

# HAITI

CONSTITUTION OF JUNE 12, 1918<sup>1</sup>

[Translation]

## CONSTITUTION OF THE REPUBLIC OF HAITI

### TITLE I.—THE TERRITORY OF THE REPUBLIC

ARTICLE 1. The Republic of Haiti is one and indivisible, free, sovereign and independent.

Its territory, including the islands adjacent thereto, is inviolable and shall not be alienated through any treaty or through any convention.

ART. 2. The territory of the Republic is divided into departments; each department is subdivided into districts (arrondissements); and each district into communes.

The number and the limits of these subdivisions shall be determined by law.

### TITLE II.—HAITIANS AND THEIR RIGHTS

#### SECTION I.—CIVIL AND POLITICAL RIGHTS

ART. 3. The rules governing nationality shall be determined by law.

ART. 4. All foreigners who find themselves on Haitian territory shall enjoy the same protection as that extended to Haitians.

ART. 5. The right to own real estate shall be given to foreigners residing in Haiti and to the societies organized by foreigners for purposes of residence, and agricultural, commercial, industrial or educational enterprises.

This right shall cease after a period of five years from the date when the foreigner shall have ceased to reside in the country or the activities of said companies shall have ceased.

ART. 6. Every Haitian citizen over 21 years of age shall be entitled to exercise political rights, if he has the other qualifications required by the Constitution and by law. Foreigners may acquire the Haitian nationality by following the rules established by law. Naturalized Haitians shall be admitted to the exercise of political rights only after five years of residence in the territory of the Republic.

ART. 7. The exercise of political rights shall be suspended by virtue of a judicial condemnation which must have taken place in accordance with the laws of Haiti, carrying with it the suspension of civil rights.

#### SECTION II.—PUBLIC LAW

ART. 8. Haitians are equal before the law. They shall be equally admissible to civil and military employments, without any reason

<sup>1</sup>The official text was transmitted by the Minister in Haiti in despatch No. 367 of Nov. 29, 1919 (File No. 838.011/68).

for preference other than personal merit or services rendered to the country.

ART. 9. Individual liberty is guaranteed.

No one shall be detained except upon probable cause relating to an act punishable by law and upon the order of a legally competent functionary. For this warrant of arrest to be executed, it shall be necessary:

1. That it state the cause of the arrest and the provision of the law which punishes the imputed act.
2. That notice, together with a copy of the warrant, be given to the accused party at the moment of the arrest.

Except in case of *flagrante delicto*, the arrest shall be executed subject to the forms and conditions above stated.

All arrests and all detentions made in opposition to this provision, and all acts of violence or severity accompanying the arrest are arbitrary acts, against which the aggrieved parties may, without previous authorization, complain before the competent tribunals, and cause the authors or the executors to be prosecuted.

ART. 10. No one shall be tried by other judges than those assigned to him by the Constitution or the law.

ART. 11. Domiciliary visit and seizure of papers shall not be made except by virtue of the law and in the forms provided by it.

ART. 12. No law shall have a retroactive effect.

ART. 13. No penalty shall be established except by law, nor shall and penalty be imposed except in the cases which the law shall determine.

ART. 14. The right of property is guaranteed.

No one shall be deprived of his property except by reason of public utility, and in the cases and in the manner established by law, and upon previous payment of a just indemnity. Property shall not be confiscated for political reasons.

ART. 15. The penalty of death for political offenses is abolished except for the case of treason.

The law shall determine the penalty to be imposed in lieu thereof.

ART. 16. Every one has the right to express his opinions on all matters and to write, print, and publish what he thinks. Writings shall not be submitted to previous censorship. Abuses of this right shall be defined and punished by law, without thereby abridging in any way whatever the freedom of the press.

ART. 17. All forms of worship are equally free.

Every one has the right to profess his religion and freely perform his worship, provided he does not disturb the public order.

ART. 18. Teaching is free.

Freedom of teaching shall be exercised under the control and the supervision of the State in accordance with the law.

Primary instruction shall be compulsory. Public instruction shall be gratuitous in all its grades.

ART. 19. Trial by jury is established in all criminal cases and also for political offenses and offenses committed through the press.

ART. 20. Haitians have the right to assemble peaceably and without arms for discussing any matter, provided they comply with the laws regulating the exercise of this right, but no previous authorization shall be required for this purpose.

This provision shall not be applicable to meetings in public places which shall remain subject in all respects to the police regulations.

ART. 21. Haitians have the right to join and form societies in accordance with the law.

ART. 22. The right of petition shall be personally exercised by one or several individuals, never in the name of a body.

Petitions shall be addressed to the legislative power or to the executive power.

ART. 23. The secrecy of private correspondence entrusted to the mail is inviolable.

The law shall determine who shall be responsible for this violation.

ART. 24. French is the official language. Its employment shall be obligatory in administrative and judicial matters.

ART. 25. No previous authorization shall be required to prosecute public officials for acts done during their administration, except in those cases established by the Constitution.

ART. 26. Nothing shall be added to or taken away from the Constitution by means of law. The letter of the Constitution shall always prevail.

### TITLE III.—THE SOVEREIGNTY AND THE POWERS TO WHICH THE EXERCISE THEREOF IS DELEGATED

ART. 27. The national sovereignty resides in the citizens taken as a whole.

ART. 28. The exercise of this sovereignty shall be delegated to three powers: the legislative power, the executive power, and the judicial power.

They shall form the government of the Republic, which is essentially civil, democratic, and representative.

ART. 29. Each power shall be independent of the other two in its attributions which it exercises separately.

None of them shall delegate its faculties, nor go beyond the limits prescribed for it.

ART. 30. Individual responsibility shall be formally attached to all public functions.

The law shall govern the procedure to be followed against public officials for acts done during their administration.

#### CHAPTER I.—THE LEGISLATIVE POWER

##### SECTION I.—THE CHAMBER OF DEPUTIES

ART. 31. The legislative power shall be exercised by two assemblies: one Chamber of Deputies and one Senate, which shall form the legislative body.

ART. 32. The number of deputies shall be fixed according to the population, on the basis of one deputy for every 60,000 inhabitants.

While the census of the population is being made, the number of deputies is fixed at 36, apportioned between the arrondissements actually existing, to wit: 3 deputies for the Arrondissement of Port-au-Prince; 2 each for the Arrondissements of Cap-Haïtien, Cayes, Port-de-Paix, Gonaïves, Jérémie, Saint-Marc and Jacmel; and 1 deputy each for the other arrondissements. The deputy shall be

elected by a majority of the votes cast by the primary assemblies of the district in conformity with the manner and the conditions provided by law.

ART. 33. To be a member of the Chamber of Deputies, it shall be necessary:

1. To be over 25 years of age.
2. To be in the enjoyment of civil and political rights.
3. To have resided at least one year in the arrondissement to be represented.

ART. 34. The members of the Chamber of Deputies shall be elected for two years, and may be reelected indefinitely. They shall begin to discharge their office the first Monday of April of even numbered years.

ART. 35. In case of vacancy by reason of death, resignation, disqualification of a deputy, or for any other cause, provision shall be made for a successor in his electoral district, only for the remainder of his term, by a special election called immediately by the President of the Republic.

This election shall take place within a period of 30 days after the convocation of the primary assembly, in accordance with Article 107 of the present Constitution.

The same procedure shall take place in case of non-election in one or several districts.

#### SECTION II.—THE SENATE

ART. 36. The Senate shall consist of 15 Senators.

Their functions shall last six years and shall begin the first Monday of April of even numbered years.

They may be reelected indefinitely.

ART. 37. The Senators represent the departments, which are five in number, to wit:

Four senators for the Department of the West.

Three each for the Departments of the North, South and the Artibonite.

Two for the Department of the Northwest.

Senators shall be elected by universal and direct suffrage in the primary assemblies of the several departments in accordance with the manner and the conditions prescribed by law.

Those candidates shall be elected who shall have obtained the highest number of votes in the departments.

In the first election after the adoption of the present Constitution, these elections shall take place in the following manner:

In each department the candidate who shall have obtained the highest number of votes shall be elected senator for this department for a period of six years; the candidate who shall have obtained the next highest number of votes shall be elected for a period of four years.

In each of the Departments of the North, of the South and of the Artibonite, the candidate who shall have obtained the third highest number of votes, and, in the Department of the West, the candidates

who shall have obtained the third and fourth highest number of votes, shall be elected for a period of two years.

In the following and in the regular elections, the candidates who shall have obtained the highest number of votes in the several departments shall be elected for the entire period of six years.

The Senate shall be renewed by thirds every two years.

ART. 38. To be elected senator, it shall be necessary:

To be over 30 years of age.

To be in the enjoyment of civil and political rights.

To have resided at least two years in the department to be represented.

ART. 39. In case of vacancy by reason of death, resignation, disqualification of a senator, or any other cause, provision shall be made for a successor in his department only for the remainder of his term, by a special election called immediately by the President of the Republic.

This election shall take place within a period of 30 days after the convocation of the primary assembly, in accordance with Article 107 of the present Constitution.

The same procedure shall take place in case of non-election in one or several departments.

#### SECTION III.—THE NATIONAL ASSEMBLY

ART. 40. The two houses shall meet in National Assembly, in the cases provided for by the Constitution.

The powers of the National Assembly shall be limited and shall not be extended to any other purposes than those which are specially assigned to it by the Constitution.

ART. 41. The president of the Senate shall preside over the National Assembly, the president of the Chamber of Commons shall be the vice-president of it, and the secretaries of the Senate and of the Chamber of Commons shall be the secretaries of the National Assembly.

ART. 42. The attributions of the National Assembly shall be:

1. To elect the President of the Republic and to administer to him the constitutional oath.
2. To declare war, upon the report of the executive power.
3. To approve or to reject treaties of peace and other international treaties and conventions.

ART. 43. In the years of regular presidential elections, the National Assembly shall proceed to the election of the President of the Republic on the second Monday in April and shall not undertake any other work, remaining in permanent session except on Sundays and holidays, until the President shall have been elected.

ART. 44. The election of the President of the Republic shall be made by secret ballot and by an absolute majority.

If, after the first ballot, no candidate has secured the number of votes required for his election, a second ballot shall be taken. If on this second ballot no candidate is elected, the election shall be concentrated on the three candidates who have obtained the highest

number of votes. If after three ballots none of the three has been elected, the balloting shall be between the two who have received the greatest number of votes, and the one who secures the majority of votes cast shall be proclaimed President of the Republic.

If the votes of the two candidates are equally divided, the election shall be decided by lot.

ART. 45. In case of vacancy of the office of President, the National Assembly must convene within ten days, with or without convocation of the Council of the Secretaries of the State.

ART. 46. The meetings of the National Assembly shall be public. Nevertheless, it may resolve itself into a secret committee at the request of five members and decide thereafter by an absolute majority whether or not the meeting should continue to be held in public.

ART. 47. In case of urgency at a time when the legislative body is not in session, the executive power may convene the National Assembly in extra session.

He shall communicate to the National Assembly, through a written message, the reasons for this convocation.

ART. 48. The presence in the National Assembly of a majority of each of the two houses is necessary to pass its resolutions; but a minority may adjourn from day to day in order to compel the absent members to attend the meeting, according to the manner and under the penalties which the National Assembly may prescribe.

## CHAPTER II

### SECTION I.—THE EXERCISE OF THE LEGISLATIVE POWER

ART. 49. The seat of the legislative body shall be in the capital of the Republic.

ART. 50. The legislative body shall meet each year, without need of expressed convocation, on the first Monday of April.

The session shall begin from the date when the bureaux<sup>1</sup> of the two houses are established.

The session shall last three months. In case of necessity, this period may be extended to four months by the executive power or by the legislative body.

The President of the Republic may adjourn the houses. But the adjournment shall not last over one month, and more than two adjournments shall not take place during the course of the same session.

ART. 51. In the interval between sessions, and in case of urgency, the President of the Republic shall call the legislative body to meet in extra session.

He shall explain to them, by means of a message, the reason for this measure.

In the case of being called to meet in extra session, the legislative body shall not take up any other matters foreign to those for which it has been convened.

ART. 52. Each house shall be the judge of the election of its members and shall decide absolutely the contests which may arise on the subject.

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<sup>1</sup>That is, the officers and clerks necessary for the conduct of business.

ART. 53. The members of each house shall individually take the oath to maintain the rights of the people and to be faithful to the Constitution.

ART. 54. The meetings of the two houses shall be public.

Each house may resolve itself into a secret committee at the request of five members and decide thereafter by an absolute majority whether or not the meeting should continue to be held in public in regard to the same subject.

ART. 55. The legislative power shall make the laws on all subjects of public interest.

The initiative [of the legislation] shall belong to each one of the two houses as well as to the executive power.

Nevertheless, the budgetary law, the law concerning the assessment, distribution, and manner of collection of taxes and contributions, the laws having for their object the creation of revenue or increase of the expenses of the State shall be first voted by the Chamber of Deputies.

In case of disagreement between the two houses in regard to these laws, each house shall draw by lot an equal number of members to form an interparliamentary commission which shall decide the disagreement with finality.

The executive power has the exclusive right to take the initiative with laws regarding the public expenses; and neither of the two houses has the right to increase in whole or in part the expenses proposed by the executive power.

ART. 56. Each house, by its own rules, shall establish its discipline and determine the method under which it shall exercise its attributions.

Each house may impose disciplinary penalties upon its members for reprehensible conduct and may expel a member by the vote of a majority of two-thirds of its members.

ART. 57. The members of the legislative body, except in case of *flagrante delicto*, of treason or acts entailing a corporal or ignominious punishment, shall not be prosecuted or arrested by way of repression during the length of the session without the authorization of the house to which they belong.

In no case shall they be arrested while they are attending a meeting of their house or while they are on their way to and from it.

ART. 58. Neither of the two houses shall adopt any resolutions without the presence of an absolute majority of its members; however, a lesser number of members may adjourn from day to day and compel the absent members to attend the meeting according to the manner and under the penalties which each house may prescribe.

ART. 59. No act of the legislative body shall be passed except by a number of votes equal to or greater than the majority of the members present, except when otherwise provided for by the present Constitution.

ART. 60. No bill shall be adopted by either of the two houses without having been voted article by article.

ART. 61. Each house shall have the right to amend and revise the articles and amendments proposed. The amendments voted by one house shall not be made a part of a bill until they have been voted on by the other house; and no bill shall be enacted into law until

after it has been voted on in the same form by the two houses. Any bill may be withdrawn before said bill is definitively voted upon.

ART. 62. Every law passed by the legislative body shall be immediately sent to the President of the Republic, who, before promulgating it, has the right to make objections thereto, in whole or in part.

In this case he shall return the law to the house in which it originated, together with his objections. If the law is amended by this house, it shall be sent to the other house, together with the objections. If the law thus amended is passed by the second house, it shall be sent again to the President to be promulgated.

If the objections are rejected by the house which originally passed the bill, it shall be sent to the other house, together with the objections.

If the second house likewise votes to reject these objections, the law shall be sent to the President, who shall then be obliged to promulgate it.

The rejection of the objections shall be voted in both houses by a majority of two-thirds of each house; in this case the vote of each house shall be by yeas and nays and shall be noted down in the margin of the minutes beside the name of each member of the Assembly.

If two thirds of either house shall not meet to consider the rejection of the objections, said objections shall be accepted.

ART. 63. The right to object should be exercised within eight days from the date of the presentation of the law to the President, exclusive of Sundays and days of adjournment of the legislative body, in accordance with Article 50 of the present Constitution.

ART. 64. If, within the period prescribed by the preceding article, the President of the Republic does not make any objection, the law shall be promulgated, unless the session of the legislative body shall have closed before the expiration of that period. In this case the law shall be held in abeyance.

ART. 65. A bill rejected by one of the two houses shall not be re-introduced during the same session.

ART. 66. The laws and other acts of the legislative body shall become official through the *Moniteur* and shall be inserted in the bulletin printed and numbered under the title, *Bulletin des Lois*.

ART. 67. The law shall take its date from the day of its definitive adoption by the two houses; but no laws shall become obligatory until after their promulgation, which is to be made according to law.

ART. 68. No one shall personally present petitions to the legislative body.

ART. 69. Each member of the legislative body shall receive a monthly indemnity of one hundred and fifty dollars, beginning from his taking of the oath.

ART. 70. The office of member of the legislative body is incompatible with any other office under the pay of the State.

### CHAPTER III.—THE EXECUTIVE POWER

#### SECTION I.—THE PRESIDENT OF THE REPUBLIC

ART. 71. The executive power shall be exercised by a citizen who shall take the title of President of the Republic.



ART. 72. The President of the Republic shall be elected for four years.

He shall enter upon his duties on May 15, except when he has been elected to fill a vacancy; in this case he shall be elected for the remainder of the term and he shall enter upon his duties immediately after his election.

The President shall be eligible for immediate reelection. A President who has been reelected shall not be elected for a third term unless after the expiration of a period of four years.

A citizen who has been elected President three times shall not be eligible for that office.

ART. 73. To be elected President of the Republic, it shall be necessary:

1. To have been born of a Haitian father and never to have renounced his nationality.
2. To be over 40 years of age.
3. To be in the enjoyment of civil and political rights.

ART. 74. The President shall, before entering upon his duties, take before the National Assembly the following oath:

I swear before God and before the nation to observe and cause to be observed faithfully the Constitution and the laws of the Haitian people, to respect the rights of the latter, to maintain the national independence and the integrity of the territory.

ART. 75. The President of the Republic shall appoint and remove the secretaries of State.

He shall be charged with seeing to the execution of the treaties of the Republic.

He shall seal the laws with the seal of the Republic and shall promulgate them within the time prescribed by Articles 62, 63, and 64.

He shall be charged with the enforcing of the Constitution and the laws, acts, and decrees of the legislative body and of the National Assembly.

He shall issue all the regulations and decrees necessary for this purpose, without, however, the power to suspend or interpret the laws, acts, and decrees themselves or to interfere with their enforcement.

He shall make appointments to public offices and positions, only by virtue of the Constitution or of some express provision of a law and under the conditions therein prescribed.

He shall provide according to law for the internal and external safety of the State.

He shall make all international treaties or conventions, subject to the approval of the National Assembly.

He shall have the right to grant pardons and commutation of punishment imposed by final judgments rendered in actual trial, except in cases of impeachment by the courts or by the Chamber of Deputies, as is provided in Articles 100 and 101 of the present Constitution.

He shall grant amnesty in political matters according to the provisions of the law.

He shall command and direct the armed forces of the Republic and shall confer the grades according to the law.

He shall have power to demand a written report from the chief official of each of the ministerial departments on any subject relating to the conduct of their respective departments.

ART. 76. If the President shall become temporarily unable to exercise his functions, the Council of the Secretaries of State shall be charged with the executive authority so long as the disability exists.

ART. 77. In case of vacancy of the office of President, the Council of the Secretaries of State shall be vested temporarily with the executive power.

It shall immediately convene the National Assembly for the election of a successor for the remainder of the presidential term.

If the legislative body is in session, the National Assembly shall be convened without delay. If the legislative body is not in session, the National Assembly shall be called in accordance with Article 45.

ART. 78. All the acts of the President, except the decrees appointing or removing from office the secretaries of State, shall be countersigned by the secretary of State in charge of the matter concerned.

ART. 79. The President shall have no other powers than those formally attributed him by the Constitution and the special laws enacted by virtue of the Constitution.

ART. 80. At the opening of each session the President, by means of a message, shall render to each of the two houses separately an account of his administration during the year and shall present the general situation of the Republic both at home and abroad.

ART. 81. The President of the Republic shall receive from the public treasury an annual indemnity of twenty-four thousand dollars.

ART. 82. The President shall reside in the National Palace of the capital.

#### SECTION II.—THE SECRETARIES OF STATE

ART. 83. The Secretaries of State shall be five in number. They shall be distributed among the different ministerial departments as the services of the State may require.

A decree shall determine this distribution in accordance with the law.

ART. 84. To be appointed secretary of State, it shall be necessary:

1. To be over 30 years of age.
2. To be in the enjoyment of civil and political rights.

ART. 85. The secretaries of State shall meet in Council under the presidency of the President of the Republic or of any one of them delegated by the President.

All deliberations of the Council shall be recorded in a book; and the minutes of each session shall be signed by the members of the Council present thereat.

ART. 86. The secretaries of State shall have the right to the floor of each of the two houses as well as to that of the National Assembly, but only to discuss the bills proposed by the executive power and to support its objections or to make any other official communication.

ART. 87. The secretaries of State shall be responsible, each in that which concerns him, both for the acts of their department and for the non-execution of laws relating thereto.

They shall correspond directly with the authorities subordinate to them.

ART. 88. Each secretary of State shall receive from the public treasury an annual indemnity of six thousand dollars.

CHAPTER III [BIS].—THE JUDICIAL POWER<sup>1</sup>

ART. 89. The judicial power shall be exercised by a Court of Cassation and by inferior courts, the formation and jurisdiction of which shall be established by law.

ART. 90. The judges of all the courts shall be appointed by the President of the Republic.

He shall appoint and remove the officials of the public ministry at the Court of Cassation and the other courts, justices of the peace, and their substitutes.

ART. 91. No one shall be appointed judge or officer of the public ministry who is not over 30 years of age, for the Court of Cassation, or over 25 years, for the other courts.

ART. 92. The Court of Cassation shall take no cognizance of the subject-matter of cases. Nevertheless, in all matters, except such as have been passed upon by jury, when the same case shall be presented again by the same parties upon an appeal, even upon an exception, the Court of Cassation, admitting the appeal, shall not remand the case, but shall pass a decision upon the subject matter, in full bench.

ART. 93. The judges of the Court of Cassation, the judges of the courts of appeal and of first instance shall enjoy irremovability.

The law shall regulate the conditions upon which they shall cease to enjoy the privilege of irremovability and the manner of their retirement on account of age or any other disability or by reason of the suppression of the court.

They shall not be transferred from one court to another or entrusted with other functions, even if superior, without their formal consent.

ART. 94. Judicial functions are incompatible with all other salaried public functions.

Incompatibility resulting from relationship or marriage shall be regulated by law.

The law shall also regulate the conditions required to be a judge of any rank.

ART. 95. Commercial litigation shall be submitted to the courts of the first instance and the justices of the peace, in accordance with the Code of Commerce.

ART. 96. The sittings of the courts shall be public, unless it is deemed that publicity is detrimental to public order or good morals; in this case a declaration to that effect shall be made by the court.

The hearing in cases of political offenses or of offenses committed through the press shall never be secret.

ART. 97. Every decree or decision shall state the grounds upon which it is rendered; it shall be rendered in open court.

<sup>1</sup> This repetition in the numbering of the chapters is obviously a typographical error.

ART. 98. The Court of Cassation shall take cognizance and pronounce upon conflicts of attributions in the manner established by law.

It shall be competent in all cases decided by a court martial and brought before it on the ground of lack of competence or excess of jurisdiction of that court.

ART. 99. The Court of Cassation, in full bench, shall decide upon the constitutionality of the laws.

The courts should refuse to apply all those laws which have been declared unconstitutional by the Court of Cassation.

They shall not apply the decrees and regulations of the administration which are not in accordance with the law.

#### CHAPTER IV.—THE PROSECUTION AGAINST THE MEMBERS OF THE STATE POWERS

ART. 100. The Chamber of Deputies has the right to impeach the President and indict him before the Senate for high treason or any other crime or offense committed by him in the exercise of his functions.

It may also impeach:

1. The secretaries of State in case of malversation, treason, abuse or excess of their powers, or any other crime or offense committed in the exercise of their functions.

2. The members of the Court of Cassation, of one of its sections or of any officer of the public ministry connected with the Court of Cassation, in case of prevarication.

The impeachment shall not be pronounced except by a majority of two-thirds of the members of the Chamber. By virtue thereof, the Chamber indicts the accused before the Senate sitting as a High Court of Justice. At the opening of the hearing each member of the High Court of Justice shall take oath to judge with impartiality and firmness proper to an honest and free man, following his conscience and his intimate conviction.

When the President of the Republic is on trial, the president of the Court of Cassation shall preside.

The High Court of Justice shall not impose any other penalty than deposition, dismissal and deprivation of the right to exercise any public function for not less than one year nor more than five years; but the guilty party may be indicted before the ordinary courts in accordance with the law, if there is reason for imposing other penalties or deciding upon the institution of civil proceedings.

No one shall be tried or sentenced except by a majority of two-thirds of the members of the Senate.

The time fixed for the duration of the session of the legislative body in Article 50 of the present Constitution shall not serve to put an end to the prosecution, when the Senate is sitting as a High Court of Justice.

ART. 101. In case of prevarication, any judge or official of the public ministry shall be impeached by one of the sections of the Court of Cassation.

In case of a whole court, the impeachment shall be pronounced by the Court of Cassation, in full bench.

ART. 102. The law shall regulate the mode of procedure against the President of the Republic, the secretaries of State and the judges in the case of crimes or offenses committed by them either in the exercise of their functions or outside thereof.

CHAPTER IV [BIS].—COMMUNAL INSTITUTIONS

ART. 103. There shall be one council for each commune.

The president of the communal council has the title of communal magistrate.

This institution shall be regulated by law.

The law shall determine in the communes or in the arrondissements the civil officials who shall represent directly the executive power.

ART. 104. The following principles must form the bases of the communal institutions:

1. The election by the primary assemblies of the communal councils every two years.

2. The attribution to the communal councils of all that may be of interest to the commune, subject, however, to subsequent approval of their acts in the cases and in the manner determined by law.

3. The publicity of the meetings of the councils within the limits established by law.

4. The publicity of budgets and accounts.

5. The intervention of the executive power to prevent the councils from going beyond their attributions and doing injury to the general interests.

ART. 105. The communal magistrates shall be paid by their commune.

ART. 106. The communal council shall not spend every month more than one twelfth of the total amount voted for its budget.

CHAPTER V.—PRIMARY ASSEMBLIES

ART. 107. The primary assemblies shall meet without previous convocation in their respective communes on January 10 of each even-numbered year in the manner and form established by law.

They shall have for their object the election, at the times fixed by the Constitution, of the deputies of the people, the senators of the Republic, the communal councilors, and to decide on the amendments proposed to the Constitution.

They shall not take cognizance of any other matters than those attributed to them by the present Constitution.

They are bound to adjourn *sine die* as soon as this object is accomplished.

ART. 108. The law establishes the conditions required to exercise the right of suffrage in the primary assemblies.

TITLE IV.—FINANCES

ART. 109. The imposts for the benefit of the State and of the communes shall only be established by a law.

No charge shall be levied on the communes except upon the formal consent thereof.

ART. 110. The laws establishing the imposts shall be enforced only for one year.

ART. 111. No distinction in regard to imposts shall ever be made. No exemption, no increase or decrease of imposts shall be made except by a law.

ART. 112. No pension, gratuity, subvention or subsidy of any kind, to be paid by the public treasury, shall be granted except by virtue of a law proposed by the executive power.

ART. 113. The simultaneous holding of offices under the pay of the State is formally prohibited, except positions in secondary or higher education.

ART. 114. The budget submitted by each secretary of State shall be divided into chapters and must be voted by articles.

The shifting of appropriations is forbidden.

The Secretary of State for Finance shall be bound, on his personal responsibility, not to disburse each month, for the benefit of each ministerial department, more than one-twelfth of the amount appropriated in its own budget; an exception may be made for extraordinary cases by decision of the Council of the Secretaries of State.

The general accounts of the receipts and expenditures of the Republic shall be kept by the Secretary of State for Finance under the system of accounting to be established by law.

The fiscal year begins on October 1 and ends on September 30 of the following year.

ART. 115. Every year the legislative body shall settle:

1. The accounts of receipts and expenditures for the preceding year or years.
2. The general budget of the State containing the rough estimate and the portion of the funds assigned annually to each secretary of State. But no resolution or amendment shall be introduced with the budget for the purpose of reducing or increasing the salaries of public officials.

All changes of this nature shall only be effected by an amendment of the law.

ART. 116. The general accounts and the budgets provided for in the preceding article should be submitted to the legislative body by the Secretary of State for Finance at the latest within eight days of the opening of the legislative session.

The examination and the liquidation of the accounts of the general administration and of all accounts against the public treasury shall be made according to the manner established by law.

ART. 117. In case the legislative body, for any reason whatever, should fail to approve the budget of one or more of the ministerial departments before its adjournment, the budget or budgets of the interested departments in force for the current budgetary year shall be maintained for the following budgetary year.

#### TITLE V.—THE PUBLIC FORCE

ART. 118. An armed force to be known as the *Gendarmerie d'Haiti* shall be established to preserve order, guarantee the rights of the people, and police the cities and the country.

It shall be the only armed force of the Republic.

ART. 119. The regulations for the maintenance of discipline in the Gendarmerie and the repression of the offenses committed by those who compose it shall be established by the executive power. These regulations shall have the force of law.

These regulations shall establish the organization of the courts martial of the Gendarmerie, shall prescribe their powers and shall determine the obligations of their members and the rights of the individuals who are to be judged by them.

The sentences pronounced by courts martial of the Gendarmerie shall be subject only to revision by the Court of Cassation, and this revision shall be confined to questions of jurisdiction and of excess of powers.

#### TITLE VI.—GENERAL PROVISIONS

ART. 120. The national colors shall be blue and red horizontally placed.

The coat of arms of the Republic shall consist of a palm tree surmounted by a cap of liberty adorned by a trophy with the legend: "*L'Union fait la force.*"

ART. 121. No oath shall be required except by virtue of the Constitution or of a law.

ART. 122. The national holidays shall be: That of the Independence, January 1, and that of Agriculture, May 1.

The legal holidays shall be determined by law.

ART. 123. No law, decree, or rule of the public administration shall be obligatory until it has been published in the form established by law.

ART. 124. All elections shall be made by secret ballot.

ART. 125. The state of siege shall not be declared except where the external or internal security is in imminent peril.

The act of the President of the Republic declaring a state of siege must be countersigned by the majority of the secretaries of State present in the capital.

An account shall be rendered of it at the opening of the houses by the executive power.

ART. 126. The effects of the state of siege shall be regulated by a special law.

ART. 127. The present Constitution and all the treaties actually in force or to be concluded hereafter, and all the laws decreed in accordance with this Constitution or with these treaties, shall constitute the law of the country, and their relative superiority shall be determined by the order in which they are here mentioned.

All the provisions of the laws which are not contrary to the provisions of this Constitution or to the treaties actually in force or to be concluded hereafter, shall be maintained until they have been formally abrogated or amended; but those which are contrary thereto shall be and shall remain abrogated.

#### TITLE VII.—THE REVISION OF THE CONSTITUTION

ART. 128. The amendments of the Constitution must be adopted by the majority of votes of all the electors of the Republic. Each of the two branches of the legislative power, or the President of the

Republic, through a message to the legislative power, may propose amendments to the present Constitution.

The amendments proposed shall not be subject to popular ratification until after their adoption by a two-thirds majority of each legislative house sitting separately.

These amendments shall then be published immediately in the *Moniteur*.

For three months before voting on the proposed amendments, the texts thereof shall be posted by each communal magistrate in the principal public places of his commune, and shall be printed and published twice a month in the newspapers.

At the next biennial session of the primary assemblies, the proposed amendments shall be submitted to vote, one by one, by yeas and nays, in secret and separate ballot, and those amendments which should have obtained the absolute majority of votes in all the territory of the Republic shall become an integral part of the Constitution from the day on which the legislative body convenes.

#### SPECIAL ARTICLE

All the acts of the Government of the United States during its military occupation of Haiti are ratified and validated.

A. No Haitian shall be amenable to civil or criminal prosecutions by reason of any act executed by virtue of orders received during the occupation or under its authority.

The acts of the courts martial during the occupation shall not be subject to revision, without prejudice, however, to the right of pardon.

The acts of the executive power performed up to the promulgation of the present Constitution are likewise ratified and validated.

#### TITLE VIII.—TRANSITORY PROVISIONS

ART. A. The duration of the mandate of the citizen President of the Republic at the moment of the adoption of the present Constitution shall come to an end on May 15, 1922.

ART. B. The duration of the mandate of the communal councilors existing at the time of the adoption of the present Constitution shall come to an end in January 1920.

ART. C. The first election of members of the legislative body after the adoption of the present Constitution shall take place on January 10 of an even-numbered year.

The year shall be fixed by a decree of the President of the Republic published at least three months before the meeting of the primary assemblies.

The session of the legislative body then elected shall convene on the constitutional date immediately following the first election.

ART. D. A Council of State, created in accordance with the same principles as those of the decree of April 5, 1916, and composed of 21 members distributed among the different departments, shall exercise the legislative power until the legislative body is constituted, on which date the Council of State shall cease to exist.

ART. E. The irremovability of judges shall be suspended for a period of six months beginning from the date of the promulgation of the present Constitution.