an untrue report of the debates with personal motives, or make a libel, he will render himself liable to an inquiry, proceedings and punishment, according to law.

ART. 14. The National Assembly, in accordance with separate regulations entitled the internal regulations, shall regulate its own personal affairs, **such as the election of a president, a vice-president, secretaries, and other officers, as well as the debates, etc.**

THE DUTIES OF THE ASSEMBLY AND ITS LIMITATIONS AND RIGHTS.

ART. 15. The National Assembly has the right to discuss truthfully and sincerely all matters it considers to be desirable in the interests of the State and nation to investigate; and, subject to the approval of a majority, to submit them in the enjoyment of the utmost safety and confidence, with the approval of the Senate, to His Imperial Majesty the Shah; through the Prime Minister of the State, for His Majesty's signature, and to be then put into execution.

ART. 16. In general, all laws necessary for the strengthening of the government and kingdom, and the regulation of State affairs, and for the establishment of ministries, must receive the sanction of the National Assembly.

ART. 17. The necessary bills for making new laws, or for the alteration, amplification, or cancellation of existing laws, shall, when desirable, be prepared by the National Assembly to be submitted to His Imperial Majesty the Shah for signature with the approval of the Senate, and to be then put into execution.

ART. 18. The regulation of financial matters, the modification of the budget, the alteration of the arrangement of taxation, the refusal or acceptance of impositions, as well as the inspections which will be undertaken by the government, shall be done with the approval of the Assembly.

ART. 19. The Assembly will have the right for the purpose of reforming financial matters and facilitating the relations of the governors and the apportioning of the provinces of Persia, and the re-appointment of governors, after the Senate has given its approval, to

demand from the government authorities that the decision arrived at should be carried out.

ART. 20. The budget of each ministry must be finished for the succeeding year in the last half of each year, and must be ready fifteen days before the Festival of the Nawrúz.¹

ART. 21. Should it be necessary with regard to the constitutional laws of the ministries to make a new law, or to alter or cancel existing laws, it will be done with the consent of the National Assembly, whether its necessity be first pointed out by the Assembly or by the responsible minister.

ART. 22. Whenever a part of the revenue or property of the government or State is to be sold, or a change of frontier or border becomes necessary, it will be done with the approval of the National Assembly.

ART. 23. Without the approval of the National Assembly no concession whatever for the formation of companies or associations shall be granted by the government.

ART. 24. Treaties, conventions, the granting of concessions, monopolies, either commercial, industrial, or agricultural, whether the other party be a native or a foreigner, can only be done with the approval of the National Assembly. Treaties which it may be in the interests of the government or nation to keep secret are excepted.

ART. 25. All government loans of any nature whatsoever, whether internal or foreign, will be made with the knowledge and approval of the National Assembly.

ART. 26. The construction of railways or roads, whether the cost be defrayed by the government, by associations or companies, whether native or foreign, can only be undertaken with the approval of the National Assembly.

ART. 27. Should the Assembly find in any place a fault in the laws or an irregularity in their fulfilment, it will draw the attention of the responsible minister to the same, and he will have to give the necessary explanations.

ART. 28. Should a minister, in contravention of one of the laws which have received the imperial sanction, by misrepresentations obtain the issue of a written or verbal order from His Imperial Majesty the Shah, and excuse himself thereby for his delay and negligence, he will by law be responsible to His Imperial Majesty the Shah.

ART. 29. Whichever minister who in a matter or matters should not be able to answer for his actions in accordance with the laws approved by His Imperial Majesty, and if it should be apparent that he has broken the law and transgressed the stipulated limitations, the

¹ The Nawrúz, or Persian New Year's Day, falls about 21 March in each year.

Assembly will petition His Imperial Majesty for his dismissal, and when his fault has been determined by the courts of justice he will not again be allowed to serve the government.

ART. 30. The National Assembly has the right whenever it considers it desirable to make petitions direct to His Imperial Majesty by the means of a body composed of the president and six members elected by the six classes. The time for the audience must be arranged for through the Minister of Court.

ART. 31. Ministers have the right to be present at the sessions of the National Assembly, and to sit in the place set apart for them, and to hear the debates of the Assembly; and should they think it necessary, they may ask the president for permission to speak and give the necessary explanations for the discussion and investigation of affairs.

THE STATEMENT OF AFFAIRS TO THE NATIONAL ASSEMBLY.

ART. 32. Any individual member of the public may make a statement of his case, or complaints or criticisms, to the office of the Assembly, and, if the matter concerns the Assembly itself, a satisfying answer will be given to him; but should the matter concern one of the ministries, it will be sent to that ministry for investigation, and in order that a satisfying answer be given.

ART. 33. New laws which are necessary will be prepared at the responsible ministries, and will be given to the National Assembly by the responsible minister or by the Prime Minister, and after receiving the approval of the Assembly will receive His Imperial Majesty's sign-manual, and be put into execution.

ART. 34. The president of the Assembly can, if necessary, of his own initiative or by the desire of ten members of the Assembly or of a minister, form a secret committee, without the presence of newspaper reporters or spectators, composed of a number of persons chosen from among the members of the Assembly, at which the other members of the Assembly will not have the right to attend. The result of the deliberations of the secret committee can, however, only be put into execution when the secret committee in the presence of three quarters of the persons elected accept the point at issue by a majority of votes, and if the matter be not passed by the secret committee, it will not be stated in the Assembly and will remain secret.

ART. 35. Should the secret committee be instituted by the president of the Assembly, he has the right to inform the public of any part of it he thinks fit; but if the secret committee is instituted by a minister, the publication of the debate can only be subject to that minister's permission.

ART. 36. Any one of the ministers may withdraw at any stage of its progress any matter put before the Assembly by him, excepting when his statement is called forth by the initiative of the Assembly, in which case the withdrawal of the subject must be subject to the agreement of the Assembly.

ART. 37. Should the bill of any minister not be passed, it will be returned with the observations of the Assembly. The responsible minister can, after refusing or accepting the criticisms of the Assembly, send it to the Assembly a second time.

ART. 38. The members of the National Assembly must definitely and explicitly either refuse or accept the points at issue, and no one will have the right to influence them in giving their decisions. A refusal or acceptance on the part of the members of the Assembly must be made in such a manner that the newspaper reporters and spectators may be able to observe it, that is to say, their decision must be made by visible signs, such as blue and white cards, or the like.

THE STATEMENT OF MATTERS ON THE PART OF THE ASSEMBLY.

ART. 39. Whenever a case is brought up by a member of the Assembly, it will only be subject to debate when at least fifteen members of the Assembly approve of its discussion, in which case the matter in point will be submitted in writing to the president, who has the right to give it to the Committee of Investigation.

ART. 40. At the time of debate and inquiry into a matter, as stated above in Article 39. whether by the Assembly or by the Committee of Investigation, should the matter have reference to one of the responsible ministries, the Assembly must notify the responsible minister, so that if possible he should attend in person or send his representative in order that the discussion should take place in the presence of the minister or his representative. A copy of the statement and its appendices must be sent from ten days to a month beforehand, with the exception of urgent matters, to the responsible minister. The day on which the debate will take place must likewise be previously determined. After an investigation of the case in the presence of the responsible minister, in the event of the Assembly approving by a majority of votes, the statement will be formally written and delivered to the responsible minister in order that he should take the consequential steps.

ART. 41. In case a responsible minister, on grounds of expediency, is not in accord with the Assembly in a matter raised by it, he must adduce his proofs and convince the Assembly.

ART. 42. In any case concerning which the National Assembly desires explanations from a responsible minister, the latter is obliged

to supply an answer, and this answer must not, without an excuse, be delayed beyond a reasonable time, with the exception of secret matters, the secrecy of which for a stipulated period is desirable in the interests of the government and nation, but after the expiration of the stipulated time the responsible minister is obliged to state the circumstances of the case to the Assembly.

THE CONDITIONS OF THE INSTITUTION OF THE SENATE.

ART. 43. Another assembly, called the Senate, will be constituted, composed of sixty members, whose sessions will coincide, after its constitution, with those of the National Assembly.

ART. 44. The regulations of the Senate must receive the approval of the National Assembly.

ART. 45. The members of the assembly will be chosen from the enlightened, intelligent, orthodox and respectable persons of the State, thirty persons on behalf of His Imperial Majesty (fifteen from the inhabitants of Teheran and fifteen from the inhabitants of the provinces) and thirty persons on behalf of the nation (fifteen elected by the people of Teheran and fifteen elected by the people of the provinces).

ART. 46. After the constitution of the Senate all affairs must receive the approval of both assemblies. If those affairs are initiated by the Senate or by the body of ministers, they must first be determined in the Senate and passed by a majority, and then sent to the National Assembly for approval; but affairs initiated in the National Assembly will, on the contrary, pass from that Assembly to the Senate, with the exception of financial matters, which will be the prerogative of the National Assembly, and the Senate will be informed of the arrangements made by the Assembly regarding these affairs in order that the Senate may make its observations on the same to the National Assembly, which is, however, at liberty, after the necessary investigations, either to accept or to refuse the proposals of the Senate.

ART. 47. So long as the Senate is not constituted, affairs will require only the approval of the National Assembly and the sign-manual of His Imperial Majesty to be put into execution.

ART. 48. Whenever a question initiated by a minister is, after having been passed by the Senate, referred to the National Assembly and not accepted, and in the event of the matter being an important one, a third assembly, composed of an equal number of members of both assemblies elected by each, will be constituted to inquire into the subject at issue. The result of the deliberations of this assembly will be read to the National Assembly. If an understanding is

reached, so much the better; but, if not, a report of the matter will be submitted to His Imperial Majesty the Shah. Should His Imperial Majesty confirm the decision of the National Assembly, it will be put into execution; but should His Imperial Majesty not confirm it, His Imperial Majesty will command that the question be debated and investigated afresh, and if still a settlement is not arrived at, and if the Senate by a majority of two thirds votes for the dissolution of the National Assembly, and if the body of ministers separately recommends the dissolution of the National Assembly, His Imperial Majesty the Shah's rescript dissolving the National Assembly will be issued, and His Imperial Majesty will in the same rescript command that fresh elections should take place, and the people will have the right to elect the former deputies.

ART. 49. The new Teheran deputies must be ready within one month and the provincial deputies within three months, and as soon as the Teheran deputies are ready the Assembly will open and commence its labors, but they will not discuss the points at issue until the provincial deputies arrive. But . . . members are present and a full majority vote in the same sense as before, His Imperial Majesty will approve the decision of the National Assembly and will command that it be put into execution.

ART. 50. During each term of election—that is to say, during two years—a general election will not be called more than once.

ART. 51. It is decreed that the sovereign who succeeds Us should protect these limitations and articles, which aim at the strengthening of the State and of the foundations of the kingdom, and the protection of justice and contentment of the nation, which We have decreed and put into execution, and which they must look upon as their duty to fulfill.¹

SUPPLEMENTARY CONSTITUTIONAL LAW OF 7 OCTOBER 1907.²

[PREAMBLE.]

In the name of God the Merciful, the Compassionate!

The following are the articles which, in order to complete the fundamental laws of the Constitution of Persia, have been added to the Constitutional Law signed by His Imperial Majesty the late Mozaffer-ed-Din Shah Kajar on 30 December 1906.³

¹ Here follow the attestation and signature of Mozaffer-ed-Din Shah and the seals of the then Crown Prince or Valiahd, Mohammed Ali, and the Grand Vizier, Mushir-ed-Dowleh.

² Translation based upon the English translations in the British Parliamentary Paper *Persia. No. 1 (1909)* (London, 1909) [Cd. 4581]; *British and Foreign State Papers*, 101; pp. 534–542; E. G. BROWNE, *The Persian Revolution of 1905–1909* (Cambridge, 1910), pp. 372–384; and E. G. BROWNE, *A Brief Narrative of Recent Events in Persia* (London, 1909), pp. 87–101.

³ See above, p. 482.

GENERAL PROVISIONS.

ARTICLE 1. The official religion of Persia is the branch of the Twelve Imams of the Shiah Sect of Islam.¹ The Sovereign of Persia must profess and promote this religion.

ART. 2. The National Assembly has been founded by the help of the Twelfth Imam, the bounty of His Islamic Majesty, the watchfulness of the *ulema*² and the common people. The laws passed by it must never to all ages be contrary to the sacred precepts of Islam and the laws laid down by the Prophet.

It is obvious that the decision as to whether the laws passed by the Assembly are in opposition to the precepts of Islam rests with the *ulema*. It is therefore officially decreed that for all ages a committee composed of five persons, who shall be *mujtahids* and religious doctors, and who also must be acquainted with the requirements of the times, shall be elected in the following manner. The *ulema* and doctors of Islam who are recognized by the Shias as the centre of imitation shall make known to the National Assembly the names of twenty of the *ulema* possessing the above-mentioned qualities. The National Assembly shall, by agreement or casting of lots, elect five of them or more, according to the requirements of the age, and admit them as members. This committee shall discuss and thoroughly investigate the bills brought in by the National Assembly, and reject, wholly or in part, every one of these bills which is contrary to the sacred precepts of Islam, in order that it may not become law. The decision of this committee is final. This article will not be liable to change until the advent of the Twelfth Imam.

ART. 3. The boundaries of the Kingdom of Persia, or of its provinces, departments and communes, can not be modified except by law.

ART. 4. The capital of Persia is Teheran.

ART. 5. The official colors of the Persian flag are green, white and red, with the sign of the lion and the sun.

ART. 6. The life and property of foreigners resident in Persia are secured and guaranteed, except in those cases in which the laws of the realm make exceptions.

ART. 7. The Constitution, in part or in its entirety, is not liable to interruption.

THE RIGHTS OF THE PERSIAN NATION.

ART. 8. The people of Persia shall enjoy equality of rights before the civil law.

¹ Browne's translation seems to give a rendering of religious terms which is more literal, but less expedient for the present purposes, and contains some ejaculatory phrases after mention of religious personages which it has been thought expedient to omit here.

² That is, the doctors of theology, especially the *mujtahids*.

ART. 9. The life, property, domicile and honor of every individual is secured and guaranteed from every kind of injury. No one can be disturbed except by order of, and in the manner defined by, the laws of the land.

ART. 10. Except when found *in flagrante delicto* committing crimes, misdemeanors or serious offenses, no one can be immediately arrested except by a written order of the president of the Tribunal of Justice in accordance with the law. Even then the offense of the accused must be made known to him at once, or at the latest within 24 hours.

ART. 11. No one can be prevented from appearing before the court which should decide his case and be forced to refer the matter to another court.

ART. 12. No punishment shall be decreed or executed except by law.

ART. 13. The dwelling-place and house of every individual is inviolable. In no dwelling-place can forcible entry be made, except by order of, and in the manner defined by, law.

ART. 14. No Persian can be exiled or prevented from residing in any place, or forced to reside in any place, except in the cases defined by law.

ART. 15. No owner can be deprived of his land except by sanction of the Sheri, and then only after the fixing and payment of a just price.

ART. 16. The sequestration of the property or possessions of any person as a penal measure is forbidden, except by order of law.

ART. 17. It is forbidden to deprive owners or possessors of the properties or possessions controlled by them on any pretext whatever except by order of law.

ART. 18. The acquisition and study of arts, letters and sciences is free, except in so far as they are forbidden by the Sheri.

ART. 19. The foundation of schools at the expense of the State and the people, and compulsory education, must be in accordance with the Law of the Ministry of Sciences and Arts, and all primary and secondary schools must be under the direction and supervision of that Ministry.

ART. 20. All publications, except heretical works containing matter harmful to the religion of Islam, are free, and are exempt from censure. Whenever anything contrary to the law of the press is found in them, the publisher or author will be punished in accordance with that law. If the author is well known and resident in Persia, the publisher, printer and distributor shall be secured from any action being brought against them.

ART. 21. Societies and associations which do not provoke religious or civil strife are free throughout the realm; but their members must be unarmed and must obey the regulations which the law on this subject shall lay down. Meetings in the high roads or public squares must be held in accordance with the laws of the police.

ART. 22. Postal communications are inviolable and exempt from seizure or opening, except in cases in which the law makes exception.

ART. 23. The publication or seizure of telegraphic communications without the permission of the author of the telegram is forbidden, except in cases in which the law makes exception.

ART. 24. Foreign subjects can acquire Persian nationality. The acquisition, preservation or divestment of nationality will be in accordance with a separate law.

ART. 25. Permission is not required to bring action against government officials for offenses connected with their duties, except in the case of ministers, in whose case the special laws enacted in this respect must be observed.

THE POWERS OF THE REALM.

ART. 26. The powers of the realm spring from the people. The Constitution defines the method of using those powers.

ART. 27. The powers of the realm are divided into three parts:

1. The legislative power, whose province it is to make and amend laws. This power emanates from His Imperial Majesty the Shah, the National Assembly and the Senate. Each one of these three sources possesses the right of originating laws; but their passing is conditional to their not being contrary to the laws of the Sheri, to the approval of the two houses and to their receiving the imperial signature. But the making and approval of laws relating to the revenue and expenditure of the realm belongs to the National Assembly alone. The explanation and interpretation of laws is the peculiar duty of the National Assembly.

2. The judicial power, which consists in the distinguishing of rights. This power belongs to the Sheri tribunals in matters appertaining to the Sheri, and to the courts of justice in matters appertaining to the civil law (*urf*).

3. The executive power, which rests with the King. That is to say, the laws and decrees will be executed by the ministers and officials in the name of His Imperial Majesty in the manner defined by law.

ART. 28. The three above-mentioned powers shall always be differentiated and separated from one another.

ART. 29. The particular interests of each province, department and commune shall be regulated by the provincial and departmental councils in accordance with their own particular laws.

THE RIGHTS OF THE MEMBERS OF THE ASSEMBLY.

ART. 30. The members of the National Assembly and the Senate represent the whole nation, not only the particular classes, provinces, departments, or communes which have elected them.

ART. 31. One person can not at the same time be a member of both houses.

ART. 32. As soon as a member becomes a salaried government servant, he ceases to be a member. He can only become a member again after resignation of his government post and his reelection by the people.

ART. 33. Each of the two houses has the right to inquire into and investigate all the affairs of the kingdom.

ART. 34. The discussions of the Senate while the National Assembly is not sitting can have no effect.

THE RIGHTS OF THE PERSIAN CROWN.

ART. 35. The sovereignty is a trust which, by the grace of God, has been conferred on the person of the King by the people.

ART. 36. The constitutional monarchy of Persia is vested in the person of His Imperial Majesty Mohammed Ali Shah Kajar and his descendants from generation to generation.

ART. 37. The Valiahd,¹ in the event of there being more than one child, shall be the eldest son of the King whose mother is a Persian by birth and a Princess. If the King has no male issue, the eldest male of his family who is next of kin shall become Valiahd. If, in this case, a male child is afterwards born to the King, the succession shall *de jure* revert to him.

ART. 38. In the event of the death of the King, the Valiahd can only govern in person when he has reached the age of 18. If he has not attained that age, a Joint Committee of the National Assembly and the Senate shall elect a Regent to act for him until he reaches the age of 18.

ART. 39. No King can ascend the throne unless, before his coronation, he appear before the National Assembly, and in the presence of the members of the National Assembly and the Senate and the Cabinet of Ministers swear the following oath:

I take the Lord Most High to witness, and I swear by the Holy Word of God and by all that is sacred before God, that I will devote all my energy to preserving the independence of Persia, guarding and protecting the limits of the realm and the rights of the people, be the guardian of the fundamental law of the Constitution of Persia, rule in accordance with it and the laws which have been decreed, strive zealously to propagate the sect of the Twelve Imams of the Shia religion, and will consider God Almighty a witness to my every act and deed.

¹ I. e., the crown prince or heir apparent.

I pray for the grace of God, from Whom alone aid is derived, and I ask help in my task of the pure souls of the saints of Islam to render service to the advancement of Persia.

ART. 40. In like manner the person who has been elected to the regency can not take charge of affairs unless he has sworn the above oath.

ART. 41. On the event of the death of the King, the National Assembly and the Senate must be convened. The summoning of the two houses can not be delayed for more than ten days after the death of the King.

ART. 42. If the mandate of the members of both or one of the houses has come to an end in the life of the King, and at the time of his death the new members have not yet been elected, the former members must meet and hold session.

ART. 43. The King can not, without the approval and sanction of the National Assembly and the Senate, interfere in the affairs of another country.

ART. 44. The King is absolved from all responsibility. The ministers of State are responsible to both houses in all matters.

ART. 45. All the decrees and rescripts of the King relating to affairs of State shall only be put into execution when they have been signed by the responsible minister, who is responsible for the accuracy of the contents of that decree or rescript.

ART. 46. The dismissal and appointment of ministers are by order of the King.

ART. 47. The conferring of military grades, decorations and honorary distinctions, with due observance of law, is vested in the person of the King.

ART. 48. The King has the right, with the approval of the responsible minister, to choose the important officials of the government departments, either at home or abroad, except in cases excepted by law. But the appointment of the other officials does not lie with the King, except in cases defined by law.

ART. 49. The issuing of decrees and orders for the execution of laws is one of the rights of the King, but he may not delay or suspend the execution of those laws.

ART. 50. The supreme command of all the military and naval forces is vested in the person of the King.

ART. 51. The declaration of war and the conclusion of peace are vested in the King.

ART. 52. Treaties which, in accordance with Article 24 of the Constitution of 30 December 1906, must be kept secret, must, on the removal of this necessity, and provided that the interests and security of the country demand it, be communicated by the King to the National Assembly and the Senate, with the necessary explanations.

ART. 53. The secret clauses of any treaty can not annul the public clauses of that treaty.

ART. 54. The King can convoke the National Assembly and the Senate in an extraordinary session.

ART. 55. Coins shall be struck, according to law, in the name of the King.

ART. 56. The expenses and disbursements of the imperial household shall be defined by law.

ART. 57. The powers and prerogatives of the King are only such as have been defined by the present Constitution.

THE MINISTERS.

ART. 58. No one can become a minister unless he be a Mussulman, a Persian by birth and a Persian subject.

ART. 59. Princes of the first rank, that is to say, the sons, brothers and paternal uncles of the reigning King, are not eligible as ministers.

ART. 60. Ministers are responsible to both houses and must appear whenever they are summoned by either of the two houses. In the affairs entrusted to them they must observe the limitations of their responsibility.

ART. 61. Ministers, besides being individually responsible for the particular affairs of their own ministry, are in matters of general policy jointly responsible to the two houses and are guarantors of each other's actions.

ART. 62. The number of ministers will be fixed by law, as required.

ART. 63. The title of "Honorary Minister" is entirely abolished.

ART. 64. Ministers can not make the verbal or written commands of the King a pretext for divesting themselves of their responsibility.

ART. 65. The National Assembly or the Senate can accuse and put ministers on trial.

ART. 66. The responsibility of ministers and the punishments to which they are liable will be defined by law.

ART. 67. If the National Assembly or the Senate shall, by an absolute majority, express dissatisfaction with the Cabinet of Ministers or with a single minister, that Cabinet or that minister must be dismissed.

ART. 68. Ministers can not undertake any salaried employment other than their own.

ART. 69. The National Assembly or the Senate shall prosecute ministers for their offenses before the High Court of Appeal. The above-mentioned court shall try the case in plenary session of all the members of its ordinary tribunal, except when the accusations or claims are not legally connected with the government departments entrusted to the minister but concern him personally.

NOTE.—Until the Court of Appeal has been constituted, a Commission, chosen in equal numbers from the members of the two houses, shall act instead of the Court of Appeal.

ART. 70. The decision as to the offense and the punishment of ministers when accused by the National Assembly or the Senate, or when, in the affairs of their departments, accusations concerning them personally are made against them, will be in accordance with a special law.

THE POWERS OF THE TRIBUNALS.

ART 71. The Supreme Court of Justice and the judicial tribunals are the official centers to which all suits must be referred, and judgment in matters appertaining to the Sheri rests with the fully qualified mujtahids.

ART. 72. Suits relating to political rights concern the judicial tribunals, save those which are excepted by law.

ART. 73. The choice of judicial tribunals in cases appertaining to the civil law is decided by law, and no person may, on whatsoever plea, institute a tribunal contrary to the decrees of law.

ART. 74. No tribunal can be instituted except by law.

ART. 75. In the whole Kingdom only one Court of Appeal for cases relating to the civil law will be instituted, and that will be in the capital. This High Court of Appeal will not try any case of the first instance, except in cases relating to ministers.

ART. 76. The sittings of all tribunals shall be public, save in cases where such publicity would be prejudicial to order or decency, in which case the necessity will be announced by the tribunal.

ART. 77. In cases of political and press offenses, should it be desirable that the trial be secret, it must only be by the unanimous consent of all the members of the tribunal.

ART. 78. The judgments delivered by the tribunals must cite the articles of the laws by which the judgments are governed, and these must be read publicly.

ART. 79. In cases of political and press offenses, the whole body of the judges shall be present.

ART. 80. The presidents and the members of judicial tribunals shall be chosen in the manner decreed by the Law of the Ministry of Justice, and shall be appointed by virtue of a royal decree.

ART. 81. No judge of a judicial tribunal may be suspended, either temporarily or permanently, without a trial or proof of offense, unless he himself resigns.

ART. 82. No judge of a judicial tribunal can be transferred from his post except by his own consent.

ART. 83. The choice of the public prosecutor, with the approval of the Chief Sheri Judge, rests with the King.

ART. 84. The salaries of the staff of judicial tribunals shall be fixed by law.

ART. 85. The presidents of judicial tribunals may not accept salaried government posts, but may only render such services gratis, should they not be contrary to law.

ART. 86. In every provincial capital a court of appeal for judicial cases shall be instituted in the manner defined by the regulations of the Ministry of Justice.

ART. 87. Military tribunals shall be instituted in the whole country according to a special law.

ART. 88. The judgment of disputes relating to the limitations of government of departments and offices shall, in accordance with the decrees of law, be referred to the High Court of Appeal.

ART. 89. The Supreme Court of Justice and other tribunals will only put into execution decrees, general regulations and regulations of provincial and municipal councils, when they are in accordance with the law.

, PROVINCIAL AND DEPARTMENTAL ASSEMBLIES.

ART. 90. Provincial and departmental assemblies shall be established in all the provinces of the kingdom in accordance with special regulations, and the fundamental laws of these assemblies shall be as follows.

ART. 91. The members of the provincial and departmental assemblies shall be elected directly by the people in accordance with the regulations governing provincial and departmental assemblies.

ART. 92. The provincial and departmental assemblies have the power of complete supervision in matters concerning the public weal, with due observance of the laws which have been decreed.

ART. 93. A statement of every kind of revenue and expenditure of the provinces and departments shall be printed and published by the provincial and departmental assemblies.

FINANCES.

ART. 94. No taxes may be levied except by law.

ART. 95. All exemptions from taxation shall be decreed by law.

ART. 96. The budget shall be approved and defined every year by a vote of the majority of the members of the National Assembly.

ART. 97. There shall be no differentiation or favor among individuals regarding taxation.

ART. 98. Rebates and exemption from taxation shall be defined by a special law.

ART. 99. Except in cases specially defined by law, nothing shall be demanded from the people on any pretext whatever, except in the name of State, provincial or municipal taxes.

ART. 100. No salaries or gratuities will be paid out of the government treasury except those which are decreed by law.

ART. 101. The members of the State Accounts Department shall be chosen by the National Assembly for a period to be decreed by law.

ART. 102. The State Accounts Department is charged to inspect and analyze the accounts of the Department of Finance and to elucidate the accounts of the Treasury Accountants in general, and especially to see that no item of expenditure allowed for the budget exceed the estimate and that there be no alteration or change, and that every sum has been expended in the manner designated. It is also charged with the verification and analysis of the different accounts of the government departments in general, and shall collect the vouchers of expenditure. A statement of the general accounts of the Kingdom must be supplied by it to the National Assembly, accompanied by observations.

ART. 103. The institution and organization for this State Department shall be in accordance with the law.

ARMY.

ART. 104. The enrolling of troops shall be fixed by law. The duties and rights of the army, as well as promotion, shall be in accordance with law.

ART. 105. The military expenditure shall be approved by the National Assembly every year.

ART. 106. No foreign troops shall be allowed to serve the government, and they shall not be allowed either to reside in any part of the country or to pass through or into the country except in accordance with law.

ART. 107. The pay or rank or decoration of soldiers or officers may not be withdrawn except in accordance with law.¹

¹ Here follow the attestation and signature of the Shah.

PORTUGAL.

The modern constitutional era in Portugal did not begin until 1820, when a revolutionary movement was inaugurated which finally forced the passage of the Constitutional Charter of 29 April 1826. Civil wars followed and the reestablishment of this Constitution became ephemeral, although many changes were necessary with each reestablishment, in order to make the Charter more in keeping with the democratic spirit prevailing. In this way the following constitutional documents¹ were accumulated:

1. The Constitutional Charter of 29 April 1826.
2. The Additional Act of 5 July 1852.
3. The Organic Law of 3 May 1878 on the House of Peers.
4. The Constitutional Law of 24 July 1885.
5. The Law of 3 April 1896.

These laws remained in force for many years, although dictatorships were established at frequent intervals. The institution of a republican form of government brought about the present Constitution which dates from 20 August 1911.²

CONSTITUTION OF 21 AUGUST 1911.³

TITLE I.—THE FORM OF GOVERNMENT AND THE TERRITORY OF THE PORTUGUESE NATION.

ARTICLE 1. The Portuguese nation, constituted as a unitary State, adopts the Republic as the form of government, in the terms of this Constitution.

ART. 2. The territory of the Portuguese nation is that existing at the date of the proclamation of the Republic.

§. The nation does not renounce the rights which it has or may hereafter acquire to any other territory.

¹ French translation of these documents in F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. I, pp. 714–752. German translation of the first three documents in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 761–782. English translation of the third and fourth document in the *British and Foreign State Papers*, 76: pp. 219–222 and 587–590, respectively.

² These introductory paragraphs are based upon DARESTE, *op. cit.*, pp. 712–714.

³ Translation reprinted from the *British and Foreign State Papers*, 105: pp. 766–781.

TITLE II.—INDIVIDUAL RIGHTS AND GUARANTEES.

ART. 3. The Constitution guarantees to Portuguese and foreigners resident in the country the inviolability of their rights with regard to liberty, personal security and property, in the following terms:

1. No one can be forced to do anything, or to desist from doing anything, except by virtue of a law.

2. The law is equal for all, but only that which has been promulgated in the terms of this Constitution is binding.

3. The Portuguese Republic does not admit privileges of birth or prerogatives of nobility, and abolishes all titles of nobility and of councilorship, as also all orders of merit and all their rights and privileges. Civil deeds and military acts may be rewarded by special diplomas.

No Portuguese citizen may accept a foreign decoration.

4. Liberty of conscience and of creed is inviolable.

5. The State recognizes the political and civil equality of all creeds, and guarantees their exercise within the limits compatible with public order, the laws and good customs, so long as they do not infringe the principles of Portuguese public right.

6. No one can be persecuted on religious grounds, nor questioned by any authority with regard to the religion professed.

7. No one can, on the ground of religious opinions, be deprived of any right or be exempted from the performance of a civic duty.

8. The public observance of any religion is free in the buildings chosen or destined for the purpose by the followers of that religion, and the buildings can always have the exterior form of a church; but, in the interests of public order and of the liberty and safety of citizens, a special law shall lay down the conditions of its observance.

9. Public cemeteries shall have a secular character, the exercise of the respective rites being free to all religions as regards their followers, so long as they do not offend public morals, the principles of Portuguese public right and the law.

10. Teaching in public and private establishments under government control shall be neutral as regards religion.

11. Primary elementary education shall be obligatory and gratuitous.

12. The legislation in force which abolished and dissolved in Portugal the Society of Jesus, the societies therein affiliated, of whatever denomination, and all religious congregations and monastic orders is maintained, and they shall never be admitted in Portuguese territory.

13. The expression of thought in any form whatever is completely free, and not dependent upon the previous giving of security, submission to censure or the obtaining of previous authorization,

but the abuse of this privilege is punishable in the cases and in the manner prescribed by law.

14. The right of meeting and association is free to all. Special laws shall determine the form and conditions of this right.

15. Inviolability of domicile is guaranteed; the house of a citizen may be entered at night without his consent only when a demand therefor is made from within or in order to render assistance to victims of crimes or accidents; and during the day only in the cases and in the manner prescribed by law.

16. No one can be arrested unless on a specific charge, except *in flagrante delicto* and in the following cases:

Forgery of coins or of national bank-notes and bonds of the Portuguese public debt, deliberate homicide when qualified as a crime, burglary, robbery, fraudulent bankruptcy and arson.

17. No one shall be committed to prison or be therein detained if already imprisoned, who offers proper surety or declaration of residence in the cases in which the law admits it.

18. Except in the cases of *flagrante delicto*, no arrest can be effected without a written warrant from the competent authority and in conformity with the express provisions of the law.

19. No one shall be committed to prison for inability to pay costs and stamps.

20. The preliminary investigation in criminal proceedings shall be open to contestation, thus ensuring the accused, before and after the drawing up of the indictment, every means of defending themselves.

21. No one shall be sentenced except by the competent authority, by virtue of an existing law and in the manner prescribed by the same.

22. In no cases can the penalty of death be established, nor can corporal punishment be perpetual or of unfixed duration.

23. No punishment shall extend beyond the person of the delinquent; in no case whatever shall there be confiscation of property, nor shall the infamy of the guilty party affect relatives in any degree.

24. The right to the revision of all sentences of condemnation is assured exclusively in favor of the condemned.

§. Special laws shall determine what cases are subject to revision and the manner of revision.

25. The right of property is guaranteed within the limitations established by the law.

26. Every description of work, industry and commerce, except such as are restricted by law or for the public good, is allowed.

Only the legislative power and administrative bodies can, in cases of recognized public utility, grant the exclusive right to develop any branch of trade or industry.

27. No one is obliged to pay taxes which have not been voted by the legislative power or by the administrative bodies legally authorized to impose them, when their collection is not effected in the manner prescribed by the law.

28. The secrecy of correspondence is inviolable.

29. The right to public assistance is recognized.

30. Every citizen may present to the powers of the State claims, complaints and petitions, they may report any infringement of the Constitution, and may, without any previous authorization, demand from the competent authorities the punishment of offenders.

31. The *habeas corpus* must always be granted whenever a person suffers, or is in imminent danger of suffering, violence or restraint illegally or through an abuse of power.

The guarantee of the *habeas corpus* shall only be suspended in cases of a state of siege on account of sedition, conspiracy, rebellion or foreign invasion.

A special law will regulate the extent of this guarantee and the procedure to be followed.

32. All persons employed in the public service, in administrative bodies or companies under contract with the State are guaranteed their posts, together with the rights inherent therein, during their term of obligatory military service.

33. Matters relating to civil status and the respective registers appertain exclusively to the civil authorities.

34. If, after the execution of a criminal sentence, it subsequently comes to be proved by legal means to have been unjust, the condemned person or his heirs shall have the right to compensation for losses and damages, which shall be paid by the National Treasury after judgment has been passed in conformity with the law.

35. In cases not provided for by law, no one, even if mentally abnormal, can be deprived of his personal liberty, without previous judicial sanction, except in cases of duly proved necessity, the proper judicial confirmation being immediately applied for.

36. Any person interned or detained in a lunatic establishment or placed under private restraint, and also his legal representative or any relative or friend, may at any time call on the judge concerned to set him at liberty, after the necessary inquiries have been made, should there be good cause to do so.

37. It is lawful for every citizen to resist any order which infringes individual guarantees, unless they have been legally suspended.

38. None of the powers of the State shall separately or conjointly suspend the Constitution or limit the rights asserted in it, except in the cases expressly mentioned therein.

ART. 4. The particular guarantees and rights mentioned in the Constitution do not exclude other guarantees and rights not enumerated but resulting from the form of government it establishes, and from principles asserted or contained in other laws.

TITLE III.—THE SOVEREIGNTY AND POWERS OF THE STATE.

ART. 5. The sovereignty essentially resides in the nation.

ART. 6. The organs of the national sovereignty are :

The legislative, executive and judicial powers, independent and mutually harmonious.

SECTION 1.—THE LEGISLATIVE POWER.

ART. 7. The legislative power is exercised by the Congress of the Republic composed of two houses, called the Chamber of Deputies and the Senate.

§ 1. The members of Congress are representatives of the nation and not of the colleges which elect them.

§ 2. No one can at one and the same time be a member of the two houses.

§ 3. No one can be a senator under 35 years of age, or a deputy under 25 years.

ART. 8. The Chamber of Deputies and the Senate are elected by direct suffrage of the citizen electors.

§. The organization of the electoral colleges of the two houses and the procedure of election shall be regulated by special law.

ART. 9. The Senate shall be composed of senators elected in the proportion of 3 for every district of the continent and the adjacent islands, and of 1 for every overseas province.

§. For the elections of senators in each of the districts of the continent and adjacent islands, lists shall only contain two names.

ART. 10. For the election of the Chamber of Deputies and of the Senate, the electoral colleges shall meet on their own prerogative, if they are not duly convoked before the termination of the legislature and within the period prescribed by law.

ART. 11. Congress of the Republic will meet on its own prerogative in the capital of the nation on the second day of December of each year. The legislative session shall last four months and may only be prorogued or adjourned by decision of Congress itself, taken at a joint session of the two houses. Each legislature shall last three years.

ART. 12. Congress may be convoked extraordinarily by a fourth part of its members or by the executive power.

ART. 13. The two houses, the opening and closing sessions of which shall be on the same days, shall work separately and in public sessions, except when otherwise decided.

Decisions shall be taken by majority of votes, an absolute majority of the members of each house being present.

§. It is incumbent on each of the houses to verify and recognize the powers of their members, to elect their bureau, to organize their internal rules, to regulate their police service and to appoint their officials.

ART. 14. The joint sessions of the two houses shall be presided over by the elder of the presidents.

ART. 15. Deputies and senators are inviolable on account of their opinions and votes in the discharge of their mandate. Their vote shall be free and independent of any promptings and directions.

ART. 16. During the exercise of the legislative functions no member of Congress may act as jurymen, expert or witness without the authorization of the house concerned.

ART. 17. No deputy or senator shall be arrested or imprisoned during the period of the sessions without the previous consent of his house, except in case of *flagrante delicto*, to which is applicable the "greater penalty"¹ or its equivalent in the penal scale.

ART. 18. Whenever criminal proceedings are brought against a deputy or senator and the offender has been committed, the judge shall submit the case to the house, which shall decide whether the deputy or senator ought to be suspended, and whether the proceedings shall continue during the interruption of the sessions or after the duties of the offender have terminated.

ART. 19. During the sessions members of Congress will receive a salary to be fixed by the National Constituent Assembly.

ART. 20. No member of Congress may, after being elected, conclude contracts with the executive power or accept from it or from any foreign government any paid office or commission.

§ 1. The following are exceptions to this prohibition:

1. Diplomatic missions.
2. Military commissions or commands and the office of Commissioner for the Republic in the Colonies.
3. The offices which are the result of promotion.
4. Appointments, preceded by competition, which by law are made by the government or on a proposal made by bodies whose legal province it is to indicate or select the official to be appointed.

§ 2. No deputy or senator, however, may accept a nomination to missions, commissions or commands referred to in Nos. 1 and 2 of the preceding §., without the previous consent of the house to which he belongs, whenever such acceptance would prevent him from exercising his legislative functions, except in case of war or when the honor or integrity of the nation is at stake.

¹ In the original the words used are *pena mayor*. *Penas mayores* are the punishments which can only be inflicted as the result of trial by jury.

ART. 21. No deputy or senator may take part in the administration, management or superintendence of undertakings or companies constituted by contract or by special concession or which have any privilege from the State, not conferred by general law, subsidy or guarantee of revenue (save what is in the interests of the State under government control) ; nor, moreover, can he be a concessionnaire, contractor or partner in any firm holding concessions, contracts or engagements for public works and financial operations with the State.

§. The disregard of the provisions contained in this or the preceding article entails forfeiture of the seat and cancellation of the acts and contracts therein referred to.

THE CHAMBER OF DEPUTIES.

ART. 22. Deputies are elected for three years.

§. A deputy elected to fill a vacancy occurring by death or any other cause shall only exercise his mandate during the unexpired period of the legislature.

ART. 23. It is the province of the Chamber of Deputies to take the initiative:

a. As regards taxes.

b. The organization of the land and sea forces.

c. The discussion of the bills laid by the executive power.

d. The impeachment of the members of the executive power, for breaches of duty committed in that capacity, in accordance with the provisions of this Constitution.

e. The revision of the Constitution.

f. The prorogation and adjournment of the legislative session.

THE SENATE.

ART. 24. Senators are elected for six years.

Whenever it shall be necessary to hold a general election of deputies, one half of the members of the Senate shall be renewed.

§ 1. For the first renewal of the Senate, it shall be decided by lot which are the districts and overseas provinces whose representatives must retire ; subsequent retirements will be by priority of election.

§ 2. A senator elected to fill a vacancy arising through death or any other cause will exercise his mandate during the unexpired term of office of the late senator.

ART. 25. The Senate has the exclusive right to approve or reject by secret vote proposals for the appointments of governors and commissioners of the Republic in the provinces.

§. When Congress is closed, the appointments mentioned in this article, when made by the executive power, shall be considered provisional.

THE ATTRIBUTIONS OF THE REPUBLIC.

ART. 26. It is the exclusive province of the Congress of the Republic :

1. To make, interpret, suspend and revoke laws.
2. To see to the observance of the Constitution and of the laws and to promote the welfare of the nation.
3. To estimate the receipts and fix the amount of expenditure each year, take charge of the accounts of receipts and expenditure of each financial year and vote the annual taxes.
4. To authorize the executive power to contract loans and undertake other financial operations, except in connection with the floating debt, and to establish and give previous approval to the general conditions under which they are to be carried out.
5. To regulate the payment of the internal and external debt.
6. To take measures for the organization of national defense.
7. To create and suppress public employments and determine the attributions and salaries of officials.
8. To create and suppress customs houses.
9. To settle the weight, value, inscription, type and denomination of coins.
10. To determine the standard of weights and measures.
11. To establish banks of issue, regulate the issue of notes and the respective charges thereon.
12. To decide as to the boundaries of the territories of the nation.
13. To fix the limits of the administrative divisions of the country, and decide as to their general organization.
14. To authorize the executive power to declare war if recourse be not had to arbitration, or if the same should fail, except in cases of imminent or effective aggression by foreign forces.
15. To give a definite decision as to treaties and conventions.
16. To declare one or more places of the national territory to be in a state of siege, with a total or partial suspension of constitutional rights, in an emergency of foreign aggression or internal disorder.
- § 1. Should Congress not be sitting, this function shall be exercised by the executive power.
- § 2. The latter, however, during the state of siege, shall restrict itself to measures of repression against persons and to the detention of criminals in places not destined to common offenders.
- § 3. On the reassembly on its own prerogative of Congress within the space of 30 days, the executive power shall present a report stating the reasons for the exceptional measures taken and for the abuse of which the respective authorities shall be made responsible.
17. To organize the judicial power in the terms of the present Constitution.

18. To grant amnesties.
19. To elect the President of the Republic.
20. To dismiss the President of the Republic according to the terms of the Constitution.
21. To settle as to the revision of the Constitution before the lapse of the period of ten years, in the terms of § 1 of Article 82.
22. To regulate the administration of national property.
23. To legislate in regard to the disposal of national property.
24. To sanction codes of rules for the due execution of the laws.
- §. Rules which have not obtained this sanction are considered provisional.
25. To continue in the exercise of their legislative functions, after the termination of the respective legislature, if for any reason the elections have not been held within the constitutional periods.
- §. This extension of functions shall continue until the elections, which will return the new members to Congress, have been held.

THE INITIATIVE, FORMATION AND PROMULGATION OF LAWS AND RESOLUTIONS.

ART. 27. The authorization allowed by the legislative power can not be utilized more than once.

ART. 28. Save the exceptions mentioned in Article 23, the initiative of bills is open without distinction to all members of the Congress or of the executive power.

ART. 29. A bill when adopted in one of the houses shall be submitted to the other, and the latter, if it approves it, shall send it to the President of the Republic, who shall promulgate it as law.

ART. 30. The form of promulgation shall be as follows: "In the name of the nation, the Congress of the Republic has decreed and I hereby promulgate the following law (or resolution)."

ART. 31. The President of the Republic, as chief of the executive power, shall promulgate any bill within the period of 15 days from the date on which it was presented to him. Silence on the part of the President up to the last day of the said period is equivalent to promulgation of the law.

ART. 32. A bill approved by one house shall be sent to the other, which shall decide in regard to it not later than in the legislative session following that in which it was approved. Failing this, the text approved by the house in which the bill was introduced shall be promulgated.

ART. 33. A bill brought in by one house and amended by the other shall be returned to the first, which, if it accept the amendments, shall send the bill amended accordingly to the President of the Republic for promulgation.

§. When the amendments are not approved, the latter, together with the bill, shall be submitted for discussion and to a vote of the two houses at a joint sitting.

The approved text shall be sent to the President of the Republic, who shall promulgate it as a law.

ART. 34. When a bill has been rejected by one of the houses after it has been approved in the other, it shall be dealt with as if it had undergone amendments instead of rejection.

ART. 35. Bills which have been definitely rejected can not be reintroduced in the same legislative session.

SECTION 2.—THE EXECUTIVE POWER.

ART. 36. The executive power is exercised by the President of the Republic and by the ministers.

ART. 37. The President of the Republic represents the nation in all general State relations, both internal and external.

THE ELECTION OF THE PRESIDENT OF THE REPUBLIC.

ART. 38. The election of the President of the Republic shall take place at a special sitting of Congress, which shall assemble of its own prerogative 60 days before the term of the presidential office.

§ 1. Voting will be by secret ballot and election will be by two thirds of the votes of the members of the two houses of Congress at a joint sitting.

If none of the candidates obtain an absolute majority, the election will continue, at a third voting, only as between the two who have obtained the highest number of votes, the one obtaining the highest number of votes being finally elected.

§ 2. In the case of a vacancy occurring in the Presidency, through death or any other cause, the two houses, united in Congress of the Republic on their own prerogative, shall forthwith proceed to the election of a new President, who shall exercise his functions during the presidential period still to run.

§ 3. So long as the election referred to in the preceding § shall not have been carried out, or whenever there shall be a temporary impediment in the exercise of presidential functions, the ministers shall jointly assume full executive power.

ART. 39. Only Portuguese citizens not less than 35 years of age, in the full enjoyment of political and civil rights, and who have not had any other nationality may be elected President of the Republic.

ART. 40. The following are ineligible to the office of President of the Republic:

a. Members of the families which have reigned in Portugal.

b. Blood relatives or connections in the first or second degrees, by civil right, of the outgoing President, but only as regards the first election following his retirement.

ART. 41. A member of Congress who is elected President immediately loses such membership by reason of his election.

ART. 42. The President shall hold office for 4 years, and can not be reelected for the period of 4 years immediately following.

§. The President will cease to perform the duties of his office on the same day as his mandate expires, the newly elected President assuming his office at once.

ART. 43. On assuming office the President will make the following declaration of covenant before Congress in session, presided over by the oldest president :

I solemnly affirm, on my honor, to maintain and carry out with loyalty and fidelity the Constitution of the Republic, to observe the law, to promote the general welfare of the nation and to uphold and defend its integrity and independence.

ART. 44. The President shall not leave national territory without permission from Congress under pain of losing his office.

ART. 45. The President shall receive a salary to be determined before his election, which may not be altered during the period of his office.

§. None of the State properties, not even that in which the secretariat of the Presidency of the Republic is lodged, may be used, for the personal accommodation of the President or of persons of his family.

ART. 46. The President may be dismissed by the two houses in Congress on a resolution, supported and approved by two thirds of its members, which resolution shall clearly set forth the dismissal, or on conviction for a crime for breach of duty.

THE ATTRIBUTIONS OF THE PRESIDENT OF THE REPUBLIC.

ART. 47. It is the province of the President of the Republic :

1. To appoint ministers from among eligible Portuguese citizens and to dismiss them.

2. To convoke Congress in extraordinary session, whenever the welfare of the nation may require it.

3. To promulgate and cause to be published the laws and regulations of Congress and to issue decrees, instructions and regulations to secure their faithful execution.

4. To fill up civil and military offices upon the recommendation of ministers and to relieve, suspend and dismiss officials, in accordance with law, the right of appeal to the proper courts being always reserved to them.

5. To represent the nation as regards foreign States and to direct the external affairs of the Republic without prejudice to the attributions of Congress.

6. To proclaim, with the approval of the ministers and for a period not exceeding 30 days, a state of siege in any part of the national territory in cases of foreign attack or serious internal disturbance, according to the terms of §§ 1, 2 and 3 of No. 16 of Article 26 of this Constitution.

7. To negotiate treaties of commerce, of peace and of arbitration and to conclude other international conventions, submitting the same to Congress for ratification.

§. Treaties of alliance shall be submitted to the examination of Congress at a secret session, whenever two thirds of its members petition in that sense.

8. To remit and commute punishments.

9. To attend to all matters that may concern the internal and external safety of the State, in accordance with the Constitution.

ART. 48. The attributions referred to in the preceding article shall be exercised through the intermediary of the ministers and according to the terms of Article 49.

THE MINISTERS.

ART. 49. All the acts of the President of the Republic shall be countersigned, at least by the minister concerned. Should this not be the case, they shall be null and void, they can not be executed and no one shall be obliged to obey them.

ART. 50. Ministers can not hold positions in any other employment or public charge, nor be elected to the office of President of the Republic, unless they have ceased to hold office six months before the date of the election.

§ 1. Members of Congress who accept the post of minister shall not lose their mandate.

§ 2. The prohibitions and other provisions enumerated in Article 21 and its §. are applicable to ministers.

ART. 51. Each minister is responsible politically, civilly and criminally for his legislative and executive acts.

Ministers shall be tried for crimes of breach of duty which they may commit or sanction by the ordinary courts.

ART. 52. Ministers must appear in the session of Congress and shall always have the right to be heard in defense of their acts.

ART. 53. One of the ministers, who shall also be appointed by the President of the Republic, shall be President of the Ministry and shall answer not only for the affairs of his office, but also for general policy.

ART. 54. During the first fifteen days of January the Minister of Finance shall lay the general budget of the State before the Chamber of Deputies.

CRIMES FOR BREACH OF DUTY.

ART. 55. Crimes for breach of duty are those acts on the part of the executive power and its agents which are directed against:

1. The political existence of the nation.
2. The Constitution and the republican democratic régime.
3. The free working of the powers of the State.
4. The enjoyment and exercise of political or individual rights.
5. The internal security of the country.
6. The integrity of the administration.
7. The custody and constitutional employment of public moneys.
8. The budgetary laws voted by Congress.

§ 1. Conviction for the commission of any of these crimes involves loss of office and renders the offender incapable of exercising any public function.

§ 2. The President of the Republic is not responsible for the administrative acts of his ministers or their agents, but only for the crimes mentioned in Nos. 1, 2, 3, 4 and 5 of this article.

SECTION 3.—THE JUDICIAL POWER.

ART. 56. The organs of the judicial power of the Republic shall consist in a Supreme Court of Justice and courts of first and second instance.

§. The Supreme Court of Justice shall have its seat in Lisbon. The courts of first and second instance shall be distributed throughout the country according as the necessities of the administration of justice demand.

ART. 57. Judges belonging to the section of the judicial magistrature hold office for life and are irremovable, and their nomination, dismissal, suspension, promotion, transfer and appointment outside their section shall be made in accordance with the forms of the organic law concerning the judicial power.

ART. 58. The institution of the jury is maintained.

ART. 59. Trial by jury shall be optional in civil and commercial cases and obligatory in criminal cases, when a penalty more severe than correctional is provided for the crime committed or when the offense is of political origin or character.

ART. 60. Judges shall not be held responsible for the sentences pronounced by them, except in the cases mentioned in the law.

ART. 61. No judge may accept an office of profit from the government. The government may, when the interests of the public service

demand it, appoint the judges it considers necessary on any permanent or temporary commission, and these appointments shall be made in accordance with the terms laid down in the organic law on this subject.

ART. 62. Sentences and orders of the judicial power shall be executed by exclusively judicial officials, to whom the proper authorities shall be obliged to lend assistance when called upon to do so.

ART. 63. When either of the parties in a case submitted to the decision of the judicial power calls in question the validity of a law or of acts which have been cited and which were issued by the executive power or of bodies invested with public authority, the judicial power shall pronounce on its constitutional legality or on how far it is in accordance with the Constitution and the principles laid down therein.

ART. 64. The President of the Republic shall be tried and sentenced by the ordinary tribunal for any crimes which he may commit.

§. When the proceedings have been carried to the point of committal for trial, the judge shall communicate the fact to Congress, which shall, in a joint session of both houses, decide whether the President of the Republic shall be immediately tried or whether his trial shall take place at the conclusion of his tenure of office.

ART. 65. If a minister is to be tried on a criminal charge, the judge shall, when proceedings have reached the point of committal for trial, communicate the fact to the Chamber of Deputies, which shall decide whether the minister shall be suspended and whether his trial is to take place in the interval between the sessions or only after the accused has ceased to hold office.

TITLE IV.—LOCAL ADMINISTRATIVE INSTITUTIONS.

ART. 66. The organization and attributions of administrative bodies shall be regulated by a special law, and shall be based on the following principles:

1. The activities of administrative bodies shall be entirely independent of the executive.

2. Deliberations of administrative bodies can be modified or annulled by the courts, when they conflict with laws or regulations of general order.

3. District and municipal powers shall be divided into deliberative and executive, according to the terms prescribed by the law.

4. The use of the referendum, according to the provisions laid down by law.

5. Minority representation in administrative bodies.

6. Financial autonomy of administrative bodies in the form prescribed by law.

TITLE V.—THE ADMINISTRATION OF THE COLONIAL PROVINCES.

ART. 67. The prevailing principle in the administration of colonial provinces shall be that of decentralization, with special laws suited to the state of the civilization of each one of those provinces.

TITLE VI.—GENERAL PROVISIONS.

ART. 68. All Portuguese, each according to his capacity, are bound to military service in order to sustain the independence and integrity of the country and Constitution and to defend them from their enemies, internal and external.

ART. 69. The public forces are essentially obedient and can not formulate petitions or collective representations nor meet together, except with the authority of or by order of the competent authorities. Armed bodies can not deliberate.

ART. 70. Special laws shall provide for the organization and administration of the military and naval forces in the whole of the territory of the Republic.

ART. 71. There is no pardon for those who are condemned for crimes and offenses against the electoral laws. That house, on account of which such crimes and offenses have been committed, can nevertheless take the initiative in granting an amnesty, when two thirds of its members vote therefor, but only after one half of the sentence, if it is one of imprisonment, has been served. Such amnesty can not include the costs of trial, fines and legal expenses.

ART. 72. The crimes for breach of duty referred to in Article 55 shall be defined by a special law.

ART. 73. The Portuguese Republic, without prejudice to its engagements under its treaties of alliance, advocates the principle of arbitration as the best method for solving international questions.

ART. 74. For the effects of the exercise of political rights, all those persons are Portuguese citizens who are considered as such by the civil law.

§. The loss and recognition of Portuguese citizenship are also regulated by the civil law.

ART. 75. The right to the military medal is guaranteed in the terms of the respective laws and regulations to all those who, at the date of the promulgation of this Constitution, are serving in the army and navy.

§. The pensions hitherto enjoyed by persons decorated with the Order of the Torre and Espada are maintained.

ART. 76. The medal for merit, philanthropy and generosity, as well as for good service overseas, is maintained.

ART. 77. Congress shall annually allocate certain of its sessions to the exclusive deliberation of local interests and representations made to the legislative power by administrative bodies in those matters in which the State should intervene.

ART. 78. A special law shall determine the cases and the conditions in which the State shall grant pensions to the families of soldiers who have died in the service of the Republic or to soldiers incapacitated by reason of the same service.

ART. 79. Certificates granted for civil deeds and military acts can be accompanied by medals.

ART. 80. The laws and decrees, with the force of law hitherto existing, continue in force until revoked or revised by the legislative power and remain valid in so far as they are not explicitly contrary to the system of government adopted by the Constitution and to the principles consigned therein.

ART. 81. As soon as this Constitution is approved, it shall be decreed and promulgated by the bureau of the National Constituent Assembly and signed by its members.

TITLE VII.—THE REVISION OF THE CONSTITUTION.

ART. 82. The Constitution of the Portuguese Republic shall be revised every 10 years beginning with the promulgation of the present one, and for this purpose constituent powers shall be held by the Congress whose mandate embraces the period of revision.

§ 1. Revision can be anticipated by 5 years, if approved by two thirds of the Congress of the two houses in joint session.

§ 2. Bills for the revision of the Constitution which do not define precisely the alterations projected can not be admitted to discussion, nor can those the purport of which is to abolish the republican form of government.

TRANSITORY PROVISIONS.

ART. 83. The first President of the Portuguese Republic shall be elected in special session fixed for the third day after that on which the Constitution has been approved by the National Constituent Assembly, and after his salary has been determined.

The election shall be by secret ballot and by an absolute majority of the members of the National Constituent Assembly, with powers certified up till the eve.

If, after the second ballot has taken place, it is ascertained that there has not been an absolute majority, the third ballot shall be by a majority as between the two candidates who obtain most votes in the second.

The first presidential mandate shall terminate on 5 October 1915.

§. For this election the disability referred to in Article 50 shall not obtain.

ART. 84. The election of the Senate shall take place in the session immediately following that in which the election of the President was held.

§ 1. The first senators shall be elected from among the deputies of the National Constituent Assembly over 30 years of age. They shall number 71, and the remaining members of the National Constituent Assembly shall form the first Chamber of Deputies.

§ 2. The choice of the senators shall be made in four elections, the first three by lists of 21 names and the last by a list of 8. In the first three lists there shall be representatives of all the districts, provided the deputies of these districts fulfill the conditions of this article.

§ 3. The mandate of the members of the two houses thus formed terminates, when, after the end of the legislative session of 1914, there has been constituted a new Congress in the terms laid down by the Constitution.

ART. 85. The first Congress of the Republic shall elaborate the following laws:

- a.* Law respecting crimes for breaches of duty.
- b.* The administrative code.
- c.* The organic laws of overseas provinces.
- d.* The law on judicial organization.
- e.* The law upon the simultaneous enjoyment of more than one public office.
- f.* The law regulating political incompatibilities.
- g.* The electoral law.

§. At the same time and at alternate sessions, the general estimates of the State and other necessary measures shall be discussed.

ART. 86. The vacancies which occur in the first Chamber of Deputies shall only be filled if its number be reduced to less than 135 members.

ART. 87. When Congress is closed, the government can take the measures it judges necessary and urgent for the overseas provinces.

§. As soon as Congress opens, the government shall give an account of the measures taken.¹

¹ Here follow the signatures of the president, first secretary and second secretary of the National Constituent Assembly.



ROUMANIA.

For centuries the principalities of the Danube, Moldavia and Wallachia, had a hard struggle to preserve their independence against powerful neighbors. The Crimean War gave the principalities an opportunity to bring their claims before the European Powers. The Treaty of Paris of 30 March 1856 (Articles 15-27) suppressed the protectorate, which Russia had exercised for about 27 years, and instituted (Article 23) a commission to study on the ground the question of reforms. This commission, composed of delegates of the Powers, sat at Bucharest in March 1857. Two consultative assemblies, convoked for the purpose of making known the wishes of each principality, agreed on 19 and 21 October 1857 to proclaim the necessity: 1. of an autonomous government; 2. of the union of the two countries; 3. of the election of a foreign prince; 4. of the organization of a representative government. This declaration is known as the "Declaration of the Four Points." The Conference of Paris did not respect all of these wishes, when it adopted the Organic Convention or Act of 7/19 August 1858, which in 50 articles organized the principalities as two distinct States, each having its own prince. The first real step toward actual union was taken in 1859, when Alexander was elected prince of both countries, but real union did not take place until several years later. In 1866 a revolution brought Charles of Hohenzollern-Sigmaringen to the throne and he immediately called a Constituent Assembly. The Constitution now in force was voted by this Constituent Assembly, elected by universal suffrage, on 30 June/12 July 1866. The Constitution has been amended twice; once, on 13/25 October 1879, as a result of the Turco-Russian War of 1877, and a second time, on 8/20 June 1884. At the same time as the second revision of the Constitution a new Electoral Law was passed which is still in force, although it has undergone important modifications.¹

CONSTITUTION OF 30 JUNE/12 JULY 1866, AS AMENDED 13/25 OCTOBER 1879 AND 8/20 JUNE 1884.²

TITLE I.—THE TERRITORY OF ROUMANIA.

ARTICLE 1.³ The Kingdom of Roumania with its districts on the right bank of the Danube constitutes a single indivisible State.

¹ This introductory paragraph is based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, pp. 229-231.

² Translated by OTIS G. STANTON from the French translation in DARESTE, *op. cit.*, pp. 231-255. French translation also in the *British and Foreign State Papers*, 57: pp. 263-278; 71: pp. 1176-1177; and 75: pp. 1105-1106. German translation in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 784-800.

³ As amended 8/20 June 1884.

ART. 2. The territory of Roumania is inalienable.

The limits of the State can be changed or rectified only by virtue of a law.

ART. 3. The territory of Roumania can not be colonized by populations of a foreign race.

ART. 4. The territory is divided into districts; the districts into arrondissements; the arrondissements into communes.

These divisions and subdivisions can be modified or rectified only by virtue of a law.

TITLE II.—THE RIGHTS OF ROUMANIANS.

ART. 5. Roumanians enjoy liberty of conscience, liberty of instruction, liberty of the press and liberty of assembly.

ART. 6. The present Constitution and other laws relative to political rights determine what, independently of the Roumanian character, are the conditions necessary for the exercise of these rights.

ART. 7.¹ The distinction of religious beliefs and of confessions shall not, in Roumania, constitute an obstacle to the acquisition of civil and political rights and to their exercise.

§ 1. The alien may, without distinction of religion,² and whether or not he is subject to a foreign protection, obtain naturalization under the following conditions:

a. He shall address to the government his petition for naturalization, by which he shall make known the capital he possesses, the profession or industry he is engaged in, and his desire to establish his domicile in Roumania.

b. Following this request he shall live in the country during ten years and prove by his actions that he is useful to the country.

§ 2. The following may be excused from residence:

a. Those who shall have introduced industries or useful inventions into the country, or who shall possess distinguished talents; those who shall have founded large establishments of commerce or of industry.

b. Those who, born and reared in Roumania, of parents established there, have never enjoyed, neither the ones nor the others, a foreign protection.

c. Those who have served under the flag during the War of Independence. These may be naturalized collectively, on the proposal of the government, by a single law and without other formality.

§ 3. Naturalization can be accorded only by a law and individually.

§ 4. A special law shall determine the mode according to which aliens may establish their domicile in Roumania.

¹ As amended 13/25 October 1879.

² Old Article 7 permitted naturalization only to foreigners "of Christian rites," and therefore excluded Jews.

§ 5. Roumanians, or those who are naturalized as Roumanians, may acquire real estate in Roumania.

Rights already acquired shall be respected.

The international conventions now existing shall remain in force with all their clauses and until the expiration of their term.

ART. 8. Naturalization is granted by the legislative power.

Naturalization alone assimilates the alien to the Roumanian for the exercise of political rights.

ART. 9. Every Roumanian of any State whatever, without distinction of place of birth, from the moment when he has proven his renunciation of the foreign protection, can immediately obtain the exercise of political rights by a vote of the legislative bodies.

ART. 10. No class distinctions exist in the State. All Roumanians are equal before the law and obliged to contribute without distinction to the imposts and to the public charges.

They are alone admissible to public, civil and military functions.

Special laws shall determine the conditions of admissibility and advancement in the functions of the State.

Aliens can be admitted to the public functions only in exceptional cases, specially determined by the laws.

ART. 11. All aliens who are on the soil of Roumania enjoy the protection that the laws accord to persons and to property in general.

ART. 12. All class privileges, exemptions and monopolies are forever abolished in the Roumanian State.

Foreign titles of nobility, such as those of prince, count, baron and others similar, are and remain inadmissible in the Roumanian State, as contrary to the ancient institutions of the country.

The wearing of foreign decorations by Roumanians is subject to the authorization of the King.

ART. 13. Individual liberty is guaranteed.

No one can be prosecuted except in cases provided by the law and in the form which it prescribes.

No one can be held or arrested, outside of cases of *flagrante delicto*, except by virtue of a judicial mandate, giving reasons therefor, which must be communicated to him at the moment of arrest, or, at the latest, within the 24 hours which follow the arrest.

ART. 14. No one can be taken against his consent from the judges whom the law assigns to him.

ART. 15. The domicile is inviolable.

No domiciliary visit can be made except in the cases expressly provided for by the law and in the form which it prescribes.

ART. 16. No punishment can be established or applied except by virtue of a law.

ART. 17. No law can establish the confiscation of property.

ART. 18. The penalty of death can not be reestablished except in the cases provided for by the Military Penal Code, in time of war.¹

ART. 19. Property of every kind is sacred and inviolable, the same as all credits against the State.

No one can be dispossessed except for the purpose of public utility legally decided and after a just and previous indemnity.

By the purpose of public utility must be understood only public roads, public health and the works of defense of the country.

The existing laws regarding the alignment and the enlargement of the public ways in the communes, as also the banks of the water-courses which cross them or run along them, remain in force.

Special laws shall regulate the procedure and the mode of expropriation.²

The free and unimpeded use of navigable rivers and those usable for rafts, of roads and other ways of communication is a part of the public domain.

ART. 20. The property granted to the peasants by the rural law,³ just as the indemnity guaranteed to owners by the said law, can not suffer any injury.

ART. 21. Liberty of conscience is absolute.

The liberty of all the cults is guaranteed in so far as their celebration does not offend against public order or good customs.

The Eastern Orthodox Religion is the dominant religion of the Roumanian State. The Orthodox Roumanian Church is and remains independent of all foreign supremacy while preserving its unity with the Œcumenical Eastern Church so far as dogmas are concerned.

The spiritual, canonical and disciplinary affairs of the Roumanian Orthodox Church shall be regulated by a unique central synodal authority, conformably to a special law.⁴

The metropolitans and the diocesan bishops of the Roumanian Orthodox Church are elected according to the mode determined by a special law.⁴

ART. 22. The acts of the civil State are within the competency of the civil authorities.

The publication of these acts must always precede the religious benediction, which shall be obligatory for marriages, except in the cases provided for by a special law.

¹ Code of Military Justice of 27 April/9 May 1873.

² Law of 20 October/1 November 1864, amended 8/21 February 1900.

³ Law of 15/27 August 1864 governing rural property. See Article 132.

⁴ Law of 19/31 December 1872 on the election of metropolitans and diocesan bishops and on the organization of the Holy Synod of the Autocephalous Holy Roumanian Orthodox Church. Law of 25 February/10 March 1906 on the secular clergy and the seminaries.

ART. 23. Education is free.

Liberty of education is guaranteed, in so far as its exercise does not offend against good customs or public order.

The repression of crimes is regulated solely by the law.

Primary schools shall be gradually instituted in all the communes of Roumania.

Education shall be gratuitous in all the schools of the State.

Primary instruction shall be obligatory for the Roumanian youth wherever primary schools are instituted.

A special law shall regulate all that concerns public instruction.¹

ART. 24.² The Constitution guarantees to everyone the liberty of communicating and of publishing his ideas and his opinions by word, in writing and by the press, each one being responsible for the abuse of this liberty in the cases determined by the Penal Code, which in any case can not restrict the right in itself.

No exceptional law can be established in this matter.

Censorship or any other preventive measure against the appearance, sale or distribution of any publication whatsoever can not be established.

There is no need of the prior authorization of any authority for the appearance of any publication whatsoever.

There shall not be exacted any caution-money from journalists, writers, publishers, printers and lithographers.

The press shall never be subjected to the *régime* of warnings.

No journal or publication can be suspended or suppressed.

The author is responsible for his writings; in default of the author, the manager is responsible; and in default of the latter, the editor.

Every journal must have a responsible manager enjoying civil and political rights.

Crimes by the press are judged by jury, except ³ those which shall be committed against the person of the King and of the royal family or against the sovereigns of foreign States; these crimes shall be judged by the ordinary tribunals, according to the common law.

Preventive arrest in the matter of press is forbidden.

ART. 25. The privacy of letters and of telegraphic despatches is inviolable.

A law shall determine the responsibility of the agents of the government for the violation of the privacy of letters and despatches entrusted to the post and to the telegraph.

ART. 26. Roumanians have the right to assemble peaceably and without arms, if they conform to the laws which regulate the exer-

¹ Law of 29 April/11 May 1896 on primary and normal-primary education, amended many times. Law of 23 March/4 April 1898 on secondary and higher education, amended in 1901 and 1904. Law of 27 March/8 April 1899 on professional education.

² As amended 8/20 June 1884.

³ This exception was introduced by the law of amendment of 1884.

cise of this right, to treat questions of all kinds; there is no need of a prior authorization for this.

This provision is not applicable to assemblings in the open air, which are subject entirely to the police laws.¹

ART. 27. Roumanians have the right to associate themselves together, if they conform to the laws which regulate the exercise of this right.

ART. 28. Each one has the right to address himself to the public authorities by means of petition signed by one or more persons, without power, however, to petition otherwise than in the name of the signers.

The constituted authorities alone have the right to address petitions in the collective name.

ART. 29. There is no need of any prior authorization for the bringing of suits by the injured parties against public functionaries for acts of their administration, except what is specially enacted with regard to ministers.

The cases and the manner of the suit shall be determined by a special law.

Special provisions of the Penal Code shall determine the penalties incurred by false accusers.

ART. 30. No Roumanian can, without the authorization of the government, enter the service of a foreign State without losing thereby his nationality.

The extradition of political refugees is forbidden.

TITLE III.—THE POWERS OF THE STATE.

ART. 31. All the powers of the State emanate from the nation, which can exercise them only by delegation, according to the principles and rules established by the present Constitution.

ART. 32. The legislative power is exercised collectively by the King and by the national representation.

The national representation is divided into two houses: The Senate and the Chamber of Deputies.

Every law requires the approval of the three branches of the legislative power.

No law can be submitted to the sanction of the King until after it has been discussed and voted freely by the majority of the two houses.

ART. 33. The right to initiate laws belongs to each of the three branches of the legislative power.

¹ Law of 1/14 April 1903 on the organization of the general police of the State.

Nevertheless, every law relative to receipts and to the expenditures of the State or to the contingent of the army must first be voted by the Chamber of Deputies.

ART. 34. Authoritative interpretation of the laws belongs exclusively to the legislative power.

ART. 35. The executive power is confided to the King, who exercises it according to the mode determined by the Constitution.

ART. 36. The judicial power is exercised by the courts and tribunals; their judgments and sentences are rendered by virtue of the law and executed in the name of the King.

ART. 37. Exclusive interests of district or commune are regulated by the councils of the districts or the communes, according to the principles established by the Constitution and special laws.

CHAPTER I.—THE NATIONAL REPRESENTATION.

ART. 38. The members of the two houses represent the nation and not simply the district or the locality which has named them.

ART. 39. The meetings of the houses are public.

Nevertheless, each house forms itself into a secret committee on the request of the president or of 10 members.

It decides, afterwards, by absolute majority, whether the session must be repeated in public on the same subject.

ART. 40.¹ Each house verifies the titles of its members and judges the contests which may arise in this regard.

An election can be invalidated only by two thirds of the number of members present.²

ART. 41. No one can be a member of the two houses at once.

ART. 42. The members of either house, named by the government to be a salaried office which they accept, cease to be representatives and resume the exercise of their mandate only by virtue of a reelection.

These provisions are not applicable to the ministers.

The electoral law determines incompatibilities.

ART. 43. At each session the Chamber of Deputies names its president, its vice-presidents, and forms its own bureau.

ART. 44.¹ The Senate elects, from its own members, its president, its vice-presidents, as well as the other members of its own bureau.

ART. 45.¹ Every resolution is passed by an absolute majority of the votes, except those which shall be fixed by the rules of the houses in regard to elections and presentations.

In case of a tie vote, the proposition under consideration is rejected.

¹ As amended 8/20 June 1884.

² This provision was added by the law of amendment of 1884.

Neither of the two houses can pass a resolution, if the majority of its members are not present.

ART. 46. Votes are expressed by sitting down or standing up, *viva voce* or by secret ballot.

A bill can be adopted only after having been voted article by article.

ART. 47. Each house has the right of inquiry.

ART. 48. The houses have the right to amend and to divide into several parts the articles and amendments proposed.

ART. 49. Every member of the houses has the right to address interpellations to the ministers.

ART. 50. Each has the right of addressing petitions to the houses through the medium of the bureau or one of its members.

Each of the two houses has the right to transmit to the ministers petitions which are addressed to it.

The ministers are obliged to give explanations as to their tenor, whenever the houses ask for them.

ART. 51. No member of either house can be prosecuted or annoyed for the opinions or votes given forth by him during the exercise of his mandate.

ART. 52. No member of either house can, during the length of the session, be prosecuted or arrested in affairs of repression, except with the authorization of the house of which he is a member, unless in case of *flagrante delicto*.

The detention or prosecution of a member of either house is suspended during the entire length of the session, if the house requires it.

ART. 53. Each house determines by its own regulations the mode according to which it exercises its attributions.

ART. 54. Each house deliberates and adopts its resolutions separately, except in the cases expressly specified by the present Constitution.

ART. 55. Each of the two houses has the exclusive right to exercise its own police through the medium of its president, who alone can, with the authorization of the house, give orders to the guard of service.

ART. 56. No armed force can be posted at the doors or around either house without its consent.

SECTION 1.—THE CHAMBER OF DEPUTIES.

ART. 57. The Chamber of Deputies is composed of deputies elected in the manner indicated below.

ART. 58.¹ The electoral body is, in each district, divided into three colleges.

¹ As amended 8/20 June 1884.

ART. 59.¹ All those constitute the first college, who, combining the other conditions demanded by the law, have a land revenue, rural or urban, of at least 1,200 francs.

ART. 60.¹ All those constitute the second college, who, combining the other conditions stipulated by the law, have their domicile and their residence in the cities and pay the State an annual direct tax, of any kind whatever, of at least 20 francs.

Exempt from the tax, income or property qualification (*cens*) in this college are:

- a. Those who practise a liberal profession.
- b. Retired officers.
- c. Pensioners of the State.
- d. Those who have completed at least their primary education.

All the urban communes of a district form a single college with the chief town.

ART. 61.¹ All those constitute the third college, who are not electors in the first two colleges and who pay the State a tax, however small.

The electors of this college, who have a rural land revenue of at least 300 francs and who can read and write, may vote at their will either directly for the deputy at the chief town or indirectly for the delegate in their commune, with the electors who do not know how to read or write and who do not have the required qualification.

The following also vote directly, with exemption from the qualification:

- a. The schoolmasters of the village and the priests.
- b. Those who pay an annual rent of at least 1,000 francs.

Fifty electors elect one delegate.

The mayor, the notary, the tax-collector, the chief of the garrison, as well as any other public functionary, can not be elected delegates.

ART. 62.¹ These three colleges elect directly in the following manner:

The first college elects 2 deputies per district, except the districts of Ilfov, Jassy, Dolj, Buzeu, Mehedintsi, Prahova, Teleorman, Bacau, Putna, Botoshani and Tutova, which elect as follows: Ilfov, 5 deputies; Jassy and Dolj, 4 each; Buzeu, Mehedintsi, Prahova, Teleorman, Bacau, Putna, Botoshani and Tutova, 3 each.

The second college elects as follows: Bucharest, 9 deputies; Jassy, 7; Craïova and Ploesci, 4 each; Braïla, Turnu-Magurele, Bacau, Roman, Galatz, Focshani, Berlad and Botoshani, 3 each; Buzeu, Giurgiu, Hushi, Pitesci and Turnu-Severin, 2 each; the other cities, 1 each.

The third college elects 1 deputy per district, except the districts of Ilfov, Dolj, Mehedintsi, Prahova, Buzeu, Bacau, Putna and Suciava, which elects 2 each.

¹ As amended 8/20 June 1884.

ART. 63. The amount of tax each individual must pay to be elector or eligible (*cens*) can be determined justly only by the roll of taxes, the receipts or the tax-notices delivered by the collectors of taxes for the preceding year and for the current year.

ART. 64. The electoral law determines all the other conditions required to be elector, as well as the mode of the electoral operations.¹

ART. 65. To be eligible it is necessary :

a. To be Roumanian by birth or to have received complete naturalization.

b. To enjoy civil and political rights.

c. To be 25 years of age or more.

d. To be domiciled in Roumania.

The electoral law determines the disqualifications.

ART. 66. The members of the Chamber of Deputies are elected for 4 years.

SECTION 2.—THE SENATE.

ART. 67.² For the Senate, the electoral body is divided in each district into two colleges.

ART. 68.² Those constitute the first college, who have a land revenue, rural or urban, of at least 2,000 francs per annum, with exemption for the following persons :

a. The former and present presidents or vice-presidents of each of the legislative houses.

b. The former senators and deputies who have been members of two legislatures.

c. Generals and colonels as well as those who have a grade assimilated to that of general or colonel.

d. The former and present ministers or diplomatic representatives of the country.

e. The former and present members or presidents of court, attorneys-general before a court of appeal, presidents, members or attorneys before the Court of Cassation.

f. Those who have a diploma of doctor or licentiate in any specialty whatever and who have practised their profession during six years.

g. The members of the Roumanian Academy.

ART. 69.² The second college consists of all the direct electors of the cities and of the rural communes who have a land revenue, rural or urban, of 800 to 2,000 francs, as well as the merchants or manufacturers who pay a license of the first and second class.

¹ The electoral law dates from 9/21 June 1884, but it has been amended at least four times (1903, 1904, 1906 and 1907).

² As amended 8/20 June 1884.

The following persons are exempt from the qualification (*cens*) in this college:

a. Those who possess a doctor's diploma in any specialty whatever or any other title equivalent to that of doctor emanating from a special superior school.

b. Licentiates in law, in letters, in philosophy or in sciences.

c. Former and present magistrates who have served during six years.

d. Engineers, architects, pharmacists and veterinarians who have diplomas.

e. Professors of State schools in the cities or of secondary schools recognized by the State.

f. Pensioners who receive a pension of at least 1,000 francs per annum.

ART. 70.¹ Each of these two colleges votes separately.

The first college elects 2 senators per district.

The second college elects 1 senator per district, except the following districts which elect as follows: Ilfov, 5; Jassy, 3; Braila, Covurlui, Dolj, Prahova, Botoshani, Tutova, Teleorman, Mehedinsti, Buzeu, Bacau, Putna, Dimbovitsa, Romanatsi, Neamtsi, 2 senators each.

ART. 71.¹ Whatever may be the numbers of the sections of which the electoral college is composed, each elector votes for the number of representatives which the college of which he is a member should elect.

ART. 72.¹ The electoral operation of each college for the Chamber and the Senate shall be made in a single day.

ART. 73. The Universities of Jassy and of Bucharest each send to the Senate a member chosen by the professors of the respective universities.

ART. 74. In order to be able to be elected senator, it is necessary:

1. To be Roumanian by birth or naturalization.

2. To enjoy civil and political rights.

3. To be domiciled in Roumania.

4. To be at least 40 years old.

5. To have an income, of any nature whatever, of 800 ducats [about \$1,880], determined in the manner provided for in Article 63.

ART. 75.¹ The following are exempt from this qualification (*cens*):

a. The former presidents or vice-presidents of one of the legislative houses.

b. The former deputies and senators who have been members of two legislatures.

¹ As amended 8/20 June 1884.

c. Generals and those of like rank.

d. Colonels, retired or unattached.

e. Former and present ministers or diplomatic representatives of the country.

f. Those who have occupied for three years the office of member of a court, or for one year those of president of the court, attorney-general, attorney or member of the Court of Cassation.

g. Those who have a diploma of doctor or licentiate in any specialty whatever and who have practised their profession for at least six years.

h. The members of the Roumanian Academy.

ART. 76. The following are *ex-officio* (*de droit*) members of the Senate:

1. The heir to the throne, at the age of 18 years, with a deliberative voice only at 25 years.

2. The metropolitans and diocesan bishops.

ART. 77.¹ The senators and deputies receive *per diem* indemnity during the length of the session.

ART. 78.¹ The members of the Senate are elected¹ for eight years and are renewed by halves every four years by lot.

The rules of the Senate shall fix the drawing of lots in such a manner that the elimination shall be divided among all the districts.

ART. 79. The retiring members are reeligible.

ART. 80. In case of dissolution, the Senate is renewed integrally.

ART. 81. Every meeting of the Senate held outside of the time of the session of the Chamber of Deputies is null *ipso facto*.

CHAPTER II.—THE KING AND THE MINISTERS.

SECTION 1.—THE KING.

ART. 82. The constitutional powers of the King are hereditary in the direct and legitimate lineage of His Highness, King Charles I of Hohenzollern-Sigmaringen, from male to male, by order of primogeniture and to the perpetual exclusion of the females and their lineage.

The descendants of His Highness, King Charles I, shall be brought up in the Eastern Orthodox Religion.

ART. 83. In default of masculine lineage in direct line from His Highness, King Charles I of Hohenzollern-Sigmaringen, the succession to the throne shall revert to the oldest of his brothers or their descendants, according to the rules established in the preceding article.

¹ As amended 8/20 June 1884.

If there exists no longer any of these brothers or their descendants, or if they declare beforehand that they will not accept the throne, the King may then choose his successor in one of the sovereign dynasties of Europe, with the assent of the national representation given in the form prescribed by Article 84.

If neither of these two cases takes place, the throne shall be considered vacant.

ART. 84. In case of vacancy of the throne, the two houses unite immediately in one single assembly, even without convocation, and, within eight days at most from the date of their assembling, they elect a King in one of the sovereign dynasties of western Europe.

To be able to proceed to this election the presence of three fourths of the members who compose each of the two houses and a majority of two thirds of the members present are necessary.

In the case where the election shall not have been made within the period prescribed above, the ninth day, at noon, the houses reunited shall proceed to the election, whatever the number of the members present, and by the absolute majority of votes.

If the houses are dissolved at the moment of the vacancy of the throne, they shall proceed as it is prescribed in the article below.

During the vacancy of the throne, the united houses shall name a royal lieutenanship composed of three persons, which shall exercise the royal powers until the accession of the King.

In all the cases above indicated the vote shall be by secret ballot.

ART. 85. On the death of the King, the houses shall unite, even without convocation, ten days, at the latest, after the declaration of the death.

If they have been dissolved before and the convocation has been made in the act of dissolution for a time later than the tenth day, the former houses shall resume their functions until the meeting of those who are to replace them.

ART. 86. From the date of the death of the King until the taking of the oath by his successor to the throne, the constitutional powers of the King are exercised in the name of the Roumanian people by the ministers assembled in council and under their responsibility.

ART. 87. The King is of age at 18 years.

He takes possession of the throne only after having taken in the midst of the united houses the following oath:

I swear to observe the Constitution and the laws of the Roumanian people, to maintain the national rights and the integrity of the territory.

ART. 88. The King may, during his lifetime, name a Regency composed of three persons, which, after the death of the King, shall exercise the royal powers during the minority of the successor to the throne. This nomination shall be made with the consent of the

national representation, given in the form prescribed by Article 84 of the present Constitution.

The Regency shall exercise at the same time the tutelage of the successor to the throne during the minority of the latter.

If, at the death of the King, the Regency has not been named, and if the successor to the throne is a minor, the two houses united shall name a Regency, proceeding according to the forms prescribed by Article 84 of the present Constitution.

The members of the Regency enter upon their functions only after having taken solemnly, before the two houses united, the oath prescribed by Article 87 of the present Constitution.

ART. 89. If the King finds himself unable to reign, the ministers, after having caused this impossibility to be established legally, immediately convoke the houses.

The latter name the Regency, which shall exercise at the same time the tutelage.

ART. 90. No modification can be made in the Constitution during the Regency.

ART. 91. The King can not be at the same time head of another State without the consent of the two houses.

Neither of the two houses can deliberate on this question, if at least two thirds of the members which compose it are not present, and the decision can only be taken by the majority of two thirds of the votes of the members present.

ART. 92. The person of the King is inviolable; his ministers are responsible.

No act of the King can have effect, if it is not countersigned by a minister, who by that alone makes himself responsible.

ART. 93. The King appoints and dismisses his ministers.

He sanctions and promulgates the laws.

He may refuse his sanction.

He has the right of amnesty in political matters.

He has the right to remit or reduce the punishment in criminal cases; except what is decreed relative to the ministers.¹

He can not suspend the course of proceedings or of decisions nor intervene in any manner in the administration of justice.

He names or confirms in all the public offices.

He can not create a new office without a special law.

He makes the regulations necessary for the execution of the laws without the power ever to modify or suspend the laws themselves or dispense with their execution.

He is head of the army.

He confers the military grades, conforming to the law.

He may confer the Roumanian decoration, conforming to the law.

¹ See Article 103 (below, p. 532).

He has the right to coin money, conforming to a special law.

He concludes with foreign States conventions of commerce, of navigation, and others of the same nature; but in order that these acts may have obligatory force, it is necessary that they be first submitted to the legislative power and approved by it.

ART. 94. The law fixes the civil list for the duration of each reign.

ART. 95. The Chamber of Deputies and the Senate meet without convocation on 15 November of each year, if the King has not convoked them before.

The duration of each session is three months.

At the opening of the session, the King sets forth the state of the country in a message to which the houses respond.

The King pronounces the closing of the session.

He has the right to convoke the houses in extraordinary session.

He has the right to dissolve the two houses either simultaneously or separately.

The act of dissolution should include the convocation of the electors within two months and of the houses within three months.

The King can adjourn the houses; however, the adjournment can not exceed the term of one month nor be renewed in the same session without the assent of the houses.

ART. 96. The King has only those powers granted to him by the Constitution.

SECTION 2.—THE MINISTERS.

ART. 97. No one can be minister, if he is not Roumanian by birth or has not received naturalization.

ART. 98. No member of the reigning family can be minister.

ART. 99. If the ministers are not members of a house, they may take part in the debates there, but have not the right to vote.

One minister, at least, must be present at the deliberations of the houses.

The houses can require the presence of the ministers at their deliberations.

ART. 100. In no case can the verbal or written order of the King relieve a minister from responsibility.

ART. 101. Each of the two houses and the King have the right to impeach the ministers and to arraign them before the High Court of Cassation and of Justice, which alone has the right to try them, in full bench, except in so far as shall be enacted by law as to the exercise of civil action by the injured party and except the crimes and offenses which ministers shall have committed outside of the exercise of their functions.

The impeachment of ministers can be pronounced only by a two-thirds majority of the members present.

A law shall be presented at the next session to determine the cases of responsibility, the penalties to be inflicted on ministers and the mode of procedure against them, whether on accusation admitted by the national representation or on the suit of the injured parties.¹

The accusation directed by the national representation against the ministers shall be sustained by it.

The accusation directed by the King shall be sustained by the public prosecutor.

ART. 102. Until this is provided for by the law anticipated by the preceding article, the High Court of Cassation and of Justice shall have power to characterize the crime and determine the penalty.

However, the penalty can not be made stronger than imprisonment, without prejudice to cases provided for by the penal laws.

ART. 103. The King can remit or reduce the penalty applied to the ministers by the High Court of Cassation and of Justice only on the request of the house which has impeached them.

CHAPTER III.—THE JUDICIAL POWER.

ART. 104. No jurisdiction can be established except by virtue of a law.²

Extraordinary commissions and tribunals can not be created under any pretext or under any denomination whatever.

There is one single Court of Cassation for all the Roumanian State.³

ART. 105.⁴ The jury is established in all criminal matters and for political offenses and those of the press; the suit for damages resulting from acts and offenses of the press can not be brought except before the same jurisdiction. Only the commission of jurymen shall judge and decide on the damages and their amount.

CHAPTER IV.—DISTRICT AND COMMUNAL INSTITUTIONS.

ART. 106. The district and communal institutions are regulated by the laws.⁵

ART. 107. These laws shall have for base a more complete administrative decentralization and the communal independence.

¹ Law of 2/14 May 1879 on ministerial responsibility.

² Law of 9/21 July 1865 on the organization of the judiciary, amended many times. See DARESTE, *op. cit.*, p. 250, note 1.

³ Law of 24 January/5 February 1861 creating a Court of Cassation, amended by the Law of 30 June/13 July 1905 and by the Law of 7/20 March 1906.

⁴ As amended 8/20 June 1884.

⁵ Law of 31 March/12 April 1864 on district councils, amended in 1885, 1886, 1894 and 1905. Law of 23 July/4 August 1894 on the organization of urban communes, amended in 1905. Law of 26 April/9 May 1904 on the organization of rural communes.

TITLE IV.—FINANCES.¹

ART. 108. Every impost is established only for the profit of the State, of the district or of the commune.

ART. 109. No impost for the profit of the State can be established or collected except by virtue of a law.

ART. 110. No charges or imposition for the profit of the district can be established except with the consent of the council of the district.

No communal charge or imposition can be established except with the consent of the communal council.

The imposts voted by the district and communal councils must obtain the confirmation of the legislative power and the sanction of the King.

ART. 111. No privileges may be established in the matter of imposts.

No exemption or moderation of impost can be established except by law.

ART. 112. No pension or gratuity at the charge of the public treasury can be granted except by virtue of a law.

ART. 113. Each year the Chamber of Deputies decrees the law of accounts and votes the budget.

All the receipts and expenditures of the State must be carried in the budget and in the accounts.

The budget shall always be presented to the Chamber of Deputies a year before its application, and it shall be definitive only after having been voted by it and sanctioned by the King.

If the budget has not been voted in time, the executive power shall provide for the public services, in conformity to the budget of the preceding year, without powers, however, to apply this budget more than one year beyond the year for which it has been voted.

ART. 114. The final regulation of the accounts shall be presented to the Chamber at the latest within the period of two years counting from the close of each fiscal period (*exercice*).

ART. 115. The financial laws shall be published in the official bulletin as are the other laws and regulations of public administration.

ART. 116. There is for all Roumania a single Court of Accounts.²

ART. 117. The various foundations providing hitherto special funds, of which the government disposes by different rights, shall be included in the general budget of the revenues of the State

¹ Law of 5/17 March 1897 on the organization of the financial administration of the State.

² Law of 28 January/9 February 1895 on the organization of the High Court of Accounts.

TITLE V.—THE ARMED FORCE.

ART. 118.¹ Every Roumanian is a part of one of the elements of the armed force, conformably to the special laws.²

ART. 119. Soldiers can be deprived of their grades, honors and pensions only by virtue of a judicial sentence and in the cases determined by the laws.

ART. 120. The contingent of the army is voted annually.

The laws which fixes this contingent has force only for one year.

ART. 121.¹ The national guard is and remains abolished.

ART. 122. No foreign troops can be admitted to the service of the State, occupy or traverse the territory of Roumania, except by virtue of a law.

TITLE VI.—GENERAL PROVISIONS.

ART. 123. The colors of Roumania remain, as in the past, blue, yellow and red.

ART. 124. The city of Bucharest is the capital of Roumania and the seat of the government.

ART. 125. No oath can be imposed except by virtue of the law which shall also at the same time determine the formula thereof.

ART. 126. No law or regulation of general, district or communal administration can have obligatory force until after having been published in the form determined by the law.

ART. 127. The Constitution can not be suspended in whole or in part.

TITLE VII.—THE REVISION OF THE CONSTITUTION.

ART. 128. The legislative power has the right to declare that there is occasion for the revision of such provision of the Constitution as it designates.

After this declaration, read three times fortnightly in public meeting and approved by the two houses, the latter are dissolved *ipso facto* and they shall be convoked anew within the period prescribed by Article 95.

The new houses determine, in common accord with the King, upon the points submitted to revision.

In this case, the houses can not deliberate, if at least two thirds of the members who compose each of them are not present, and no change shall be adopted, if at least two thirds of the votes do not agree.

¹ As amended 8/20 June 1884.

² See below the note under Article 131, No. 9.

TITLE VIII.—TRANSITORY AND SUPPLEMENTARY PROVISIONS.

ART. 129. From the day when the Constitution shall be executory, all laws, decrees, regulations and other acts which are contrary are abrogated.

ART. 130.¹ The Council of State, with the attributions of administrative contest, can not be reestablished.

The Court of Cassation shall pronounce, as heretofore, on the conflict of attributions.

A permanent commission shall be established which shall have no other attributions than to study and elaborate projects of law and the rules of public administration.

Under-secretaries of State shall be appointed. They shall have power to take part in the debates of the legislative bodies under the responsibility of the ministers.

ART. 131.¹ The following objects shall be provided for, in the shortest possible period, by separate laws:

1. Administrative decentralization.
2. The responsibility of the ministers and other agents of the executive power.²
3. Measures proper to prevent the abuses of cumulation.³
4. The modification of the pension law.
5. The conditions of admission and advancement in the administrative offices.
6. The development of the ways of communication.
7. The exploitation of mines and forests.
8. The rivers and streams navigable or available for rafts.
9. The organization of the army,⁴ the laws of advancement and retirement and the different positions of the officers.
10. Military justice.⁵

All existing codes and laws shall be revised to be placed in agreement with the Constitution.⁶

ART. 133.¹ The lands of those formerly liable to statute-labor (*clacași*), of their descendants newly married (*insurați*) and the inhabitants who have bought or shall buy in small lots from the

¹ As amended 8/20 June 1884.

² See the note under Article 101 (above, p. 532).

³ Law of 30 June/12 July 1890 prohibiting the cumulation of public offices.

⁴ Law of 8/20 July 1882 on the recruiting of the army, amended in 1883, 1887, 1891, 1898, 1900 and 1903. Law of 25 February/10 March 1900 on the administration of the army. Law of 22 May/3 June 1898 on the organization of the navy, amended in 1906.

⁵ Code of Military Justice of 27 April/9 May 1873.

⁶ Civil Code of 1864. Code of Civil Procedure of 1865, revised in 1900. Penal Code of 1874. Code of Penal Procedure of 1864. Code of Commerce of 1887, amended in 1895 and 1900.

property of the State are and shall be inalienable during 32 years, dating from the promulgation of this law.

The power of alienating the land of their habitation shall however be granted by special laws to the inhabitants included within the radius of an urban commune.

Inalienability is applied equally to the lands sold by the State in small lots on the territory of Roumania beyond the Danube. The exchanges of land for other lands do not enter into the prohibition of the present law.

The exchanges referred to here can be made only against lands of the same extent and value.¹

ADDITIONAL ARTICLE.² The provisions of the present Constitution shall be applied by special laws in the part of Roumania which is beyond the Danube.

¹ Law of 15/27 August 1864 regulating rural property.

² Added 9/20 June 1884. See DARESTE, *op. cit.*, p. 255, note 2.

RUSSIA.

The fundamental principle of government of Russia was pure autocracy until 1906. The political institutions had no root in what might be called the national rights of Russia, but were the results simply of administrative measures modified by the Czar at his pleasure. The first ukase announcing general reforms appeared on 12/25 December 1904. These reforms were to apply to certain definite points, such as religious liberty, liberty of the press, civil liberty, etc. Numerous ukases were promulgated in 1905 for putting into execution a part of these reforms. On 6/19 August 1905 the Czar issued regulations for the election of a national representative body upon a restricted suffrage. This concession did not satisfy the liberal elements, and on 17/30 October an Imperial Manifesto promised:

1. To grant to the population the immutable guaranties of civil liberty, upon the basis of real inviolability of person, of liberty of conscience, of speech, of assembly and of association.

2. To permit the participation in the Duma of the Empire, as far as possible within the brief period of time remaining before the convocation of the Duma and without interrupting the progress of the elections to that assembly, of those classes of the population who are now completely deprived of electoral rights, leaving the further development of the principle of universal suffrage to the newly established legislative procedure.

3. 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 guaranteed the possibility of exercising an effective supervision as to the legality of the acts of the imperial authorities.¹

The liberal election law of 11/24 December 1905² and the Fundamental Laws of 23 April/6 May 1906 were steps toward the execution of these promises.³

FUNDAMENTAL LAWS OF 23 APRIL/6 MAY 1906.⁴

ARTICLE 1. The Russian Empire is one and indivisible.

ART. 2. The Grand Duchy of Finland, forming an indivisible part of the Russian Empire, shall be governed in its internal affairs

¹ This text is a free translation of the French text published in the *Journal de St. Petersburg* of 4 November 1905.

² See note under Article 59 (below, p. 544).

³ These introductory paragraphs are based upon W. F. DODD, *Modern Constitutions* (Chicago, 1909), vol. II, p. 181, and F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, pp. 148-151.

⁴ These laws constitute Part I of the Code (*Svod*) of laws of the Russian Empire. Translation based upon that in DODD, *op. cit.*, pp. 182-195. French translation in DARESTE, *op. cit.*, pp. 151-163. German translation in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 801-816.

by special regulations established on the basis of a special legislature.¹

ART. 3. The Russian language is the official language of the Empire and its use is obligatory in the army, the navy and all governmental and public institutions. The use of local languages and dialects in governmental and public institutions shall be regulated by special laws.

CHAPTER I.—THE NATURE OF THE SUPREME AUTOCRATIC POWER.

ART. 4. The Emperor of all the Russias wields the supreme autocratic power. To obey his authority, not only through fear, but for the sake of conscience, is ordered by God himself.

ART. 5. The person of the Emperor is sacred and inviolable.

ART. 6. The same supreme autocratic power shall belong likewise to the Empress when the succession to the throne falls to a person of the female sex according to the established order; but her consort shall not be considered as Emperor; he shall enjoy the honors and privileges enjoyed by the consorts of Emperors, but without the title.

ART. 7. The Emperor is vested with the legislative power jointly with the Imperial Council and the Imperial Duma.

ART. 8. The initiative in all legislative measures² belongs to the Emperor. Only through his initiative may fundamental laws be submitted to the Imperial Council and the Imperial Duma for discussion.

ART. 9. The Emperor sanctions the laws and without his approval no law shall be put into execution.

¹ When Finland was annexed to Russia in 1809, the Emperor Alexander I guaranteed the religion and the fundamental laws of the country. The fundamental laws thus guaranteed were the Swedish laws of 1772 and 1789, under which there existed a general Swedish Diet of four estates. A local Finnish Diet, containing representatives of the four estates, was at once convened, and accepted the Russian Emperor as Grand Duke of Finland. For about 90 years Finland retained its local institutions almost unimpaired, although the Diet was infrequently in session. According to a law approved by the Russian Emperor in 1869, no fundamental law could be enacted or altered without the consent of the estates.

For some time before 1899 there had been a strong feeling among Russian officials that Finnish institutions should be assimilated to those of the rest of the Empire. When difficulty was apprehended in obtaining the passage of laws reorganizing the Finnish army and incorporating it with that of the Empire, the Emperor on 16 February 1899 issued a manifesto by which he withdrew from the Finnish Diet all power to legislate upon matters of "general interest and importance for the Empire."

This step and others during the several succeeding years, tending to destroy the independence of the Grand Duchy, were vigorously opposed by the Finnish people. In consequence of a general strike in October 1905, the Russian government was forced to yield. An Imperial Manifesto of 4 November 1905 annulled the obnoxious laws and convened the Finnish Diet. On 10 May 1906 a bill for the reform of representation in the Finnish Diet was approved by the Emperor and adopted by the Diet. By this law the Diet was organized into a single chamber of 200 delegates, of whom 60 formed a grand committee, somewhat similar to the Norwegian Lagthing. Members of the Diet are elected by direct universal suffrage, the right to vote being given to men and women who have attained the age of 24 years. The Diet holds annual sessions and its members are elected for three years upon a system of proportional representation.

² But not the exclusive power of initiation with respect to ordinary legislation; see Article 65 of this law (below, p. 545).

ART. 10. The administrative power in all its extent belongs to the Emperor within the limits of the entire Russian Empire. The Emperor acts directly in matters of supreme government; in subordinate governmental matters a certain degree of power may be entrusted by him, in accordance with the law, to the competent officers and persons acting in his name and by his orders.

ART. 11. The Emperor, in the exercise of the supreme powers of government, issues, in conformity with the laws, ukases for the organization and the putting into execution of various parts of the governmental administration, as well as orders necessary for the execution of the laws.

ART. 12. The Emperor has supreme control of all relations of the Russian Empire with foreign Powers. He likewise determines the course of the international policy of the Russian Empire.

ART. 13. The Emperor declares war and concludes peace, as well as other treaties with foreign countries.

ART. 14. The Emperor is the supreme chief of the Russian army and navy. He is vested with the supreme command of all land and naval forces of the Russian Empire. He determines the organization of the army and of the navy, and issues ukases and orders concerning the disposition of the troops, the placing of troops on war footing, their instruction, the advancement of soldiers and everything bearing on the organization of the armed forces and the defense of the Russian Empire. The Emperor likewise, in the exercise of his supreme power, determines limitations with regard to right of residence and acquisition of real property in localities forming part of fortified regions and points of support for the army and the navy.

ART. 15. The Emperor declares localities to be in a state of war or in an exceptional state.

ART. 16. The Emperor has the right to coin money and to determine its form.

ART. 17. The Emperor appoints and dismisses the president of the Council of Ministers, the ministers and the chiefs of separate departments, as well as other officials for whose appointment and dismissal no other mode of procedure has been established by law.

ART. 18. The Emperor, in the exercise of supreme power, establishes the limitations demanded by the State service.

ART. 19. The Emperor grants titles, decorations and other official distinctions, as well as rights of ownership. He determines the conditions and procedure for the granting of titles, decorations and distinctions.

ART. 20. The Emperor issues directly ukases and orders with regard to property forming his own personal possessions, as well as with regard to property, known as the Emperor's possessions, which belongs always to the reigning Emperor and which can not be willed,

divided or alienated in any way. The former as well as the latter possessions are not subject to taxation or to any other charges.

ART. 21. The Emperor, as head of the imperial family, makes, in accordance with the rules governing the imperial house, provisions concerning the domains of the crown. He likewise determines the organization of the institutions belonging to the ministry of the imperial court, as well as the manner of their administration.

ART. 22. The judicial power shall be exercised in the name of the Emperor by courts, established by law, whose decisions shall be issued in the name of the Emperor.

ART. 23. The Emperor has the right to pardon condemned persons, to commute punishments and to pardon completely persons who have committed misdemeanors or crimes, stopping proceedings against them and freeing them from trial and punishment, as well as to free them from all fines, through his imperial favor, and to grant privileges in special cases, which are not covered by general laws, in case no interests or civil rights guaranteed by the law suffer through such action.

ART. 24. The provisions of the Code (vol. I, pt. 1, edition of 1892) on the order of succession to the throne (Articles 3-17), on the coming of age of the Emperor, on the regency and guardianship (Articles 18-30), on the accession to the throne and the oath of allegiance (Articles 31-34 and Appendix V), on the holy coronation and the anointment (Articles 35 and 36), on the title of His Imperial Majesty and the arms of the Empire (Articles 37-39 and Appendix I) and on religion (Articles 40-46)¹ maintain the force of fundamental laws.²

¹ It may be of interest to give here the following translation of these articles on religion and the note appended to them:

ART. 40. The religion which ranks first and dominates in the Russian Empire is the Eastern Catholic Orthodox Christian Religion.

ART. 41. The Emperor reigning on the throne of all the Russias can not belong to any other religion than the Orthodox Religion.

ART. 42. The Emperor, in the character of Christian prince, is the sovereign defender and protector of the doctrines of the dominant religion as well as the guardian of the orthodoxy and sacred discipline in the Church.

ART. 43. He exercises autocratic ecclesiastical power with the aid of the directing Holy Synod appointed by him.

ART. 44. All the subjects of the Russian Empire, by birth or naturalization, as well as foreigners in the service of Russia or temporarily residing in Russia, who do not belong to the dominant religion, enjoy in all places the free exercise of their religion and of the particular ceremonies of their cult.

ART. 45. Religious freedom belongs not only to Christians of other confessions, but even to Jews, Mohammedans and pagans; in order that all the peoples who inhabit Russia may glorify Almighty God in their different languages, in the religion and cult of their fathers, blessing the authority of the Russian monarchs and beseeching the Creator of the universe to increase the prosperity and to strengthen the Empire.

ART. 46. The ecclesiastical affairs of Christians of other confessions and of non-Christians in the Russian Empire are administered by the spiritual heads of the different cults and by the special authorities instituted for this purpose by the supreme power.

NOTE.—The rule concerning the observance of religious tolerance and the limits of this tolerance form the object of detailed provisions contained in the various *ustavs*.

² German translation of all of these articles of the Code in POSENER, *op. cit.*, pp. 803-811.

ART. 25. The provisions concerning the imperial family (Code, vol. I, pt. 1, edition of 1892, Articles 82-179, and Appendices II-IV and VI), continuing to have the force of fundamental laws, may be amended and supplemented only by the Emperor himself in accordance with the procedure established by him, if the amendments and supplements to such provisions do not encroach upon general laws and do not require any new expenditures from the public treasury.

ART. 26. The ukases and orders of the Emperor, issued directly by him or according to the procedure of the higher administration, shall be countersigned by the president of the Council of Ministers or by the competent minister or by the head of an administrative branch, and shall be published by the Senate.

CHAPTER II.—THE RIGHTS AND DUTIES OF RUSSIAN SUBJECTS.

ART. 27. The conditions for the acquisition and loss of Russian citizenship shall be regulated by law.

ART. 28. The defense of the throne and of the country is the sacred duty of every Russian subject. The entire male population, without distinction of classes, is liable to military service in accordance with the terms of the law.

ART. 29. All Russian subjects are under the obligation to pay the taxes and dues established by law, and to fulfill all other legal obligations imposed by law.

ART. 30. No one shall be prosecuted for criminal offenses in any other manner than that established by law.

ART. 31. No one shall be arrested except in the cases determined by law.

ART. 32. No one shall be tried and punished except for criminal offenses provided for by penal laws in force at the time they were committed, unless new laws exclude the actions committed by the culprit from the category of criminal offenses.

ART. 33. The domicile of everyone is inviolable. Domiciliary searches without the consent of the owner, seizures and confiscations shall take place only in the cases and in the manner provided by law.

ART. 34. Every Russian subject shall have the right to select his place of abode and his occupation, to buy and sell property and to depart from the territory of the Empire without molestation. Limitations upon these rights are established by special laws.

ART. 35. Property is inviolable. Expropriation of real property, when such is necessary for the public good or for the State, shall take place only for an equitable and adequate indemnification.

ART. 36. Russian subjects have the right to assemble peacefully and without arms, for purposes not contrary to the laws. The law

determines the conditions under which these meetings may be held, the manner of closing them and likewise the limitation as to the localities where they may take place.¹

ART. 37. Everyone shall have the right, within the limits prescribed by law, to express his thoughts orally, in writing, through the press or by other means.

ART. 38. Russian subjects have the right to form societies and associations for purposes not contrary to the laws. The conditions for their formation, their mode of functioning, the conditions to be fulfilled in order to obtain juridical personality, as well as the manner of dissolving societies and associations, are regulated by law.²

ART. 39. Russian subjects shall enjoy liberty of conscience. The conditions under which this liberty is enjoyed shall be determined by law.

ART. 40. All foreigners residing in Russia shall enjoy the same rights as Russian subjects within certain limitations established by law.

ART. 41. Exceptions from the provisions of this chapter, with regard to localities in a state of war or in an exceptional state, shall be indicated in special laws.

CHAPTER III.—THE LAWS.

ART. 42. The Russian Empire shall be governed in accordance with the immutable principal of law, promulgated according to the established procedure.

ART. 43. The laws are binding upon all Russian subjects without exception and upon all foreigners residing in Russia.

ART. 44. No new law shall be promulgated without the approval of the Imperial Council and of the Imperial Duma nor become effective without the sanction of the Emperor.

ART. 45. During the recess of the Imperial Duma, if extraordinary circumstances require the adoption of a measure which should be made the subject of legislative deliberation, the Council of Ministers may present such a measure directly to the Emperor. Such a measure shall not, however, introduce any changes in the fundamental laws of the Empire or in the organization of the Imperial Council or of the Imperial Duma or in the electoral laws for the Council and the Duma. The legal force of such a measure ceases, if it is not submitted to the Imperial Duma, within two months after that body has resumed its work, by the competent minister or by the head of an

¹ Temporary law on assemblies, of 4/17 March 1906.

² Temporary law on associations and unions, of 4/17 March 1906.

administrative branch, in the form of a project of law; or if such measure is rejected by the Imperial Council or the Imperial Duma.

ART. 46. Laws enacted for a certain locality or for a certain part of the population are not repealed by new general laws, unless such new laws specifically repeal them.

ART. 47. Every law shall have force only for the future, except in the cases when it is stated in the law itself that it is retroactive, or that it is only a confirmation or explanation of the sense of a law already existing.

ART. 48. The custody of the laws is entrusted to the Senate. For this reason every law shall be sent in the original or in a certified copy to the Imperial Senate.

ART. 49. The laws are published by the Senate in the established order, and are not in force until such publication.

ART. 50. Legislative measures shall not be published, if the procedure in enacting them does not correspond with the requirements of these fundamental laws.

ART. 51. After its publication, the law becomes effective from the date fixed in the law itself and, should such a date not be fixed, from the day the publication of the Senate, in which the law is printed, reaches the various localities of the Empire. It may be provided in the law itself that, until its publication, it may be put into execution by telegraph or by couriers.

ART. 52. A law shall not be repealed in any other way except by a new law. Therefore, until the existing law has been expressly repealed by a new law, it remains in force.

ART. 53. No one may plead ignorance of the law, after the law has been published in accordance with the established order.

ART. 54. Regulations concerning building, technical and economic departments, as well as orders and regulations issued to institutions and officers of the military and naval departments, after having been examined by the Military Council or the Admiralty Council, shall be submitted directly to the Emperor, if such regulations, orders and measures concerning the above-mentioned departments do not encroach upon the general laws and do not require new expenditures, or if the expenditures required are covered by the expected economies realized in the military and naval budgets respectively. In the case when the new expenditure can not be covered by the above-mentioned economies, such orders, regulations and measures shall be submitted to the Emperor only after the necessary credit has been demanded in accordance with the established forms.

ART. 55. Regulations regarding military and naval courts shall be issued in accordance with the forms established in the military and naval law.

CHAPTER IV.—THE IMPERIAL COUNCIL, THE IMPERIAL DUMA AND THE MODE OF THEIR ACTIVITY.

ART. 56. The Imperial Council and the Imperial Duma shall be convened annually by ukase of the Emperor.

ART. 57. The duration of the annual session of the Imperial Council and of the Imperial Duma and the dates for adjournments during the year shall be fixed by ukase of the Emperor.

ART. 58. The Imperial Council shall be composed of members appointed by the Emperor and members chosen by election. The total number of members of the Imperial Council, appointed by the Emperor and summoned to the Council, shall not exceed the number of members chosen by election.¹

ART. 59. The Imperial Duma shall be composed of members elected by the population of the Russian Empire for a term of five years, in accordance with the principles established by the laws regulating the elections to the Imperial Duma.²

¹ The Imperial Council as a legislative body was instituted by the Imperial Ukase of 20 February/5 March 1906, superseded by the Ukase of 24 April/7 May 1906. There is a French translation of the latter in DARESTE, *op. cit.*, pp. 171–180. The elected members of the Council are chosen by: (1) The clergy of the Russian Orthodox Church; (2) the provincial zemstvos; (3) the assemblies of the nobility; (4) the Imperial Academy of Science and the imperial universities; (5) the council of trade and commerce, the Moscow section of such council, the local committees of commerce and manufactures, committees of exchange and boards of trade. The Russian Orthodox Church chooses 6 members; each provincial zemstvo, 1; the assemblies of the nobility, 18; the Imperial Academy of Science and the universities together, 6; the council of trade and commerce together with committees of commerce and boards of trade elect 12 members. All of these elections take place indirectly by means of electoral colleges for each of the 5 classes of electors, each class choosing its members in a separate electoral body. The elected members of the Imperial Council are chosen for 9 years, in such a manner that one third of each class shall retire every third year.

² The Duma was instituted by the Imperial Ukase of 6/19 August 1905 and the first election regulations were issued on the same day. These regulations provided for indirect elections with a limited suffrage. By manifesto of 17/30 October 1905 the Emperor promised an extension of the suffrage, and such extension was accomplished by the Ukase of 11/24 December 1905. By this instrument the right to vote for electors in the urban electoral colleges was extended: (1) To all persons who for 1 year had owned or possessed a life estate in real property assessed for State or municipal taxes (under the August regulations there had been a tax qualification of from 500 to 3,000 rubles for this class of voters); (2) to all persons who for 1 year had conducted a commercial enterprise for which an industrial certificate was required; (3) to persons who had resided within the town and paid a lodging tax for 1 year; (4) to persons who for 1 year had paid a tax on personal industry; (5) to persons occupying, for the period of 1 year, an apartment rented in their own names; (6) to persons receiving certain State or local pensions. Laborers, who, by the election regulations of 6/19 August 1905, were practically excluded from the right to vote, were permitted by the Ukase of 11/24 December to choose electors to the provincial and urban electoral colleges. As the peasants had already been granted the right to vote, the December regulations went far toward establishing universal male suffrage. The system of indirect elections was retained and was extended in the case of the new electoral class of laborers. The Ukase of 20 February/5 March 1906 provided for the internal organization and procedure of the Duma. There is a French translation of this Ukase in DARESTE, *op. cit.*, pp. 164–171.

Under the above-mentioned provisions the first Duma assembled on 27 April/10 May 1906; it was dissolved on 9/22 July 1906. The second Duma met on 20 February/5 March 1907; it was dissolved on 3/16 June 1907, because of its failure immediately to surrender, upon the demand of the government, 53 social democratic members accused of plotting against the government; the third Duma met on 1/14 November 1907. In violation of

ART. 60. The Imperial Council examines the credentials of its members chosen by election. The Imperial Duma examines in a like manner the credentials of its members.

ART. 61. No one shall be at the same time a member of the Imperial Council and a member of the Imperial Duma.

ART. 62. The members of the Imperial Council chosen by election may be replaced by new members before the expiration of their mandate, by ukase of the Emperor, which shall at the same time order new elections of members to the Imperial Council.

ART. 63. The Imperial Duma may be dissolved by ukase of the Emperor before the expiration of the quinquennial mandate of its members. The same ukase shall order new elections of members to the Imperial Duma and shall fix the time of its meeting.

ART. 64. The Imperial Council and the Imperial Duma enjoy equal rights in matters of legislation.

ART. 65. The Imperial Council and the Imperial Duma, in the course of their functions as determined by the laws establishing them, have the right to propose the amendment or repeal of existing laws or the enactment of new laws, with the exception of the fundamental laws of the Empire, the initiative for the revision of which belongs exclusively to the Emperor.

ART. 66. The Imperial Council and the Imperial Duma, in the course of their functions as determined by the laws establishing them, have the right to demand explanations from the ministers and from the heads of administrative branches, subordinate to the Senate, with regard to actions of apparent illegality on their part or on the part of officers subordinate to them or to their offices.

ART. 67. The Imperial Council and the Imperial Duma shall have power, in the course of their functions as determined by the laws establishing them, to deliberate concerning all matters placed within their authority by the laws creating these bodies.

ART. 68. Projects of law shall be discussed in the Imperial Duma, and upon its approval shall be submitted to the Imperial Council. Projects of law, elaborated by the Imperial Council, shall be discussed in the Council and upon its approval shall be submitted to the Imperial Duma.

ART. 69. Projects of law not adopted by the Imperial Council or by the Imperial Duma shall be considered as rejected.

the fundamental laws, the Emperor, at the time of dissolving the second Duma, issued a new election law. By this law elections were to be held by distinct classes of voters. The classes are: (1) Landed proprietors; (2) urban electors, divided into 2 classes according to the amount of taxes which they pay; (3) peasants; (4) laborers. The landed proprietors and the richer classes gained an increased influence in the elections; the influence of peasants and laborers was reduced. The large industrial centers lost their special representation. The total number of representatives was reduced from 524 to 442, the curtailment being principally in the non-Russian portions of the Empire; the Polish representation was reduced from 40 to 14.

ART. 70. Projects of law, elaborated by the Imperial Council or by the Imperial Duma, and not approved by the Emperor, shall not again be presented in either of these bodies for consideration during the same session. Projects of law, elaborated by the Imperial Council or by the Imperial Duma and rejected by one of these bodies, may be again presented to these bodies for consideration during the same session, if the Emperor should order it.

ART. 71. Projects of law, presented to the Imperial Duma and approved by the latter and by the Imperial Council, and projects of law, elaborated by the Imperial Council and approved by the latter and by the Imperial Duma, shall be submitted to the Emperor by the president of the Council of Ministers.

ART. 72. In the revision of the budget, the sums destined for the covering of government loans and other indebtedness contracted by the Russian Empire shall not be excluded or curtailed.

ART. 73. Credits for the expenses of the ministry of the imperial court, as well as those for the institutions subordinate thereto, in sums not exceeding those assigned in the budget of 1906, shall not be submitted for discussion before the Imperial Council or the Imperial Duma. Likewise, changes made in the above-mentioned credits by virtue of the regulations regarding the imperial family, on account of changes made in such regulations, shall not be subject to discussion either in the Imperial Council or in the Imperial Duma.

ART. 74. Should the budget not be approved before the beginning of the fiscal year, the last budget approved according to the legal forms shall remain in force with only the modifications introduced by laws passed since its establishment. Until the publication of the new budget, credits may be gradually opened by order of the Council of Ministers and placed at the disposal of the various ministers and principal branches of administration in amounts absolutely necessary, which shall not, however, exceed one twelfth of the total amount of the expenditures fixed by the budget.

ART. 75. Extraordinary credits for the needs in time of war and for special preparation preceding war may be opened in all branches of the government, by virtue of the powers of the supreme administration in the manner prescribed by law.

ART. 76. Government loans to cover ordinary budgetary and extraordinary expenditures may be granted in accordance with the procedure established for the approval of the budget of expenditures and revenues of the Empire. Government loans for the purpose of covering expenditures, in cases and within the limits provided by Article 74, as well as loans for the purpose of covering expenditures mentioned in Article 75, may be authorized by the Emperor, by virtue of the powers of the supreme administration. The duration and conditions

of loans are fixed by virtue of the powers of the supreme administration.

ART. 77. If the project giving the number of men necessary for the recruiting of the army and the navy has been submitted in time to the Imperial Duma and a law regarding this matter shall not have been enacted in the regular manner by 1 May, the Emperor may, by ukase, call to the colors the necessary number of men; this number, however, shall not exceed that recruited in the previous year.

CHAPTER V.—THE COUNCIL OF MINISTERS, THE MINISTERS AND THE HEADS OF ADMINISTRATIVE BRANCHES.

ART. 78. The direction and unification of the actions of the ministers and of the heads of administrative branches in matters bearing upon legislation as well as in the higher governmental administration shall belong to the Council of Ministers and shall be based on principles determined by law.¹

ART. 79. The ministers and heads of administrative branches have the right to vote in the Imperial Council and in the Imperial Duma only if they are members of these bodies.

ART. 80. The obligatory orders, instructions and regulations, issued by the Council of Ministers, by the ministers and the heads of administrative branches, as well as by other persons authorized by law to take such action, shall not be in violation of the law.

ART. 81. The president of the Council of Ministers, the ministers and the heads of administrative branches shall be responsible to the Emperor for the general course of the governmental administration. Each of them shall be individually responsible for his actions and orders.

ART. 82. The president of the Council of Ministers, the ministers and heads of administrative branches incur the civil and criminal responsibility, in accordance with the provisions of the law, for all criminal offenses committed in the discharge of their duties.

¹ The Council of Ministers was organized by the Imperial Ukase of 19 October/1 November 1905. The president of the Council has the right to require information from all other ministers and to represent the general administration in the Imperial Council and the Imperial Duma. No general administration measure can be adopted without the action of the Council of Ministers.

SAN MARINO.

Embraced in the area of Italy is the independent Republic of San Marino, which claims to be the oldest State in Europe. Its institutions go back to the remotest times and were founded on no written document. The *Arringo*, or assembly of the heads of families, which was sovereign, delegated its powers in 1652 to the Great Council (*generale Consiglio Principe*) of 60 members who since that time have been chosen by cooption, 20 from among the nobility, 20 from the citizens of the town and 20 from the inhabitants of the rural district. This Council elected two of its members Regents (*Capitani reggenti*), whose offices, purely gratuitous, expired every six months. The popular election of councilors instead of the more ancient method was brought about as a result of the convocation of the *Arringo generale*, which met on 25 March 1906 and pronounced itself by a great majority in favor of the reform. An "Electoral Regulation for the General Election of the Prince and Sovereign Council" was adopted on 5 May 1906 and the first elections took place on 10 and 17 June 1907. On 24 July 1907 the Council took the name of Grand General Council and the quorum was reduced from 40 to 30. A smaller council consists of 12 members and is divided into 4 sections: *Congresso Economico di Stato*, *Congresso dei Legali*, *Congresso degli Studi*, *Congresso Militare*. The law given below supplements and modifies the provisions contained in the Electoral Regulation of 5 May 1906 and is included here, because it contains principles of a constitutional character. All the successive governments in Italy have respected the independence of the Republic of San Marino.¹

LAW OF 29 AUGUST 1907.²

ON THE ELECTION OF MEMBERS OF THE GRAND COUNCIL.

CHAPTER I.—CONDITIONS REQUIRED OF ELECTORS.

ART. 1. All native or naturalized citizens of San Marino are electors.

¹ This introductory paragraph is based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. I, pp. 757-758.

² Promulgated by decree of the Grand Council of 10 September 1907. Translated by JULIA K. KERNAN from the French translation in the *Annuaire de législation étrangère*, 37 (1907): pp. 498-505. See the Electoral Regulation of 5 May 1906 in the *Annuaire de législation étrangère*, 36 (1906): pp. 355-359.

ART. 2. The following are deprived of the right to vote: (*a*) women; (*b*) persons prohibited from and incapable of voting by reason of mental infirmity; (*c*) individuals permanently or temporarily deprived of their full judicial capacity, and those condemned to punishment for crimes (*reati*) or for electoral corruption.

ART. 3. The elector shall exercise his right to vote only in the parish wherein he has his civil domicile; and, should he remove therefrom outside of the territory of the Republic, he shall exercise his political rights in the parish wherein he had his last domicile or his last residence, the choice of the parish wherein the voting shall take place being permitted only to those electors whose last domicile or last residence it is impossible to determine, provided that they make the request to the registrar general after 1 January and before 15 February of each year.

CHAPTER II.—FORMULATION OF THE ELECTORAL LISTS.

ARTS. 4-7.¹

CHAPTER III.—THE ELECTORAL DISTRICTS.

ART. 8. For the elections the territory of the Republic is divided into as many electoral districts as there are parishes.

ART. 9. Each parish has the right to elect a number of councilors proportionate to the number of its inhabitants, namely:

Parish.	Councillors.
Metropolitan (<i>della Pieve</i>)	12
The Borgo	10
Seravalle	12
Faetano	6
Montegiardino	4
Chiesa nuova	4
Acquaviva	4
Domagnano	4
Fiorentino	2
San Giovanni	2

ART. 10. There may be elected from each parish not only those who have their domicile therein, but also those domiciled in any other parish whatever of the Republic.

CHAPTER IV.—PROCEDURE FOR VOTING.

ARTS. 11-28.¹

CHAPTER V.—VERIFICATION OF THE ELECTIONS.

ARTS. 29-36.¹

¹ These articles contain merely technical details and are therefore omitted.

CHAPTER VI.—CONDITIONS OF ELIGIBILITY.

ART. 37. Independently of the other general conditions required of electors and mentioned in Articles 1 and 2, the following requirements are exacted and indispensable for eligibility:

- a.* To be able to read and write.
- b.* To have reached the age of 25 years.
- c.* To have no ecclesiastic character.
- d.* To be domiciled in the Republic.

ART. 38. The following can not be councilors simultaneously: Father and son, or two brothers living together and not having divided their common property or patrimonial estate.

In verifying simultaneous elections, that of the candidate obtaining the greatest number of votes is considered valid. In case of successive elections, the mandate obtained by the first is a cause of ineligibility for the second.

CHAPTER VII.—RENEWAL OF THE COUNCIL.

ART. 39. The council is renewed by thirds every three years.

For the first two triennial periods (counting from the general elections of 10 June 1906), the end of the mandate shall be determined by drawing lots; after which the determining factor shall be seniority.

The councilors going out of office may always be reelected.

ART. 40. If, in the course of a triennial period, a seat becomes vacant for any cause whatsoever, a new election shall not take place immediately, unless the number of councilors lacking is more than one twelfth of the entire assembly. If this last contingency does not arise in the course of the first two triennial periods, the third of the number of councilors to be drawn by lot shall be diminished by a corresponding number of vacant seats.

When the end of the mandate is determined by seniority, the third to be renewed is, on the contrary, increased by a corresponding number of vacant seats, and the last elected in excess of the third of the entire assembly shall replace those who shall have left the Council at the first renewal.

The same plan of renewal shall be followed in case it becomes necessary to replace five or more councilors, who have vacated their seats during the course of a triennial period.

ART. 41. Complementary elections shall not be held, even in the case covered by the preceding article, if the councilors shall vacate their seats during the last six months of the triennial period.

ART. 42. In case the Council loses more than one half of its members through resignation or some other extraordinary cause, it shall be renewed integrally.

In such case it belongs to the Most Excellent Regency to convoke the electoral assemblies, to regulate and conduct to good issue all the electoral proceedings, in conformity with the present law.

CHAPTER VIII.—GENERAL RULES.

ART. 43. The electoral assemblies are convoked by decree of the Council and are notified to the public at least one month before the date of the convocation.

ART. 44. The elector who removes his domicile and his residence into another parish has the right to be entered upon the electoral list of that place, on the condition that he address a request to that effect to the registrar general after 1 January and before 15 February.

ART. 45. If, after a triennial or general renewal, the Captains Regents are deprived of their seats as councilors, they shall nevertheless continue in office for the rest of the six months with the same powers and the same prerogatives.

ART. 46. Without prejudice to the sanctions promulgated by Articles 478 and 479 of the Penal Code in force, the punishment prescribed by the latter article shall be applicable to all other attempts against the free exercise of political rights, even if committed by other means than those covered in the said article.

SERBIA.

From the insurrection of Karageorge in 1804 until 1826 the Serbs fought for their independence. The Additional Act of the Akkerman Convention of 7 October 1826, ratified three years later by Article 6 of the Treaty of Adrianople, raised the pashalic of Belgrade to an autonomous and tributary principality under the suzerainty of the Porte and the protectorate of Russia. Since that time the following constitutional measures have been promulgated:

1. The Constitution of 15 February 1835 (171 articles) which created a Council of State of 22 permanent members charged with the elaboration of the laws. The Skupshtina, which was to meet only two days each year, preserved scarcely any powers but those of a Chamber of Registry.

2. The *Hatt-i-sherif* of 12/24 December 1838, which was promulgated at Belgrade on 2 March 1839 under the name of *Ustav* or statute (66 articles). This document entrusted the legislative power to a Senate, whose members were under the jurisdiction of the Porte.

3. The Law of 3 May 1858, reforming the *Ustav*, but this law was soon after abrogated.

4. The Constitution of 29 June/11 July 1869, passed by the Great Skupshtina and promulgated by the Council of Regency.

Nearly ten years later the final independence of Serbia with regard to the Porte was recognized by Article 34 of the Treaty of Berlin of 13 July 1878, but at the same time the conditions set forth in Article 35 of the same treaty were attached thereto. These conditions, relative to the liberty of conscience and of worship, are the same as those imposed (Article 27) on Montenegro.¹ On 22 February/6 March 1882 the National Skupshtina proclaimed² the raising of the principality into a kingdom, and, in the terms of the law of the same date,³ Prince Milan Obrenovitch IV became Milan I, King of Serbia.

5. The Constitution of 22 December 1888/3 January 1889,⁴ which lived scarcely more than five years. On 9/21 May 1894 a royal proclamation⁵ suspended the Constitution of 1888 and put back into force that of 1869.

¹ See above, p. 407.

² French translation in the *British and Foreign State Papers*, 73 : pp. 737-739.

³ English translation in the *British and Foreign State Papers*, 73 : p. 798.

⁴ French translation in the *British and Foreign State Papers*, 81 : pp. 508-540.

⁵ See the *British and Foreign State Papers*, 86 : p. 987.

6. Seven years later the Constitution of 1869 disappeared again, in order to give place to a new charter, which was proclaimed on 6/18 April 1901.¹ This Constitution contained a great innovation, namely, the institution of a Senate. On 2 June 1903 the national representation decreed unanimously that the Constitution of 1888 be put back into force and proclaimed Peter Karageorgevitch King of Serbia as Peter I.

7. On 5/18 June 1903 there appeared in the official journal the Constitution adopted by the national representation with the modifications and additions rendered necessary by the change of dynasty. In the main this Constitution reproduces almost word for word that of 1888. The ephemeral institution of a Senate disappeared with the Constitution of 1901.²

CONSTITUTION OF 5/18 JUNE 1903.³

PART I.—THE FORM OF GOVERNMENT, THE STATE RELIGION AND THE TERRITORY OF THE KINGDOM.

ARTICLE 1. The Kingdom of Serbia is an hereditary and constitutional monarchy with national representation.

ART. 2. The arms of the Kingdom of Serbia are the spread eagle of silver on an escutcheon of gules with the royal crown.

The two heads of the eagle of silver are surmounted by the royal crown; each talon holds a fleur-de-lis. The eagle bears on his breast the arms of the Principality of Serbia, "a cross of silver on a field of gules with a gun between each of the four branches."

The national colors are red, blue and white.

ART. 3. The State religion of Serbia is the Eastern Orthodox Religion.

The Serbian Church is autocephalous. It is not dependent on any foreign Church; it always preserves dogmatic unity with the Universal Eastern Church.

ART. 4. The territory of the Serbian State can be neither alienated nor divided.

Its limits can be neither diminished nor modified without the assent of the Grand National Skupshtina.⁴ But in what concerns the rec-

¹ French translation in the *British and Foreign State Papers*, 94: pp. 199-217. German translation in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 863-879.

² These introductory paragraphs are based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, pp. 257-259.

³ This Constitution is based on the Constitution of 22 December 1888/3 January 1889 and is like it except as indicated in the footnotes. Translated by OTIS G. STANTON from the French translation of the Constitution of 1888 in the *British and Foreign State Papers*, 81: pp. 508-540, and from the French translation of the modifications of 1903 in the *British and Foreign State Papers*, 108: pp. 566-574. See also the *Annuaire de législation étrangère*, 18 (1888): p. 338, and 33 (1903): p. 601. French translation of the Constitution of 1903 also in DARESTE, *op. cit.*, pp. 259-293.

⁴ The name of the National Assembly.

tifications of frontiers of the territories not populated and of little importance, the assent of the Ordinary National Skupshtina is sufficient.

ART. 5.¹ The Kingdom of Serbia is divided into departments (*okrug*), the departments into arondissements (*srez*) and the latter into communes (*opshtina*).

PART II.—THE CONSTITUTIONAL RIGHTS OF SERBIAN CITIZENS.

ART. 6. The present Constitution and the laws determine the modes of acquisition of and of retirement from the character of Serbian citizen, the rights which are attached to this quality and the causes which provoke its loss.

ART. 7. All Serbians are equal before the law.

ART. 8. It is forbidden to grant titles of nobility to Serbian citizens or to recognize them.

ART. 9. Individual liberty is guaranteed by the present Constitution.

No one may be subjected to an examination [by the public authority] except in cases provided by the law and in the forms prescribed by it.

No one may be placed in a state of arrest, nor be deprived in any other manner of his liberty, except by virtue of a written warrant with reasons therefor from the examining magistrate. This warrant must be communicated to the person arrested at the very moment of arrest. Only culprits surprised *in flagrante delicto* may be arrested without any prior warrant, but even then a written report shall be drawn up and shall be communicated to them within 24 hours from the moment of arrest.

The person arrested has the right to lodge a complaint before the tribunal of first instance against the warrant concerning his arrest. If he does not make use of this right within three days from the communication of the warrant to bring him in or the report of the arrest, the examining magistrate shall be obliged to transmit officially the papers in the case to the competent tribunal within the 24 hours following the expiration of the first period. The tribunal is then required to pronounce the maintenance or the annulling of the arrest within a new period of 24 hours. The decisions of the tribunal on these questions are immediately executory.

Agents of the public authority who shall have infringed these provisions shall be punished for illegal attempt on liberty.

The law shall determine the circumstances in which the tribunals shall be required to set the person arrested at temporary liberty with or without personal or pecuniary bail.²

¹ As amended, 5/18 June 1903.

² A law of 31 January/13 February 1905 on public safety conferred on the Minister of the Interior exceptional powers to repress brigandage; see the *Annuaire de législation étrangère*, 36 (1906) : p. 548.

ART. 10. No one can be tried by an incompetent tribunal.

ART. 11. No one can be tried without being previously examined by the competent authority, or invited in the legal way to defend himself.

ART. 12. Penalties can not be established except by law, nor applied except to subsequent acts formally provided for by law.

ART. 13. The penalty of death is abolished in the matters of crimes purely political.

It is maintained for cases of accomplished or attempted attack against the person of the King or of the members of the Royal House, cases to which the Penal Code applies this penalty.

It is likewise maintained in the matter of mixed crimes, conformably to the provisions of the Penal Code, as well as for the cases provided for by the military laws.

ART. 14. Serbian citizens can not be expelled from Serbia. Also residence in a locality can not be forbidden to them, nor can they be obliged to settle in a determined place except in cases expressly provided for by law.

ART. 15. Private domicile is inviolable.

The public authority can not proceed to any domiciliary visit except in the cases provided for by law and following the forms prescribed by it.

Before the domiciliary visit, the competent authority is required to communicate to the interested party the written order from the examining magistrate authorizing this measure. The interested party may attack this order before the tribunal of first instance, without being able, however, to suspend in this way the execution of the visit. The visit can be effected only in the presence of two Serbian citizens.

After the domiciliary visit has been made, the authority is required to send to the interested party a certificate stating the result obtained and a signed report enumerating the objects seized in view of the pursuit of the inquiry.¹

ART. 16. Property of every kind is inviolable.

No one can be constrained to yield his goods to the State or to other public moral persons, nor to undergo any restriction in their favor, except in cases established by law and in consideration of a legal indemnity.

ART. 17. The penalty of general confiscation of property is forbidden.

However, objects arising from a fraudulent source or objects having served or destined to serve in the accomplishment of a crime can be confiscated.

¹ The following paragraph was omitted, 5/18 June 1903: "In no case can the domiciliary visit take place at night."

ART. 18. Liberty of conscience is absolute.

All recognized cults are free and placed under the protection of the law, so far as their celebration does not infringe upon the public order or morals.

ART. 19. Every act which can infringe upon the State religion [proselytism] is forbidden.

ART. 20. Serbian citizens can not take advantage of religious precepts with a view to avoid the fulfilment of their duties as citizens and soldiers.

ART. 21. Education is free in so far as it is not contrary to public order and morals.

Primary instruction is obligatory. It is gratuitous in the public primary schools.

ART. 22. Every Serbian has the right freely to express his thought by word, in writing, by way of the press or by images, while conforming to the prescriptions of the law.¹

The press is free.

Censorship, as well as every other preventive measure intended to shackle the publication, sale or distribution of journals and other writings, is forbidden.

The publication of journals is not subjected to any prior authorization.

No bond shall be exacted of the author, the editor-in-chief, the publisher or the printer.

The seizure of journals and other printed matter is authorized only in cases where they shall contain outrages towards the King or the Royal House, or towards foreign sovereigns and their houses, as well as in cases where incitement to rebellion is found therein. In all these cases, the authorities are required to bring the affair before the tribunal within 24 hours after the seizure has been made and the latter is required to pronounce within a like period the confirmation or the abandoning of the seizure. In the contrary case, the seizure is, at the expiration of this last period of 24 hours, abandoned *ipso facto*.

It is forbidden to address administrative warnings to printed publications.

Journals are required to have a responsible editor, enjoying his civil and political rights.

The author is responsible in the first place. If the author is unknown, or if he does not live in Serbia, or if he is irresponsible, the responsibility falls on the editor, the printer or the distributor.

ART. 23. The privacy of letters and of telegraphic despatches is inviolable, except in time of war and in the case of criminal inquiry.

¹ Law of 12/25 January 1904 on the press, modified by the law of 9/22 December 1904.

A law shall determine what government agents are responsible for the violation of the privacy of letters and despatches entrusted to the bureaus of the post and the telegraph.

ART. 24. Serbians have the right to meet peaceably and without arms if they conform to the laws.¹

It is not necessary to advise the authorities in order to hold a meeting in a closed place. Meetings in the open air, which are subject to laws and special regulations, can not be held unless the authorities be previously advised thereof.

ART. 25. Serbians have the right to associate themselves for purposes which are not contrary to the law.¹

This right can not be subjected to any preventive measure.

ART. 26. Every Serbian has the right to address himself in his own name to the public authorities by petitions bearing one or several signatures. Petitions in the collective name can emanate only from the constituted authorities and from civil persons [corporations].

ART. 27. Every Serbian has the right to bring complaint against the illegal actions of the authorities.

If the superior authority rejects the complaint as being ill-founded, it is required, in communicating its decision to the complainant, to indicate the reasons therefor.

ART. 28. Every Serbian has the right to enter a judicial suit, without any previous authorization, against public functionaries, mayors, presidents of municipal councils and communal employes who have injured his rights in the exercise of their power.

Special provisions are applicable in this regard to ministers, judges and soldiers with the colors under the flag.

ART. 29. Serbians are free to renounce their nationality, after having satisfied the military service and fulfilled all their obligations as well to the State as to individuals.

ART. 30. Foreigners living in Serbia are placed under the protection of the Serbian laws as to their persons and their possessions. But they are compelled to pay imposts and other charges for the benefit of the State and of the commune, unless they be exempted by international treaties.

ART. 31. Extradition is forbidden in the matter of crimes purely political.

PART III.—THE POWERS OF THE STATE.

ART. 32. All the powers of the State are exercised conformably to the provisions of the present Constitution.

The Constitution can not be suspended either in whole or in any of its parts.

¹ Law of 31 March/12 April 1891 on public assemblies and associations.

ART. 33. The legislative power is exercised in common by the King and by the national representation.

ART. 34. The right of initiative in legislative matters belongs to each of the two branches of the legislative power.

ART. 35. For each law adhesion of the two branches of the legislative power is necessary.

ART. 36. Laws do not have retroactive force to the prejudice of rights acquired by virtue of prior laws.

ART. 37. The interposition of the law has an obligatory character only if it emanates from the legislative power.

ART. 38. The executive power belongs to the King. The King exercises this power by the medium of his responsible ministers, conformably to the provisions of the present Constitution.

The ministers are named and recalled by the King.

ART. 39. The judicial power is exercised by the courts and tribunals. Their decrees and sentences are rendered and executed in the name of the King and by virtue of the law.

PART IV.—THE KING.

ART. 40. The King is the head of the State. He holds in custody all the rights which derive from this supreme authority, and he exercises them conformably to the provisions of the present Constitution.

The person of the King is inviolable. The King can not be made responsible nor can any accusation whatever be made against him.

ART. 41. The King and the members of the Royal House must belong to the Eastern Orthodox Religion.

ART. 42. The King is the protector of all the cults recognized in Serbia.

ART. 43. The King sanctions and promulgates the laws. No law has executory force before having been promulgated by the King.

ART. 44. The heir to the throne and the other members of the Royal House can not contract marriage without the assent of the King.

ART. 45. The King names all the functionaries of the State. It is in his name and under his high supervision that all the public administrations exercise their authority.

ART. 46. The King is commander-in-chief of all the military forces of the country.

ART. 47. The King confers the military grades, conforming to the provisions of the law.

ART. 48. The King confers the orders and other distinctions established by the law.

ART. 49. The King has the right to have money coined, conformably to the law.

ART. 50. The King has the right of amnesty.

ART. 51. The King has the right of pardon in criminal matters. He can commute the penalty inflicted, or reduce it, or remit it entirely.

The suspension of a case in course of examination, as well as the suspension of judgment (*abolition*) among the non-political accused, is forbidden.¹

ART. 52. The King represents the country in all its foreign relations. He declares war, makes treaties of peace, of alliance and of every other kind, communicating them to the National Skupshtina as soon as the interests of the country permit it.

But treaties of commerce, as well as all other treaties whose execution involves either an expenditure at the expense of the public treasury or a modification of existing laws, and also treaties which would attack the public or private rights of Serbian citizens, have no value without the assent of the National Skupshtina.

ART. 53. The King resides in the country permanently. If he absents himself for some time from the Serbian territory, he is replaced of right, in the exercise of the royal powers, by the heir to the throne, if the latter is of age. If the heir to the throne is a minor or if he is prevented from replacing the King, the Council of Ministers shall exercise the royal power according to instructions which the King gives it within the limits of the Constitution.

ART. 54. The King convokes the National Skupshtina in ordinary or extraordinary sessions.

He opens and closes the sessions of the National Skupshtina personally, by a discourse from the throne, or by message or decree presented by the Council of Ministers. The discourse from the throne, the message and the decree must be countersigned by all the ministers.

He has the right to prorogue the session of the National Skupshtina. But this prerogation can not be extended to a duration of more than two months, nor be renewed in the same session without the consent of the Skupshtina itself.

He has the right to dissolve the National Skupshtina, but the act of dissolution must at the same time order new elections to be held within two months at the latest, as well as the convocation of the new Skupshtina within a period of three months. The decree of dissolution of the Skupshtina must be countersigned by all the ministers.

ART. 55. The King can not be at the same time the head of another State without the adhesion of the Grand National Skupshtina.

¹ This paragraph was added, 5/18 June 1903.

ART. 56. No royal act referring to affairs of the State has force of application, nor can it be executed, if it is not countersigned by the competent minister, who assumes responsibility for it by the apposition of his signature.

ART. 57. In Serbia, King Peter I, of the dynasty of Karageorgevitch, reigns.¹

The King is succeeded by his male descendants issued from legitimate marriage, in the order of primogeniture. If the King leaves after him no male descendant, the succession to the throne comes back to the consanguineous line in the same order of primogeniture.

ART. 58. The King and the heir to the throne attain majority at the age of 18 years.

ART. 59. In case of the death of the King, the heir to the throne, if he is of age, immediately takes the power as constitutional King. The King announces his accession to the country by a proclamation.

He then convokes the National Skupshtina in the 10 days after notification of the death of the deceased King, in order to take before it the oath prescribed by the Constitution.

If the Skupshtina has been dissolved and the new elections have not yet been held, the dissolved Skupshtina is convoked to receive the oath of the King.

These provisions equally apply in the case where the King in his lifetime remits the throne to his heir.

ART. 60. On taking the exercise of the royal power, the King takes before the National Skupshtina the following oath:

I [name], in taking the exercise of the royal power, swear by the Almighty God and by all that is dearest and most sacred to me in this world that I shall watch over the preservation of the independence of Serbia and the integrity of its territory, that I shall maintain intact the national Constitution, that I shall govern according to it and conformably to the laws, and that in all my desires and all my acts I shall have in view the welfare of the nation. In pronouncing this oath solemnly before God and before the nation, I take to witness the Lord God, to whom I shall render account at the Last Judgment. So may the Lord God aid me therein! Amen!

ART. 61. If, at the death of the King, the heir to the throne is a minor, the royal power delimited by the Constitution shall be exercised until his majority by a Council of Regency composed of three persons.

ART. 62. The regents are named by the National Skupshtina, specially convoked for this purpose, from among six persons whom the deceased King shall have designated in his testament as candidates for the regency.

This testament shall be entirely written and signed by the hand of the King. It shall not be countersigned by the ministers. On the

¹ This paragraph inserted in place of three omitted paragraphs (concerning King Milan I, fourth of the dynasty of Obrenovitch), 5/18 June 1903.

back all the members of the Council of Ministers must sign as witnesses.

This testament shall be drawn up in three copies, each of which shall bear the royal seal. One shall be placed as deposit with the Council of State, another with the Court of Cassation and the third with the Guard of the Seals.

ART. 63. If the King has not designated by testament the candidates for the regency, the Grand National Skupshtina shall be convoked in order to proceed to the election of the members of the Council of Regency. The Grand National Skupshtina shall then be convoked one month at the latest after the death of the King.

ART. 64. The regency can be entrusted only to citizens Serbian by birth, belonging to the Eastern Orthodox Religion, enjoying all their civil and political rights, aged 40 years, and exercising or having exercised the functions of minister, counsellor of State, general or minister plenipotentiary accredited to a foreign government.

ART. 65. The election of the regents always takes place by secret ballot.

ART. 66. The civil list is fixed by law and can not be augmented without the consent of the Skupshtina nor diminished without the consent of the King.

Each regent shall receive, during the continuance of his functions, 60,000 francs per annum, deducted previously from the civil list.

ART. 67. Before taking in hand the exercise of the royal authority, the regents shall take, before the Skupshtina which shall have elected them, the oath to remain faithful to the King and to govern conformably to the Constitution and to the laws of the country. They shall then inform the country by a proclamation that they have taken in hand, in the name of the King, the royal power.

ART. 68. The Constitution can not be modified during the minority of the King.

ART. 69. If the King is prevented from exercising the royal power, the heir to the throne, if he is of age, shall reign in his name. If the heir to the throne is a minor, the King shall have the right to name a provisional regency.

ART. 70. If the King transfers the power during his lifetime to his minor heir, he has the right to name at the same time the three regents. For the regents thus named all the provisions of the present Constitution concerning the regents elected by the National Skupshtina are valid.

ART. 71. If a member of the Council of Regency dies, or if he is attacked by a malady which, in the opinion of three physicians designated by the Council of State on the request of the two other regents and in accord with them, renders him incapable of fulfilling his functions, or, finally, if he gives in his resignation, the other two regents

shall have power alone over the affairs of the State, until the meeting of the National Skupshtina, which shall proceed to the election of the third regent.

If one of the three regents finds himself in the urgent necessity of absenting himself temporarily from the country, the two others shall administer alone the affairs of the State during his absence. But in this case, the one who is absent is obliged to leave with his colleagues a written declaration that he adheres to all that these latter shall do within the limits of their constitutional powers.

In all the preceding cases, the reasons why two only of the regents exercise the royal authority must be immediately made known.

ART. 72. The regents shall provide for the education of the minor King.¹

The management of the property belonging to the minor King is entrusted to the guardians whom the deceased King shall have designated in his testament, or, if the testament of the King says nothing on this subject, by the guardians whom the regents shall appoint in agreement with the Council of State.

ART. 73. If the King dies without masculine descent, but at the moment of his death the Queen is pregnant, the royal power shall be exercised until the delivery of the Queen, by right of provisional regency, by the President of the Council of State, the President of the Court of Cassation and the Minister of Justice.

ART. 74. In every case where, conformably to the provisions of the present Constitution, there is occasion to proceed to the election of the regency, the Council of Ministers shall exercise provisionally, under its responsibility, the constitutional power of the King.

The Council of Ministers shall inform the country, by a proclamation, of the fact and the cause of their assumption of the royal power.

ART. 75. In the case where the throne, by virtue of the present Constitution, remains without heir, the Council of Ministers shall take in hand the royal power.

It must then, within a period of one month from the death of the King, convoke the Grand National Skupshtina which shall determine the question of the throne.

PART V.—THE NATIONAL REPRESENTATION.

ART. 76. The National Skupshtina is the representative body of the country.

The National Skupshtina is Ordinary or Grand.²

ART. 77. The National Skupshtina is composed of deputies freely elected by the people conformably to the provisions of the present Constitution.

¹ The rest of this paragraph was omitted, 5/18 June 1903.

² The Constitution of 1901 had abolished the Grand Skupshtina; the Constitution of 1903 reestablishes it.

ART. 78. The elections of the national deputies are direct. The vote is secret and is made by means of ballot-balls.

ART. 79. Each department chooses a number of deputies proportional to the number of its tax-payers at the rate of one deputy per 4,500 tax-payers. If the number of tax-payers in excess passes the figures of 3,000, there shall be elected an additional deputy.

In this number are included the deputies for whom Article 99 of the Constitution demands special conditions.

ART. 80. The number of tax-payers of each department, as well as the number of deputies which the different departments shall have to elect, are determined, conformably to the provisions of the present Constitution, prior to each general election, by a commission composed of the president of the Council of State, of the president and the two vice-presidents of the last Skupshtina and of the president of the Court of Cassation.

ART. 81. The city of Belgrade elects 4 deputies; the cities of Nish and Kragujevatz, 2 each; and the cities of Alexinatz, Valjevo, Vranja, Gornje Milanovatz, Zajeshar, Jagodina, Knjashevatz, Krushewatz, Loznitza, Leskovatz, Negotin, Paratjin, Piro, Posharevatz, Prokuplje, Svilajnat, Smederevo, Tjuprija, Ushitze, Tshatshak and Shabatz, 1 each.

ART. 82.¹ Each national deputy represents the entire nation and not merely his electors.

ART. 83. The electors can not give nor the deputies accept an imperative mandate.

ART. 84. All Serbian citizens, by birth or naturalization, who have completed 21 years and who pay to the State at least 15 francs of direct tax per annum including the additional centimes due to the State,² are electors.

The members of family associations (*zadrugari*) who are 21 years old have the right to vote, whatever may be the total of the direct taxes which they pay to the State.³

ART. 85. Every elector has the right to vote in one place only, and that in the electoral district where he is enrolled.

ART. 86. Officers, in active service or retired, and soldiers who are with the colors can not vote.

ART. 87. The following are deprived temporarily of the electoral right:

1. Those condemned to penal servitude, until their restoration to the rights of citizens.

¹ Article 82 of the Constitution of 1888 was omitted and the numbering of all the succeeding articles was decreased by one, 5/18 June 1903. This change necessitated the amendment of the number of these articles wherever reference was made to them.

² "Including the additional centimes due to the State" was added, 5/18 June 1903.

³ The third paragraph was omitted, 5/18 June 1903.

2. Those who are condemned on account of crime to the loss of civic honor, during the continuance of that penalty.

3. Those who are in preventive detention or in a state of incarceration on account of crimes and offenses provided by Sections 1 and 2 of the present article.

4. Those who are condemned for having abused their authority or for having had recourse to threat or corruption, in order to be elected or to cause another to be elected, as well as all those who are condemned for having trafficked in their vote. The continuation of this loss of the electoral right shall be fixed by the judgment pronouncing the condemnation.

5. Those who are declared bankrupt.

6. Those who are placed under guardianship or provided with a judicial counsel.

7. Those who have, without the authorization of the Serbian government, entered the service of a foreign Power.

8. Those who have been condemned for having refused, as adherents of a cult not recognized, to satisfy their obligations as citizens and soldiers.

ART. 88. All the electors of a department constitute a single electoral body, and vote, not for isolated candidates, but for a complete list of candidates. In cities having to elect more than one deputy, the voting is done in the same manner.

ART. 89. In each department the vote is cast at one time at several points designated by the law. The cities can also, in case of necessity, be divided into several voting sections.

ART. 90.¹ In each place where the vote is to be cast, there shall be constituted an electoral bureau composed of a municipal councilor designated by the council of that commune, of a representative of each list of candidates, and of a person who has satisfied the requirements of a faculty or, in default of that, a professional school.

ART. 91. In each chief town of the department, as well as in the cities which have to name more than one deputy, there shall be formed a central electoral bureau, which collects all the votes, counts them, proclaims the result of the ballot and delivers the mandate of the deputy.

The president of this bureau shall be a councilor of State, or a counsellor of the Court of Cassation, designated by the drawing of lots; its members shall be² the president of the local municipal council, a counsellor of the Court of Appeal or a president of tribunal of first instance, and two representatives from each list of candidates.

¹ As amended, 5/18 June 1903.

² The phrase "a member of the permanent commission of the okrug" was omitted, 5/18 June 1903.

ART. 92. In each department, 100 electors, and in each city electing more than one deputy, 50 electors shall have the right to establish a list of candidates. Each list must carry as many candidates as there are deputies to be named in the department or city interested. The list shall carry the name of the candidate written at the head. Each list shall have its special urn in every place where the voting is held.

The total number of the electors who have voted divided by the number of deputies whom the electoral body interested must choose gives the electoral quotient, according to which the number of the candidates elect to be taken from each list is determined. Each list receives as many seats as it collects times the electoral quotient.

The quotient shall be awarded first to the candidate inscribed at the head of the list and then to the other candidates following the order of inscription until the number of votes obtained by this list is exhausted.

If a list of the candidates does not obtain the electoral quotient, then the votes of this list are attributed to the list which has obtained the greatest number of votes.¹

If there remain seats of deputies for which no list has collected a number of votes equal to the quotient, these seats shall be divided among the lists, disposing according to the figure nearest to the quotient to the one which does not obtain the complete number of deputies. In case of tie votes between two or more lists, lot decides to which list the seat in consideration shall be given.

ART. 93. In the cities which have to elect a single deputy,² to which Article 81 of the present Constitution grants the special election right, the candidate must be considered elected who collects the absolute majority of the votes.

If no one has obtained the absolute majority, they shall proceed to a new election. In this new election the relative majority suffices and in case of a tie vote lot shall decide.

The electoral bureau delivering the deputy mandate is composed of a judge of the tribunal of first instance of the locality or of the place nearest designated by lot, of the mayor and of a delegate of each candidate in consideration.

ART. 94. Whoever does not have the right to vote can not be elected deputy.

ART. 95. To be named deputy to the National Skupshtina it is necessary, independently of the conditions required for the right of elector, to combine the following conditions:

1. To be Serbian by birth, or if one has obtained the Serbian character by naturalization, to be established in Serbia for five years.
2. To enjoy all his civil and political rights.

¹ This paragraph was added, 5/18 June 1903. See the *Annuaire de législation étrangère*, 33 (1903) : p. 602.

² The phrase "as well as in the communes" was omitted, 5/18 June 1903.

3. To reside permanently in Serbia except when the sojourn abroad is imposed by a public function.

4. To be 30 years of age.

5. To pay the State at least 30 francs direct taxes per annum.

ART. 96. Functionaries belonging to the police service can not be elected deputies.

ART. 97. Deputies, who are not officials of the State at the moment of their election and who shall have entered the service of the State during their legislative mandate, *ipso facto* lose their character of deputies. They can nevertheless be reelected conformably to Article 98.

The provision does not apply to ministers, who remain deputies without having to submit to a reelection.

ART. 98. The functionaries and all other agents in the service of the State as well as the mayors of communes,¹ elected deputies and accepting the legislative mandate, by that very fact lose their functions or employment. However, the following functionaries may keep their offices while accepting the legislative mandate:

1. Ministers in active service or unattached.

2. Councilors of State.

3. Envoys extraordinary and ministers plenipotentiary accredited to a foreign court and diplomatic agents.²

4. Presidents and members of the courts and of the tribunals of first instance.

5. Professors of the University, of professional schools and in secondary education.

6. Engineers and physicians in the service of the State.

7. Officers in retirement or unattached.

ART. 99. On the list of the candidates of each electoral department³ should be found at least two persons who, independently of the general conditions to which is subordinated the right to be elected deputy, should fulfill the particular condition which follows:

To have finished, either in Serbia or abroad, the course of some faculty, or of a superior professional school, placed in the same rank as the university faculties.

ART. 100.⁴ The deputies to the Ordinary National Skupshtina designated at the general elections are elected for a term of four years. For each quadrennial period of the National Skupshtina, the elections shall take place on 8 September [old style].

¹ "As well as the mayors of communes" was inserted, 5/18 June 1903.

² "Consuls general" was omitted, 5/18 June 1903.

³ The opening words of this article were slightly amended and all of the article after Paragraph 2 was omitted, 5/18 June 1903.

⁴ As amended, 5/18 June 1903; the term of the legislature was fixed at 4 years instead of 3 years, the period was consequently made quadrennial, and the election day was set for 8 September instead of 14 September, both old style.

If the general elections take place following a dissolution of the National Skupshtina, the four years of the legislative period shall begin to run only from the month of September following. Before the beginning of that period, the Skupshtina can be convoked in extraordinary session.

The deputies designated at the complementary elections obtain their mandates only to the expiration of the legislative period during which they have been elected. The complementary elections must take place at the latest a month after the seat of the deputy shall become vacant.

ART. 101.¹ The National Skupshtina is convoked regularly in the capital on 1 October [old style] of each year.

Only in case of war can the Skupshtina be convened outside of the capital.

The closing of an ordinary session can not be pronounced before the Skupshtina votes on the budget.

ART. 102. The King can also convoke the National Skupshtina in extraordinary session.

ART. 103. The National Skupshtina alone is called upon to examine the powers of its members and to pronounce on their validity, as well as on the eventual contests raised on this subject.

No one can prevent a deputy to whom the competent electoral bureau (Articles 91 and 93 of the present Constitution) has delivered a mandate from entering the Skupshtina. Only the Skupshtina shall have to decide if the election is valid or not.

ART. 104. In the first meeting held under the presidency of the oldest member, the Skupshtina shall be divided into sections by drawing lots. Each section shall designate immediately one of its members to make part of the commission for the verification of powers.

ART. 105. The National Skupshtina chooses from its own membership, for each session, a president, two vice-presidents and secretaries.

ART. 106. All the deputies, after their validation by the Skupshtina, pronounce the following oath:

I [name] swear, by the one and only God, by what the law has most sacred for me and by what is dearest to me in this world, to observe faithfully the Constitution, and to have, in the accomplishment of my mission as deputy, constantly in view, while consecrating thereto all the forces of my soul and of my intelligence, the common good of the King and of the nation. May God be to me a help in this world and in the other!

ART. 107. The Skupshtina responds to the discourse from the throne by an address.

¹ As amended, 5/18 June 1903.

ART. 108. The meetings of the National Skupshtina are public, but closed doors may be proclaimed when the president of the Skupshtina, the government or 10 deputies request it.

If the closed door is requested by the president of the Skupshtina or by 10 deputies, the Skupshtina can decide on the question whether the sitting shall be maintained secret or not.

ART. 109. The Skupshtina can pass a resolution only if more than half of the number of the deputies provided by the Constitution are present.

A resolution of the Skupshtina to be valid must receive the majority of the votes of the deputies present.

In case of a tie vote, the proposition which is the subject of the vote is rejected.

ART. 110. The ballot in the Skupshtina takes place by roll-call, by sitting or rising, or secretly.

The roll-call takes place whenever it is a question of passing on the bill as a whole, as well as in all cases where either the government or 20 deputies demand it.

The bureau of the Skupshtina is always named by secret ballot. Deputies can not vote by proxy.

ART. 111. The Skupshtina can not deliberate on bills before the Council of State has taken them under examination and has transmitted to the Skupshtina its advice on the subject. Only the budget and the annual¹ laws in immediate relation to the budget shall not be submitted to the previous examination of the Council of State.

ART. 112. Every bill, including the budget, before having been discussed by the Skupshtina, must be submitted to the examination of a special committee. This committee shall present its report to the Skupshtina.

ART. 113.² The Skupshtina can not deliberate on any bill before it has been previously passed by the competent committee.

ART. 114. A bill can not be adopted as a whole, if each of its articles has not been previously approved.

The budget shall be studied in its entirety by a single committee.

ART. 115. Each bill must be submitted to two readings and to two votes in the same session of the Skupshtina before its definitive adoption. A period of at least five days must be left between the first and the second votes.

ART. 116. No law can be promulgated, abrogated, modified or interpreted without the adhesion of the National Skupshtina.

The rules for the application of the laws, as well as the rules having their source in the executive power and the right of control recognized in the King, are put out by the organs of the executive power.

¹ The word "financial" was omitted, 5/18 June 1903.

² As amended, 5/18 June 1903.

However, they must carry an express mention of the law on which they are founded.

No law or regulation emanating from the authorities who represent the State, the department or the commune has the force of application before having been published in the manner prescribed by law.

The formula of the publication of laws must state expressly their adoption by the National Skupshtina.

ART. 117. Laws and regulations deriving from laws have obligatory force for all Serbians and for the authorities of the country, as soon as they have been published conformably to the law.¹

ART. 118. No impost or other general contribution can be created or modified without the approval of the National Skupshtina.

The State can not contract any debt without the consent of the Skupshtina. The government is required to submit to the National Skupshtina an exact report, certified by the Court of Accounts, stating that the financial agreements have been concluded and executed conformably to the law.

ART. 119. The government can withdraw a bill submitted by it to the Skupshtina, so long as it has not been the object of a definitive vote.

ART. 120. A bill definitively rejected by the Skupshtina can not be presented again during the same session.

ART. 121. The Skupshtina has the right of inquiry, as well as the right of suit,² in electoral matters and in questions purely administrative.

Each deputy has the right to address questions and interpellations to the ministers. The ministers must respond thereto before the close of the session.

ART. 122. Each one has the right to address to the Skupshtina, through the intermediary of its president, petitions and complaints.

The Skupshtina has the right to communicate to the ministers these petitions or complaints addressed to it. The ministers must furnish explanations on their contents whenever the Skupshtina requests it.

Only the deputies, government commissioners and members of the Council of State (Article 144 of the Constitution) may speak on the floor of the Skupshtina.³ The National Skupshtina can not receive deputations or individuals, nor permit anyone whomsoever to speak except the above-named persons.

ART. 123. No one can at any time demand account of a deputy for a vote which he has cast as member of the Skupshtina.

¹ The rest of this article was omitted, 5/18 June 1903.

² "As well as the right of suit" was inserted, 5/18 June 1903.

³ The first sentence of Paragraph 3 was amended, 5/18 June 1903.

As for speeches made in the Skupshtina, the deputies are responsible only to the Skupshtina itself, which can, on the proposal of the president, inflict the disciplinary penalties provided by the rules of the National Skupshtina.

ART. 124. Deputies can not, without the previous authorization of the National Skupshtina, be sued or put under arrest for crimes or debts from the day of their election to the expiration of their mandate, except in case of *flagrante delicto*. But even in this last case, the Skupshtina, if it is in session, shall be immediately advised and it shall give or refuse authorization to prosecute the affair before the close of the session.

ART. 125. The Skupshtina has the exclusive right to maintain order within itself through the medium of its president.

No armed force can penetrate within the locality of the National Skupshtina, nor within its hall.

No armed person can penetrate within the locality of the National Skupshtina except those whose profession obliges them to carry arms and who are called within the Skupshtina by parliamentary matters.

ART. 126. The National Skupshtina is in direct relation only with the ministers.

ART. 127. Deputies receive from the treasury of the State traveling expenses and a daily compensation of 15 francs¹ for the duration of the legislative sessions.

ART. 128. A special law shall establish the internal regulations of the Skupshtina.²

ART. 129. For the Grand National Skupshtina there shall be elected twice as many deputies as for the Ordinary National Skupshtina.

This rule shall be applied also to the deputies mentioned in Article 99.³

ART. 130. The Grand National Skupshtina is convoked when it is necessary :

1. To decide the question of the throne (Article 75).
2. To name the Council of Regency (Article 63).
3. To decide modifications to be proposed to the Constitution (Article 200⁴).
4. To decide concerning the alienation or exchange of a portion of the territory of the State (Article 4).
5. When the King judges it useful to consult the Grand National Skupshtina.

¹ "Of 15 francs" was inserted here and Paragraph 2 of this article was omitted, 5/18 June 1903.

² Law of 1/13 November 1889, modified 28 January/9 February 1891.

³ This replaces the original Paragraph 2 in the Constitution of 1888.

⁴ This replaces reference to Articles 201 and 202 in the Constitution of 1888.

PART VI.—THE MINISTERS.

ART. 131. At the head of the services of the State is the Council of Ministers placed immediately under the authority of the King.

The Council of Ministers is composed of the ministers in charge of the divers public services and of the president of the Council of Ministers, who may be without portfolio. The King appoints the ministers and the president of the Council of Ministers by decree. On entering upon their duties, the ministers take the oath of obedience and of fidelity to the King and swear to observe conscientiously the Constitution and the laws.

ART. 132. Only Serbians by birth or naturalized persons resident for five years in Serbia can be ministers.

ART. 133. No member of the Royal House can be minister.

ART. 134. Ministers have free access to the National Skupshtina, which is required to hear them each time that they request it. However, ministers can not take part in the vote of the Skupshtina, except in the case where they shall be at the same time deputies.

The Skupshtina has the right to demand the presence of ministers at its meetings.

ART. 135. Ministers are responsible to the King and to the National Skupshtina for all acts done in the exercise of their functions.

Every official act signed by the King must be countersigned by the competent minister.

An order of the King written or oral can not in any case cover the legal responsibility of a minister or of any other public functionary.¹

ART. 136.² The King as well as the National Skupshtina has the right to impeach a minister:

1. For treason against the country and the sovereign.
2. For violation of the Constitution and of the rights guaranteed by the Constitution to Serbian citizens.
3. For betrayal of trust.
4. For injury done to the State in a matter of personal interest.
5. For violation of the laws in cases which shall be specified later by a special law on ministerial responsibility.³

ART. 137. The proposal to impeach a minister must be made in writing, contain the enumeration of the chief points of accusation and carry the signatures of at least 20 deputies.

In order that the impeachment may be pronounced, it is necessary that the majority which votes it comprise two thirds of the deputies present.

¹ This paragraph was amended, 5/18 June 1903.

² Paragraph 2 of this article was omitted, 5/18 June 1903.

³ Law of 30 January/11 February 1891.

The minister impeached is tried by a Tribunal of State composed of members of the Council of State and of the Court of Cassation.

ART. 138. A special law, which the National Skupshtina shall take up in its first legislative period, shall specify the different cases of ministerial responsibility, the penalties to be applied to the different crimes, the composition of the tribunal called to try the ministers and the procedure to be followed.¹

For cases of ministerial responsibility which are not provided for by the Penal Code and do not depend upon the common law, the accused minister can not be condemned to a greater penalty than imprisonment.

ART. 139. The King can not make use of his pardoning power in favor of the minister condemned without the consent of the National Skupshtina, nor interrupt the inquiry begun against the accused minister.²

PART VII.—THE COUNCIL OF STATE.

ART. 140. The Council of State is composed of 16 members, of whom 8 are appointed by the King and 8 elected by the National Skupshtina and in the following manner: The King submits to the Skupshtina a list of 16 candidates and the latter chooses among them 8 candidates whom the King appoints as members of the Council of State; the National Skupshtina, on its side, submits to the King a list of 16 candidates among whom the King chooses and appoints 8 members of the Council of State. Vacancies in the Council of State shall be provided for in the same way.

ART. 141. The members of the Council of State are appointed for life. They enter into the category of functionaries of the State. The members of the Council of State can not, without their consent, be relieved of their functions, nor called to another employment of the public administration. They also can not be retired, if they have not expressed the desire therefor, unless they have completed 40 years of service, or have passed 65 years of age, or their state of health does not permit them longer to perform their functions.

If a member of the Council of State is appointed minister, no provision is made for his replacement in the Council of State and, when he ceases to be minister, he returns to his post as councilor of State.

In the case only where the number of the members of the Council of State should become less than the number fixed by the internal regulations of the Council of State, in order that its deliberations should have full and entire effect, provision shall immediately be made for as many vacancies as are necessary so that the Council of State can hold its sessions.

¹ Law of 30 January/11 February 1891.

² This last clause was added, 5/18 June 1903.

ART. 142.¹ No one can be a member of the Council of State, if he is not a Serbian citizen, if he is not 35 years old, if he has not completed the courses of the faculty in Serbia or abroad, or of a special school equivalent to a faculty, and if he has not been employed 10 years at least in the service of the State.

ART. 143. The King names among the members of the Council of State a president and a vice-president of the Council, who remain in office for three years.

ART. 144. The attributions of the Council of State are as follows:

1. To elaborate, on the invitation of the government, projects of law or of administrative regulations of general interest, and to give its advice on questions which the government submits to it.

2. To examine bills which the government presents to the National Skupshtina or which are brought in on the initiative of the Skupshtina and to give its advice on the said bills. This advice shall have no obligatory effect either for the Skupshtina or for the government; however, it must be communicated in all cases *in extenso* to the National Skupshtina before the opening of the discussion of the said bills. Besides, the Council of State can choose from its midst one or two of its members, who shall have to defend, before the Skupshtina, the point of view of the Council of State.² The Skupshtina and the government can fix for their respective bills a period within which the Council of State shall have to submit its advice; the Council of State can demand the prolongation of this period. However, if, at the expiration of this new delay, the Council of State does not present its report and its observations, the Skupshtina can proceed and commence the discussion and the debates.

3. To fix the list of the candidates for vacant seats in the Court of Accounts and in the Courts of Cassation and of Appeal.

4. To determine in the last resort upon the complaints relative to the election for the Skupshtina and the departmental councils and to the municipal elections.

5. To try functionaries of the State as a disciplinary tribunal.

6. To determine on the complaints against ministerial decisions in respect to affairs in litigation. Resolutions of the case brought in by the Council of State shall be obligatory for ministers.

7. To determine upon the conflicts of powers between the administrative authorities.

8. To approve partial expenditures on general credits included in the budget for extraordinary needs, as well as the detailed application of the credit granted for public works, in so far as these expenses exceed the sum of which the minister himself can legally dispose.

¹ Paragraph 2 of this article was omitted, 5/18 June 1903.

² This sentence was inserted, 5/18 June 1903.

9. To determine upon exceptional cases of admission to Serbian naturalization.

10. To approve compromises between the State and individuals which shall be found advantageous for the State.

11. To determine whether there is occasion according to the law to pronounce expropriation for the purpose of public use.

12.¹ To determine on complaints against decrees, by which legitimate private rights are injured. The Court of Accounts has the right of recourse, in the name of the State, if, by public decree, material interests of the State are injured to the profit of individuals.

13.¹ To determine on complaints against ministerial decisions, rendered by the minister in matters for which the minister was not competent or which went beyond the province of the authority which is attributed to him by the law. Decisions rendered by the Council of State on this subject are obligatory for the minister.

14.¹ To perform the functions which shall be attributed to it by the different laws of the country.

ART. 145. The internal regulations of the Council of State shall be fixed by a special law.²

PART VIII.—THE TRIBUNALS.

ART. 146. The tribunals are independent. In rendering justice, they are dependent on no authority except that of the law. No power in the State, either legislative or executive, can meddle in judicial affairs, and, reciprocally, the tribunals can not participate in the exercise of the legislative or executive power.

Justice is rendered in the name of the King.

ART. 147. No tribunal whatever can be instituted, nor anything whatever be created in point of judicial organization and competence, unless a law is passed to this effect.

However, in no case and by no right can there be instituted extraordinary or summary tribunals, nor commissions rendering justice.

ART. 148. The institution of the jury is maintained.

The competence of the jury is fixed by the law.³

ART. 149. The tribunals in Serbia are: Tribunals of first instance and the Courts of Appeal and of Cassation.

For all Serbia, there is only one Court of Cassation, which is called upon to determine solely on questions of law, leaving aside questions of fact.

The said Court of Cassation shall also decide in conflicts between the judicial and administrative authorities.

¹ Nos. 12 and 13 inserted after 11 and the original 12 became 14, 5/18 June 1903.

² Law of 31 January/13 February 1902.

³ Law of 31 March/12 April 1892, modified by Law of 20 November/3 December 1905.

The president of the Court of Cassation ranks as member of the Council of State.

ART. 150. No one can be cited before a tribunal nor tried by a tribunal other than that on which he is dependent legally.

ART. 151. In order that a tribunal may render justice, there must be at least three judges sitting.

However, it can be established by a law that a single judge is sufficient to pronounce on matters of little importance, civil or penal.

ART. 152. The trials of tribunals are public, except in cases where the judges find that secret sessions are in the interest of public order or morals.

The judges deliberate and vote secretly, but the decision is pronounced aloud and publicly.

Every judgment and every sentence must contain the grounds and the enunciation of the articles of the law by virtue of which they are rendered.

ART. 153.¹ Every person accused of a crime must be provided with counsel from the time of his accusation. If he does not designate his counsel himself, the tribunal must provide one for him officially. The accused may, if he wishes, have counsel even during the preliminary examination.

ART. 154. All judges are named by the King.

The presidents of tribunals of first instance are chosen among the candidates figuring on two lists, of which one is proposed by the Court of Cassation and the other by the Court of Appeal.

The presidents and the members of the Courts of Cassation and of Appeal are also chosen from among the candidates figuring on two lists, of which one is proposed by the Council of State and the other by the Court of Cassation.

Each of these lists must contain twice as many candidates as there are vacant places. The same persons can be carried as candidates on both lists.

Judges of the tribunals of first instance are named according to a list proposed by the Minister of Justice, the presidents of the Courts of Cassation and of Appeal. The list must contain a number of candidates equal to double the number of vacant seats to be filled.²

ART. 155. Those can not be judges at the same time in a tribunal, or render justice there together, who are relatives in direct line ascending or descending in any degree whatever, collaterals up to the fourth degree, related by marriage to the second degree inclusive.

ART. 156. No one can be judge if he is not a Serbian, and if, independently of the general conditions required by the law for admission to a public employment, he has not finished regularly the courses of

¹ As amended, 5/18 June 1903.

² This paragraph was added, 5/18 June 1903.

a faculty of law in Serbia or abroad. No one can be judge in a tribunal of first instance if he is not 25 years old, and in a superior court if he has not passed 30 years of age.

No one can be president of a tribunal of first instance, or judge of a Court of Appeal, if he has not served at least 5 years as judge in tribunals of first instance or as secretary to the Minister of Justice or in a superior court or as titular professor of law in the Faculty of Belgrade, or if he has not practiced for 7 years the profession of advocate.

No one can be president of a Court of Appeal, nor president or member of the Court of Cassation, if he has not, independently of the conditions set forth in Paragraph 1 of the present article, served for 10 years as judge or as titular professor of law in the Faculty of Belgrade, or if he has not practiced for 10 years the profession of advocate, or if he has not been for 5 years member of the Court of Appeal or president of a tribunal of first instance, or if he has not been Minister of Justice.

No one can be proposed or named as president or as judge of any tribunal whatever, who, in consequence of a judgment of the Court of Cassation relative to a disciplinary offense, shall have lost his position in the magistracy, or, in consequence of a conviction by a regular tribunal for an offense or crime of common law, shall have been eliminated from the magistracy.

The above provisions are not applicable to the judges who are not functionaries of the State.

ART. 157. The irremovability of their functions is assured to judges.

A judge can not be dismissed or recalled on any ground from his functions against his will, unless it be by virtue of a judgment from his functions against his will, unless it be by virtue of a judgment by a regular tribunal or of a judgment by the Court of Cassation for a disciplinary offense.

A judge can not be cited before the court for his official acts without the assent of the Court of Cassation.

A judge can only be transferred if he declares in writing that he accepts his new destination.

A judge can not be retired against his will, unless he is 60 years old or has had 40 years of service, or unless his physical or intellectual infirmities render him unfit for service. However, in this last case, it is necessary that his retirement be pronounced by sentence of the Court of Cassation.

ART. 158. A judge can not accept any other employment in the public administration, except the functions of honorary professor in the Faculty of Law.

He can not be assigned,¹ even temporarily, to any other employment, remunerative or honorary.

ART. 159. A special law regulates the composition, organization and competence of military tribunals, as well as the conditions which those who administer justice therein must fulfill.

PART IX.—DEPARTMENTS, ARRONDISSEMENTS AND COMMUNES.

ART. 160. In the departments, beside the administrative authorities representing the State, the departmental assemblies and the permanent commissions function as autonomous powers. These powers are called to watch over the departmental interests in the matter of public instruction, industry, ways of communication, hygiene and finances, and to work for their development.²

ART. 161. The communes are autonomous.

The administration of communal interests is confided to the communal tribunals, to the municipal councilors and to the general assemblies of the communes.

ART. 162. The municipal elections take place by direct suffrage.

ART. 163. In municipal and departmental elections, every Serbian citizen under the jurisdiction of the commune or of the department respectively who, besides the conditions prescribed by the law, pays to the State 15 francs of direct taxes per annum, including the additional centimes of the State,³ is an elector.

Every member of a family association who is 21 years old is an elector, whatever may be the assessment of direct taxes which he pays.

ART. 164. The communal authorities, as well as the departmental assemblies and the permanent commissions, are required, outside of the administration of the communal and departmental interests, to give their care to the affairs of the State which are entrusted to them by the laws.

ART. 165. No new commune can be instituted, no existing commune can modify its boundaries, without the approval of the legislative authority.

ART. 166. Every citizen, as well as all real estate, constitutes part of a commune and must share in the expenses of the commune, the arrondissement and the department.

ART. 167. Additional centimes can not be deducted previously from a department or an arrondissement without the assent of the departmental assembly. Likewise, additional centimes can not be imposed upon the communes without the consent of the communal assembly.

¹ The words "against his will" were omitted, 5/18 June 1903.

² An additional sentence was omitted, 5/18 June 1903.

³ "Including the additional centimes of the State" was added, 5/18 June 1908.

Similarly, the departments, arrondissements and communes can not contract loans without the previous authorization of the departmental and communal assemblies interested.

The law shall determine the cases where, to institute additional centimes and to contract the loans in question, the consent of the legislative power or of another power of the State shall be necessary.

ART. 168. Departments, arrondissements and communes can hold property with the same right as individuals.

ART. 169. The attributions and the organization of the autonomous departmental, arrondissement and communal powers, as well as their relations with each other and ¹ with the different powers of the State, shall be determined by a special law.²

PART X.—FINANCES, ECONOMY, AND DOMAIN OF THE STATE.

ART. 170. Every Serbian is required to pay the impost to the State. The impost is assessed proportionately to the wealth:

ART. 171. No one can be released from the obligation to pay the imposts outside of the cases provided by the law.

The King and the heir to the throne do not pay taxes.

ART. 172. No pension, relief or any reward whatever can be paid by the treasury, unless by virtue of a legal prescription.

ART. 173. Each year the National Skupshtina approves the budget of the State, which is valid for one year only.³

The budget must be presented to the National Skupshtina at the very beginning of the session. At the same time the National Skupshtina must be put in possession of rectificative tables of the fiscal year closed.

All receipts and expenditures of the State must figure in the budget as well as in the rectificative tables.

The Skupshtina can not augment the credits proposed by the budget bill; but it can reduce them or even suppress them entirely.⁴

The economies realized on certain credits allowed to one part or to one year of the budget can not be transferred to another part or year—except in the case where these transfers shall be approved by the legislative power.⁴

ART. 174. If the National Skupshtina can not vote the new budget before the beginning of the fiscal period, it can apply, provisionally, the budget of the fiscal period just ended until the adoption of the new budget.

¹ "With each other and" was inserted, 5/18 June 1903.

² Law of 18/31 March 1905 on the organization of departments and arrondissements. Law of 5/18 June 1903 on the communal organization, modified by the law of 3/16 December 1905.

³ The budgetary year commences 1 November.

⁴ As modified, 5/18 June 1903.

If the National Skupshtina is dissolved or prorogued before the vote on the budget, the King, in concert with the Council of State,¹ can order the application of the budget of the fiscal period just closed for a period of four months at the most.

ART. 175. The mines belong to the public domain.

ART. 176. The right of monopoly belongs to the State. The State can grant this right to a third party, but only by virtue of a law and for a determined time.

Likewise, a concession can not be granted except by virtue of a law and for a determined time.

Mine concessions shall be granted by a special law.²

ART. 177. The domain of the State is composed of all the property, real and personal, as well as all the rights of possession which the State acquires or possesses in itself.

It is only by virtue of a law that property of the domain can be alienated or hypothecated, or their revenues engaged or encumbered with other charges.

ART. 178. The domain of the State is distinct from the private domain of the King, of which he can dispose freely during his lifetime and by act of last will conformably to the provisions of the Civil Code.

Paragraph 2 of Article 40 of the present Constitution is not applicable to the domain of the King.

The expenditures for the maintenance of those of the properties of the State of which the King has the enjoyment gratuitously are supported by the civil list.

PART XI.—THE COURT OF ACCOUNTS.

ART. 179. In view of the control of the accounts of the different services of the State the Court of Accounts is instituted functioning as an independent administration. A law shall determine the cases wherein complaint can be lodged with the Court of Cassation against the decision of the Court of Accounts.

The Court of Accounts is composed of a president and four members. The president, as well as the members of the Court of Accounts, are chosen by the National Skupshtina among the candidates proposed by the Council of State. This list of candidates must always contain twice as many names as there are vacant seats.

The members of the Court of Accounts have the rank of the members of the Court of Cassation and its president has the rank of a counselor of State.

ART. 180. Serbian citizens can be members of the Court of Accounts, who have completed the study of law in Serbia or abroad,

¹ This phrase was inserted, 5/18 June 1903.

² This paragraph was added, 5/18 June 1903.

and who, besides, have served 10 years in one of the services of the State; or who have served 10 years as high functionaries in the Department of Finances, and who, appointed by decree, have had 10 years of active service.¹ However, the president of the Court of Accounts and two of its members must have completed their law studies.²

The president and the members of the Court of Accounts are irremovable.³ They can not be dismissed from the service except by virtue of a judgment rendered by the tribunals of the country, nor transferred to another post unless with their formal consent recorded in a written declaration. They can only be retired if they have had 40 years of service or if they have passed 65 years or if their state of health renders them unfit to continue their service.

ART. 181. The Court of Accounts makes revision, rectification and deduction of the accounts of the general administration, as well as all administration of funds depending on the treasury. It sees that the different credits granted by the budget are not exceeded and that no exchanges are made. It closes the accounts of all the public administrations and it is required to collect all vouchers and all information necessary.

The general account is presented to the National Skupshtina with the observations of the Court of Accounts within a period of two years from the closing of each fiscal period.

A special law shall determine more closely the organization and the attributions of the Court of Accounts, as well as the mode of recruiting its personnel.⁴

PART XII.—THE SERVICES OF THE STATE.

ART. 182. All citizens Serbian by birth have equal rights to all the employments of the different branches of the services of the State, provided they fulfill the conditions required by the laws.

Naturalized Serbians have a right to public employments, provided they have five years of residence in Serbia.

Foreigners, as well as naturalized Serbians, who do not have five years of residence in Serbia, can be admitted to public employment, but under contract only and in cases determined previously by the law.

ART. 183. In the nomination and advancement of functionaries account shall be taken of good conduct, aptitudes and special attain-

¹ "And who . . . service" was added, 5/18 June 1903.

² A paragraph of the Constitution of 1888 making transitory provisions was omitted in the Constitution of 1903.

³ The wording of this sentence was slightly modified, 5/18 June 1903.

⁴ Law of 1/13 May 1892.

ments. As a control of the special attainments, there shall be gradually instituted State examinations in all the branches of the public administration.

ART. 184. Every functionary is responsible for his official acts without regard to the one who has given him orders.¹

ART. 185. Functionaries, on their entrance into the service of the State, take the oath of obedience and of fidelity to the King and swear to observe conscientiously the Constitution.

ART. 186. Employment in the services of the State, as well as the salaries of the functionaries in the different branches, are fixed by the law.

ART. 187. The institution of retirement pensions is maintained. The law determines the considerations which can give a functionary a right to retirement as well as those who can bring about his retirement.

ART. 188. For the pension to the orphans and to the widow of a functionary, there is maintained the special fund constituted by the payments deducted from the salaries and the retirement pensions of the functionaries.

PART XIII.—THE CHURCH, SCHOOLS AND BENEVOLENT INSTITUTIONS.

ART. 189. The interior administration of the Orthodox Church belongs to the Synod.

For other cults, the administration of the internal affairs belongs to the competent spiritual authorities.

The spiritual organs, as well of the Orthodox Church as of other cults recognized in Serbia, are under the surveillance of the Minister of Cults.

The organization of the spiritual authorities and of the seminaries of the Orthodox Church is furnished by a law after agreement of the Minister of Cults with the Synod.

ART. 190. The spiritual authorities have right of jurisdiction over ecclesiastics for offenses committed in their spiritual functions, except crimes dependent on the Penal Code.

Complaints of abuse, directed against the spiritual authorities of any one of the cults practiced in the country, are handed over to the Minister of Cults.

Ecclesiastical persons and the spiritual powers depend on the common laws of the country in what concerns their civil acts and their property.

ART. 191. The correspondence of the spiritual authorities of the Orthodox Church with the spiritual authorities, councils and synods abroad is submitted to the approval of the Minister of Cults.

¹ "Without . . . orders" was added, 5/18 June 1903.

The correspondence of the ministers of the other cults professed in Serbia with the spiritual authorities, councils and synods abroad must also be submitted to the approbation of the Minister of Cults.

No act emanating from the spiritual authorities, councils and synods abroad can be published by any spiritual authority whatever in Serbia, nor receive its execution, except with the knowledge and authorization of the Minister of Cults.

ART. 192. All public and private schools and other educational establishments are placed under the surveillance of the State.¹

ART. 193. Charitable establishments, foundations for instruction and other philanthropic works, instituted by individuals during their life or by last act of will, by means of donations or of legacies, or by the creation of funds, shall have the right of existence only so long as these works shall have received the authorization of the State by virtue of the laws of the country. But the property of these institutions can not be considered as property of the State, nor be diverted from the destination which has been assigned them by their founders.

In the case only where, in time, because of changes occurring in the social state, or for any cause whatever, it becomes impossible to devote them to their primitive destination, the property of these institutions can, by virtue of a decision of the legislative power and on the proposal of the persons charged with their management, receive another analogous destination.

A law shall fix the procedure to be followed in the matter, as well as the rights and duties of the persons charged with the administration of these works of charity and foundations, and shall determine the measure in which the surveillance of the State shall be exercised.

PART XIV.—THE ARMY.

ART. 194. Every Serbian is required to serve in the army.

The length of the military service, the modes of service and the cases of exemption from personal service are fixed by a special law.

The law determines likewise what are the grades in the army, how the grades are conferred and what are the circumstances which can cause the loss of these grades.

ART. 195. The organization of the army is the object of a special law, and its formation is determined by way of royal ordinance.

ART. 196. The budget of each year shall determine the effectives of the permanent army for the current fiscal period.

ART. 197. Soldiers with the colors are justiciable in penal matters by the military tribunals which determine according to the prescriptions of the military jurisdiction.

¹ Law of 19 April/2 May 1904 concerning national primary schools (in 87 articles).
Law of 27 February/12 March 1905 creating a University of Belgrade.

The regulations concerning military discipline and disciplinary penalties are published by royal ordinance.

ART. 198. No one can enter the service of the State, if he has not, according to the prescriptions of the military laws, performed his service in the army, or if he is not exempt from the service.

ART. 199. Foreign troops can not be taken into the service of the State. Every convention stipulating that a foreign army shall occupy the Serbian territory or traverse this territory is valid only if it is consented to by the National Skupshtina. Likewise the Serbian army can not be placed at the service of another State without the consent of the National Skupshtina.

PART XV.—THE REVISION OF THE CONSTITUTION.

ART. 200.¹ Propositions tending to introduce modifications or additions to the Constitution or to interpose one of its provisions may be presented by the King or by the National Skupshtina.

A proposition of this kind must contain the formal enunciation of all the points of the Constitution on which can be brought forward amendments, additions or proposed interpretations.

If the proposition is presented by the King, it shall be communicated to the National Skupshtina. The Skupshtina shall then be dissolved, and the Grand National Skupshtina shall be convoked within a period of four months at the most.

If, on the contrary, a proposition of this kind proceeds from the initiative of the Skupshtina, it must be voted by the Skupshtina at two different times and with 10 days' interval between the two consecutive votes.

The proposition shall be considered as adopted, if the absolute majority of the deputies determined by the Constitution has voted in favor of the proposition.

The proposition having been adopted in this manner, the Skupshtina shall be dissolved, and the Grand National Skupshtina shall be convoked within a period of four months at the most, counting from the day of the adoption of the proposition.

In each of the two cases, the Grand National Skupshtina shall have power to decide only on the amendments and additions to be introduced into the Constitution and the interpretations of the Constitution contained in the proposition in view of which it has been convoked.

The decisions of the Grand National Skupshtina adopted by the absolute majority of the deputies determined by the Constitution shall be executory when they shall have been sanctioned by the King.

¹ As amended, 5/18 June 1903.

TRANSITORY PROVISIONS.

ART. 201.¹—I. King Peter I shall take the oath prescribed by Article 60 of the present Constitution before the national representation. This national representation shall preserve its mandate until the first elections of the Skupshtina.

II. At the moment of the publication of the present Constitution the following laws are recalled into force, in so far as they are not in opposition with the provisions of the present Constitution:

1. The Electoral Law of 25 March 1890,² with the modifications and additions of 28 January 1891. The periods indicated by this law must be advanced, regard had to the day fixed for the election (Article 100).

2. The Law on the Internal Regulation of the National Skupshtina of 1 November 1889, including the modifications of 28 January 1891.

3. The Law on Ministerial Responsibility of 30 January 1891.

4. The Law on the Organization of the Council of State of 21 December 1901, and the Law on the Internal Regulation of the Council of State of 31 January 1902.

5. The Law on the Organization of the Court of Accounts of 1 May 1892.

6. The Law on the Administrative Division of the Kingdom of Serbia of 15 March 1890, with the modifications and additions of 31 March 1891, 9 May 1894, 17 February 1896, 5 January 1899, 24 January 1900, 31 March 1902 and 10 April 1902.

7. The Communal Law of 21 March 1902.

8. The Law on Public Meetings and Associations of 31 March 1891.

9. The Law on the Press of 31 March 1891.

From this moment all laws and ordinances, so far as they are contrary to the present Constitution, or indeed to the laws just mentioned, shall be considered as abrogated.

III. The King shall name by decree and from this moment the president, the vice-president and the members of the Council of State, who shall have to fulfill the functions specified by the present Constitution, until the first National Skupshtina at its ordinary session shall have proceeded to their nomination conformably to the provisions of Article 140 of the present Constitution.

The present councilors of State are relieved from their functions.

The president and the members of the Court of Accounts shall continue to fulfill their functions until they have been reappointed conformably to the provisions of the present Constitution and during the first ordinary session of the National Skupshtina.

Likewise, the presidents and the judges of the Court of Cassation, of the Court of Appeal and of the tribunals of first instance shall continue to fulfill their functions.

As soon as the Council of State shall have been constituted conformably to the present Constitution (Article 140), it shall proceed to the election of the president and the members of the Court of Cassation and shall submit to the King the list of the chosen.

¹ As amended, 5/18 June 1903.

² This and all the dates mentioned in this article are old styles.

The president and the members of the Court of Cassation shall enter upon their functions as soon as the King shall have appointed them.

The president and the members of the Court of Appeal are chosen and appointed conformably to Article 154 of the present Constitution.

The presidents and the judges of the tribunals of first instance are chosen and appointed in the manner provided by Article 154 of the present Constitution.

IV. The law on the budget of the State of 4 April 1903 shall remain in force.

ART. 202.¹ From the day of the promulgation of the present Constitution, the Constitution of 6 April 1901 [old style] shall be abrogated, as well as all laws and ordinances, in so far as they are contrary to the present Constitution.

The Council of Ministers is required to promulgate immediately the present Constitution in the *Official Journal*.

¹ As amended, 5/18 June 1903.

SIAM.

Siam is an absolute monarchy, in which the King exercises the executive power, supported and advised by a Cabinet (*Senabodi*) consisting of the heads of the various departments: Foreign Affairs, Interior, Justice, Finance, Public Instruction, Public Works, War, etc. Many of the portfolios are held by the King's half-brothers and uncles. There is no written Constitution. The Law of 8 May 1874, constituting a Council of State, has now been superseded by the Royal Decree of 10 January 1895, creating a Legislative Council, which is composed of the Ministers of State (*ex-officio* members) and others, not less than twelve in number, appointed by the King. In the preamble of the Royal Decree it is stated that the object of this body is to revise, amend and complete the legislation of the kingdom. It is to meet at least once a week, and it may appoint committees of three or four members, with the addition of competent outsiders who must not outnumber the members. An important article gives the Legislative Council power to promulgate laws without the royal assent in the event of any temporary disability of the King. At other times the royal signature is indispensable. This Council has shown considerable legislative activity. Through the Declaration, signed at London, 15 January 1896,¹ the integrity of Siam was assured by France and Great Britain.²

¹ English and French texts in parallel columns in the *British and Foreign State Papers*, 88: pp. 13-16; the English text also appears in *Papers Relating to the Foreign Relations of the United States, 1896* (Washington, 1897), pp. 139-140.

² These paragraphs are based upon *The Statesman's Year Book* (1918) and PAUL POSNER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), p. 934.

TURKEY.

Until 1908 the government of the Sultan (*padishah*) was an absolute monarchy in the full sense of the term, there being no counterbalance to its authority. However, the reforms attempted since 1839 in the political and administrative field, often under the pressure of the European Powers, may be considered as a sort of step toward the political transformation of 1908.

The *Hatt-i-sherif* of 3 November 1839 (26 Shaaban 1255), the first program of these reforms, provided expressly that the national institutions should guarantee henceforth to all Ottoman subjects, without distinction of race or cult, "a perfect security as to their life, honor and fortune." The reforms especially announced were financial and military, but from 1839 to 1856 few of these reforms were brought about.

A second act, the *Hatt-i-humayoun*¹ of 18 February 1856 (10 Jomada I 1272), emanating from the initiative of the Sultan, but inspired likewise by the Powers, developed the program of 1839, promising equality of all before the law, respect of property, freedom of worship, equality of taxation, publicity of trials, equality of witnesses, abolition of confiscation and torture, etc. But the majority of these reforms were yet to remain dead letters.

Dating from 1859 the European Powers began to interfere seriously in the internal affairs of the Ottoman Empire. Russian and English projects for reform resulted in the promulgation of a real Constitution on 23 December 1876 (7 Dulkaada 1293) and the first Ottoman Parliament opened on 19 March 1877. But the war with Russia broke out the following month and subsequently the Parliament was prorogued indefinitely. The Treaty of Berlin of 13 July 1878, which removed important provinces from Turkey, imposed different engagements upon it, bearing notably upon freedom of conscience and of worship, admissibility to public employment, freedom of non-Mussulman communities (Article 62), and "improvements and reforms required by local needs in the provinces inhabited by the Armenians" (Article 61). The Turkish Constitution of 1876, after having remained a dead letter for 30 years, was put back into

¹ The *Hatt-i-humayoun* and the *Hatt-i-sherif* were rescripts emanating directly from the Sultan and preceded by the formula, "Let it be done conformably to the contents," written in the Sultan's hand.

force by a *Hatt-i-humayoun* of 2 August 1908, under the influence of the Young Turk party, and within a year afterwards was revised, 19 articles being modified.¹

CONSTITUTION OF 23 DECEMBER 1876, AS AMENDED IN 1909.²

THE OTTOMAN EMPIRE.

ARTICLE 1. The Ottoman Empire comprises the existing territories and divisions and the privileged provinces. It forms an indivisible whole, and can never allow any part to be detached for any reason whatever.

ART. 2. Constantinople shall be the capital of the Ottoman Empire. That city shall possess no privilege or immunity not enjoyed by other Ottoman towns.

ART. 3.³ The imperial Ottoman sovereignty, which carries with it the Supreme Caliphate of Islam, falls to the eldest prince of the House of Osman, according to the rule established *ab antiquo*. On his accession the Sultan shall swear before Parliament, or, if Parliament is not sitting, at its first meeting, to respect the provisions of the Sheri⁴ and the Constitution, and to be loyal to the country and the nation.⁵

ART. 4. As Caliph, His Imperial Majesty the Sultan is the protector of the Mussulman faith; and he is the ruler and padishah of all Ottoman subjects.

ART. 5. The person of His Imperial Majesty the Sultan is sacred and irresponsible.

ART. 6. Liberty of the members of the dynasty of Osman, their property, both real and personal, and the civil list granted them for life by the law *ad hoc* are under the guarantee of all.

ART. 7.³ Among the sacred prerogatives of the Sultan are the following: The mention of his name in prayers; the minting of money; the granting of high public offices and titles, according to the law *ad hoc*; the conferring of orders; the selection and appoint-

¹ These introductory paragraphs are based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, pp. 319-321.

² Translation based upon that in the *British and Foreign State Papers*, 102: pp. 819-833. French translation in DARESTE, *op. cit.*, pp. 323-343. English translation of the original Constitution appears in the *British and Foreign State Paper*, 67: pp. 683-698. German translation in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 892-904. The above is a translation of the Constitution as it stood on 1 May 1912, according to the "Official Almanac" (*Sal Name*) and the "Official Gazette" (*Takvim-i-Vekai*).

³ As amended in 1909.

⁴ The ecclesiastical or canon law.

⁵ The sentence concerning the oath was added in 1909.

ment of the Grand Vizier and the Sheik-ul-Islam; the confirmation in their offices of the members of the Cabinet formed and proposed by the Grand Vizier, and, if need arise, the dismissal and replacement of ministers according to established practice; the approval and putting into force of general laws; the drawing up of regulations concerning the working of government departments and the method of administering the laws; the initiative in all kinds of legislation; the maintenance and execution of the canon and civil laws; the appointment of persons to the privileged provinces according to the terms of their privileges; the command of the military and naval forces; the declaration of war and the making of peace; the reduction and remission of sentences passed by penal courts; the granting of a general amnesty with the approval of Parliament; the opening and closing of the parliamentary sessions; the summoning of Parliament before its time in extraordinary circumstances; the dissolution of the Chamber of Deputies if necessary, with the consent of the Senate, on condition that the elections take place and the Chamber assembles within three months; and the conclusion of treaties in general.

Only, the consent of Parliament is required for the conclusion of treaties which concern peace, commerce, the abandonment or annexation of territory, or the fundamental or personal rights of Ottoman subjects, or which involve expenditure on the part of the State. In case of a change of Cabinet while Parliament is not sitting, the responsibility arising out of the change rests upon the new Cabinet.

THE PUBLIC RIGHTS OF OTTOMANS.

ART. 8. All subjects of the Ottoman Empire, without exception, are styled Ottoman, whatever may be their faith or creed. The character of Ottoman subjects can be obtained or lost in the cases specified by law.

ART. 9. All Ottomans enjoy personal liberty, and they are bound not to interfere with the liberty of others.

ART. 10.¹ Personal liberty shall be absolutely inviolable. Except for the reasons and in the manner prescribed by the canon and the civil law, no one shall be arrested or punished on any pretext whatsoever.

ART. 11. The religion of the Ottoman State shall be the Mussulman religion; but, while maintaining this principle, the State shall protect the free exercise of all the religions recognized in the Ottoman dominions, and shall maintain as hitherto the religious privileges granted to the various communities, provided that they do not disturb public order and are not harmful to public morals.

¹ As amended in 1909.

ART. 12.¹ The press shall be free within the limits prescribed by law. It can not be subjected to inspection or examination of any kind before printing.

ART. 13. Ottoman subjects shall be at liberty to form companies of all kinds for commerce, industry or agriculture, within the limits prescribed by the laws and regulations.

ART. 14. One or more persons of Ottoman nationality shall have the right to present petitions to the proper authority with regard to breaches of the laws and regulations, whether their personal interests or those of the public be prejudiced; they shall also have the right to present signed petitions to Parliament complaining of the conduct of State officials.

ART. 15. There shall be freedom of education. Every Ottoman shall be at liberty to attend any course of instruction, whether public or private, so long as he conforms to the law.

ART. 16. All schools shall be under the supervision of the State. The necessary steps shall be taken, whereby the education of Ottoman subjects may be unified and organized; but there shall be no interference with the religious education of the various communities.

ART. 17. All Ottomans shall be equal before the law, and shall have equal rights in, and equal duties towards, their country, without prejudice to their religious affairs.

ART. 18. A knowledge of Turkish, which is the official language of the State, is essential to the employment of an Ottoman subject in the service of the State.

ART. 19. The government service shall be open to all Ottoman subjects, according to their capacity and ability.

ART. 20. Taxes which it has been decided to levy shall be distributed among all Ottoman subjects in accordance with the regulations *ad hoc* and in proportion to the taxable capacity of each person.

ART. 21. To everyone shall be assured the ownership of the real and personal property to which he has a regular title. The real property possessed by any person can not be taken unless the expropriation is proved to be necessary in the public interest and the value of the property is paid in advance according to the law.

ART. 22. The dwelling-place and residence of every person in the Ottoman dominions shall be inviolable. The government may not make a forcible entry into any one's dwelling-place or residence for any reason whatsoever, except in the cases laid down by law.

ART. 23. No one shall be bound to appear before a court not being the competent court under the law on judicial procedure which is to be drawn up.

¹ As amended in 1909.

ART. 24. The confiscation of property, forced labor and exactions of money are forbidden; but there are exceptions in the case of taxes regularly levied and measures regularly adopted in time of war.

ART. 25. Except in virtue of a law, no sum of money shall be levied as tax or impost, or under any other name.

ART. 26. Torture of every kind whatsoever is categorically and absolutely forbidden.

THE CABINET.

ART. 27.¹ Just as His Imperial Majesty the Sultan entrusts the posts of Grand Vizier and Sheik-ul-Islam to men in whom he has confidence, so the other ministers, who are approved and proposed by the Grand Vizier entrusted with the formation of the Cabinet, are confirmed in their offices by imperial irade.

ART. 28. The Council of Ministers shall meet under the presidency of the Grand Vizier. It shall deal with affairs of importance, both home and foreign. Such of its decisions as need the imperial assent shall be put into force by imperial irade.

ART. 29. Each minister shall deal, according to practice and within the limits of his attributions, with affairs concerning his department, and those matters with which he is not competent to deal he shall refer to the Grand Vizier. In the case of matters which need the imperial sanction, those which do not need discussion shall be submitted directly to the Sultan by the Grand Vizier; those which need discussion shall be submitted when they have been discussed in the Cabinet. The Grand Vizier shall also communicate the decision of the Council of Ministers in cases where the imperial sanction is not necessary. The various classes and categories of business shall be determined by a special law.

The Sheik-ul-Islam shall communicate directly to the Sultan those matters which do not need discussion.²

ART. 30.¹ Ministers shall be responsible to the Chamber of Deputies collectively for the general policy of the government and personally for the affairs of their respective departments. Decisions which need the imperial sanction shall only become valid if signed by the Grand Vizier and the minister concerned, who thus accept the responsibility, and countersigned by the Sultan. Decisions arrived at by the Council of Ministers shall bear the signatures of all the ministers, and, in cases where the imperial assent is necessary, these signatures shall be headed by that of His Imperial Majesty the Sultan.

¹ As amended in 1909.

² This sentence was added in 1909.

ART. 31. If one or more members of the Chamber of Deputies wish to bring a complaint against a minister with regard to a matter affecting his responsibility and coming within the powers of the Chamber, a note containing the complaint shall be handed to the president of the Chamber of Deputies to be examined by the committee appointed, according to the rules of the Chamber, to decide whether such matters shall be referred to the Chamber or not. This note shall be sent to the committee by the president within three days, and the committee shall make the necessary investigations and obtain sufficient explanations from the person against whom the complaint is made. If the committee decides by a majority that the complaint is a matter for discussion, its decision to this effect shall be read in the Chamber of Deputies. If necessary, the person complained of shall be summoned to appear, and his explanations, given either by himself or by his deputy, shall be heard. If the decision is adopted by an absolute majority of two thirds of the membership of the Chamber, a report asking for the trial of the person concerned shall be presented to the Grand Vizier, who will submit it for the Sultan's sanction and will transmit it to the High Court in virtue of an imperial irade.

ART. 32. The method of trying ministers who have been indicted shall be determined by a law *ad hoc*.

ART. 33. There shall be no difference between ministers and other Ottoman subjects with regard to actions which only concern them personally and do not arise out of their public functions. Such matters shall be dealt with by the ordinary courts which have jurisdiction in such cases.

ART. 34. A minister who has been indicted by the Charges Chamber of the High Court shall be suspended until his innocence is established.

ART. 35.¹ If a divergence of views arises between the Cabinet and the Chamber of Deputies, and the Cabinet persists in its view while the Chamber categorically and repeatedly rejects it, the Cabinet shall either accept the Chamber's decision or resign. In case of resignation, if the new Cabinet persists in the view held by its predecessor and the Chamber again rejects it, giving its reasons for so doing, His Imperial Majesty the Sultan may dissolve the Chamber on condition that the elections are begun according to Article 7; but if the new Chamber maintains and persists in the view held by its predecessors, the view and decision of the Chamber must be accepted.²

ART. 36.¹ If, while Parliament is not sitting, there appears an urgent necessity to guard the State from harm or the public safety from danger, and the time does not permit the summoning and as-

¹ As amended in 1909.

² The clause giving the Chamber the final decision was added in 1909.

sembly of Parliament for the discussion of the necessary law on the subject, decisions of the Council of Ministers, provided they are not contrary to the provisions of the Constitution and are sanctioned by imperial irade, shall have the force of temporary laws until Parliament meets and gives a decision; but they must be submitted to the Chamber of Deputies at its first sitting.

ART. 37. Every minister has the right to be present at a sitting of either house whenever he wishes, or to send one of the chiefs of his department to represent him. He also has the precedence of private members in making speeches.

ART. 38. If the Chamber of Deputies decides by a majority to summon a minister in order to ask for an explanation of some matter, he shall either appear in person or send one of the chiefs of his department and make answer to the questions asked; or if he thinks it necessary, he has the right to ask, on his own responsibility, that his reply may be postponed.

If, as the result of an interpellation, the Chamber of Deputies passes a vote of no confidence by a majority, the minister falls. If a vote of no confidence is passed on the Premier, the whole Cabinet falls.¹

PUBLIC OFFICIALS.

ART. 39. All public officials shall be selected for posts for which they are qualified by capacity and merit, according to conditions to be laid down by law. Officials thus selected can only be dismissed or changed, if it is proved that their conduct gives legal justification for their dismissal, if they resign, or if the government thinks such a course necessary. Officials of good conduct and probity and those whom the government is compelled for some reason to put *en disponibilité* shall obtain promotion or pensions or an allowance as *en disponibilité* on conditions to be laid down by law.

ART. 40. The attributions of every post shall be laid down by special regulation, and every official shall be responsible within the limits of his attributions.

ART. 41. Every official must respect his superior; but his obedience is confined within the limits laid down by law. In matters which are contrary to the law, obedience to a superior does not absolve from responsibility.

PARLIAMENT.

ART. 42. Parliament shall consist of two distinct bodies: the Senate and the Chamber of Deputies.

ART. 43.² Both houses of Parliament shall meet without being summoned on 1 November [old style] of every year. They shall be

¹ This paragraph was added in 1909.

² As amended in 1909.

opened by imperial irade, and closed again by irade on 1 May [old style]. Neither of the houses can meet while the other is not sitting.

ART. 44.¹ If need arises, His Imperial Majesty the Sultan may open Parliament before the specified time, either on his own initiative or on application from an absolute majority of the members. He may also prolong the session, either in virtue of a decision of Parliament or on his own initiative.

ART. 45. On the day of the opening of Parliament the opening ceremony shall take place before His Imperial Majesty the Sultan or the Grand Vizier as his representative, and in the presence of the Cabinet and of the members of both houses. An imperial speech shall be read concerning home affairs and foreign relations during the past year, and the measures it is considered necessary to adopt during the coming year.

ART. 46. Persons elected or nominated members of one of the houses of Parliament shall swear to be loyal to His Imperial Majesty the Sultan and their country, to be faithful to the provisions of the Constitution and to the mandate given them, and to refrain from any act incompatible with their duties.

The oath shall be taken on the day of opening in the presence of the Grand Vizier. Those who are absent on that day shall take the oath in the presence of their respective presidents when the house to which they belong meets.

ART. 47. Members of Parliament shall be free in the recording of their votes and the expression of their views. No member shall be bound by any kind of promise, threat or instructions, and no charge shall be brought against a member for any vote he may have given or any opinion he may have expressed during a debate in the house, unless he has acted in violation of the rules of the house; in which case he shall be dealt with according to the provisions of the said rules.

ART. 48. If a member of Parliament is accused, by an absolute majority of two thirds of the members of the house to which he belongs, of treason, of attempting to abolish or overthrow the Constitution, or of corruption, or is sentenced by law to a penalty which entails imprisonment or exile, he shall lose his seat as member of Parliament, and the case shall be heard and the penalty inflicted by the competent court.

ART. 49. Every member of Parliament shall record his vote in person. Every member has the right to abstain from recording his vote for the rejection or acceptance of any matter which comes up for discussion.

ART. 50. No person shall be a member of both houses of Parliament at the same time.

¹ As amended in 1909.

ART. 51. No debate shall be begun in either house, unless half the members plus one are present. All resolutions shall be passed by an absolute majority of the members present, except in cases for which a two thirds majority is required. When the votes are equally divided, the president shall have a casting vote.

ART. 52. If anyone presents to either house or to both houses of Parliament a petition concerning his personal affairs, and it is established that the petitioner did not first apply to the competent State officials or to the authority to which those officials are subordinate, the petition shall be rejected.

ART. 53.¹ Every minister, senator or deputy has the right to propose that a new law be drawn up or an existing law amended. Each house sends to the other the bills it has drawn up or amended, and, after acceptance, they are submitted for the imperial sanction.

ART. 54.¹ Bills become law after being examined and accepted by the Chamber of Deputies and the Senate, and sanctioned by imperial irade. Bills submitted for the imperial sanction must either receive that sanction within two months or be returned for reexamination. If a bill sent back to be discussed again is to be accepted, it must be voted by a two-thirds majority. Bills which are voted urgent must either be sanctioned or be returned within ten days.

ART. 55. A bill can not be accepted, unless it has been read and voted by a majority, clause by clause, and afterwards again voted as a whole, successively by the Chamber of Deputies and the Senate.

ART. 56. Neither house can admit, or hear the explanations of anyone who is not a minister, or a representative sent by the Cabinet, or one of their own members, or a public functionary summoned officially, whether he come to make a communication in his own name or as the representative of a group of individuals.

ART. 57. Debates in both houses shall be conducted in Turkish. Copies of the bills to be discussed shall be printed and distributed to members before the day fixed for the debate.

ART. 58. In both houses the votes shall be recorded by calling the roll, by making some particular sign, or by secret ballot. For the voting to be by secret ballot, a decision in that sense by a majority of the members present is required.

ART. 59. The internal discipline of each house shall be under the control of the president of that house.

THE SENATE.

ART. 60. The president and the members of the Senate shall be directly nominated by the Sultan. The number of senators shall not

¹ As amended in 1909.

exceed one third of the number of the members of the Chamber of Deputies.

ART. 61. To be nominated senator, it is necessary to be not less than 40 years of age, and to have shown oneself, by one's acts and deeds, worthy of the trust and confidence of the public, and to be renowned for laudable service in State affairs.

ART. 62. Membership of the Senate is for life. This dignity may be conferred on persons *en disponibilité* who have filled the post of Cabinet minister, governor-general (*vali*), commander of an army corps (*ordu mushiri*), superior judge (*kazi asker*), ambassador or minister plenipotentiary, patriarch or chief rabbi; on generals of division and vice-admirals; and in general on any suitable persons possessing the necessary qualifications. A senator shall lose his seat in the Senate on being appointed to another post by the State at his own request.

ART. 63. The salary of a senator is fixed at 10,000 piastres a month. If a senator is in receipt of a salary or an allowance from the Treasury under some other head, if that salary or allowance is less than 10,000 piastres, it shall be increased to 10,000; while if it equal to or more than 10,000, the senator retains it.

ART. 64. The Senate examines the budgets¹ sent up by the Chamber of Deputies, and if they be found to contain anything fundamentally opposed to religion, to the imperial rights of His Imperial Majesty the Sultan, to liberty, to the provisions of the Constitution, to the territorial integrity of the Ottoman Empire, to the internal security of the country, to the means of national defense and protection, or to public morals, the Senate either rejects them altogether, giving its reasons for so doing, or returns them to the Chamber of Deputies, with observations, to be modified or amended. The bills it accepts it shall confirm and submit to the Grand Vizierate. The Senate shall examine the petitions presented to it, and, if it thinks necessary, shall transmit them to the Grand Vizierate, with observations.

THE CHAMBER OF DEPUTIES.

ART. 65. The number of deputies is fixed at 1 for every 50,000 male Ottoman subjects.

ART. 66. The elections shall take place by secret ballot. The method of election shall be laid down by a law *ad hoc*.

ART. 67. The mandate of deputy is incompatible with public functions, except those of minister. If any other public official is elected deputy, his acceptance or rejection of the office depends on himself; but, if he accepts, he must resign his position as a public official.

¹ *Sic*, but evidently refers to all bills.

ART. 68. The following may not be elected to the Chamber of Deputies:

1. Those who are not Ottoman subjects.
2. Those who, in virtue of the special law on the subject, enjoy privileges as being temporarily in foreign service.
3. Those who do not know Turkish.
4. Those under the age of 35.
5. Those who are in the service of a private person at the time of the election.
6. Those who have been declared bankrupt and have not been rehabilitated.
7. Those who are notorious for their evil ways.
8. Those who have been placed under a judicial injunction, unless the injunction has been removed.
9. Those who have lost their civil rights.
10. Those who lay claim to a foreign nationality.

In the elections which take place 4 years later, a knowledge of how to read Turkish, and, as far as possible, to write it, shall also be a condition of eligibility for election.

ART. 69. The general election for the Chamber of Deputies shall take place once every 4 years. The mandate of every deputy is for 4 years only; but he may be reelected.

ART. 70. The general election shall begin at least four months before the date fixed for the first sitting of the Chamber, that is, 1 November.

ART. 71. Every member of the Chamber of Deputies is the representative, not exclusively of the constituency which has elected him, but of all the Ottomans.

ART. 72. Electors are bound to choose their deputies from among the population of the province to which they belong.

ART. 73. If the Chamber of Deputies is dissolved by imperial irade, the general election shall be begun so as to allow of the meeting of the Chamber within six months at most from the date of the dissolution.

ART. 74. If a member of the Chamber of Deputies dies, or suffers from some lawful impediment, or absents himself from the Chamber for a long period, or resigns, or loses his seat by reason of the sentence of a court of law or of an appointment to a government post, another shall be elected in his place according to practice, so that he may sit at the latest in the next session.

ART. 75. The mandate of a deputy elected to fill a vacant seat only remains in force until the next general election.

ART. 76.¹ Every deputy shall receive 30,000 piastres from the Treasury for each session, and traveling expenses both ways ac-

¹ As amended in 1909.

according to the law on civil servants, and calculated on a salary of 5,000 piastres a month. If the session is prolonged beyond the date specified by law, they shall receive a supplementary allowance of 5,000 piastres a month.

ART. 77. Every session the Chamber of Deputies shall elect a president and two vice-presidents by a majority, and their election shall be submitted to His Imperial Majesty the Sultan.

ART. 78. The debates of the Chamber of Deputies shall be public; but if the Cabinet or 15 deputies propose that the debate on some important matter shall be secret, the place in which the Chamber is sitting shall be cleared of all persons except the deputies, and the question of accepting or rejecting the proposal shall be submitted to a majority vote.

ART. 79. While the Chamber is sitting, no deputy shall be arrested or tried, except when taken *in flagrante delicto*, unless the Chamber decides by a majority that there is good ground for the charge.

ART. 80.¹ The general expenditure of the State shall be examined in detail in the Chamber of Deputies, in accordance with the budget law, and the total shall be voted by the Chamber in the presence of the Cabinet. The nature and the amount of the revenues by which the expenditure is to be met, and the distribution of and method of levying the same, shall likewise be decided upon in the presence of the Cabinet.

COURTS OF LAW.

ART. 81. Judges appointed by the State in accordance with the law *ad hoc* and furnished with commissions (*berat*) are irremovable; but they may resign. The promotion of judges, their career, replacement, retirement on a pension, and dismissal in consequence of a condemnation for a criminal offense are also subject to the provisions of the law *ad hoc*. This law also specifies the qualifications necessary in the case of judges and other judicial officials.

ART. 82. The hearings of cases of all kinds in the courts are public, and the sentences may be published. But a court may hold a secret sitting for any one of the reasons clearly laid down by law.

ART. 83. Every person may use any lawful means he thinks necessary in defending his rights in court.

ART. 84. A court may not refuse, on any pretext whatsoever, to hear a case which comes under its jurisdiction; and when once the hearing, or the preliminary investigations necessary for the hearing, have begun, the case may not be postponed or hindered, unless the plaintiff withdraws his action; and even then, if the case is penal,

¹ As amended in 1909.

the government shall continue to exercise its rights according to the law.

ART. 85. Every action shall be heard by the court to whose jurisdiction it belongs. Actions between private persons and the government shall also be within the jurisdiction of the ordinary courts.

ART. 86. The courts shall be free from interference of any kind.

ART. 87. Matters concerning the Sheri shall be heard in the Sheri courts; those concerning the Nizam ¹ in the civil courts.

ART. 88. The various classes of courts, their duties, jurisdiction and divisions, and the emoluments of the judges are laid down by law.

ART. 89. Apart from the courts sanctioned by law, no extraordinary court may be formed, nor any commission having a right to pass sentence, under any name whatsoever, with the object of hearing certain special matters and giving judgment. But where the law appoints, the nomination of a judge-delegate (*muvela*) or an arbitrator is lawful.

ART. 90. No judge may occupy any other paid government post simultaneously with his judgeship.

ART. 91. In penal affairs the rights of the public shall be protected by public prosecutors. The duties and grades of these public prosecutors shall be laid down by law.

THE HIGH COURT.

ART. 92. The High Court shall consist of 30 members, of whom 10 each shall be chosen and appointed by lot from the Senate, the Council of State, and the presidents and members of the Court of Cassation and the Court of Appeal.

The High Court shall be summoned by imperial irade when necessity arises, and shall sit in the Senate. Its attributions shall be to try ministers, presidents or members of the Court of Cassation or the Court of Appeal, and any persons who commit treason against the sovereign or endanger the State.

ART. 93. The High Court shall be divided into two parts: the Charges Chamber and the Chamber of Judgment. The former shall consist of 9 members, 3 each being chosen by lot from those appointed to the High Court from the Senate, the Council of State, and the Court of Cassation and Court of Appeal, respectively.

ART. 94. The Charges Chamber shall decide by a two-thirds majority whether the persons against whom complaint is made, shall be put on their trial or not. Members of the Charges Chamber shall not form part of the Chamber of Judgment.

¹ The civil law.

ART. 95. The Chamber of Judgment shall be composed of 21 members of the High Court, 7 being chosen from the Senate, 7 from the Court of Cassation and the Court of Appeal, and 7 from the Council of State. It shall pass judgment, by a majority of two thirds of its membership, and in accordance with the laws in force, on cases which the Charges Chamber agree should be tried. Its decisions are subject neither to appeal nor to cassation.

FINANCIAL AFFAIRS.

ART. 96. No government tax may be imposed, distributed or collected, except by virtue of a law.

ART. 97. The State budget is a law setting forth the approximate revenue and expenditure. It is on this law that the imposition, distribution and collection of the State taxes depend.

ART. 98. The budget, that is, the public balance-sheet, shall be examined and voted by Parliament clause by clause. The accompanying tables, showing in detail the estimated revenue and expenditure, shall be divided into sections, chapters and articles, in accordance with the model laid down by law; and these also shall be discussed chapter by chapter.

ART. 99. The budget shall be submitted to the Chamber of Deputies immediately after the opening of the Chamber, in order that it may come into force at the beginning of the year to which it applies.

ART. 100. No expenditure from public funds may be incurred, apart from the budget, except in cases specified by a special law.

ART. 101. If, while Parliament is not sitting, it appears urgently necessary to incur supplementary expenditure on pressing and extraordinary grounds, the sums required to meet that expenditure may be obtained and spent in virtue of an imperial irade, on condition that the Cabinet accepts the responsibility, and that a bill on the subject is submitted to Parliament as soon as it meets.

ART. 102. The budget shall remain in force for one year; it shall have no effect apart from that year. But if, owing to extraordinary circumstances, the Chamber of Deputies is dissolved without having passed the budget, the Cabinet, in virtue of an imperial irade, shall prolong the application of the budget of the past year until the next parliamentary session, provided that the extension shall not exceed one year.

ART. 103. The final account law shall show the actual amount of the sums obtained in revenue for the year to which it applies, and of the expenditure for that year. In form and in divisions it shall be in complete accordance with the budget law.

ART. 104. The bill of the final account law shall be submitted to Parliament within 4 years at most from the end of the year to which it applies.

ART. 105. A Board of Accounts shall be formed to examine the accounts of those who are appointed to collect and expend public money, and to inspect the annual accounts drawn up by the various public departments. Every year it shall communicate the result of its inspection with its conclusions to the Chamber of Deputies in a special report. This Board shall also submit a report on the financial situation to His Imperial Majesty the Sultan every three months through the intermediary of the Grand Vizier.

ART. 106. The Board of Accounts shall consist of 12 members appointed by imperial irade. They shall hold office for life, unless their dismissal is approved by a majority of the Chamber of Deputies.

ART. 107. The qualifications required by members of the Board of Accounts, the details of their attributions, the rules governing their resignation, replacement, advancement and retirement on a pension, and the organization of the offices of the Board, shall be defined by a law *ad hoc*.

THE PROVINCES.

ART. 108. The administration of the provinces shall be founded on the principles of decentralization and division of duties. The details shall be settled by a law *ad hoc*.

ART. 109. The method of election of members of the administrative councils of provinces (*vilayets*), *sanjaks* and *kazas*, and of the general assemblies, which meet once a year in the chief town of each province, shall be laid down on wider lines by a law *ad hoc*.

ART. 110. The attributions of the provincial general assemblies shall be defined in the law that is to be drawn up *ad hoc*. They shall include the right to discuss matters concerning public works, such as the making of roads and bridges, the organization of credit banks, the promotion of industries, commerce and agriculture, and the dissemination of public education; the right to complain to the proper authority in order to demand redress with regard to anything contrary to the laws and regulations in force which occurs in the distribution or collection of taxes or in any other connection.

ART. 111. In every kaza a council shall be formed in connection with each community. The duty of this council shall be to superintend:

1. The administration of the income derived from *vakf*¹ real property and money, according to the terms of the *vakf*, or to ancient usage.

2. The allotment of money or personal property left by will for works of charity or philanthropy, according to the terms of the will.

3. The administration of the money and personal property of orphans, in accordance with the regulations *ad hoc*.

¹ Pious foundations.

These councils shall be composed of members elected by each community, in accordance with the regulations to be drawn up *ad hoc*.

The said councils shall be under the local government and the provincial general councils.

ART. 112. Municipal affairs shall be administered, at Constantinople and in the provinces, by elected municipal councils. The organization of these councils, their attributions and the method of electing their members shall be defined in a law *ad hoc*.

MISCELLANEOUS PROVISIONS.

ART. 113. If there appear strong indications and signs that a disturbance will break out in some parts of the Empire, the imperial government has the right to proclaim martial law temporarily in that place.

Martial law consists in a temporary suspension of the civil laws and regulations, and the form of administration of the district under martial law shall be determined by special regulation.

His Imperial Majesty the Sultan has the exclusive power to expel from the territory of the Empire those who, as a result of credible information gathered by the police administration, are recognized as a danger to the State.

ART. 114. Elementary education shall be compulsory for all Ottomans. The details shall be settled by a law *ad hoc*.

ART. 115. No article of the Constitution shall be suspended or suppressed for any reason or any pretext whatsoever.

ART. 116. If it is seen to be absolutely necessary that certain provisions of the Constitution should be changed or amended in accordance with circumstances or the needs of the time, the amendments may be made on the following conditions:

Any amendment proposed by the Cabinet, the Senate or the Chamber of Deputies shall first of all be voted by a two-thirds majority of the members composing the Chamber of Deputies; and if this vote is confirmed by a two-thirds majority of the Senate and sanctioned by imperial irade, the amendment becomes law.

Any article of the Constitution which it is proposed to amend shall remain in full force until the above-mentioned debates have taken place and the imperial irade has been issued.

ART. 117. The interpretation of laws belongs:

To the Court of Cassation, in the case of civil and penal laws.

To the Council of State, in the case of civil administration.

And to the Senate, when it is a question of the Constitution.

ART. 118.¹ The existing laws, regulations, usages and customs shall remain in force unless modified or abolished by new laws or regula-

¹ As amended in 1909.

tions. In drawing up laws and regulations care shall be taken to base them upon the provisions of the canon and civil laws and upon public morals and customs, in accordance with the dictates of humanity and the needs of the time.

ART. 119.¹ Documents and letters entrusted to the post shall not be opened without a decision of a *mustantik* (*juge d'instruction*) or of a court of law.

ART. 120.¹ Ottomans enjoy the right of assembly, on the condition that they obey the law on the subject.

Those societies are forbidden which aim at injuring the territorial integrity of the Ottoman Empire, changing the form of the Constitution or of the government, acting contrary to the provisions of the Constitution, or bringing about a separation between the various Ottoman elements, or which are contrary to public morals.

The formation of secret societies in general is also forbidden.

ART. 121.¹ The debates in the Senate shall be public; but if the Cabinet or 5 Senators propose that the debate on some important matter shall be secret, the place in which the Senate is sitting shall be cleared of all persons except the senators, and the question of accepting or rejecting the proposal shall be submitted to a majority vote.

¹ These three articles, added to the Constitution in 1909, shall eventually be placed in the special division to which they belong.

UNITED STATES OF AMERICA.

Before 1776 the 13 British colonies of North America, namely, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia, had obtained an important share in their own government. Rhode Island and Connecticut under their charters were practically independent. The other colonies were governed by a governor and council,¹ appointed by the English Crown, and an assembly chosen by the people. These colonies had what we call representative government in the present British colonial system, but through the increasing powers of the assemblies after 1700 they were rapidly approaching the system of responsible government. The development of self-government was suspended by the reactionary British policy after 1763 and on 4 July 1776 the colonies took the decisive step of declaring themselves independent.

Some union of the colonies was necessary for the conduct of the war with Great Britain, and united action was obtained by means of congresses to which the several colonies sent delegates. The Articles of Confederation, adopted in 1781, for the first time embodied in a written instrument an agreement of union between the previously independent States. The Articles of Confederation were unsatisfactory in that they did not give sufficient power to the central government, and efforts to amend them failed because of the requirement that all States agree upon an amendment.

In pursuance of a recommendation of a convention of 5 States which met at Annapolis, 11 September 1786, delegates of 12 States met in convention at Philadelphia in May, 1787. This convention drafted a Constitution, which was finally ratified by all of the 13 States. Government under this Constitution was organized in April, 1789. Since its adoption the Constitution has received 18 amendments; the text of the amendments is given after that of the original Constitution.²

¹ The council was both a legislative and an executive body, except in Pennsylvania, where it was denied legislative power; in Pennsylvania and Maryland appointments were made by proprietors rather than by the Crown; in Massachusetts the members of the council were elected by the general court of the colony.

² These introductory paragraphs are based upon W. F. Dodd, *Modern Constitutions* (Chicago, 1909), vol. II, p. 291.

CONSTITUTION OF 17 SEPTEMBER 1787.¹

[PREAMBLE.]

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, 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 I.

SECTION 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives.

SECT. 2. The House of Representatives 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 25 years, and been 7 years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

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.³ 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 10 years, in such manner as they shall by law direct. The number of representatives shall not exceed 1 for every 30,000, but each State shall have at least 1 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,

¹ This is the date upon which the Constitution was agreed upon by the Constitutional Convention; according to the terms of the Constitution it became effective on 21 June 1788, after ratification by 9 States. The date set by Congress for proceedings to begin under the Constitution was 4 March 1789, but the government was actually not organized until April of that year. French translation of this Constitution and its subsequent amendments up to the 15th in F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, pp. 396-421.

² The conditions required to be elector vary in the different States. The length of residence required varies from 3 months to a year. Some States require the elector merely to pay a tax; many require an ability to read and write, or to read only. The age required is 21 years in all the States.

³ The first sentence of this paragraph was amended by the second section of the fourteenth amendment (below, p. 621).

New Jersey 4, Pennsylvania 8, Delaware 1, Maryland 6, Virginia 10, North Carolina 5, South Carolina 5, and Georgia 3.¹

When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

The House of Representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

SECT. 3. The Senate of the United States shall be composed of 2 senators from each State, chosen by the legislature thereof, for 6 years; and each senator shall have one vote.

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.²

No person shall be a senator who shall not have attained to the age of 30 years, and been 9 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.

The Vice-President of the United States shall be president of the Senate, but shall have no vote, unless they be equally divided.

The Senate shall choose their other officers, and also a president *pro tempore*, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

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.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment,³ according to law.

SECT. 4. The times, places and manner of holding elections for senators and representatives shall be prescribed in each State by

¹ The number of representatives has considerably increased since. See below, p. 621, note 2.

² Paragraph 1 of this section and so much of paragraph 2 as relates to filling vacancies are amended by the seventeenth amendment (below, p. 622).

³ Before the ordinary courts.

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.

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.

SECT. 5. 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.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member.

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.

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.

SECT. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law¹ 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.

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.

SECT. 7. 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.

Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections to that house in which

¹ This annual compensation amounts to \$7,500. The compensation of the speaker is \$12,000. See Act of 26 February 1907.

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 10 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.¹

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 House of Representatives, according to the rules and limitations prescribed in the case of a bill.

SECT. 8. The Congress shall have power:

To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States.

To borrow money on the credit of the United States.

To regulate commerce with foreign nations, and among the several States, and with the Indian tribes.

To establish an uniform rule of naturalization² and uniform laws on the subject of bankruptcies throughout the United States.

To coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measures.

To provide for the punishment of counterfeiting the securities and current coin of the United States.

To establish post offices and post roads.

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.

To constitute tribunals inferior to the Supreme Court.

To define and punish piracies and felonies committed on the high seas and offenses against the law of nations.

¹ The Presidents have made frequent use of their right to veto and only a very small percentage of bills have been repassed over their veto. The presidential veto can not be applied to a particular provision of a bill, but must apply to the bill as a whole.

² Law of 29 June 1906 establishing a Bureau of Naturalization and a Bureau of Immigration and instituting uniform rules for the naturalization of foreigners in the United States.

To declare war, grant letters of marque and reprisal and make rules concerning captures on land and water.

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.

To provide and maintain a navy.

To make rules for the government and regulation of the land and naval forces.

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions.

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.

To exercise exclusive legislation in all cases whatsoever over such district (not exceeding 10 miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the government of the United States,¹ 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

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.

SECT. 9. 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 1808, but a tax or duty may be imposed on such importation, not exceeding \$10 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.

No bill of attainder or *ex post facto* law³ shall be passed.

No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.⁴

No tax or duty shall be laid on articles exported from any State.

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.

¹ This territory, now called the District of Columbia and containing the city of Washington, was a part of the original State of Maryland.

² This refers to the negro slave trade, which was abolished by the thirteenth amendment (below, p. 620).

³ The common interpretation of this term is that it refers only to retroactive laws in criminal matters.

⁴ See above, p. 608.

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.

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.

SECT. 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 debt; pass any bill of attainder, *ex post facto* law² or law impairing the obligation of contracts, or grant any title of nobility.

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.

No State shall, without the consent of Congress, lay any duty of 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 II.

SECTION 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 4 years, and, together with the Vice-President, chosen for the same term, be elected as follows:

Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole 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 and elector.³

The Congress may determine the time of choosing the electors,⁴ and the day on which they shall give their votes⁵; which day shall be the same throughout the United States.

¹ See the sixteenth amendment (below, p. 622).

² The common interpretation of this term is that it refers only to retroactive laws in criminal matters.

³ Paragraph 3 of this section (omitted here) has been superseded by the twelfth amendment (below, p. 619).

⁴ The Act of 23 January 1845 has fixed this time as the Tuesday which follows the first Monday in November of the year in which the presidential election is to take place.

⁵ The Law of 3 February 1887 fixed this day as the second Monday of January.

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 35 years and been 14 years a resident within the United States.

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 President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.¹

The President shall, at stated times, 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.²

Before he enter 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.

SECT. 2. 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 department,³ upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

¹ In 1792, the Congress entrusted (Act of 1 March) to the president *pro tempore* of the Senate the exercise of the presidential powers on the default of the President and Vice-President. This provision was superseded by the Act of 19 January 1886, which provided that in this case the presidential powers devolve upon one of the cabinet members, in the following order (the last three mentioned are heads of departments created subsequent to 1886):

- | | |
|---------------------------|------------------------------|
| 1. Secretary of State. | 6. Secretary of Navy. |
| 2. Secretary of Treasury. | 7. Secretary of Interior. |
| 3. Secretary of War. | 8. Secretary of Agriculture. |
| 4. Attorney-General. | 9. Secretary of Commerce. |
| 5. Postmaster-General. | 10. Secretary of Labor. |

The cabinet members called in such a contingency should possess the following qualifications: To have been regularly appointed, to be constitutionally eligible to the Presidency and not to be under impeachment. If the Congress is not in session, it should be convoked in 20 days.

² The annual compensation of the President is \$75,000, with an allowance of \$25,000 for traveling (Act of 4 March 1909); that of the Vice-President is \$12,000.

³ There are 10 departments: State, Treasury, War, Justice, Post Office, Navy, Interior, Agriculture, Commerce, Labor.

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.

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.

SECT. 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.

SECT. 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 misdemeanors.

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.¹ The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

SECT. 2. 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,

¹ The federal courts were reorganized by the Acts of 10 April 1869, 24 February 1891 and 31 January 1903. There are 3 jurisdictions: district courts, circuit courts and the Supreme Court. There are 84 districts and 9 circuits.

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.

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.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

SECT. 3. 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.

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.

SECT. 2. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

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.¹

SECT. 3. 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

¹ Paragraph 3 of this section provided for the arrest of fugitive slaves and their extradition from State to State. This procedure disappeared with the abolition of slavery. See the thirteenth amendment (below, p. 620).

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.

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.

SECT. 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 can not 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 1808 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.

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.

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.

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 9 States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.¹

AMENDMENTS TO THE CONSTITUTION OF 17 SEPTEMBER 1787.²

[ARTICLE I.]

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.

[ARTICLE II.]

A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

[ARTICLE III.]

No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

[ARTICLE IV.]

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

[ARTICLE V.]

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense 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.

¹ Here follow the signatures of the president and secretary of the Convention and 38 deputies.

² The first 10 amendments were proposed by the First Congress on 25 September 1789 and were ratified by three fourths of the States during the 2 succeeding years. They are unnumbered in the original.

[ARTICLE VI.]

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

[ARTICLE VII.]

In suits at common law, where the value in controversy shall exceed \$20, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

[ARTICLE VIII.]

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

[ARTICLE IX.]

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

[ARTICLE X.]

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE XI.¹

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

ARTICLE XII.²

The electors shall meet in their respective States and vote by ballot for President and Vice President, one of whom, at least, shall not be

¹ The eleventh amendment was proposed to the States on 12 March 1794 and was declared adopted on 8 January 1798.

² The twelfth amendment was proposed to the States on 12 December 1803 and was declared adopted on 25 September 1804. It superseded Paragraph 3 of Section 1 of Article II. The House has had to exercise its right of choice twice (1800 and 1824); the Senate, once (1836).

an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists 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 for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes 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. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.—The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

ARTICLE XIII.¹

SECTION 1. Neither slavery nor involuntary servitude,² except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECT. 2. Congress shall have power to enforce this article by appropriate legislation.

¹ The thirteenth amendment was proposed to the States on 1 February 1865 and was declared adopted on 18 December 1865.

² Peonage was suppressed by the Act of 2 March 1867.

ARTICLE XIV.¹

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SECT. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being 21 years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such State.²

SECT. 3. No person shall be a senator or representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitu-

¹ The fourteenth amendment was proposed to the States on 16 June 1866 and was declared adopted on 21 July 1868.

² After the 15th decennial census, the Act of 8 August 1911 apportioned the representatives to the 48 States as follows:

Alabama-----	10	Maine-----	4	Ohio-----	22
Arizona-----	1	Maryland-----	6	Oklahoma-----	8
Arkansas-----	7	Massachusetts-----	16	Oregon-----	3
California-----	11	Michigan-----	13	Pennsylvania-----	36
Colorado-----	4	Minnesota-----	10	Rhode Island-----	3
Connecticut-----	5	Mississippi-----	8	South Carolina-----	7
Delaware-----	1	Missouri-----	16	South Dakota-----	3
Florida-----	4	Montana-----	2	Tennessee-----	10
Georgia-----	12	Nebraska-----	6	Texas-----	18
Idaho-----	2	Nevada-----	1	Utah-----	2
Illinois-----	27	New Hampshire-----	2	Vermont-----	2
Indiana-----	13	New Jersey-----	12	Virginia-----	10
Iowa-----	11	New Mexico-----	1	Washington-----	5
Kansas-----	8	New York-----	43	West Virginia-----	6
Kentucky-----	11	North Carolina-----	10	Wisconsin-----	11
Louisiana-----	8	North Dakota-----	3	Wyoming-----	1

There are 435 members in all or approximately 1 member to 210,669 people. Besides, the territories of Alaska and Hawaii have each 1 nonvoting delegate, the Philippine Islands have 2 resident commissioners, and Porto Rico has 1 resident commissioner.

tion of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each house, remove such disability.¹

SECT. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or 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.

SECT. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV.²

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color or previous condition of servitude.

SECT. 2. The Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XVI.³

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.

ARTICLE XVII.⁴

The Senate of the United States shall be composed of 2 senators from each State, elected by the people thereof, for 6 years; and each senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

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.

¹ This section is practically obsolete through successive legislative measures from 1872 to the Act of 6 June 1898.

² The fifteenth amendment was proposed to the States on 27 February 1869 and was declared adopted on 30 March 1870.

³ The sixteenth amendment was proposed to the States on 26 July 1909 and was declared adopted on 25 February 1913.

⁴ The seventeenth amendment was proposed to the States on 17 May 1912 and was declared adopted on 31 May 1913.

This amendment shall not be so construed as to affect the election or term of any senator chosen before it becomes valid as part of the Constitution.

ARTICLE XVIII.¹

SECTION 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 the jurisdiction thereof for beverage purposes is hereby prohibited.

SECT. 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

SECT. 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 7 years from the date of the submission hereof to the States by the Congress.²

¹The eighteenth amendment was proposed to the States on 3 December 1917 and was declared adopted on 29 January 1919.

²A nineteenth amendment, proposed to the States on 4 June 1919, but at the moment of going to press not yet ratified by the legislatures of three fourths of the States, reads as follows:

SECTION 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.

SECT. 2. Congress shall have power, by appropriate legislation, to enforce the provisions of this article.

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