



CONSTITUTION OF THE REPUBLIC OF CUBA

JULY 1, 1940

We, the delegates of the people of Cuba, assembled in Constituent Convention, for the purpose of establishing a new fundamental law to consolidate our organization as an independent and sovereign state, capable of assuring freedom and justice, maintaining order and promoting the general welfare, do hereby, invoking the favor of God, set forth the following Constitution:

TITLE I Concerning the Nation, its Territory, and Form of Government

ARTICLE 1. Cuba is an independent and sovereign state organized as a unitary and democratic Republic for the enjoyment of political freedom, social justice, individual and collective welfare, and human solidarity.

ART. 2. Sovereignty resides in the people, and all public powers arise there from.

ART. 3. The territory of the Republic consists of the island of Cuba, the Isle of Pines, and other adjacent islands and keys, which were under the sovereignty of Spain until the ratification of the Treaty of Paris on December 10, 1898. The Republic shall not conclude or ratify pacts or treaties that in any form limit or menace national sovereignty or the integrity of the territory.

ART. 4. The territory of the Republic is divided into provinces, and the latter into municipalities. The existing provinces are named: Pinar del Río, Havana, Matanzas, Las Villas, Camagüey, and Oriente.

ART. 5. The flag of the Republic is that of Narciso López that was raised in the Morro fortress of Havana on May 20, 1902, on the transferring of the public power to the people of Cuba. The national coat-of-arms is that which is already established as such by law. The Republic shall not recognize or authorize any national flag, hymn, or coat-of-arms other than those referred to in this article. In the buildings, fortresses, and public dependencies, and in official acts, no flag shall be raised other than the national flag, with the exception of foreign flags in the case and in the manner permitted by protocol and by international usage, treaties, and laws. As an exception, the flag of Carlos Manuel de Céspedes shall be hoisted in the city of Bayamo, which is declared a national monument. The national hymn is that of Bayamo, composed by Pedro Figueredo, and shall be the only one rendered in all the dependencies of the Government, barracks, and on official occasions. Foreign hymns may be rendered in the cases already stipulated in relation to foreign flags. Notwithstanding the provisions of the second paragraph of this article, flags belonging to the armed forces may be raised in fortresses and barracks. Likewise, societies, organizations, or centers of any kind may raise their flags or insignia in their buildings, but the national colors shall always occupy the predominant place.

ART. 6. The official language of the Republic is Spanish.

ART. 7. Cuba condemns wars of aggression and aspires to live in peace with all States and to maintain cultural and trade relations and ties with them. The Cuban state accepts the principles and practices of international law which promote human solidarity, respect for the sovereignty of peoples, reciprocity between states, peace, and universal civilization.

TITLE II Concerning Nationality

ART. 8. Citizenship carries with it duties and rights, the adequate exercise of which shall be regulated by law.

ART. 9. Every Cuban is obliged:

- a) To bear arms for his Fatherland in the cases and in the form established by law.
- b) To contribute to the public expenses in the form and to the amount provided

by law.

c) To comply with the Constitution and the laws of the Republic and to observe good civic conduct, inculcating the principles thereof in his own children and in all those who may be under his protection, promoting in them a pure, national conscience.

ART. 10. A citizen has the right:

- a) To reside in his country without being made the object of any discrimination or duress, regardless of race, class, political opinions, or religious beliefs.
- b) To vote, according to the provisions of the law, in the elections and referendums that may be held in the Republic.
- c) To receive social assistance and public benefits with, in the former case, prior affirmation of need.
- d) To discharge public functions and offices.
- e) To the advantages provided for labor by the Constitution and the law.

ART. 11. Cuban citizenship is acquired by birth or by naturalization.

ART. 12. Cubans by birth are:

- a) All those born in the territory of the Republic with the exception of the children of aliens who may at the time be in the service of their government.
- b) Those born in foreign territory, of Cuban father or mother, by the sole act of their becoming inhabitants of Cuba.
- c) Those having been born outside the territory of the Republic, of father or mother who were natives of Cuba, but who may have lost this nationality, who reclaim Cuban citizenship in the form and subject to the conditions stipulated by law.
- d) Aliens who served for one year or more in the army of liberation, remaining in it until the termination of the War of Independence, provided they affirm this service with an authentic document issued by the national archive.

ART. 13. Cubans by naturalization are:

- a) Aliens who, after five years of continuous residence in the territory of the Republic, and not less than one year after having declared their intention of acquiring Cuban nationality, obtain the letter of citizenship in accordance with the law, provided that they know the Spanish language.
- b) An alien who marries a Cuban woman, and an alien woman who marries a Cuban, in case offspring result from such union, or if they maintain two years of continuous residence in the country after their marriage, and provided that they previously renounce the nationality of their origin.

ART. 14. Letters of citizenship and certificates of Cuban nationality shall be exempt from fee.

ART. 15. The following lose Cuban citizenship:

- a) Those who acquire a foreign citizenship.
- b) Those who, without permission of the Senate, enter the military service of another Nation, or accept the discharge of duties that are inconsistent with Cuban authority or jurisdiction.
- c) Cubans by naturalization who reside three consecutive years in the country of their birth, unless they express every three years, before the appropriate consular authority, their desire to retain Cuban citizenship. The law may determine crimes and acts of unworthiness that may cause the loss of citizenship by naturalization, through definite sentence by competent tribunals.
- d) Naturalized citizens who have accepted double citizenship. Loss of citizenship for the reasons designated in Clauses (b) and (c) of this article shall not be made effective except by definite sentence pronounced after due judicial process before a tribunal of justice, as the law may provide.

ART. 16. Neither marriage nor its dissolution affects the nationality of husband, wife, or their children. A Cuban woman married to an alien shall retain Cuban nationality. An alien woman married to a Cuban, and an alien married to a Cuban woman, shall retain his or her original nationality, or shall acquire Cuban nationality upon his or her prior option, as regulated by the Constitution, the

law, or international treaties.

ART. 17. Cuban citizenship may be recovered in the form stipulated by law.

ART. 18. No Cuban by naturalization may discharge official functions in the country of his origin in the name of Cuba.

TITLE III Concerning Alienage

ART. 19. Aliens residing in the territory of the Republic shall be considered as equal to Cubans:

- a) With regard to the protection of their persons and their goods.
- b) With regard to the enjoyment of rights recognized in this Constitution, with the exception of those granted exclusively to nationals. The government, nevertheless, has the power to oblige an alien to leave the national territory in the cases and in the form stipulated by law. In the case of an alien who has a Cuban family established in Cuba, a judicial decree of expulsion is required, in conformity with the stipulations of the laws on this matter. The law shall regulate the organization of associations of aliens, without permitting discrimination against the rights of Cubans who may have membership in them.
- c) With regard to the obligation of respecting the socio-economic system of the Republic.
- d) With regard to the obligation of observing the Constitution and the law.
- e) With regard to the obligation of contributing to the public expenses in the form and to the amount provided by law.
- f) With regard to submission to the jurisdiction and decisions of the tribunals of justice and the authorities of the Republic.
- g) With regard to the enjoyment of civil rights, under the conditions and within the limitations prescribed by law.

TITLE IV Fundamental Rights

FIRST SECTION Concerning Individual Rights

ART. 20. All Cubans are equal before the law. The Republic does not recognize exemptions or privileges. Any discrimination by reason of sex, race, color, or class, and any other kind of discrimination destructive of human dignity, is declared illegal and punishable. The law shall establish the penalties that violators of this provision shall incur.

ART. 21. Penal laws shall have retroactive effect when favorable to the offender. This advantage is denied in cases of perpetration of fraud by public officials or employees who may be delinquent in the exercise of their office, and of persons responsible for electoral crimes and crimes against the individual rights guaranteed by this Constitution. The penalties and qualifications of the law in force at the moment of the offense shall be applied to those found guilty of these crimes.

ART. 22. No other laws shall have retroactive effect unless the law itself so provides for reasons of public order, social utility, or national necessity, as may be expressly stipulated in that law by a vote of two-thirds of the total number of members of each legislative body. If the basis of the retroactivity should be impugned as unconstitutional, it shall be within the jurisdiction of the tribunal of constitutional and social guarantees to decide upon the same, without the power of refusing to render decision because of form or for any other reason. In every case the same law shall concurrently establish the degree, manner, and form of indemnification for injuries, if any, and of retroactivity affecting rights legitimately acquired under the protection of prior legislation. The law giving the protection afforded by this article shall not be valid if it produces effects contrary to the provisions of Article 24 of this Constitution.

ART. 23. Civil obligations arising from contracts, or from other acts either of commission or omission, may not be annulled or altered by the Legislature or by the Executive, and consequently laws shall have no retroactive effect in respect to the aforesaid obligations. The exercise of actions resulting from these obligations may be suspended in case of grave national crisis, for the time considered reasonably necessary, by means of the same requisites and subject to the impugnability to which the first paragraph of the preceding article refers.

ART. 24. Confiscation of goods is forbidden. No one may be deprived of his property except by competent judicial authority and for a cause justified by public utility of social interest, and with mandatory prior payment of the proper

indemnification in cash, in the amount judicially determined. In case of failure in compliance with these requirements, the person whose property has been expropriated shall have the right of protection by the tribunals of justice, and as the case may warrant, that of the restoration of his property. In case of contradiction, the tribunals of justice shall have the power to decide upon the necessity of expropriation, for reasons of public utility or social interest.

ART. 25. The penalty of death may not be imposed. However, crimes of a military character committed by members of the armed force, and treason or espionage in favor of the enemy in time of war with a foreign nation, are exempted.

ART. 26. The penal process law shall establish the necessary guarantees that all guilt shall be proved independently of the testimony of the accused, of the spouse, and also of relatives within the fourth degree of consanguinity and second of affinity. All accused persons shall be deemed innocent until found guilty. In all cases the authorities and their agents shall make a record of detention that shall be signed by the detained person, who will be notified of the authority ordering the detention, the reason for it, and the place to which the person in custody is to be conducted, placing an affidavit as to all these details in the record. Registration of detained persons and prisoners shall be open to public inspection. Officials approaching or guarding a person in custody shall be liable for every act against the personal integrity, security, or honor of any detained person, unless such officials shall prove their innocence of such act. A subordinate may refuse compliance with orders that infringe upon this guarantee. A guard employing arms against a detained person or a prisoner attempting to escape, shall be accused and held responsible according to the laws, for the crime that may have been committed. Persons under arrest, and political or social prisoners, shall be detained in compartments separate from common offenders, and shall not be subjected to any labor or to the penal regulations for common prisoners. No person under arrest or imprisoned shall be held in solitary confinement. Infractions of this provision shall be taken up only in ordinary jurisdiction, regardless of the place, circumstances, or persons involved in the detention.

ART. 27. Every detained person shall be placed at liberty or delivered to a competent judicial authority within twenty-four hours following the act of his detention. Every detained person shall be released from custody, or committed to prison by a judicial writ, within seventy-two hours after having been placed at the disposition of a competent judge. Within the same period the detained person shall be notified of the writ issued. Preventive imprisonment shall be maintained in places distinct and completely separate from those designed for the serving of sentences, and persons kept in said preventive imprisonment may not be subjected to any labor or to penal regulations designed for persons serving sentences.

ART. 28. There shall be no prosecution or sentence except by a competent judge or tribunal, acting under laws enacted prior to the commission of the crime, and with the formalities and guarantees that these laws may establish. No sentence shall be pronounced against any prosecuted person in his absence, nor shall anyone be condemned in a criminal matter without being heard. Neither shall any person be obliged to testify against himself, or against his spouse, or his relatives within the fourth degree of consanguinity or the second of affinity. No violence or coercion of any kind shall be practiced on persons in order to force them to testify. Any statement obtained in violation of this provision shall be null, and those responsible shall incur the penalties fixed by law.

ART. 29. Any person detained or imprisoned under circumstances not foreseen in the Constitution and the laws, and without the formalities and guarantees provided by them, shall be placed at liberty upon his own petition or upon the petition of any other person, without the necessity of power or direction of an attorney, by means of summary proceedings of habeas corpus before the ordinary tribunals of justice. The tribunal may not decline jurisdiction or admit question as to competence in any case or for any reason, or defer its decision, which shall have preference over all other matters. The presentation of every detained or imprisoned person before the tribunal issuing the writ of habeas corpus is absolutely obligatory, regardless of the authority or official, person or body, holding custody of said detained person, and said authority is without power to deny obedience to said writ. All provisions that may impede or retard the appearance of a person deprived of his liberty, as well as any provisions causing delay in the habeas corpus proceedings, shall be null and shall be so declared by the office of the judicial authority. In case the person detained or imprisoned should not be brought before the tribunal granting the writ of habeas corpus, the latter shall order the arrest of the detaining officer, who shall be judged in accordance with the provisions of the law. Judges or magistrates who refuse to admit application for the writ of habeas corpus, or who do not comply with the other provisions of this article, shall be dismissed from their respective offices by the chamber of government of the Supreme Tribunal.

ART. 30. Any person may enter and remain in the national territory, leave it,

move from one place to another, and change residence without the necessity of a letter of security, passport, or other similar requirement, except for what is provided in the laws on immigration and the duties of the authorities in cases of criminal responsibility. No person shall be obliged to change his domicile or residence, except by order of a judicial authority and in the cases and subject to the requirements stipulated by law. No Cuban may be expatriated or be prohibited entrance into the territory of the Republic.

ART. 31. The Republic of Cuba offers and recognizes the right of asylum to those persecuted for political reasons provided that persons thus sheltered respect the national sovereignty and the laws. The State shall not authorize the extradition of persons guilty of political crimes, nor shall it attempt to extradite Cubans guilty of these crimes who may have taken refuge in foreign territory. In case of the expulsion of an alien from national territory, in conformity with the Constitution and the law, such expulsion shall not be made to the territory of the State that may reclaim him if political asylum is involved.

ART. 32. The secrecy of correspondence and other private documents is inviolable, and neither the former nor the latter may be held or examined except by officials or official agents in pursuance of a written order from a competent judge. In all cases secrecy shall be maintained regarding matters not pertaining to the object of the seizure or examination. Under the same provisions, the privacy of telegraphic, telephonic, anal cable communication is also declared inviolable.

ART. 33. All persons shall have freedom to express their thoughts by speech, writing, or any other graphic or oral means of expression without subjection to previous censorship, utilizing for this purpose any and all means of dissemination available. Editions of books, pamphlets, recordings, films, periodicals, or publications of whatever nature, that attack the good reputation of persons, the social order, or the public peace, may be suppressed only after prior determination thereof by competent judicial authority, without affecting the responsibilities consequent upon the criminal act committed. In the cases referred to in this article, the use and enjoyment of places, equipment, or instruments that the organ of publicity in question may utilize, may not be held or interrupted, except under civil liability.

ART. 34. The domicile is inviolable and, in consequence, no person may make entry at night into the domicile of another person without the consent of its resident, except in order to succor victims of a crime or disaster, or during the day except in the cases and in the form determined by law. In case of suspension of this guarantee, it shall be indispensably required that entry into the domicile of a person be made by proper competent authority, upon written order or resolution, an authentic copy of which shall be presented to the resident, his family, or nearest neighbor, according to the case when authority is delegated to any of his agents the same procedure shall be followed.

ART. 35. The profession of all religions is free, as well as the exercise of all kinds of worship, without other limitation than respect for Christian morality and public order. The Church shall be separated from the State, which shall not grant a subvention to any religion.

ART. 36. Every person has the right to direct petitions to the authorities, and the right to have said petitions heeded and determined within a period not longer than forty-five days, with the further right to be apprised of the decision thereon. At the expiration of the legal period, or in default of the above stipulations, the interested party may seek redress in the manner authorized by law as if his petition had been denied.

ART. 37. The inhabitants of the Republic have the right to assemble peaceably and without arms, and the right to hold processions and associate with one another for all the legitimate purposes of life, in conformity with the corresponding legal standards, without further limitation than may be necessary to assure public order. The formation and existence of political organizations contrary to the democratic representative system of government of the Republic, or which in any way seek to subvert complete national sovereignty, is unlawful.

ART. 38. All acts by which a citizen is prohibited or limited in his participation in the political life of the Nation are declared punishable.

ART. 39. Public functions that imply jurisdiction shall be discharged only by Cuban citizens.

ART. 40. Provisions of a legal, governmental, or any other nature that regulate the exercise of the rights guaranteed by this Constitution, shall be null if they abridge, restrict, or corrupt said rights. Adequate resistance for the protection of individual rights previously guaranteed, is legitimate. Violations of this title shall be prosecuted by public action, without precaution or formality of any kind, and by simple denunciation. The enumeration of the rights guaranteed in this title does not exclude others established in this Constitution, or other rights of an analogous nature, or those that are derived from the principle of the sovereignty

of the people and from the republican form of government.

SECOND SECTION Concerning Constitutional Guarantees

ART. 41. The guarantee of the rights recognized in Articles 26, 27, 28, 29, 30 (first and second paragraphs), 32, 33, 36, and 37 (first paragraph) of this Constitution may be suspended in all or in part of the national territory, for a period not greater than forty-five calendar days, whenever the security of the state may require it, or in case of war or invasion of the national territory, grave disturbance of order, or other happenings profoundly disturbing the public tranquility. Suspension of the constitutional guarantees may be carried out only by means of a special law enacted by the Congress, or by means of a decree of the Executive; however, in the latter case, and in the same decree of suspension, the Congress shall be convened within a period of forty-eight hours and assembled as a single body to ratify or refuse the suspension, balloting by name and by a majority of votes. In case the Congress, thus assembled, should vote against the suspension, the guarantees shall automatically stand re-established.

ART. 42. The territory in which the guarantees referred to in the preceding article may have been suspended, shall be governed by the law of public order previously enacted; however, neither in the said law, nor in any other, may there be suspension of any guarantees other than those mentioned. Likewise, no statement of new crimes shall be made, or any penalties imposed, other than those established by law at the time of the suspension. Those arrested for reasons that may have been stipulated in the suspension must be confined in special places designated for persons prosecuted or punished for political or social crimes. The Executive is forbidden to hold any person in arrest for more than ten days without delivering him to judicial authority.

TITLE V Concerning the Family and Culture

FIRST SECTION Family

ART. 43. The family, motherhood, and marriage are under the protection of the state. Only marriages authorized by officials having legal capacity to effect them are valid. Civil marriage is gratuitous and shall be recognized by the law.

Marriage is the legal basis of the family, and rests upon absolute equality of rights of both husband and wife. The economic relationship between husband and wife shall be regulated in accordance with this principle. The married woman enjoys the full advantages of equal civil capacity, with no necessity for marital permission or authorization in order to manage property, freely to engage in trade, to enter industry or a profession, to practice an art, to hold office, and to dispose of the product of her work. Marriage may be dissolved by agreement of the husband and wife, or in the petition of either of the two, for the reasons and in the form established in the law. The tribunals shall determine the cases in which, for reasons of justice, the union between persons with legal capacity to contract marriage shall be deemed comparable, in stability and special status, to civil marriage. Allowances for support in favor of the woman and the children shall enjoy preference with respect to all other obligations, and this preference may not be derogated by any condition of unattachability of property, salary, pension, or economic investment of any kind whatsoever. Unless the woman shall be proved to possess adequate means of subsistence, or unless she shall be declared at fault, periodic payments shall be fixed for her benefit proportionate to the economic position of the husband, and at the same time taking into account the necessities of social life. These payments shall be made and guaranteed by the divorced and shall continue until his former spouse shall contract a new marriage, without detriment to the allowance that shall be fixed upon each child and which must also be guaranteed. The law shall impose adequate penalties upon those who, in case of divorce, separation, or any other circumstance, shall try to flout or evade this responsibility.

ART. 44. Parents are obliged to support, tend, educate, and instruct their children, and the latter to respect and assist their parents. The law shall assure the fulfillment of these duties with guarantees and adequate penalties. Children born out of wedlock to a person who at the time of conception may have been able to contract marriage, have the same rights and duties as are stipulated in the preceding paragraph, except for what the law prescribes in regard to inheritance. For this purpose, children born out of wedlock, of married persons, when the latter acknowledge the children, or when the filiation is established by declaration, shall also have equal rights. The law shall regulate the investigation of paternity. All qualifications on the nature of filiation are abolished. No statement may be made differentiating between births, either upon the civil status of the parents in the written records of the latter, or in any registry of baptism or certificate referring to the filiation.

ART. 45. Budget, insurance, and social assistance shall be employed in accordance with standards of protection for the family, established in this Constitution. Childhood and youth are protected from exploitation and from moral and material neglect. The state, the provinces, and the municipalities

shall organize adequate institutions for this purpose.

ART. 46. Within the restrictions stipulated in this Constitution, Cubans shall be free to bequeath one-half of their inheritance.

SECOND SECTION Culture

ART. 47. Culture in all of its manifestations constitutes a primary interest of the state. Scientific investigation, artistic expression, and the publication of their results, as well as education, are, in this regard, free, without prejudice to the inspection and regulation by the state, established by law.

ART. 48. Primary instruction is obligatory for minors of school age, and its dispensation shall be the obligation of the state, without lessening the cooperative responsibility falling to municipal initiative. Both primary and pre-primary instruction shall be gratuitous when imparted by the state, province, or municipality. The necessary teaching materials shall likewise be gratuitous. Secondary basic instruction, and all higher instruction imparted by the state or the municipalities, exclusive of specialized pre-university and university studies, shall be gratuitous. In institutes created, or which may be created in the future of the pre-university category, the law may maintain or establish the payment of a moderate cooperation fee for matriculation, that shall be designated for the upkeep of each establishment. As far as possible, the state shall offer fellowships for the enjoyment of non-gratuitous official instruction to students who, having determined their vocations and having exceptional aptitudes, are prevented, by insufficiency of resources, from carrying on such studies on their own account.

ART. 49. The state shall maintain a system of schools for adults, especially dedicated to the elimination and prevention of illiteracy; rural schools predominantly practical, organized with a view to the interest of small communities of agricultural, maritime, or any other type; art schools, and technical institutes of agriculture, industry, and commerce, oriented in a manner to respond to the necessities of the national economy. All of these kinds of instruction shall be gratuitous and the provinces and municipalities shall collaborate in their maintenance to the extent of their means.

ART. 50. The state shall maintain the normal schools necessary for the technical preparation of the teachers in charge of primary instruction in the public schools. No other educational center may issue degrees for primary teachers, with the exception of the schools of pedagogy of the universities. The previous provisions do not exclude the right of schools created by law, to issue pedagogical degrees relating to special matters that may be the subject of their instruction. Holders of these pedagogical degrees of special capacity shall have the right, with full preference, to occupy vacant positions or those that may be created in the respective schools and specialized fields. The degree of master of economy, arts, domestic and industrial sciences, issued by the school of the household, is required for the instruction of women in domestic economy, cutting and needlework, and women's industries.

ART. 51. Public instruction shall be organized in an organic form, so that adequate articulation and continuity may obtain for all grades, including the higher. The official system shall provide vocational stimulus and development in the light of the multiplicity of the professions, and taking into account the cultural and practical necessities of the nation. All instruction, public or private, shall be inspired by a spirit of Cubanism and human solidarity, tending to form in the minds of those being educated a love for their Fatherland, its democratic institutions, and for all those who have fought for one or the other.

ART. 52. All public instruction shall be provided for in the budgets of the state, the provinces, or the municipalities, and shall be under the technical and administrative direction of the Minister of Education, with the exception of departments of instruction that, because of their special character, are subordinate to other ministries. The budget of the ministry of education shall not be less than the normal budget of any other ministry except in case of emergency declared by law. The monthly salary of a teacher of primary instruction must not be, in any case, less than a millionth part of the total budget of the Nation. Persons holding official teaching positions have the rights and duties of public officials. Appointments, promotions, transfers, and dismissals of public teachers and professors, inspectors, technicians, and other school officials, shall be regulated in such a manner that no considerations other than strictly technical ones may apply, but this stipulation shall not affect the vigilance over the moral conduct to which such officials must conform. All directorial and supervisory positions in official primary instruction shall be discharged by technical graduates of the corresponding university faculties.

ART. 53. The University of Havana is autonomous and shall be governed in accordance with its statutes, and with the law upon which the said statutes must be based. The state shall contribute to the creation of University endowment funds and to the support of said University, appropriating for this purpose the amount fixed by law in its national budgets.

ART. 54. Official or private universities and any other institutions and centers of higher learning may be created. The conditions by which they may be regulated shall be determined by law.

ART. 55. Official instruction shall be laic. Centers of private instruction shall be subject to regulation and inspection by the state; however, in all cases the right shall be preserved of imparting, separate from technical instruction, the religious education that may be desired.

ART. 56. In all teaching centers, public or private, the teaching of Cuban literature, history and geography, civics and the Constitution, must be imparted by teachers who are Cuban by birth, and by means of textbooks by authors who have the same qualification.

ART. 57. In order to exercise the teaching profession it is necessary to prove one's qualifications in the form stipulated by law. The law shall determine what non-teaching professions, arts, or offices require degrees for their practice, and the manner in which such degrees must be obtained. The state shall assure employment preference in positions of public service to citizens officially prepared with the proper specialized training.

ART. 58. The state shall regulate by means of a law the preservation of the cultural treasures of the nation and its artistic and historical riches, and shall likewise give special protection to the national monuments and to places notable for their natural beauty or for their recognized artistic or historical value.

ART. 59. A national council of education and culture shall be created which, presided over by the Minister of Education, shall be in charge of the encouragement, technical direction, or inspection of the educational, scientific, and artistic activities of the nation. The opinion of this body shall be heard by the Congress on every bill relating to matters within its competence. Positions on the national council of education and culture shall be honorary and uncompensated.

TITLE VI Concerning Labor and Property

FIRST SECTION Labor

ART. 60. Labor is an inalienable right of the individual. The state shall employ all the resources in its power to provide an occupation for everyone who lacks such, and shall assure the economic conditions necessary for a proper existence to every worker, manual or intellectual.

ART. 61. Every worker, manual or intellectual, in public or private enterprise of the state, province, or municipality shall have a guaranteed minimum salary or wage, which shall be determined in keeping with the conditions of each region and the normal necessities of the worker, from material, moral, and cultural considerations, and considering him as the head of the family. The law shall establish the manner of periodically regulating the minimum salaries or wages by means of committees with equal representation for each branch of labor, according to the standards of living, the peculiarities of each region, and each industrial, commercial, or agricultural activity. In labor performed by the complete task, it shall be obligatory that the minimum wage for a day's work be reasonably assured. The minimum of all salaries or wages is unattachable, except in case of responsibilities for payment of allowances in support of other persons in the form that the law may establish. The tools of labor belonging to workers are also unattachable.

ART. 62. For equal work under identical conditions, an equal salary shall always be paid regardless of persons.

ART. 63. No discount not authorized by the law may be made on any wage or salary of manual and intellectual workers. Amounts owing to workers for services and wages earned in the past year shall have preference over any others.

ART. 64. Payment in tickets, tokens, merchandise, or any other article by which an attempt is made to replace money of legal tender is absolutely prohibited. Violations of this prohibition shall be punishable by law. Day laborers shall receive their salary within a period not longer than one week.

ART. 65. Social insurance benefits are established as irrenounceable and imprescriptible rights of workers, with the equitable cooperation of the state, the employers, and the workers themselves, for the purpose of protecting the latter in an effective manner against illness, old age, unemployment, and the other exigencies of labor, in the form that the law may determine. The rights of old-age, pensions, and death benefits are likewise established. The administration and governing of the institutions to which the first paragraph of this article refers shall be the duty of organizations elected with equal representation by employers and workers, with the participation of a representative of the state, in the form determined by law, except in the case of that created by the state for the bank of social insurance. Insurance covering accidents of world and for occupa-

tional diseases, at the exclusive expense of the employer and under the control of the state, is declared equally obligatory. Social insurance funds or reserves may not be transferred, and may not be used for any purposes other than those that determined their creation.

ART. 66. The maximum working day shall not exceed eight hours. This maximum may be reduced to six hours a day for persons more than fourteen and less than eighteen years of age. The maximum working week shall be forty-four hours, equivalent to forty-eight hours in pay, with the exception of industries which, because of their nature, must carry on uninterrupted production within a certain period of the year, until the specific regulation in these exceptional cases is determined by law. Labor and apprenticeship is prohibited to persons less than fourteen years of age.

ART. 67. The right of all manual and intellectual workers to one month of vacation on pay for every eleven months of work in every natural year is established. Those who, on account of the type of work or other circumstances, may not have worked the eleven months, shall have the right to vacation on pay for a period proportional to the time worked. When workers stop work on account of a national holiday or mourning, employers must guarantee them the corresponding wages for this time. There shall be only four days of national holiday and mourning on which the closing of industrial or commercial establishments or those of public entertainment is obligatory. The remaining official holiday or mourning days shall be celebrated without suspension of the economic activities of the nation.

ART. 68. No wage differential may be established between married women and single women. The law shall regulate the protection of motherhood of working women, extending this protection to women who are employed. A pregnant woman may not be separated from her employment within three months before childbirth, or be required to do work that may require considerable physical effort. During the six weeks immediately preceding childbirth and the six weeks following, a woman shall enjoy obligatory vacation from work on pay at the same rate, retaining her employment and all the rights pertaining to such employment and to her labor contract. During the nursing period, two extraordinary daily rest periods of a half hour each shall be allowed for her to feed her child.

ART. 69. The right of organization is recognized for employers, private employees, and workers, for the exclusive purposes of their economic-social activity. The competent authority shall have a period of thirty days in which to admit or refuse to admit the registry of a workers' or employers' association. The registration shall determine the juridical personality of the workers' or employers' association. The law shall regulate everything concerned with the recognition of the association by the employers and by the workers respectively. Associations may not be finally dissolved until a provisional decision has been made by the tribunals of justice. The officials of these associations shall be exclusively Cubans by birth.

ART. 70. Official obligatory collective organization is established in the practice of university-trained professions. The law shall determine the form of the organization and functioning of such bodies, by a higher organization of national character, and by the local organizations that may be necessary, in a manner such that they may be regulated with full authority by the majority of their colleagues. The law shall also regulate the obligatory collective organization of the other professions recognized officially by the State.

ART. 71. The right of workers to the strike and the right of employers to the lockout is recognized, in conformity with the regulations that the law may establish for the exercise of both rights.

ART. 72. The law shall regulate the system of collective contracts of labor, the fulfillment of which shall be obligatory for both employers and workers. Stipulations implying renunciation, diminution, impairment, or relinquishment of any right in favor of the worker that is recognized in this Constitution or in the law, even if expressed in a labor contract or in any other pact, shall be null and shall not obligate the contracting parties.

ART. 73. The majority of persons participating in labor shall be Cubans by birth as much as regards to total amount of wages and salaries as in the distinct categories of labor, in the form determined by law. Protection shall also be extended to naturalized Cubans with families born in the national territory, with preference over naturalized citizens who do not meet these conditions, and over aliens. The stipulations in the preceding paragraphs concerning aliens shall not be applied in the filling of indispensable technical positions, subject to the prior formalities of the law, and with provision that apprenticeship in the technical work in question be facilitated for native Cubans.

ART. 74. The ministry of labor shall take care, as an essential part, among others, of its permanent social policy, that discriminatory practices of no kind shall prevail in the distribution of opportunities for labor in industry and commerce. In

personnel changes and in the creation of new positions, as well as in new factories, industries, or businesses that may be established, it shall be obligatory that opportunities for labor be distributed without distinctions on a basis of race or color, provided that requirements of ability are satisfactorily met. It shall be established by law that any other practice shall be punishable and may be prosecuted officially or at the instance of the aggrieved party.

ART. 75. The formation of co-operative enterprises, whether commercial, agricultural, industrial, of the consumer, or any other type, shall be subject to regulation by the law; but the latter shall regulate the definition, constitution, and functioning of such enterprises in order that they shall not serve to evade or abridge the provisions that this Constitution establishes for the regulation of labor.

ART. 76. The law shall regulate immigration in keeping with the national economic system and with social necessities. The importation of contract labor, as well as all immigration tending to debase the condition of labor, is prohibited.

ART. 77. No enterprise may discharge a worker except for good reason and with the other formalities that the law, which determines the just causes for dismissal shall establish.

ART. 78. The employer shall be responsible for compliance with the social laws, even when labor is contracted by an intermediary agency. In all industries and kinds of labor in which technical knowledge is required, apprenticeship shall be obligatory in the form that the law may establish.

ART. 79. The state shall support the creation of low-cost dwellings for workers. The law shall determine the enterprises that, by employing workers outside of population centers, are obliged to provide adequate housing for workers, as well as schools, infirmaries, and other services and advantages in behalf of the physical and moral well-being of the worker and his family. The conditions which shops, factories, and places of work of all kinds must maintain shall likewise be regulated by law.

ART. 80. Social assistance shall be established under the direction of the ministry of health and social assistance; this assistance shall be organized by special legislation, which shall appropriate funds to provide for the necessary reserves. Hospital, sanitary, medical examiners, and other positions that may be necessary in organizing the corresponding official services in an adequate manner, shall be established. Charitable institutions of the state, province, and municipality shall order services of a gratuitous character only to the poor.

ART. 81. Reciprocity is recognized as a social principle and practice. The law shall regulate its operation in such a manner that persons of modest means may enjoy its benefits, and at the same time so that it shall render a fair and adequate protection to the professional.

ART. 82. Only Cubans by birth and naturalized Cubans who have held their status as such for five years or more prior to the date of their seeking authorization to practice, may practice professions that require official title, except as provided in Article 57 of this Constitution. However, the Congress may, by special law, grant temporary suspension of this provision when, for reasons of public utility, the cooperation of foreign professionals and technicians shall be necessary or convenient in the development of public or private undertakings of national interest. Such a special law shall fix the limits and period of the authorization. In the fulfillment of this provision, as well as in cases in which, by any law or regulation, the practice of any new profession, art, or office may be regulated, the working rights acquired by persons who, until that time may have practiced the profession, art, or office in question, shall be respected, and the principles of international reciprocity shall be observed.

ART. 83. The law shall regulate the manner in which factories and shops may be transferred for the purpose of avoiding debasement of the conditions of labor.

ART. 84. Problems arising from the relations between capital and labor shall be submitted to committees of conciliation, composed of equal representation of employers and workers. The law shall stipulate the judicial officials who shall preside over the said committees, and the national tribunal before which their decisions are appealable.

ART. 85. In order to assure compliance with social legislation, the state shall provide for the supervision and inspection of enterprises.

ART. 86. The enumeration of the rights and benefits to which this section refers shall not exclude others arising from the principle of social justice, and they shall be equally applicable to all elements involved in the process of production.

SECOND SECTION Property

ART. 87. The Cuban state recognizes the existence and legitimacy of private property in the fullest concept of its social function, and with no further limitations than those that may be established by law for reasons of public necessity or social interest.

ART. 88. The subsoil belongs to the state, which may make concessions for its exploitation, in conformity with what the law may establish. Mining property granted and not exploited within the period that the law may fix shall be declared null and shall revert to the state. Land, forests, and concessions for the exploitation of the subsoil, utilization of waters, means of transportation, and every other enterprise of public service, must be exploited in a manner favorable to the social welfare.

ART. 89. The state shall have the right to be a party in all auctions or forced sales of real property and of things representative of values in immovable property.

ART. 90. Latifundia are outlawed, and in order to effect their disappearance the law shall stipulate the maximum extent of property that each person or corporation may possess for each type of exploitation for which the land may be employed, at the same time taking into account individual circumstances. The law shall restrictively limit acquisition and possession of land by foreign persons and companies, and shall adopt measures tending to revert the land to Cuban ownership.

ART. 91. The father of a family who lives upon, cultivates, and directly exploits a rural property that he owns, provided that the value of the latter does not exceed 21000 pesos, may declare it of irrevocable character as family property as soon as it may be essential for his living and subsistence, and said property shall be exempt from taxes and shall be unattachable and inalienable except for responsibilities incurred prior to this Constitution. Improvements that exceed the sum above mentioned shall pay the corresponding taxes in the manner that the law may establish. In order to exploit the said property the owner may mortgage it, or give sowings, plantings, fruits, or products of the same as guarantees.

ART. 92. Every author or inventor shall enjoy exclusive ownership of his work or invention, with the limitations stipulated by law as to time and form. Concessions of industrial and commercial trademarks, and other recognition of mercantile credits with indications of Cuban origin, shall be null if such concessions are used in any way for protecting or covering articles manufactured outside of the national territory.

ART. 93. No perpetual charges on property in the character of perpetual interest payments or other charges of an analogous nature may be imposed, and, furthermore, the establishment of such charges is prohibited. The Congress shall approve a law regulating the liquidation of the existing charges within a period of three legislative terms. Perpetual interest payments, or charges established, or which may be established, to the benefit of the state, province, or municipality, or in favor of public institutions of all kinds or of private institutions of beneficence are excepted from the stipulations of the preceding paragraph

ART. 94. It is the obligation of the state to take a census of population at least every ten years, that shall reflect all the economic and social activities of the country. The state shall also publish a statistical yearbook regularly.

ART. 95. The property of charitable institutions is declared to be imprescriptibly.

ART. 96. Those areas of land given by persons of old Spanish nobility for the founding of a town or community, and effectively employed for this purpose, acquiring the character of a municipal government, though afterward occupied or held by the heirs or inheritors of the donor, are declared to be in the nature of a public utility and therefore subject to expropriation by the state, the province, or the municipality. The inhabitants of such a town or city, who possess buildings or occupy lots in the settled part, may obtain ownership or possession of the estates or sections of land that they may be occupying, by payment of a fair proportionate price through the expropriating body empowered to transfer the said property to them.

TITLE VII Concerning Suffrage and Public Offices

FIRST SECTION Suffrage

ART. 97. Universal, equal, and secret suffrage is established as a right, duty, and function of all Cuban citizens. This function shall be obligatory, and all persons who, except because of obstacles admitted by law, fail to vote in an election or referendum, shall be subject to the penalties that the law may impose, and shall be deprived of the capacity to hold a judgeship or any public office during the two years following the date of the infraction.

ART. 98. The people express their opinion upon the questions submitted to them by means of the referendum. In every election or referendum, the absolute majority of validly cast votes shall decide, save for the exceptions established by the Constitution. The results shall be made public in an official manner as soon as they are determined by the competent body. A vote shall be counted solely and exclusively for the person in whose favor it was cast, and may not be accumulated the benefit of any other candidate. Moreover, in cases of proportional representation, votes cast in favor of the candidate shall be counted in order to determine the party's quotient.

ART. 99. All Cubans of one sex or the other, and more than twenty years of age, are voters, with the exception of the following:

- a) Inmates of asylums.
- b) Those who are mentally incapacitated, with a previous judicial declaration of their incapacity.
- c) Those judicially disqualified for criminal cause.
- d) Individuals belonging to the armed forces or to the police, who are in active service.

ART. 100. The electoral code shall provide for an identification book, with the photograph of the voter, his signature, and fingerprints, and the other requirements necessary for better identification.

ART. 101. All forms of coercion to oblige a citizen to affiliate himself, vote, or manifest his choice in any voting operation, are punishable. This violation shall be punished, and a double penalty shall be applied, in addition to permanent disqualification for the discharge of public office, when the coercion is practiced by an authority or agent, official, or employee of such public office, by himself or through an intermediary person.

ART. 102. The organization of political parties and associations is free. However, no political groupings of race, sex, or class may be formed. For the organization of new political parties, it is necessary to present, together with the corresponding application, a number of adherents equal to or greater than two percent of the corresponding electoral census, according as such party be national, provincial, or municipal in character. A party that in a general or special election does not obtain a number of votes representing the said two percent shall disappear as such and shall be officially erased from the registry of parties. Candidacies may be presented only by those political parties that, having a number of affiliates not smaller than that fixed in this article, may have been organized or reorganized, according to the case, before the election. Political parties may be reorganized on one single day six months before each presidential, gubernatorial, mayoral, or conciliar election, or election for delegates to a constituent convention. The superior electoral tribunal shall officially erase all parties from the registry of parties that, having such opportunity, have not been reorganized. The assemblies of the parties shall retain all their powers and may not be dissolved, except by legal reorganization. In every case, the party assemblies shall be the only bodies in charge of making nominations, and this power may not in any case be delegated.

ART. 103. The law shall establish rules and procedures that shall guarantee the participation of minorities in the formation of the census of voters, in the organization and reorganization of political associations and parties, and in the other electoral operations, and shall assure them representation in the elective bodies of the State, Provinces, and municipalities.

ART. 104. All those provisions modifying electoral legislation that may be enacted after the calling of an election or referendum, or before the persons winning an election take office, or final results of a referendum are known, are null. Those modifications that are expressly sought by the superior electoral tribunal and are approved by a two-thirds vote of the Congress are excepted from this prohibition. From the call for the elections until the elected persons take office, the superior electoral tribunal shall have jurisdiction over the armed forces and over the police bodies for the sole purpose of guaranteeing the purity of the electoral function.

SECOND SECTION Public Offices

ART. 105. Officials, public workers, and employees are those who, on prior demonstration of capacity, and compliance with the other requirements and formalities established by law, may be designated by competent authority for the discharge of public duties or services, and who receive or do not receive a salary or wage charged to the budgets of the state, province, or municipality, or autonomous bodies.

ART. 106. The public, civil officials, employees, and workers of all the branches

of the state, those of the provinces, municipalities, and of the autonomous bodies and corporations, are exclusively servants of the general interests of the Republic, and their irremovability is guaranteed by this Constitution, with the exception of those who may discharge political offices or hold positions of trust.

ART. 107. Political offices and positions of trust are:

a) Ministers and departmental subsecretaries; ambassadors, envoys extraordinary and ministers plenipotentiary, and directors general, the latter in cases of positions that the law may declare not to be technical.

b) All the personal appointees in the immediate private offices of the Ministers and departmental subsecretaries.

c) The private secretaries of officials.

d) The secretaries of the provincial and municipal administrations, the departmental chiefs of these bodies, and the personal appointees in the immediate private offices of the governors and mayors.

e) Public, civil officials, employees, and workers named to positions that are temporary in character, with casual appointments the duration of which does not extend beyond the fiscal year.

ART. 108. Admission to and promotion in public offices not excepted in the preceding article may be obtained only after the aspirants have complied with the requirements and undergone the competitive merit tests of their fitness and capacity that the law shall establish except in those cases which, by the nature of the duties involved, are declared exempt by law.

ART. 109. No administrative penalties may be imposed upon public officials employees, and workers without proper reason being previously established and only after a hearing of the interested party and with the appeals that the law may establish. Such proceedings must always be summary.

ART. 110. A public official, employee, or worker who replaces a person removed from his office, shall be considered a provisional substitute while the position of the substitute person is not definitely determined, and this person may claim, in this case, only the rights that belonged to him in his former position.

ART. 111. Compulsory retirements may be carried out only by recreation or suppression of positions, with respect to the seniority of the persons holding such positions. Those retired shall have preferential right, in order of seniority, to hold positions having equal or analogous functions and in the same category or in the category immediately inferior, that may be established or vacated.

ART. 112. No person may simultaneously discharge more than one once paid, directly or indirectly, by the state, the province, the municipalities, or the autonomous bodies and corporations, with the exception of the cases stipulated by this Constitution. Pensions or super annuities of the state, provinces, and municipalities are supplemental to the necessities of their beneficiaries. Persons who have property of their own fortune may receive only such a part of the pension or super annuity as may be necessary in order that, added to other incomes, the total does not exceed the maximum pension that the law shall fix. A similar criterion shall be applied to persons receiving more than one pension. No person may, for any reason, effectively receive a pension, superannuation, or retirement of more than 2,400 pesos a year, and a single uniform scale of payments shall be applied to all persons pensioned or superannuated. Persons who at present enjoy pensions, superannuations, or retirements larger than 2,400 pesos annually, shall not effectively receive more than this amount per year. Members of the Cuban army of liberation, their widows, and children, who have the right to a pension, are excepted from the provisions of the preceding paragraphs as a homage of the Republic to its liberators.

ART. 113. Monthly payment of superannuations and pensions for services rendered to the state, province, or municipality in the proportion permitted by the state of the public treasury shall be an obligation of the state, and in no case shall such payments be less than fifty percent of the basic legal amount. The appropriations for superannuations and pensions shall be made each year in the general budget of the nation. No pension or superannuation shall be less than the amount that is in force as a daily wage minimum by virtue of the provisions of Article 60 of this Constitution. Superannuations and pensions of officials and employees of the state, province, and municipality, that are included in the general law of pensions which here governs, shall be paid in the same manner as the salaries of officials and employees in active service; the state, province, or municipality being obligated, according to the case, to raise the funds necessary to perform this obligation. The payment of pensions to veterans of the War of Independence and to their families shall be considered in preference to all other obligations of the state.

ART. 114. Entry into the notarial profession and into the body of registrars of property shall in the future be by competitive examination, regulated by law.

ART. 115. The raising and managing of social retirement funds may be independent, in the form determined by law; however, within four legislative terms following the promulgation of this Constitution, the Congress shall enact a law establishing the general standards by which all the existing superannuations and pensions shall be regulated, or by which such superannuations and pensions shall be created in the future, in all that relates to benefits, taxes, minimum requisites, and guarantees.

ART. 116. In order to decide upon questions relative to public services, a body with autonomous character is hereby established, that shall be called the tribunal of public ounces, and which is composed of seven members designated in the following manner:

One, by the plenum of the Supreme Tribunal of Justice, and who must meet the same qualifications required for a Magistrate of the said Tribunal. One, appointed by the President of the Republic with the prior approval of the Council of Ministers, and who must have had recognized experience in administrative matters. One, appointed by the Congress, who must possess an academic degree issued by official authority. One, appointed by the University council from a list of three nominations made by the faculty of social sciences, of which the appointee must be a graduate. One, by the employees of the State. One, by the employees of the Province; and one, by those of the municipality. The last three members must have recognized experience in the respective departments.

Decisions pronounced by the tribunal of public offices shall have force of law and shall go into immediate effect, without prejudicing the appeals that the law may establish.

ART. 117. The law shall establish the penalties to be imposed upon persons violating the principles contained in this section.

TITLE VIII Concerning the Organs of the State

ART. 118. The state exercises its functions by means of the legislative, executive, and judicial powers and the organs recognized in the Constitution which, in conformity with the same, may be established by law. The Provinces and the municipalities, besides exercising their own functions, assist in the realization of the purposes of the state.

TITLE IX Concerning the Legislative Power

FIRST SECTION Concerning the Co-legislative Bodies

ART. 119. The legislative power is exercised by two bodies called respectively the Chamber of Representatives and the Senate, and which together receive the name of the Congress.

SECOND SECTION Concerning the Senate, Its Composition, and Its Powers and Duties

ART. 120. The Senate is composed of nine Senators per province, elected in each case for a term of four years by universal, equal, direct, secret suffrage, in a single day, and in the form that the law may prescribe.

ART. 121. To be a Senator it is necessary:

a) To be Cuban by birth.

b) To have reached thirty years of age.

c) To be in full enjoyment of civil and political rights.

d) Not to have belonged to the armed forces of the Republic in active service during the two years immediately prior to the date of his designation as candidate.

ART. 122. The powers and duties of the Senate are:

a) To judge, being constituted as a tribunal, the President of the Republic when the latter shall have been accused by the Chamber of Representatives of a crime against the external security of the State, the free functioning of the legislative or judicial powers, or for a violation of constitutional precepts. In carrying out this obligation, it shall be mandatory that the accusation formulated by the Chamber of Representatives shall have been approved by two-thirds of its members. The tribunal constituted for the purposes of this article shall be composed of the members of the Senate and all those of the Supreme Tribunal; and the person who at the time holds the office of president of the latter

Tribunal shall preside.

b) To judge, being constituted as a tribunal, the Ministers of the Government, when the latter shall have been accused by the Chamber of Representatives of a crime against the external security of the state, the free functioning of the legislative or judicial powers, or of a violation of the provisions of the Constitution, as well as of any other crime of a political character that the law may determine.

c) To judge, being constituted as a tribunal, the governors of the provinces when they shall have been accused by the provincial council by the President of the Republic with the approval of the Council of Ministers, of any of the crimes cited in the preceding clause. In all cases in which the Senate is constituted as a tribunal, the president of the Supreme Tribunal shall preside. No penalty may be imposed upon those accused other than that of dismissal from office, or that of deprivation of office and disqualification from the exercise of public offices, without prejudice to the ordinary tribunals, which may impose any other penalty that such accused persons may have incurred.

d) To approve the nominations that the President of the Republic, with the aid of the Council of Ministers, may make for the chiefs of permanent diplomatic missions and for other officials, the appointment of which may require the approval of the Senate according to the law.

e) To approve the appointment of members of the tribunal of accounts of the state.

f) To appoint committees of investigation. These shall have the number of members the Senate may determine, and shall have the right to subpoena private individuals as well as officials and authorities to attend to give information before them, and the right to request data and documents that they may consider necessary for the purposes of the investigation. Tribunals of justice, administrative authorities, and private individuals have the obligation of furnishing committees of investigation with all the data and documents asked of them. If the investigation is concerned with activities of the Government, a favorable vote of two-thirds of the members of the Senate is required to establish these committees. In other cases, a vote of one-half plus one shall be sufficient.

g) To authorize Cubans to serve a foreign country in a military capacity, or accept from another government employment or honors that may imply authority or jurisdiction of their own.

h) To approve treaties that the President of the Republic may negotiate with other Nations.

i) To require the appearance of Ministers of Government to answer interpellations that may have a definite object, in accordance with the Constitution.

j) The other powers emanating from this Constitution.

THIRD SECTION Concerning the Chancier of Representatives, Its Composition, and Powers and Duties

ART. 123. The Chamber of Representatives shall be composed of one Representative for every 35,000 inhabitants or fraction greater than 17,500. Representatives shall be elected by provinces for a term of four years by universal, equal, direct, and secret suffrage, in a single day, and in the form that the law may prescribe. The law shall determine the numerical basis of proportionality in each province, in accordance with the latest official national census of population. The Chamber of Representatives shall be renewed by halves every two years.

ART. 124. To be a Representative it is necessary:

a) To be Cuban by birth or by naturalization, and in the latter case with ten years continuous residence in the Republic, counted from the date of naturalization.

b) To have reached twenty-one years of age.

c) To be in full enjoyment of civil and political rights.

d) Not to have belonged to the armed forces of the Republic in active service during the two years immediately prior to the date of his designation as candidate.

ART. 125. It is within the jurisdiction of the Chamber of Representatives:

a) To accuse the President of the Republic and the Ministers of Government in the cases determined in Clauses (a) and (b) of Article 122 before the Senate

when two-thirds of the total number of Representatives approve the accusation in secret session.

b) To have priority in the discussion and approval of the general budgets of the nation.

c) To have all other powers that may be granted by this Constitution.

FOURTH SECTION Provisions Color to the Co-legislative Bodies

ART. 126. The offices of Senator and Representative are incompatible with any other office paid as a charge upon the state, province, or municipality, or upon agencies maintained wholly or partially by public funds, with the exception of the office of Minister of Government and that of professor in an official establishment, obtained prior to the election. The members of the legislative branch may be appointed as Ministers of Government, but in no case may more than half of the members of the Council of Ministers hold both offices. Senators and Representatives shall receive from the state a stipend that shall be equal for both offices. The amount of this stipend may be altered at any time, but the change may not take effect until the colegislative bodies have been renewed.

ART. 127. Senators and Representatives shall be inviolable for the opinions and votes that they may register in the exercise of their offices. Senators and Representatives shall not be arrested or prosecuted, except with the authorization of the body to which they belong. If the Senate or Chamber of Representatives should not decide upon the requested authorization within forty consecutive days after the opening of the Legislature and after receiving a writ from a judge or tribunal, the authorization for instituting proceedings and subjecting the Senator or Representative to the same shall be understood to be granted. The case shall not be prosecuted if the body to which the legislator belongs refuses authorization to continue the proceedings. In case of being apprehended *in flagrant delicto* in the commission of a crime, a legislator may be arrested without the authorization of the body to which he belongs. In this case and in that of a legislator being arrested or prosecuted when the Congress is not in session, notice shall immediately be given to the president of the respective body, who must immediately call the colegislative body concerned into extraordinary session to decide exclusively upon the authorization requested by the judge or tribunal. If the request shall not be refused within the twenty ordinary sessions counted from the date of this notification, the authorization shall be understood to be granted. Any agreement granting or refusing the request for authorization to prosecute or arrest a member of the Congress must be preceded by a reading of the antecedent events, that shall be the basis for the decisions that the respective colegislative body may adopt.

ART. 128. The Senate and the Chamber of Representatives shall open and close their sessions on the same day, shall reside in the same city, and may not be moved to any other place, and their sessions may not be suspended for more than three days except with the agreement of both. A legislative term may not be opened or go into session without the presence of one-half plus one of the total of members of each body. Verification of the quorum shall be made by roll call. Parliamentary immunity does not include or protect acts that may be related to the veracity and legitimacy of the records or to the formalities prescribed for the approval of laws. Laws in all cases must be previously subjected to a roll call in their entirety. No bill may be voted upon by a colegislative body without at least a prior consultative report of a committee of that body.

ART. 129. Each legislative body shall decide upon the validity of the election of its respective members and upon the resignations that they may present. No Senator or Representative may be expelled from the body to which he belongs except by virtue of cause previously determined, and with the approval of at least two-thirds of the total number of its members. Each legislative body shall formulate its own by-laws and elect its president, vice-presidents, and secretaries from among its own members. The president of the Senate shall preside over sessions only in the absence of the Vice-President of the Republic.

ART. 130. No Senator or Representative may hold properties of the state by rent, directly or indirectly, or obtain contracts or concessions of any kind from the latter. Likewise, no Senator or Representative may hold a position as legal consultant or director or any office that may imply jurisdiction, or in an enterprise that is foreign, or the business of which may be linked in any way to a foreign organization.

ART. 131. The relations between the Senate and the Chamber of Representatives not foreseen in this Constitution shall be governed by the law on relations between colegislative bodies. An appeal on grounds of unconstitutionality shall be open against any agreement that may violate the said law.

FIFTH SECTION Concerning the Congress and Its Powers and Duties

ART. 132. The Congress shall be assembled twice a year in its own right and without the necessity of an order of convocation. The Congress shall function

not less than sixty working days in each one of the legislative terms, and not more than 140 days in both legislative terms. One legislative term shall commence on the third Monday of September and the other on the third Monday of March. The Senate and the Chamber of Representatives shall be assembled in extraordinary sessions in the cases and in the manner that their by-laws may determine or the Constitution and the law may establish, and when the President of the Republic convokes them in conformity with this Constitution. In such cases they shall occupy themselves exclusively with the matter or matters that provided the reason for their assembly.

ART. 133. The Senate and the Chamber of Representatives shall be assembled into one single body in order:

a) To proclaim the President and Vice-President of the Republic, in view of the respective certificate of inspection transmitted by the superior electoral tribunal. If this certificate should indicate a tie between two or more candidates, the Congress shall proceed to the selection of the President from the candidates who have received the tie in the general election. If the Congress also should register a tie, the ballot shall be repeated; if the result of the latter is still the same, the vote of the president shall decide. The procedure established in the preceding paragraphs shall be applicable to the Vice-President of the Republic.

b) To exercise jurisdiction in other cases that the law of relations between the two colegislative bodies may establish. When the Senate and the Chamber of Representatives are assembled in one single body, the president of the Senate shall preside in his capacity as president of the Congress; and, in his absence or disability, the president of the Chamber of Representatives shall preside as vice-president of the same Congress.

ART. 134. Powers of the Congress that may not be delegated are:

a) To enact codes and laws of a general character; to determine the system of the elections; to enact provisions relative to general, provincial, and municipal administration; and to approve other laws and resolutions that it may consider desirable upon any other matters of public interest, or that may be necessary to put this Constitution into effect.

b) To establish the taxes and imposts of a national character that may be necessary for the upkeep of the state.

c) To discuss and approve the budgets of expenditure and income of the state.

d) To decide upon the annual reports that the tribunal of accounts may present concerning the settlement of the budgets, the state of the public debt and the national currency.

e) To approve loans, but with the obligation, at the same time, of voting the permanent revenues necessary for the payment of interest and amortization.

f) To resolve what is necessary for the coining of money, determining it; standard, fineness, value, and denomination, and to decide what it may consider necessary regarding the issuance of fiduciary notes, and upon the banking and financial system.

g) To regulate the system of weights and measures.

h) To enact provisions for the regulation and promotion of internal and foreign commerce, for agriculture and industry, insurance of labor and offage, maternity, and employment.

i) To regulate the communication services, providing for the administration of the railways, highways, canals and ports, and for transit by way of land, air, and sea, creating whatever the public convenience may require for this purpose.

j) To fix rules and procedures for obtaining naturalization, and to regulate the supervision of aliens.

k) To grant amnesty in accordance with this Constitution. Amnesty for common crimes may be granted only by the favorable vote of two-thirds of the total of each one of the colegislative bodies, and ratified by the same number of votes in the following legislative session. Amnesty for political crimes also requires the same extraordinary vote if homicide or assassination should be committed in relation with the same.

l) To fix the quotas of the armed forces and approve their organization.

m) To grant or refuse its confidence to the Council of Ministers, or to any of its members, in the form and on the occasions that this Constitution may determine.

n) To subpoena the Council of Ministers, or any of its members, to answer interpellations that may be formulated for them. The summons must be made by each colegislative body with previous notification to the President of the Republic and to the Prime Minister, ten days in advance, indicating the business with which the interpellation shall deal. The subpoenaed Minister may be accompanied, when required to answer an interpellation or give a report on a bill, by counselors whom he may designate, but these counselors shall be limited to presenting the technical information that the Minister being interpellated or giving the report may indicate.

o) To declare war, and to approve treaties of peace that the President of the Republic may have negotiated.

p) To approve all the laws for which this Constitution provides, and those laws that may arise in the development of the principles contained in the standards of this Constitution.

SIXTH SECTION

Concerning the Initiative and Formation of Laws, Their Sanction and Promulgation

ART. 135. Legislative initiative belongs:

a) To the Senators and Representatives, in accordance with the regulatory provisions of each body.

b) To the Government.

c) To the Supreme Tribunal, in matters relative to the administration of justice.

d) To the Superior Electoral Tribunal, in matters within its competence.

e) To the tribunal of accounts, in matters of its competence and jurisdiction.

f) To the citizens. In this case, it shall be unalterably necessary that 10,000 citizens having status as voters shall be required to exercise this initiative. Every legislative initiative shall be formulated a proposition of law, and shall be sent to one of the colegislative bodies.

ART. 136. Laws as classified as ordinary and extraordinary. Extraordinary laws are those that are indicated as such in the Constitution, the organic laws, and any others to which the Congress may give this character. All other laws are ordinary. Extraordinary laws require for their approval the favorable votes of one-half plus one of the members of each colegislative body. The ordinary laws shall require the favorable votes of only an absolute majority of the members present in the session at which they may be approved.

ART. 137. A bill that obtains the approval of both colegislative bodies must be presented to the President of the Republic by the body that granted the final approval, within ten days following the said approval. The President of the Republic shall, within ten days after having received the bill, and after it has been approved by the Council of Ministers, sanction and promulgate the law, or return it, with the objections he may consider fitting, to the colegislative body from which it came. On receiving the bill, the said body shall officially take note of the objections and shall proceed with a next discussion of the bill. If, after this discussion, two-thirds of the total of members of the colegislative body should vote in favor of the bill, it shall be passed, with the objections of the President, to the other body, which also shall discuss it, and, if the latter body also should approve it by an equal majority, it shall be law. In all these cases the voting shall be by roll call. If, within the ten working days after the transmission of the bill to the President of the Republic, he should not return it, it shall stand as sanctioned, and shall be law. If, within the last ten days of a legislative session, a bill is presented to the President of the Republic, and he should propose to utilize the entire period that is allowed him in the preceding paragraph for the purpose of sanction, he shall communicate his intention, within a period of forty-eight hours, to the Congress, in order that the latter may remain assembled, if it so desires, until the expiration of the expressed period. If the President does not do so, the bill shall stand as sanctioned, and shall be law. No bill that has been totally rejected by either of the colegislative bodies may be discussed anew in the same legislative session. A bill approved by one of the colegislative bodies shall be discussed and decided by the other and shall have preference therein. This provision does not apply to extraordinary laws. Every law shall be promulgated within the ten days following that of its sanction.

TITLE X Concerning Executive Power

FIRST SECTION Concerning the Exercise of the Executive Power

ART. 138. The President of the Republic is the Chief of the State and repre-

sents the Nation. The executive power is exercised by the President of the Republic with the Council of Ministers, in accordance with what is established by this Constitution. The President of the Republic acts with directive power and as moderator of nations solidarity.

SECOND SECTION The President of the Republic, His Powers and Duties

ART. 139. To be President of the Republic it is necessary:

- a) To be Cuban by birth, but if this status results from the provision in Clause (d) of Article 12 of this Constitution, it shall be necessary to have served with the armed forces of Cuba in the Wars of Independence for at least ten years.
- b) To have reached thirty-five years of age.
- c) To be in full enjoyment of civil and political rights.
- d) Not to have belonged to the armed forces of the Republic in active service during the year immediately preceding the date of designation as presidential candidate.

ART. 140. The President of the Republic shall be elected by universal, equal, direct, and secret suffrage, in a single day, for a term of four years, in conformity with the procedure that the law may establish. The computing of the vote shall be made by provinces. The number of provincial votes equal to the total of Senators and Representatives, who, in conformity with the law, have the function of choosing the electoral college of the respective province, shall be counted in favor of the candidate who obtains the greatest number of votes in each of the provinces, and the candidate shall be considered elected who receives the greatest number of provincial votes accumulated throughout the Republic. A person who has once held the office may not discharge it again for eight years after having left office.

ART. 141. The President of the Republic shall swear or affirm before the Supreme Tribunal of Justice, on taking possession of his office, faithfully to discharge his duties, complying with and enforcing the Constitution and the laws.

ART. 142. It is the function of the President of the Republic, assisted by the Council of Ministers:

- a) To sanction and promulgate the laws, to execute them and enforce their execution; to enact, when the Congress does not do so, the regulations for the best execution of said laws; to issue decrees and orders which, for this purpose, and as far as is incumbent upon the government and the administration of the state, may be proper, without in any case contravening what is established in the laws.
- b) To call the Congress or the Senate alone into extraordinary session, in the cases stipulated by this Constitution, or when it may be necessary.
- c) To suspend sessions of the Congress when agreement to that effect may not have been reached between the legislative bodies.
- d) To present to the Congress at the beginning of each legislative session, and provided that it may be opportune, a message concerning the acts of administration covering the general state of the Republic, and to recommend or initiate the adoption of laws and resolutions that he may consider necessary or useful.
- e) To present the annual budget bill to the Chamber of Representatives, sixty days before the date on which it must go into effect.
- f) To communicate to the Congress whatever information the latter may require, directly, or by means of interpellations of the Government, upon all classes of matters in which secrecy is not required.
- g) To direct diplomatic negotiations and to negotiate treaties with other Nations, with the obligation of submitting such treaties to the approval of the Senate, without which requisite they shall not be valid and shall not obligate the Republic.
- h) To appoint, with the approval of the Senate, the president, presidents of the chamber, and Magistrates of the Supreme Tribunal of Justice, in the form that this Constitution provides, as well as the chiefs of diplomatic missions.
- i) To appoint the appropriate officials for the discharge of any other offices instituted by law in case their designation is not attributed to other authorities.
- j) To suspend the exercise of the rights enumerated in Article 41 of this Constitution, in the cases and in the form established by the same.

k) To grant pardons in accordance with what the Constitution and the laws may prescribe, except in matters of crimes of electoral fraud. In order to pardon officials and public employees penalized for crimes committed in the exercise of their functions, it shall be necessary that the latter shall have completed at least a third part of the penalty that the tribunals have imposed upon them.

- l) To receive the diplomatic representatives and admit the consular agents of other nations.
- m) To dispose of the armed forces of the Republic, as supreme chief of the same.
- n) To provide for the defense of the national territory and the preservation of internal order, giving account to the Congress. In case of danger of invasion, or in case a rebellion seriously menaces public security, and the Congress is not in session, the President may convoke it without delay in order that the necessary action may be taken.
- o) To comply with and enforce whatever rules, orders, and provisions the superior electoral tribunal may agree upon and enact.
- p) To appoint and freely remove the Ministers of Government, giving account to the Congress; to replace them on such occasions as may develop in accordance with this Constitution, and, as the case may be, to support the decisions of the Council.
- q) To exercise the other powers that the Constitution and the law may expressly confer.

ART. 143. All decrees, orders, and decisions of the President of the Republic must be countersigned by the corresponding Minister, without which requisite they shall lack obligatory force. This endorsement shall not be necessary in the case of appointment of Ministers of Government.

ART. 144. The President may not leave the territory of the Republic without the authorization of the Congress.

ART. 145. The President shall be responsible before the plenum of the Supreme Tribunal of Justice for crimes of common character that he may commit during the exercise of his office, but he may not be prosecuted except with the prior authorization of the Senate, given by an affirmative vote to two-thirds of its members. In this case the Tribunal shall decide whether or not to suspend him from his functions until sentence is pronounced.

ART. 146. The President shall receive from the State a salary that may be altered at any time; but this change shall not have effect until the presidential term following that in which such change may have been granted.

TITLE XI Concerning the Vice-President of the Republic

ART. 147. There shall be a Vice-President of the Republic who shall be elected in the same form and for the same period of time as the President, and jointly with him. To be Vice-President it is necessary to have the same qualifications that this Constitution prescribes for the President.

ART. 148. The Vice-President of the Republic shall replace the President in cases of absence, incapacity, or death. If the vacancy should be permanent, the substitution shall continue until the termination of the presidential term. In case of the absence, incapacity, or death of both, the president of the Congress shall substitute for them for the rest of the term.

ART. 149. In any case in which the presidential substitutes established by this Constitution should be lacking, the oldest Magistrate of the Supreme Tribunal shall occupy the presidency of the Republic in the interim, and shall call national elections within a period of not more than ninety days. In case the vacancy should occur within the last year of the presidential term, the substitute Magistrate shall hold the office until the end of the term. The person occupying the presidency in any of the substitutions referred to in the preceding articles may not be a presidential candidate for the next election.

ART. 150. The Vice-President of the Republic exercises the presidency of the Senate, and shall have a vote only in case of a tie. The Vice-President shall receive a salary from the State that may be altered at any time, but no change shall have effect until the presidential term following that in which such change may have been granted.

TITLE XII Concerning the Council of Ministers

ART. 151. For the exercise of the executive power the President of the Republic shall be assisted by a Council of Ministers, composed of the number of mem-

bers determined by law. One of these Ministers shall hold the title of Prime Minister, by designation of the President of the Republic, and may discharge his office with or without portfolio.

ART. 152. To be a Minister it is necessary:

- a) To be Cuban by birth.
- b) To have reached thirty years of age.
- c) To be in full enjoyment of civil and political rights.
- d) To have no business relations with the state, the provinces, or the municipalities.

ART. 153. Each Minister shall have one or more subsecretaries who shall substitute for him in cases of temporary absence or disability.

ART. 154. The President of the Republic shall preside over the Council of Ministers. When the President does not attend sessions of the Council, the Prime Minister shall preside over it. The Prime Minister shall represent the general policy of the government, and shall represent the latter before the Congress.

ART. 155. The Council of Ministers shall have a secretary in charge of keeping the records of the Council, certifying their decisions, and expediting the business of the presidency of the Republic and of the Council of Ministers.

ART. 156. The Ministers shall have charge of the offices of their respective ministries and shall deliberate and decide upon all questions of general interest that do not fall within the jurisdiction of other dependencies or authorities, and shall exercise the powers belonging to them in accordance with the Constitution and the law.

ART. 157. Decisions of the Council of Ministers are taken by a majority of votes in sessions at which one-half plus one of the Ministers attend.

ART. 158. The Ministers of Government shall be individually responsible for measures that they countersign and collectively responsible for measures that they jointly approve or authorize.

ART. 159. The Prime Minister and the Ministers of Government are criminally responsible before the Supreme Tribunal of Justice for common crimes that they may commit in the exercise of their offices.

ART. 160. The ministries of education, of health and social assistance, of agriculture, and of public works shall act exclusively as technical organizations.

ART. 161. The Prime Minister and the Ministers of Government shall swear or affirm before the President of the Republic faithfully to comply with the duties inherent in their offices, as well as to observe and enforce the Constitution and the law.

ART. 162. It shall be the function of the Prime Minister to expedite, with the President of the Republic, the matters of the general policy of the government, and with the assistance of the Ministers, the affairs of the respective departments.

ART. 163. The powers and duties of the Ministers are:

- a) To comply with and enforce the Constitution, the laws, decree-laws, decrees, regulations, and other resolutions and provisions.
- b) To write bills, regulations, decrees, and any other resolutions, and to present them for the consideration of the Government.
- c) To countersign, jointly with the Prime Minister, the laws and other documents authorized with the signature of the President of the Republic, with the exception of decrees for the appointment or removal of Ministers.
- d) To attend the Congress, on the invitation of the latter, or at the instance of either of its bodies, to report before them, to answer interpellations, to deliberate therein, and to propose votes of confidence individually or collectively. A Minister who is a Congressman shall have the right to vote only in the body to which he belongs.

TITLE XIII Concerning the Relations between the Congress and the Government

ART. 164. The Prime Minister and the Council of Ministers are responsible to

the Chamber and the Senate for their acts of government. The latter bodies may give or refuse a vote of confidence in the Prime Minister, a single Minister, or in the Council as a whole, in the form specified by this Constitution.

ART. 165. Each legislative body may determine upon the total or partial removal of the Government, raising the question of confidence, shall be presented by means of a motion in writing with reasons, and with the signatures of at least a third part of the members. This motion shall immediately be communicated to the remaining members of the respective body and shall be discussed and voted upon eight calendar days after its presentation. If the motion is not decided within fifteen days following the said presentation, it shall be considered rejected. To be validly approved, these motions shall require an affirmative majority of one-half plus one of the total of members of the Chamber of Representatives or of the Senate, respectively, which must always be obtained by a roll call vote. A case in which the outcome of a ballot is against a bill presented by the government or by a Minister, or a case of reconsideration of a bill returned by the President of the Republic, shall in no way obligate the Prime Minister or the Ministers to resign their offices. If a question of confidence is raised simultaneously in both legislative bodies, that introduced in the Chamber of Representatives shall have priority.

ART. 166. Crises in questions of confidence may be total or partial. Those that concern the Prime Minister or that concern more than three Ministers shall be considered total. Others shall be considered partial.

ART. 167. The power of refusing confidence in the entire Government, in the Prime Minister, or in any of those who form a part of the Council, may not be exercised until at least six months after the appointment of the Council of Government for the first time, or after a later occurrence of a total crisis in which a motion of lack of confidence has been approved by the respective legislative body, according to the rules established in this Constitution. Ministers whose appointments were occasioned by the removal of their predecessors in a partial crisis may not be submitted to a vote of no confidence until six months after their designation, except in a question of total crisis. If a motion of no confidence should result favorably in either of the legislative bodies, another such motion may not be raised again for one year; in such event, the said power of refusing confidence shall belong to the other legislative body, which in no case may exercise the said power until at least six months after the appointment of the Government of Ministers to whom the said question refers. Two partial crises shall be the equivalent of one total crisis for the purposes of the six-month restriction to which this article refers. In no case may questions of confidence be raised within the last six months of each presidential term. The Council of Ministers may itself raise the question of confidence in regard to the whole of its members or with respect to any of the Ministers. In this case the question shall be discussed and decided immediately. The fact of a motion of confidence demanded by the Government having been previously decided does not impede or restrict the Congress from freely exercising its right to raise such motions of confidence.

ART. 168. In any case in which a vote of confidence is refused the government or any of its members, the entire government, or those of its members selected by the vote of lack of confidence, must resign within forty-eight hours following the parliamentary decision, and in default thereof shall be considered removed and the President of the Republic shall so declare. The outgoing Minister shall continue provisionally in his office after resignation, until his successor takes office.

ART. 169. Passage of a vote of no confidence in the entire Council of Ministers or in any of its members only signifies disagreement, on the part of the legislative body that raised the question, with the policy of the Minister, or with that of the Government as a whole. A vote of no confidence necessarily implies that Ministers whose policy was the object of the vote may not be appointed to the same portfolios in the Cabinet that is formed or re-formed immediately after the crisis.

TITLE XIV Concerning the Judicial Power

FIRST SECTION General Provisions

ART. 170. Justice is administered in the name of the people, and its dispensation shall be free throughout the national territory. Judges and prosecutors are independent in the exercise of their functions and owe no obedience except to the law. Justice may be administered only by persons who permanently belong to the Judiciary. No member of this branch may exercise any other profession. The registries of civil status are in charge of members of the Judiciary.

ART. 171. The judicial power is exercised by the Supreme Tribunal of Justice, the superior electoral tribunal, and the other tribunals and courts that the law may establish. The law shall regulate the organization of the tribunals, their powers, the means of exercising them, and the qualifications required of the officials who compose them.

SECOND SECTION Concerning the Supreme Tribunal of Justice

ART. 172. The Supreme Tribunal of Justice shall be composed of the chambers that the law may determine. One of these chambers shall constitute the tribunal of constitutional and social guarantees. Upon recognition that constitutional matters are involved, the president of the Supreme Tribunal shall necessarily preside, and the tribunal itself shall be composed of not less than fifteen Magistrates. When social matters are involved it shall be composed of not less than nine Magistrates.

ART. 173. To be president or a Magistrate of the Supreme Tribunal of Justice it is necessary:

- a) To be Cuban by birth.
- b) To have reached forty years of age.
- c) To be in full enjoyment of civil and political rights, and never to have been sentenced to corporal punishment for a common crime.
- d) To meet, in addition, any of the following qualifications: To have practiced the profession of law in Cuba for at least ten years, or to have discharged judicial or prosecuting functions for an equal time, or to have held, for the same number of years, a professorship of law in an official institution of learning.

For the purposes of the preceding paragraph, the periods in which the appointees for president or Magistrate of the Supreme Tribunal of Justice may have practiced the profession of law and exercised judicial or prosecuting functions may be added together.

ART. 174. The Supreme Tribunal of Justice, in addition to the other powers and duties that this Constitution and the law stipulate, shall have the following:

- a) To accept jurisdiction over appeals in cessation.
- b) To adjust questions of competence between tribunals that are immediately inferior, or that do not have a common superior, and questions that may arise between the judicial authorities and other kinds of authorities of the state, province, and municipality.
- c) To accept jurisdiction over verdicts that the state, provinces, and municipalities may contest among themselves.
- d) To decide upon the constitutionality of the laws, decree-laws, decrees, regulations, agreements, orders, provisions, and other acts of any other agency, authority, or official.
- e) To decide, in final instance, upon suspension or removal from office of local and provincial officials, in conformity with what is provided by this Constitution and the law.

ART. 175. The judicial career is instituted. Entry into the same shall be made by means of competitive examinations except in the case of Magistrates of the Supreme Tribunal.

ART. 176. In the appointment of magistrates of the provincial supreme court, three procedures shall be observed: the first, the concept of promotion by strict seniority from the lower category; the second, by means of a competitive examination among those who occupy the immediately inferior category; and third, by means of practical and theoretical competitive examinations given to persons able to compete, judicial officials, and public attorneys, as well as lawyers not over sixty years of age. Practicing lawyers must meet the same requirements as are necessary for being appointed Magistrates of the Supreme Tribunal.

ART. 177. Appointment of judges shall be made upon two procedures: one, by strict seniority in the lower category, and the other by competitive examination in which officials of the same and of the lower category may take part. In the first procedure to which this article and the preceding one refer, the vacancy shall be filled a transfer, if there should be an official in an equivalent category who applies for the position, reserving entry or promotion for positions that definitely remain available in the category.

ART. 178. The chamber of government of the Supreme Tribunal shall determine, classify, and publish the merits to which the judicial officials of each category are entitled toward their turn for promotion.

ART. 179. In cases of competitive examination, the transfers and promotions shall necessarily be granted to the official who applies for the position and who is in the same category or the one immediately inferior, and who obtains the

best grade. The Supreme Tribunal shall establish the standard of grading by categories, verifying the said grading semi-annually with exclusive consideration of the ability, judgment, merit, and judicial activity of each individual.

ART. 180. Magistrates of the Supreme Tribunal shall be appointed by the President of the Republic from a panel proposed by an electoral college of nine members. These shall be designated: four by the plenum of the Supreme Tribunal from its own body, three by the President of the Republic, and two by the faculty of law of the University of Havana. The last five must meet the qualifications required of Magistrates of the Supreme Tribunal, and those designated by the faculty of law may not belong to the same. The electoral college is formed for each designation, and its members who are not Magistrates may not again be made a part of this body until four years have elapsed. The president of the Supreme Tribunal and the presidents of a chamber shall be appointed by the President of the Republic, on the proposal of the plenum of the Tribunal. These appointments and those of the Magistrates of the Supreme Tribunal must receive the approval of the Senate.

The panel to which the first paragraph of this article refers shall include at least one judicial official in active service who has discharged these duties for a minimum period of ten years, if there be such an official.

ART. 181. The appointments, promotions, transfers, exchanges, suspensions, corrections, pensioning, leaves of absence, and abolition of positions shall be made by a special chamber of government composed of the president of the Supreme Tribunal and of six members of the same, annually elected among the presidents of the chamber and Magistrates of the said Tribunal. No person may be a part of this chamber of government for two successive years. All newly created positions shall include compensations in conformity with the provisions of this Constitution. The regulatory powers, as far as concerns the internal order of the tribunals, shall be exercised by the chamber of government of the Supreme Tribunal of Justice, in accordance with the provisions of the organic law of the Judiciary.

THIRD SECTION Concerning the Tribunal of Constitutional and Social Guarantees

ART. 182. The tribunal of constitutional and social guarantees is competent to accept jurisdiction in the following matters:

- a) Appeals of unconstitutionality against laws, decree-laws, decrees, resolutions, or acts that may deny, diminish, restrict, or violate the rights and guarantees embodied in this Constitution, or that may impede the free functioning of the organs of State.
- b) Advisory opinions sought by judges and tribunals upon the constitutionality of laws, decree-laws, and other provisions that they may have to apply in trials.
- c) The recourse of habeas corpus, by way of appeal, or when the claim has been unsuccessful before other authorities or tribunals.
- d) The validity of proceedings and of constitutional amendment.
- e) Juridical-political questions and those of social legislation that the Constitution and the law may submit for its consideration.
- f) Appeals against abuses of power.

ART. 183. The following may appeal to the tribunal of constitutional and social guarantees without the necessity of posting a bond:

- a) The President of the Republic, the president and any one of the members of the Council of Government, the Senate, the Chamber of Representatives, the tribunal of accounts, the governors, mayors, and councilors.
- b) Judges and tribunals.
- c) The Ministry of Justice.
- d) The universities.
- e) The autonomous departments authorized by the Constitution or the law.
- f) All persons individually or collectively who may have been affected by an act or provision that they consider unconstitutional. Persons not included in any of the preceding clauses may also appeal to the tribunal of constitutional and social guarantees, provided that they post the bond that the law may indicate. The law shall establish the manner in which the tribunal of constitutional and social guarantees shall function, and the procedure for submission of evidence on appeals made before the same.

FOURTH SECTION Concerning the Superior Electoral Tribunal

ART. 184. The superior electoral tribunal shall be composed of three Magistrates of the Supreme Tribunal of Justice, and two of the provincial supreme court of Havana, appointed for a term of four years by the plenums of their respective tribunals. The presidency of the superior electoral tribunal shall be held by the oldest of the three Magistrates from the Supreme Tribunal. Each one of the members of the tribunal shall have two alternates appointed by the body from which he comes.

ART. 185. In addition to the powers that the electoral laws may confer upon it, the superior electoral tribunal is invested with full powers for guaranteeing the integrity of suffrage, controlling and intervening as it may consider necessary in all the census enumerations, elections, and other electoral acts; in the formation and organization of new parties, reorganization of existing ones, nomination of candidates, and proclamation of those elected. It shall also have power:

- a) To decide upon electoral claims that the law may submit to its jurisdiction and competence.
- b) To enact general and special instructions necessary for the fulfillment of electoral legislation.
- c) To determine, in case of appeal, the procedure required for establishing the validity or nullity of an election and the proclamation of candidates.
- d) To enact mandatory instructions and provisions for the armed forces and police for the maintenance of order and electoral freedom during the period of census enumeration, of organization and reorganization of parties, and during the interim between the call for elections and the conclusion of the verification of the vote. In case of grave disturbance of public order, or when the tribunal considers that there do not exist sufficient guarantees, it may order the suspension or nullification of all electoral acts and operations in the territory affected, although constitutional guarantees are not suspended.

ART. 186. The law shall organize the electoral tribunals. In order to form them, the law may require the services of judicial officers. Jurisdiction over electoral complaints is reserved to electoral tribunals. Nevertheless, the law shall determine the matters in which, as exceptions, appeals may be taken from the decisions of the superior electoral tribunal to the tribunal of constitutional and social guarantees.

ART. 187. The administrative tenure of electoral employees and officials, subordinate to the supreme jurisdiction of the superior electoral tribunal, is established, and the permanent employees of the electoral councils are declared irremovable. The compensation fixed for these permanent officials and employees by the electoral code may not be altered, except under conditions and irrupt established for judicial officials and employees. The law may not assign different salaries to positions of equal rank, category, and function.

FIFTH SECTION Concerning the Ministry of Justice

ART. 188. The Ministry of Justice represents the people in the administration of justice, and its basic purpose is to supervise compliance with the Constitution and the law. The officials of the Ministry of Justice shall be irremovable and independent in their functions, with the exception of the prosecuting attorney of the Supreme Tribunal, who shall be appointed and may be removed freely by the President of the Republic.

ART. 189. Entrance into the prosecuting career shall be by means of competitive examination, and promotion shall be effected in the form that this Constitution establishes for judges. Appointments, including those to newly created positions, promotions, transfers, suspensions, readjustments, leaves of absence, removals, and pensioning of officials of the Ministry of Justice, and approval of their exchange or resignation, shall be made in accordance with the provisions of the law.

ART. 190. The prosecuting attorney of the Supreme Tribunal of Justice shall meet the qualifications required of Magistrates of the Supreme Tribunal; the assistant attorneys of the same Tribunal, and the prosecutors of the other tribunals, must be Cuban by birth, must have reached thirty years of age, and must be in full enjoyment of civil and political rights. The other officials of the Ministry of Justice shall meet the qualifications that the law may stipulate.

ART. 191. When the Government is involved in or is a party to any proceedings, the interests of the Government shall be represented by state attorneys, who shall constitute a body, the organization and functioning of which shall be regulated by law.

SIXTH SECTION Concerning the Superior Council of Social Defense and

the Tribunals for Minors

ART. 192. There shall be a superior council of social defense which shall be in charge of the execution of penalties and measures of security that involve the deprivation or limitation of individual liberty, as well as the organization, direction, and administration of all establishments or institutions that may be required for the most effective prevention and suppression of crime. This body, which shall enjoy autonomy for the exercise of its technical and administrative functions, shall also have in its charge the concession and revocation of conditional freedom, in accordance with the law.

ART. 193. Tribunals for minors are established. The law shall regulate their organization and functioning.

SEVENTH SECTION Concerning Unconstitutionality

ART. 194. A declaration of unconstitutionality may be sought:

- a) By the interested parties in trials, suits, or businesses in which ordinary or special jurisdiction is accepted.
- b) By twenty-five qualified citizens.
- c) By the person affected by the provision deemed unconstitutional. The judges and tribunals are obliged to decide conflicts between the laws in force and the Constitution, following the principle that the latter shall always prevail over the former. When a judge or tribunal considers any law, decree-law, decree, or provision inapplicable because he deems that it violates the Constitution, he shall suspend the proceedings and submit the matter to the tribunal of constitutional and social guarantees for the purpose of asserting or denying the constitutionality of the provision in question and shall return the matter to the lower court to continue the proceedings, issuing the measures of safeguard that may be pertinent to the case. In administrative procedure, the question of unconstitutionality may be raised when litigious administrative problems are involved. If the laws do not provide such recourse, the appeal of unconstitutionality may be raised directly against the administrative decision. The appeal of unconstitutionality in the cases enumerated in Articles 131, 174, 182, and 186 of this Constitution shall be placed directly before the tribunal of constitutional and social guarantees. In all appeals of unconstitutionality the tribunals shall always decide the validity of the claim. If the appeal should suffer from any defect of form, the said tribunals shall grant a time for the party making the appeal to correct such defects. No law, decree-law, decree, regulation, order, provision, or measure that has been declared unconstitutional may be applied in any case or form, under penalty of disqualification from the exercise of public office. The verdict in which the unconstitutionality of a legal precept or measure, or administrative resolution, is declared, shall obligate the body, authority, or official which may have enacted the annulled provision to repeal it immediately. In all cases the legislative or regulatory provision or governmental measure declared unconstitutional shall be considered null and without force and elected from the date of publication of the verdict in the chambers of the tribunal.

ART. 195. The Supreme Tribunal and the tribunal of constitutional and social guarantees are obliged to publish their verdicts in the proper official periodical without delay. A sum shall be fixed annually in the budget of the judiciary for defraying the expense of such publication.

EIGHTH SECTION Concerning Jurisdiction and Irremovability

ART. 196. The ordinary tribunals shall have jurisdiction over all trials, suits, or businesses, whatever may be the jurisdiction to which they belong. With the sole exception of cases of military crimes or acts occurring in the service of the armed forces, which shall be submitted to military jurisdiction. Upon commission of such crime jointly by soldiers and persons not enjoying immunity, or when one of the latter is a victim of the crime, the case shall fall within ordinary jurisdiction.

ART. 197. In no case may tribunals, commissions, or bodies be created to which special competence is granted for accepting jurisdiction over acts, proceedings, suits, contingencies, questions, or businesses assigned to the jurisdiction of the ordinary tribunals.

ART. 198. The tribunals of the naval and land forces shall be governed by a special organic law and shall have jurisdiction only over strictly military crimes committed by the members of said forces. In case of war or grave disturbance of public order, military jurisdiction shall extend over all crimes and offenses committed by soldiers in the territory in which the state of war actually exists, in accordance with the law.

ART. 199. The civil and criminal responsibility that judges, magistrates, and public attorneys may incur in the exercise of their functions or by reason of said

functions, shall be subject to accounting before the Supreme Tribunal of Justice.

ART. 200. Judicial officials and those of the Ministry of Justice, public defenders, as well as their assistants and deputies, are irremovable. By virtue of this, said officials may not be suspended or separated except for reason of crime or other duly accredited grave cause, and always after a hearing of the accused. These officials may be suspended from the exercise of their functions at any stage of the proceedings. A judge, magistrate, prosecutor, or court attorney, when prosecuted in a criminal case, shall be immediately suspended from the exercise of his functions. The transfer of judges, magistrates, prosecutors, or court attorneys may not be effected except by means of a corrective disciplinary procedure, or for the reasons of public convenience that the law may establish. However, officials of the Ministry of Justice may be transferred in cases of vacancy, if they so request.

ART. 201. The offices of secretaries and assistants of the administration of justice shall be allotted according to the alternative systems of transfers and promotions by seniority or merit, the latter being determined by competitive examination in the form that the law may fix, and in accordance with the personnel list that the chamber of government of the Supreme Tribunal of Justice shall draw up and publish.

ART. 202. The law shall establish the grounds for punishment, transfer, and removal, as well as the procedure for the respective measures.

ART. 203. Compliance with judicial decisions is mandatory. The law shall establish the guarantees necessary for making these decisions effective in case authorities, officials, employees of the state, province, or municipality, or members of the armed forces should resist them.

ART. 204. Sentences pronounced by correctional judges in cases of crime may be appealed before the tribunal that the law may determine and under proceedings regulated by law.

ART. 205. The government has no power to declare a binding decision of the tribunals prejudicial. In case the government is unable to enforce the decision, it shall indemnify the injured party in the proper manner, requesting the Congress to appropriate the necessary funds, if they are not on hand.

ART. 206. The salaries of officials and employees of the administration of justice, of the Ministry of Justice, and the permanent officials and employees of the electoral bodies may not be altered except by a vote of two-thirds of each one of the colegislative bodies, and at periods of not less than five years. Different salaries may not be established for offices of equal rank, category, and function. The salaries assigned to Magistrates of the Supreme Tribunal of Justice, and to the other officials of the Judiciary, must in all cases be adequate to the importance and far-reaching consequences of their functions.

ART. 207. No member of the Judiciary may be a Minister of Government or discharge any function assigned to the legislative or executive branches, except as a member of a commission designated by the Senate or the Chamber of Representatives for the revision of laws. Members of the Judiciary likewise may not stand as candidates for any elective once.

ART. 208. Criminal responsibility of the president, the presidents of the chamber, and Magistrates of the Supreme Tribunal of Justice, and the grounds for their removal from office, shall be established according to the following procedure: The Senate of the Republic shall be competent to accept jurisdiction of charges against the said officials. On receipt of charges, the Senate shall appoint a committee to study them and the committee shall then submit its findings to the Senate. If the Senate, by a vote of two-thirds of its members, cast by secret ballot, considers the charges well founded, the proper proceedings shall be opened before a tribunal that shall be called the grand jury, composed of fifteen members, appointed in the following manner: The president of the Supreme Tribunal shall send to the president of the Senate the complete list of the members of that body not affected by the accusation. The president of the Chamber of Representatives shall send to the president of the Senate the list of members of the Chamber of Representatives. The rector of the University of Havana shall send to the president of the Senate the complete list of titular professors of the faculty of law. The President of the Republic shall send to the president of the Senate a list of fifty lawyers, chosen freely by him, who meet the qualifications required for Magistrates of the Supreme Tribunal. On receipt of these lists by the president of the Senate, the latter, in public session of the said body, shall proceed to select the members of the grand jury by ballot: Six from the Supreme Tribunal of Justice. In default of said number, this group shall be completed by the same procedure from a list including the president and the magistrates of the provincial supreme court of Havana, sent to the president of the Senate by the president of said provincial supreme court. Three members from the Chamber of Representatives. Three members from the faculty of law of the University of Havana; and, three members from the list of fifty lawyers.

The judicial official of the highest rank shall preside over this tribunal, and in his absence, the oldest member present shall so preside. The Senate, after having once designated the grand jury, shall forward the charges to the latter for judicial proceedings. After sentence is pronounced, the grand jury shall be dissolved.

TITLE XV Concerning the Municipal System

FIRST SECTION General Provisions

ART. 209. The municipality is the local community politically organized by authorization of the Legislature, within the territorial extent determined by the necessary relationships of neighborhoods on a basis of economic ability to provide for the expenses of its own government, and with juridical personality for all legal purposes. The law shall determine the territory and the name of each municipality and the place of residence of its government.

ART. 210. The municipalities may associate with one another for intermunicipal purposes by agreement of their respective councils or commissions. Some municipalities may also be incorporated into others, or divided in order to constitute new municipalities, may alter their boundaries, by popular initiative and with the approval of the Congress, after presentation of the opinions of the respective councils or commissions. In order to approve the separation of a section of one municipal district to join it to another or other adjacent municipal districts, it shall be necessary that at least ten per cent of the inhabitants of the section of territory to be separated so request, and that in a referendum election sixty per cent of the voters of the said section are shown to be in favor of the separation. If the results of the referendum should be favorable to the proposed separation, the matter shall be brought before the Congress for final decision. In stipulating new territorial boundaries and effecting the division of property, the rights of private property appertaining to the ceding municipality or buildings it may have acquired or constructed in the section to be ceded, shall be respected, without prejudice to the right of the receiving municipality to the proportional share belonging to it for what it may have contributed in the acquisition or construction of such buildings. As regards the constitution of a new municipality, it shall be the function of the tribunal of accounts to report upon the economic ability of the same to maintain its own government.

ART. 211. The municipal government is an entity with power to satisfy the particular collective needs of the local community, and is, in addition, an auxiliary organ of the central authority exercised by the state throughout the national territory.

ART. 212. The municipality is autonomous. The municipal government is invested with all the powers necessary for freely disposing of the business of the local community. The powers with which the municipality is not invested by this Constitution are reserved for the national government. The state may supplement municipal efforts when the latter may be insufficient, in case of epidemics, grave disturbance of public order, or other occasions of public interest, in the form that the law may determine.

ART. 213. It shall be within the special jurisdiction of municipal government:

- a) To administer all local public services; to purchase, construct, and operate enterprises of public service, or to grant said services by concession or contract, with all the guarantees that the law may establish; and to acquire the properties necessary for the purposes indicated by expropriation or by purchase. The municipal governments may also operate enterprises of an economic character.
- b) To carry out local public improvements and to acquire by purchase, in agreement with the owners or by means of expropriation, the properties directly necessary for the projected work, as well as properties -that may serve to defray the cost of the same.
- c) To establish and administer schools, museums, and public libraries, fields for physical education, and recreation fields, without prejudice to what the law may provide concerning education; and to adopt and execute, within the boundaries of the municipality, rules of sanitation and local vigilance and other similar provisions not contrary to the law; as well as to encourage the establishment of producers' and consumers' cooperatives, expositions, and botanical and zoological gardens, all with the character of public service.
- d) To appoint municipal employees in accordance with what this Constitution and the laws may establish.
- e) To formulate its own budgets of expense and income and to establish the necessary taxes to cover them, provided that the latter may be compatible with the tax system of the state. The municipalities may not reduce or abolish revenues of a permanent character without at the same time establishing others to

take their place, except in case the reduction or abolition should correspond with an equivalent reduction or abolition of permanent expenditures. Credits in the budgets for expenses shall be divided into twelve parts, and no attention shall be paid to the expenses of the current month until all preceding ones have been liquidated.

f) To negotiate loans, voting at the same time the permanent revenues necessary for the payment of their interest and amortization. No municipality may contract obligations of this kind except with the prior favorable report of the tribunal of accounts. In the event that new taxes are approved for the payment of obligations referred to in the preceding paragraph, a referendum election shall also be necessary, in which at least one-half plus one of the votes cast by the voters of the municipal district are in the affirmative, except in case the voting is less than thirty per cent of the total number of voters in the said district.

g) To contract economic obligations of deferred payment for defraying the cost of public works, with the duty of appropriating in the successive annual budgets the credits necessary to satisfy them, and provided that their payment shall not absorb the economic ability of the municipality to carry on other services that it has in its charge. No municipality may contract obligations of this kind without a prior favorable report by the tribunal of accounts, and also the favorable vote of two-thirds of the members who compose the council or the commission.

h) The enumeration of these powers, as well as any others that the law may create, does not imply a limitation or restriction upon the general powers granted by the Constitution to the municipality, but merely the expression of a part of these general powers, without prejudice to what is provided in Article 212 of this Constitution. Commerce, communication, and intermunicipal transportation may not be taxed by the municipality. Money speculation, or disloyal competition arising from measures adopted by the municipalities, is prohibited. Municipal taxes upon articles of primary necessity shall be regulated upon the bases that the law may establish.

ART. 214. The government of each municipality is obliged to satisfy the following minimum local requirements:

- a) The punctual payment of salaries and wages to municipal officials and employees, in accordance with the standard of living of the locality.
- b) The maintenance of a lodging house and infirmary, a workshop, and a practical agricultural experimental school.
- c) The maintenance of a public police force, and a fire extinguishing service.
- d) The functioning, at least in the principal town, of a school, a library, a popular cultural center, and a medical dispensary.

ART. 215. In each municipality, there shall be a planning commission, which shall have the obligation of devising means of extending and embellishing the city, and supervising its execution, taking account of the present and future necessities for public transportation, hygiene, beautification, and the common welfare. The said commission shall be concerned with everything related to the dwellings of workers and shall propose plans for the manufacture of houses for rural workers, which may be acquired over a long period through moderate rentals for reimbursing the municipality for the capital invested. The municipalities shall proceed to execute the plan that they may approve, appropriating the necessary funds for this purpose in their budgets, with the provision that the sum total of payments for each house be not less than the cost of one house in each fiscal year, or else availing themselves of the means that the Constitution extends for carrying out works of this nature, in case the ordinary incomes of such buildings are insufficient to defray their cost. There shall also be a district road commission, that shall have the obligation of planning, constructing, and maintaining roads which, according to a plan and system of management previously approved, may favor the development, transportation, and distribution of products.

ART. 216. The law shall determine the urbanization of villages or settlements contiguous to the mills of sugar plantations or to any other agricultural or industrial development of art analogous nature.

SECOND SECTION Guarantees of Municipal Autonomy

ART. 217. The following is established as a guarantee of municipal autonomy:

a) No local governing official may be suspended or removed by the President of the Republic, by the governor of the province, or by any other governmental authority. The tribunals of justice alone may approve the suspension and removal from their offices of persons in local governing positions, by means of summary proceedings in accordance with the law, without prejudice to what is provided concerning revocation of political mandate. Likewise, no other officials

or authorities may intervene in any of the official functions of persons in local governing positions, except in the case of powers granted by the Constitution to the tribunal of accounts.

b) The decisions of the council or of the commission, or the acts of the mayor or of any other municipal authority, may not be suspended by the President of the Republic, the governor of the Province, or by any other governmental authority. The said decisions or actions may be impugned by governmental authorities, only when the latter should consider such decisions or actions illegal' before the tribunals of justice, which alone shall be competent to declare, by summary proceedings that the law may establish, whether or not the municipal body or authorities have made such decisions or actions within the sphere of their competence in accordance with the powers granted them by the Constitution.

c) No law may obtain for the state, the provinces, or any other bodies or institutions, all or any part of the amounts that the municipalities may collect by way of taxes, imposts, and the other means for obtaining the municipal revenues.

d) No law may declare of national character any municipal impost or tax that may constitute one of the sources of income of the municipality, without, at the same time, guaranteeing the latter incomes equivalent to those nationalized.

e) No law may obligate the municipalities to exercise collecting functions for taxes of a national or provincial character, unless the bodies interested in the collection appoint the assistants necessary for this procedure.

f) The municipality shall not be obligated to pay for any service that is not administered by itself, except in case it is a matter of express agreement with the state, private individuals, or other municipalities.

ART. 218. The mayor or any other representative authority of the local government may, by himself or upon the decision of the council or of the commission, take the appeal of the abuse of power before the plenum of the Supreme Tribunal against any decision of the national or provincial Government that in their judgment may attack the system of municipal autonomy established by the Constitution, even if the decision may have been enacted by the use of discretionary.

ART. 219. As a guarantee to the inhabitants of municipal districts in relation to their local governing officials, the following provisions are made:

a) In case the actions or decisions of the municipal authorities or bodies are prejudicial to any private or social interest, the injured party or any inhabitant of the municipality who may consider the decision or action harmful to public interest, may seek its nullification and compensation for damages before the tribunals of justice by means of summary proceedings established by law. The municipality shall be secondarily responsible and shall have the right, under the terms that the law may provide, to repeat charges, when payment of damages is granted, against the official guilty of having caused the damage.

b) A referendum is required for the contracting of loans, the issuance of bonds, or for other operations of municipal credit mobilization that, by their size, may obligate the municipality in question to create new taxes to defray the payment of amortization or payment of the said contracted loans.

c) The right of initiative to propose measures to the council or to the commission shall be granted to such a percentage as the law of the municipal electoral body shall fix. If the latter bodies should reject the initiative or should not decide upon it, they must submit it to popular will by referendum in the form that the law may determine.

d) Revocation of a political mandate may be sought against local governing officials by a fixed percentage of the voters of the municipality, in the form that the law may determine.

e) A petition or claim submitted to municipal authorities or bodies shall be considered rejected if such petition or claim is not affirmatively decided within the period fixed by law. The latter should provide all necessary regulations for contesting such tacit rejections, and fixing the responsibility of those guilty of the delay. The law shall fix penalties for unjustified delay in the transmission to the municipal authorities and bodies of any such petitions formulated by the inhabitants of the municipal districts.

ART. 220. Criminal responsibility that the mayors, members of the councils or commissions, and other municipal authorities may incur, shall be tried before the tribunals of justice, either officially at the instance of the prosecuting attorney, or by civil action. Such action shall be available to all persons and may be exercised by any group of inhabitants of the municipal district, not less than twenty-five in number, without posting bond, and affecting their responsibility for

false or slanderous accusation.

ART. 221. Those voting in favor of municipal decisions, as well as unauthorized absentees who allow the two following sessions to pass without recording their votes, shall be held responsible for such decisions. Such delayed voting shall not in any case affect the validity of decisions definitively adorned.

THIRD SECTION Municipal Government

ART. 222. The municipal districts shall be governed in the manner established by law, which shall recognize the right of the municipalities to be given their own municipal charter in accordance with this Constitution. The municipal organization shall be democratic and shall correspond in a simple and effective manner with the essentially administrative character of local government.

ART. 223. The municipalities may adopt their own municipal charters in accordance with the following procedure, which the law shall regulate. The council or commission, on the petition of ten per cent of the voters of the municipality, and with the favorable vote of two-thirds of its own members, shall consult the electoral body of the municipality by means of the proper electoral organs, if it desires to elect a committee of fifteen members to draw up a municipal charter. The names of the candidates to take part in the committee shall be on the proper tickets, and if a majority of the electorate should vote favorably on the formulated question, the fifteen candidates who have received the most votes, in accordance with the system of proportional representation, shall be elected to compose the committee. The latter shall draw up the municipal charter and shall submit it for the approval of the voters of the municipality not earlier than thirty days after finishing it and adjourning, and not later than the end of the year in which the committee was elected. The municipality shall adopt one of these systems of government: that of commission, or that of council and manager, or that of mayor and council.

ART. 224. In the system of government by commission, the number of commissioners, including among them the mayor as president, shall be five, in municipalities that have up to 20,000 inhabitants; seven in those that have 20,000 to 100,000; and nine in those greater than 100,000 inhabitants. All commissioners shall be elected directly by the people for a term of four years. Each commissioner shall be the chief of a department of the municipal organization, for which he shall be responsible, and he shall be charged with carrying out and enforcing the measures adopted by the commission in so far as his department is concerned. The law shall fix the requirements that the commissioners shall meet, according to the department that is involved. The commissioners shall jointly compose the deliberative body of the municipality.

ART. 225. In the system of council and manager, there shall in addition be a mayor, who shall preside over the council and shall be the representative of the people in all official acts, or those acts of a social character. The city manager shall be a technician or a person of recognized capacity in municipal matters; he shall act as chief of municipal administration, with power to appoint and remove the officials and employees of the municipality, with observance of what is established in this Constitution. The office shall be filled by the council, for a term of six years, by competitive examination before a tribunal composed of the following members: one professor of municipal government, one professor of administrative law, one public accountants and two representatives of the municipality. The professor of administrative law and that of municipal government shall be appointed by a university faculty of social sciences; the public accountant by the trade school of the province to which the municipality belongs; and the representatives of the municipality by the council of the municipal district concerned. The manager, once appointed by the council on the proposal of the authorized tribunal, may not be removed except by sentence by a competent judicial authority, or by popular will; provided that such action is carried out in accordance with the reasons and formalities that the law may establish. The council shall be composed, in this form of government, of six councilors when the population of the municipality does not exceed 20,000 inhabitants; of fourteen when the population is more than 20,000 but does not exceed 100,000; and of twenty-eight when the population is more than 100,000 inhabitants. They shall all be elected directly by the people for a term of four years.

ART. 226. In the system of mayor and council, presided over by the mayor, the latter as well as the councilors shall be elected directly by the people for a term of four years. The law shall determine the composition that the council shall have and shall fix the rules according to which the political parties must always select candidates for the said body who are representative of the diverse interests and activities of the locality.

ART. 227. The mayor, the manager, and the commissioners shall receive a salary from the municipal treasury that may be altered at any time; but such a change shall not be made effective until after a neat election of mayor, council, or of the commission, has been held. An increase in the salary of the mayor shall be subject to the effective increase in municipal collections during the last two years preceding the date on which the increase is made effective. The

office of councilor must be compensated when the economic conditions of the municipality permit; and just financial provisions shall be made for the support of the public services.

ART. 228. In the temporary or permanent absence or disability of the mayor in any of the three aforementioned systems, he shall be replaced by a councilor or commissioner who shall have been elected for this purpose in the first session held by the council or the commission. In case of absence or disability of the manager, the council shall proceed to fill the vacancy in the same manner as is originally provided for filling this office.

ART. 229. To be a municipal mayor, manager, commissioner, or councilor, it is necessary to be a Cuban citizen, to have reached twenty-one years of age, and to meet the other requirements that the law may stipulate. As regards the mayor, he shall be required, in addition, not to have belonged to the armed forces of the Republic in active service during the two years immediately prior to the date of his designation as a candidate. Residence in the municipality shall not be required of a manager.

ART. 230. The law may create the metropolitan district of Havana, federating the surrounding municipalities with the capital city, to the extent that the law itself may determine. The federated municipalities shall have direct representation in the municipality of the metropolitan district, retaining their democratic and popular organizations.

ART. 231. In the municipal budgets there shall be corresponding appropriations made for the upkeep of rural districts in accordance with the following gradual scale:

In rural districts that contribute from \$100 to \$1,000 35%

In rural districts that contribute from \$1,001 to \$5,000 30%

In rural districts that contribute from \$5,001 to \$10,000 25%

In rural districts that contribute \$10,001 and above 20%

ART. 232. Municipal elections shall take place on a different date than general elections.

TITLE XVI Concerning the Provincial System

ART. 233. The Province shall be comprised of the municipalities within its territory. Each Province shall be administered by a governor and a provincial council. The provincial government is represented in the person of the governor. The provincial council is the organ of orientation and co-ordination of the interests of the Province.

ART. 234. The Provinces may be reconstituted or divided to form other new ones, or their boundaries may be modified, by means of agreement among the respective provincial councils and with the approval of the Congress.

ART. 235. The governor shall be elected for a term of four years, by direct and secret vote, in the form that the law may determine. To be a governor it is necessary:

a) To be Cuban by birth or naturalization, and in the latter case, to have ten years of residence in the Republic, counted from the date of naturalization.

b) To have reached twenty-five years of age.

c) To be in full enjoyment of civil and political rights.

d) Not to have belonged to the armed forces of the Republic in active service during the two years immediately preceding the date of his designation as a candidate.

ART. 236. The governor shall receive a salary from the provincial treasury, that may be altered at any time; but such a change shall not go into effect until after a new election for governor has been held. An increase in the salary of a governor shall be subject to an effective increase in the provincial revenue during the last two years preceding the date on which the increase is proposed to become effective.

ART. 237. In the temporary or permanent absence or disability of the governor, the oldest mayor shall substitute for him.

ART. 238. It shall be the function of the governor of the Province:

a) To carry out and enforce, to whatever extent may be required, the laws,

decrees, and regulations of the Nation.

b) To publish the decisions of the provincial council, which shall have obligatory effect, executing them and causing them to be executed; to determine the appropriate penalties for violations when they may not have been fixed by the council.

d) To issue orders and, moreover, to enact instructions and rules for the better execution of the decisions of the council when the latter may not have made them.

ART. 239. The municipal mayors of the Provinces shall constitute the provincial council. The mayors may attend the council sessions, assisted by specialists in each one of the fundamental services of the community, such as administration, health and social assistance, education, and public works; these specialists shall have the character of technical consultants of the council and shall have a voice but no vote. The office of technical adviser shall be honorary and without pay.

ART. 240. The governor shall have his headquarters in the capital of the Province, but the sessions of the provincial council may take place in the principal town of any municipal district of the Province, upon previous agreement by the council.

ART. 241. The provincial councils shall be assembled at least once every two months, without affecting the extraordinary sessions that they may hold when convened by the governor himself, or upon the instance of three or more members of the council.

ART. 242. It shall be the function of the provincial council:

a) To formulate its ordinary budget of income and expenditures and to determine the proportional quota in relation to income that must necessarily be apportioned to each municipality in order to defray the expenses of the Province.

b) To extend public services and carry out works of provincial concern, especially in the departments of health and social assistance, education, and communications, without violating the laws of the State.

c) To approve loans in order to carry out public works or provincial plans of a social and economic character, and at the same time to vote the permanent revenues necessary for the payment of their interest and amortization. No loan may be approved without previously obtaining a favorable report from the tribunal of accounts and the approval of two-thirds of the members of the provincial council. In cases in which new taxes are allowed for the payment of the obligations to which the preceding paragraph refers, it shall be necessary, moreover, to have an approving vote, in a referendum election of one-half plus one of the votes

cast by the electors of the Province, with the proviso that not less than thirty per cent of the voters of the Province shall have participated in the election.

d) To appoint and remove the provincial employees in accordance with this Constitution and the law.

ART. 243. For the purpose of what is provided in the preceding article, the average figure of the effective revenues of the preceding five years shall be taken as a basis for determining the revenue necessary.

ART. 244. When works approved by the council are not of a provincial character, but are in the interest of the municipalities, the latter must receive a minimum appropriation proportional to their tax quotas.

ART. 245. No member of the provincial council may be suspended or removed by governmental authority. Likewise, the actions and decisions of the council may not be suspended or annulled by such authority, but may be impugned before the tribunals of justice by means of special summary proceedings, that the law shall regulate, by the municipal or national governmental authorities, or by any resident who may be injured by such decision or action, or who may consider the latter damaging to the public interest.

The decisions of the provincial councils shall be made in public session. Only the provincial supreme courts are empowered to suspend or discharge provincial councilors for criminal cause, by summary proceedings, in conformity with the law, or by a provisional sentence that may include the penalty of mandatory disqualification from office. In case of suspension or discharge of a provincial councilor, such penalty shall extend to his functions as municipal mayor.

ART. 246. The governor, with the prior approval of the provincial council, may appeal to the plenum of the Supreme Tribunal of Justice, in the form determined by law, against abuse of power involved in decisions of the national Government which, in his judgment, attack the system of provincial autonomy established by the Constitution, although the measure may have been enacted within the use of discretionary powers.

ART. 247. The provincial council and the governor must acknowledge the authority of the tribunal of accounts of the State in matters of auditing, and are obliged to submit all data and information that the latter may request, especially in relation to the formation and liquidation of the budgets. The governor shall appoint, at any time the tribunal of accounts shall so request, an expert adviser from the provincial department of finance to assist the tribunal in the examination of the accounts of the Province.

ART. 248. The provisions concerning

public finances, contained under the appropriate title in this Constitution, shall be applicable to the Provinces, in so far as they may be compatible with the system of the latter.

ART. 249. The provincial councilors and the governors shall be responsible before the tribunals of justice, in the form that the law prescribes for acts carried out in the exercise of their functions. The office of provincial councilor is honorary, without pay, and obligatory.

ART. 250. The basis of provincial government and administration shall be organized by law, in accordance with this Constitution, and in a manner to respond to the administrative character of the provincial government.

TITLE XVII National Finances

FIRST SECTION Concerning the Property and Finances of the State

ART. 251. Aside from properties of public domain and the subdivisions of the same, all properties existing in the territory of the Republic that do not belong to the Provinces or to the municipalities and that are not, individually or collectively, privately owned, shall belong to the State.

ART. 252. Properties or patrimonies of the State may be alienated or taxed only under the following conditions:

a) That the Congress approve such action by special law, for reasons of social necessity or convenience, and always by a favorable vote of two-thirds of each colegislative body.

b) That the sale be carried out by public auction. If a question of rental is involved, it shall proceed according to the provisions of the law.

c) That the proceeds of such sale shall serve to create labor, support public services, or satisfy public necessities. Permission for such alienation or taxation may, however, be granted in an ordinary law, and may take place without the requirement of public auction if the purpose shall be to develop a national economic plan approved by special law.

ART. 253. The State shall not contract loans except by virtue of a law approved by two-thirds of the total of the members of each colegislative body, and in which at the same time the permanent revenues necessary for the payment of interest and amortization are voted.

ART. 254. The State guarantees the public debt, and, in general, ever operation that involves the economic responsibility of the national treasury provided that such obligations shall be contracted in accordance with the provisions of the Constitution and the law.

SECOND SECTION Concerning the Budget

ART. 255. All revenues and expenditures of the State, with the exception of those later to be mentioned, shall be anticipated and fixed in annual budgets and shall be in force only during the year for which they were approved. Funds, special monies or private patrimonies of bodies authorized by the Constitution or the law, and which are dedicated to social insurance, public works, the support of agriculture and regulation of industrial, cattle-raising, commercial, or professional activities, and, in general, those that promote the national wealth, are excepted from what is provided in the preceding paragraph. These funds, or the taxes upon them, shall be delivered to the autonomous body and be administered by the latter, in accordance with the law that may have created such funds, subject to the supervision of the tribunal of accounts. The expenditures of the Legislature and the Judiciary, of the tribunal of accounts, and of the interest and amortization of loans, as well as revenues by which they are covered, shall be permanent in character, and shall be included in the fixed budget that shall be in force until revised by special laws.

ART. 256. For the purposes of protection of common and national interests within any branch of production as well as in the professions, the law may establish compulsory associations of producers, determining the manner of organization and functioning of the national bodies, as well as of the regional bodies that may be necessary, in such a manner that they shall at all times be governed by the full authority of a majority of their members, granting the said associations, at the same time, the right to make provision for the necessities of their organized operations by means of quotas that may be imposed in the administration of the law itself. The budgets of these organizations or co-operatives shall be supervised by the tribunal of accounts.

ART. 257. The Congress may not include in the budget laws provisions that

introduce legislative or administrative reforms of any other kind; nor may the Congress reduce or abolish revenues of a permanent character without, at the same time, establishing others in their stead, except in case the reduction or abolition should correspond with the reduction of the permanent expenses to an equal amount; nor may the Congress assign to any of the services for which it must make appropriations in the annual budget an amount larger than that indicated in the bill of the Government. The Congress may, by means of laws, create new services or extend existing ones. Every law that authorizes expenditures outside of the budget, or that may in the future represent expenditures of this kind, must, under penalty of nullification, establish the means of covering them in any of the following ways:

- a) Creation of new revenues.
- b) Abolition of previous expenditures.
- c) Absolute verification of the credit balance or surplus by the tribunal of accounts.

ART. 258. The study and preparation of the annual budget of the State are functions of the Executive, and their approval or modification are functions of the Congress, within the limits established in the Constitution. In case of urgent necessity, the Congress may, by means of a law, grant an extraordinary budget. The Executive shall present the annual budget bill to the Congress through the Chamber of Representatives sixty days before the date on which it enters into effect. The President of the Republic, and especially the Minister of Finance, shall incur the liability that the law may determine if the budget is submitted to the Congress after the date previously fixed. The Chamber of Representatives shall send the budget bill to the Senate, together with its decision thereon, thirty days before the date on which it enters into effect. If the general budget is not voted upon before the first day of the fiscal year in which it must become effective, the budget that has been in force for the past year shall continue in effect for three months, jointly with the law of bases. In this case, the Executive may not make any modifications other than those arising from expenditures already paid, or from service on expenditures not necessary during the new fiscal period. The allocations of the ordinary budget must be covered by corresponding ordinary incomes anticipated in the budget itself, with the proviso that in no case may such allocations be covered by extraordinary revenues unless so authorized by a law of this character. The ordinary budget shall be executed with the sole approval of the Congress, which shall immediately have it published.

ART. 259. The budgets shall contain inscriptions in the part concerned with expenditures in which the following shall be made clear:

- a) The exact amount of the legitimate responsibilities of the State, liquid and outstanding, belonging to the preceding budgets.
- b) The proportion of this amount that shall be balanced by the ordinary revenues fixed in the new budget. The law of bases must, as regards the preceding clauses, establish the rules relative to the form in which the amount or amounts fixed for payments during the life of the budget may be prorated among creditors having liquid credits.

ART. 260. The credits assigned in the statement of expenditures in the budget shall fix the maximum amounts assigned to each service, which may not be augmented or transferred by the Executive without prior authorization by the Congress. The Executive may, however, grant credits or supplements to credits, under his own responsibility, and when the Congress is not in session, in the following cases:

- a) War, or imminent danger of war.
- b) Grave disturbance of public order.
- c) Public calamities.

The procedure for these credits shall be determined by law.

ART. 261. The Executive has the obligation of submitting annually the accounts of the State. For this purpose the Minister of Finance shall liquidate the annual budget within three months following its expiration; and, with the prior approval of the Council of Ministers, shall send his report, with the data and necessary verifications, to the tribunal of accounts. The latter shall render an opinion upon the report within the three months following, and within this period and without impairing the effectiveness of its decisions, shall inform the Congress and the Executive of any infractions or responsibilities for infractions which, in its judgment, may have been incurred. The Congress shall definitively approve or reject the accounts. Budget credits for expenditures not anticipated by the administration may only be expended, in such case, with prior approval by the

Council of Ministers. The Executive shall send the balance sheet of the revenues and expenditures of the State to the Congress monthly.

ART. 262. The Executive shall avoid duplication of services and multiplicity of official and semi-official agencies wholly or partially supported by the State for the realization of its purposes.

ART. 263. No one shall be required to pay any impost, tax, or contribution that has not been expressly established by the law, or by the municipalities, in the form provided by this Constitution, and the amount of which may not go to form a part of the budget revenues of the State, Province, or municipality, unless other provisions are stipulated in the Constitution or in the law. Obligatory taxes or quotas imposed by the law upon persons or groups belonging to an industry, trade, or profession, in favor of their legally recognized organizations shall be considered included in the preceding provision.

ART. 264. The State shall, without impairing the other means within its range, regulate the development of the national wealth by means of the execution of public works payable entirely or in part by those directly benefited. The law shall determine the manner and the proceedings adequate in order that the State, the Province, or the municipality, on its own initiative or accepting private initiative, may promote the execution of such works, grant proper concessions, authorize the apportionment and the division, and collect taxes for these purposes.

ART. 265. The liquidation of each credit arising from funds of the State for the execution of any public work or public service shall be published in full in the *Gaceta oficial* of the Republic, as soon as it has obtained the final approval of the proper Minister. The record of acceptance, whether partial, complete, provisional, or final, of all public works executed wholly or partially with funds deriving from the State, shall be published in the *Gaceta oficial* of the Republic, as soon as it has obtained the final approval of the proper Minister. The liquidation of credits arising from funds of the State, as well as final acceptances of public works executed by contract or administration, defrayed partially or wholly by funds provided by the State, shall be submitted for final approval within sixty calendar days after the termination of such works, without prejudice to the partial liquidations and acceptances that may have been recognized by the administration during the process of execution of such works.

THIRD SECTION Concerning the Tribunal of Accounts

ART. 266. The tribunal of accounts is the supervising body for revenues and expenditures of the State, Provinces and municipality, and of the autonomous organizations created under the protection of the law, which receive their incomes directly or indirectly through the State. The tribunal of accounts is dependent only upon the law, and its differences with other bodies shall be submitted to the decision of the Supreme Tribunal of Justice.

ART. 267. The tribunal of accounts shall be composed of seven members, four of whom shall be attorneys and three public accountants or professors of commerce. Any person who is included in Clause (d) [i.e., 4th Clause] of the following article may also be appointed, even without being an attorney or public accountant. Attorneys must meet the same qualifications as are required in order to be a member of the Supreme Tribunal. Public accountants or professors of commerce must be more than thirty-five years of age, Cubans by birth, and must have practiced their profession for not less than ten years. The plenum of the Supreme Tribunal shall designate two of the attorneys who shall be the president and secretary of the court. The President of the Republic shall appoint one attorney and one public accountant or professor of commerce as members. The Senate shall appoint one attorney and one public accountant or professor of commerce as members. The University council shall appoint one public accountant or professor of commerce as a member. The members of the tribunal of accounts shall discharge their duties for a term of eight years and may be removed within this period only by the tribunal of constitutional and social guarantees of the Supreme Tribunal of Justice of the Republic, after a legal process with a decision supported by reasons. The members of the tribunal of accounts may not form a part of any other official or autonomous body that may depend, directly or indirectly, upon the State, a Province, or a municipality, and may not practice any profession, industry, or trade.

ART. 268. To be a member of the tribunal of accounts it is necessary:

- a) To be Cuban by birth.
- b) To have reached thirty-five years of age.
- c) To be in full enjoyment of civil and political rights, and with no criminal record.
- d) To be an attorney with ten years of practice; to have been a Minister, or Secretary, or Sub secretary of Finance; Comptroller General of the Republic,

treasurer or chief of the audit office of the ministry of finance; professor of economics, finance, control and public finance, or auditing, in an official institution of learning; or to possess the title of public accountant or professor of commerce with ten years of practice. The members of the tribunal of accounts may not have any material interest, directly or indirectly, in any farming, industrial, commercial or financial enterprise connected with the State, Province, or municipality.

ART. 269. The tribunal of accounts shall appoint comptrollers, officials, employees, and assistants, on the basis of accredited proof of ability.

ART. 270. Powers and duties of the tribunal of accounts are:

- a) To supervise the enforcement of the budgets of the State, Province, municipality, and of the autonomous bodies that receive their incomes directly or indirectly through the State, examining and auditing the accounts of all of these.
- b) To have jurisdiction over orders for advance payments by the State, in order to be able to approve the condition of finances as related to the condition of the budget, so that the provisions of the law of bases may be complied with, and that they may be carried out without preference or favor.
- c) To inspect, in general, the expenditures and disbursements of the State, Province, and municipality, for carrying out public works as well as for provisions and payments of personnel, and the public auctions held for this purpose. To this end, the tribunal of accounts may originate measures for ascertaining that the payments that are made effectively correspond with the services carried out by the official institutions under its supervision, with the obligation of expediting regulatory measures suitable for fixing the average cost per unit of work and the average value of the provisions that the State must receive in accordance with the market. Likewise, the tribunal of accounts may proceed with any denunciations that may be formulated in this connection, and shall submit an annual report to the President of the Republic, that shall be an account of the manner in which the expenditures of the institutions under its control have been carried out, in order that the President of the Republic may forward this report, together with his own observations, to the Congress.
- d) To ask reports of all bodies and departments subject to its control, and to appoint a special delegate to make the necessary investigations when data are not furnished or when such data are considered insufficient. The tribunal shall be obliged to give detailed information to the Executive and to the Congress, when so required, upon any matters related to its functions.
- e) To give a report annually with respect to the condition and administration of the public treasury, the national currency, the public debt, and the budget and its liquidation.
- f) To receive a statement under oath or affirmation from each citizen appointed for the discharge of a public function, upon his taking possession of and upon his leaving the office, concerning the amount of his private fortune; and to carry out any investigations that may be necessary to verify such statements. The law shall regulate and determine the occasion and form of exercising this function.
- g) To account to the tribunals for any guilt that may result from the inspection and supervision carried out in relation to the powers granted by the preceding clauses, and to enact proper instructions in case of violations in which there is no criminal responsibility, for the better fulfillment of the laws of accountability over all the bodies subject to its control.
- h) To publish its reports for public information.
- i) To carry out all other duties that the law and the regulations stipulate.

FOURTH SECTION Concerning the National Economy

ART. 271. The State shall direct the course of the national economy for the benefit of the people in order to assure a proper existence for each individual. It shall be a primary duty of the State to promote national agriculture and industry, facilitating their diversification as sources of public wealth and collective benefit.

ART. 272. Ownership and possession of real property and the exploitation of agricultural, industrial, commercial, banking, and any other kind of enterprise or business by foreigners, whether firmly established in Cuba, or carrying on their operations in Cuba but with headquarters in other countries, are subject in an obligatory manner to the same conditions as the law may establish for nationals, which must in all cases be adjusted to the socio-economic interests of the Nation.

ART. 273. The increment of value of lands and real property that is produced

without expenditure of labor or private capital and only by reason of actions of the State, Province, or municipality, shall be ceded to the benefit of these latter to a proportional extent that the law may determine.

ART. 274. Stipulations in regard to contracts for renting, tenant farming, or partnership of rural estates, that impose the renunciation of rights recognized in the Constitution or in the law, as well as any other pacts that this Constitution or the tribunals may declare to be abusive, shall be null. In regulating said contracts adequate standards shall be established for controlling rents, which shall be flexible, with a maximum and minimum according to the purpose, productivity, location, and other circumstances surrounding the rented property, and for fixing the minimum duration of such contracts according to said conditions, and for guaranteeing to the renter, tenant farmer, or partner, a reasonable compensation for the value of improvements or repairs that the latter may deliver in good condition, and that may have been carried out at his expense with the express or tacit consent of the owner, or such improvements or repairs deemed necessary for development of the property. The renter shall not have a right to said compensation in case the contract terminates prematurely through his fault or his refusal to continue the agreement when offered to him under the same conditions as were in force at the expiration of said contract. The law shall also regulate contracts of farm financing and sugar-cane milling, as well as the delivery of other products by the persons producing them, granting the farmer just protection.

ART. 275. The law shall regulate by administration the planting and milling of sugar-cane, and may reduce these operations to the minimum limit imposed by the socio-economic necessity of maintaining the sugar industry on the basis of the division between the two great factors participating in its development: the manufacturers or producers of the sugar, and the farmers or tenants producing the cane.

ART. 276. Any laws and provisions that may create private monopolies, or that may regulate trade, industry, and agriculture in such a form as to give rise to such monopolies, shall be null and without effect. The law shall especially take care that commercial activities may not be monopolized by private interests in the centers of agricultural and industrial labor.

ART. 277. National or local public services shall be considered of social interest. Therefore, the State, as well as the Province and the municipality, shall, in their respective cases, have the right to supervise such services, enacting the measures necessary for this purpose.

ART. 278. No consumption tax may be placed upon national raw materials that, whether or not a product of the soil, are destined for manufacture or export. Likewise, no consumption tax may be placed upon products of national industry, if the same products, those similar to them, or substitutes imported from abroad, are not taxed in the same manner.

ART. 279. The State shall maintain the independence of private institutions of social welfare and co-operation that are normally sustained without the aid of public funds' and shall contribute to the development of the same by means of adequate legislation.

ART. 280. Money and banking are submitted to the regulation and control of the State. The State, by means of autonomous bodies, shall organize a banking system for the better development of its economy, and shall thus found the National Bank of Cuba, which shall be one of issue and rediscount. In establishing the said bank, the State may require that its capital be subscribed by the banks already existing in the national territory. Those that comply with these requirements shall be represented on its board of directors.

TITLE XVIII Concerning a State of Emergency

ART. 281. The Congress may, by special law, upon the request of the Council of Ministers, declare a state of national emergency, and may authorize the Council of Ministers itself to exercise extraordinary powers in any case in which the external security or internal order of the State may be placed in danger or attacked, by reason of war, catastrophe, epidemic, grave economic upset, or any other cause of an analogous nature. In each case the special law shall determine the concrete matter to which the extraordinary powers shall be applied, as well as the period during which such powers shall be effective, which shall never exceed forty-five days.

ART. 282. During the state of national emergency the Council of Ministers may exercise the functions expressly delegated to it by the Congress. The Council of Ministers may likewise alter criminal proceedings. In all cases the legislative provisions adopted by the Council of Ministers must be ratified by the Congress in order to continue in effect when the state of national emergency shall have been terminated. Judicial actions that modify the normal regime must be revised, upon the termination of the state of emergency, at the instance of the interested party. A retrial shall take place in case sentence has already been

passed whereupon said sentence shall be considered as a trial procedure.

ART. 283. The law in which the state of national emergency is declared must necessarily contain a call for an extraordinary session of the Congress for the day on which the emergency period expires. While the emergency period shall last a permanent committee of the Congress must be assembled in order to supervise the use of the extraordinary powers granted to the Council of Ministers, and this permanent committee may convene the Congress, even before the expiration of the said period, in order to declare abolished the state of emergency. The permanent committee shall be selected from the body of the Congress, and shall be composed of twenty-four members who shall come from both colegislative bodies, in equal numbers, and similarly with representation from all the political parties. The president of the Congress shall preside over the committee, and it shall function when the Congress is in recess and during the state of national emergency.

The permanent committee shall have competence:

- a) To supervise the use of the extraordinary powers that may be granted to the Council of Ministers in cases of emergency.
- b) Over determination of the inviolability of Senators and Representatives.
- c) Over other matters that the law of relations between the colegislative bodies may stipulate.

ART. 284. The Council of Ministers must give an accounting of the use of the extraordinary powers before the permanent committee of the Congress, at any time that the latter shall so decide, and before the Congress upon the expiration of the state of national emergency. A special law shall regulate the state of national emergency.

TITLE XIX Concerning the Amendment of the Constitution

ART. 285. The Constitution may be amended only:

- a) Upon the initiative of the people, by means of the presentation of an appropriate proposition to the Congress, with the signatures of not less than 100,000 voters who are able to read and write, given before the electoral bodies, and in accordance with what the law may establish. When this has been done, the Congress shall be assembled into a single body, and within the thirty days following shall, without discussion, approve the law proposing to call an election of delegates or for a referendum.
- b) By the initiative of the Congress by means of an appropriate proposition, bearing the signatures of not less than one-fourth of the members of the colegislative body to which the proponents belong.

ART. 286. Amendment of the Constitution shall be specific, in part or in whole. In case of specific or partial amendment, proposed by popular initiative, the amendment shall be submitted to a referendum at the first election to be held, provided that the new precept, the incorporation of which is in question, or an existing one, the revision of which is being attempted, is susceptible of being proposed in such a manner that the people may approve or reject it by answering "yes" or "no." In case of specific or partial change upon the initiative of the Congress, the approval of the latter with an affirmative vote of two-thirds of the total number of members of both colegislative bodies jointly assembled, shall be necessary, and said amendment shall not be effective until it is ratified in the same manner in the two following regular legislative sessions. In case the reform is total, or concerns the national sovereignty, or Articles 22, 23, 24, and 87 of this Constitution, or the form of Government, after the previously stipulated requirements are carried out, according to whether the initiative proceeds from the people or from the Congress, elections for delegates to a plebiscite assembly shall be called, the meeting of which shall take place six months after the resolution, and which meeting shall be limited exclusively to approving or rejecting the proposed reforms. This assembly shall carry out its duties with entire independence of the Congress, within thirty days following its final organization. The delegates to the said convention shall be elected by Provinces in the proportion of one for each 50,000 inhabitants, or fraction greater than 25,000, and in the form that the law may establish, with the proviso that no Congressman may be elected to the office of delegate. In case there is a question of holding any re-election that is constitutionally prohibited, or the continuation in office of any official for a longer time than that for which he was elected, the proposal of amendment must be approved by three-fourths of the total members of the Congress, assembled in a single body, and ratified in a referendum by the affirmative vote of two-thirds of the total number of voters of each Province.

FINAL PROVISION

This Constitution shall enter into force in its entirety on October 10th, 1940. And in carrying out the decision made by the Constituent Convention in the session of April 26th, 1940, and as a tribute to the memory of the illustrious patriots who in this town signed the Constitution of the Republic in arms on April 10th, 1879, we sign the present Constitution in Guáimaro, Camagüey, on July 1st, 1940.