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PORTUGUESE POLITICAL ORGANIZATION

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SECRETARIA DE ESTADO DA INFORMAÇÃO E TURISMO

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INFORMACAO

BIBLIOTECA
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The text of the Political Constitution was later revised by the National Assembly, empowered to make constitutional alterations, in 1935, 1936, 1937, 1938, 1945, 1951 and 1959.

In its present form the Constitution contains 181 articles in two chapters, *On the fundamental guarantees* and *On the political organization of the State*.

2. NATIONAL UNITY — The Constitution is in force throughout the national territory, which comprises the mother-country and the overseas provinces of Africa, Asia and Oceania.



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In the Portuguese view there are no colonial territories subject to the metropolitan community; there is a single national community covering a territory which is juridically one despite geographical discontinuity.

Territorially, Portugal is divided into provinces. Overseas these provinces enjoy greater administrative decentralization than in the mother-country and even have legislative powers of their own. In addition the particular juridical statutes of the native populations are permitted.

3. FORM OF GOVERNMENT — As the Constitution expresses it, the Portuguese State is a unitary corporative Republic based on the equality of citizens before the law, the untrammelled access of all classes to the benefits of civilization and the participation of all the structural elements of the Nation in administrative activity and in law-making. Sovereignty resides essentially in the Nation. The exercise of sovereignty is delegated to the President of the Republic chosen by a college of electors and to the National Assembly, elected by universal and direct suffrage. The Government and the Courts are also considered organs of sovereignty.

The corporative structure of the State is based on the organization of the nation's social activities. This organization has been slowly but surely set up so that it should not be artificial or improvised in nature. This work began in 1933 but it was only in 1954, after a dense network of Trade Unions, Employers' Associations, Federations, Unions, Farmers' Associations and Rural Centres had existed for twenty years, that the first Corporations were set up.

In September 1966 two decrees were published in the Official Gazette setting up the final three Corporations. This step is considered to have completed the corporative organization, as visualized at present, of all national activities. All these corporative elements participate in government or in central or local administration.

4. THE PRESIDENT OF THE REPUBLIC — The President of the Republic is elected every seven years by a college of electors. This college comprises the following: the members of the National Assembly and the Corporative Chamber actually exercising their office at the time; the municipal representatives of each district or each overseas province which is divided into districts; and the representatives of the legislative councils and the governor's councils in those provinces having a governor-general and a governor respectively. To him Nation delegates the exercise of governmental power, constituting him the arbiter of the entire political organization.

It is up to him to choose the Head of the Government and name the Ministers whom the latter proposes. He approves the decree-laws and signs the other decrees. He may preside over all meetings of the Council of Ministers and of the supreme bodies of National Defence, although he is not commander-in-chief of the armed forces.

As regards the National Assembly, he may convoke it in extraordinary sessions and adjourn it. He has the right of dissolution. In certain cases he may confer constituent powers on it. He promulgates its laws; but he can send back to it for second reading a bill which it

has already passed, and in this case the bill will only become law if it obtains a two-thirds majority in a new vote.

He also has the right to remit and commute criminal sentences.

Although the President of the Republic is the holder of the supreme authority, the practice is that he should act like the head of State in a parliamentary regime leaving the business of government to the President of the Council of Ministers who is responsible to him.

5. THE COUNCIL OF STATE — In the exercise of his functions the President of the Republic is assisted by a political body, whose tradition comes from the Monarchy, and which is called Council of State.

The Council of State is composed of fifteen members, five *ex officio* and ten appointed for life. The five *ex officio members* are the President of the Council of Ministers, the President of the National Assembly, the President of the Corporative Chamber, the President of the Supreme Court of Justice and the Attorney-General of the Republic. The members appointed for life are chosen by the President of the Republic, usually from former Ministers or former Presidents of the legislative bodies.

Although the Council has merely consultative powers, its function is very important, it ensures that the decisions of the Head of State that imply a choice of policy shall not appear to the country as his personal decisions, which would make him responsible for their consequences.

6. THE GOVERNMENT — The Government is composed of the President of the Council, the Ministers, Secretaries and Under-Secretaries of State.

The President of the Council and the Ministers meet as a Council of Ministers for purposes of information and to exercise certain powers which are conferred by law on the Council. The decree-laws must be signed by all the members of the Council of Ministers, except those approved by the Council of Ministers, which will be countersigned only by the Prime Minister and by the Minister or Ministers directly concerned.

The Under-Secretaries of State assist the Ministers in the exercise of purely administrative functions.

The Government is independent of the vote of Parliament. The Ministers may not be present at the public debates of the National Assembly and they are only allowed to take part in the proceedings of the committees of the Assembly or the Corporative Chamber.

7. THE PRESIDENT OF THE COUNCIL OF MINISTERS — Although representing the Nation, the President of the Republic does not exercise governmental functions directly: he chooses a President of the Council of Ministers to whom, as to a Chancellor, he delegates the actual power of government and administration.

The President of the Council is required to have the confidence of the President of the Republic, to whom he is responsible. He must inform him, therefore, about the state of public affairs and hear his opinion about them. The decree-laws which the Constitution allows the Government to enact must receive the approval of the President of the Republic.

It is the President of the Council who lays down the general policy of the Government and directs and co-ordinates the activity of all the Ministers. The Ministers are named by the President of the Republic, after being proposed by the President of the Council, but it is to the latter that they are responsible.

The Presidency of the Council is an important ministerial department. The President of the Council is assisted by two Ministers, one of whom co-ordinates the departments of National Defence, and a Secretary of State, responsible for Information and Tourism.

8. THE NATIONAL ASSEMBLY — The National Assembly is composed of 130 members elected by universal and direct suffrage by the districts of the mother-country and by the overseas provinces. The members are elected for 4 years. In each parliamentary year the ordinary legislative session lasts 3 months and may be extended to 4 by the Assembly itself, but the President of the Republic may convoke extraordinary sessions after consulting the Council of State. The parliamentary year begins on 25th November and the ordinary session may not extend beyond 30th April of the following calendar year.

The Assembly functions in plenary sessions and in committees. Its principal duties are to discuss political measures and public administration and to vote the bases of laws, the latter after consulting the Corporative Chamber.

Both the Government and the members have the right of initiative, but the members may not propose any bills whose consequence would be to increase expenditure or reduce revenue. The financial powers of the Assembly

consist of annually voting the so-called Bill of Means, with the general authorization of revenue and expenditure in virtue of which the Government then draw up the Budget, and, also once a year, of discussing and passing judgement on the accounts of the State and Public Debt operations.

A member of the National Assembly is chosen by the Government to represent it in the debates, and it is he who is the leader of the supporters of the Government point of view.

The President of the National Assembly does not take part in debates.

9. CORPORATIVE CHAMBER — There is a Corporative Chamber composed of 12 sections: 1st. Interests of a spiritual and moral character; 2nd. Interests of a cultural character (science and letters, fine arts, physical training and sports); 3rd. Agriculture and stock-farming; 4th. Fisheries and Canning; 5th. Extractive and Construction industries; 6th. Electric Power and Fuels; 7th. Manufacturing Industries; 8th. Transport and Tourism; 9th. Press, Graphic Arts and Paper Industries; 10th. Trade, Credit and Insurance; 11th. Local Authorities; 12th. Public Administration.

In September 1968 a permanent department was set up. It consists of the Chairman of the Chamber and eight Representatives, chosen by the former from among the members of the Administrative Affairs department. Its task is to provide the Government with its constant advice in the drafting of Ministerial Orders and Government Decrees or such Bills as the Government puts before the National Assembly.

Each section may divide into sub-sections and is composed of procurators *ex officio* or elected by the bodies representing the activity in question. Provisionally some are still appointed by the Government, who also names the representatives in the 12th (administrative) section.

The Corporative Chamber reports on the bills brought before the National Assembly and on the drafts of decree-laws that the Government chooses to submit to it for examination. It also gives out opinions on the ratification of treaties and international conventions and agreements.

Its function, therefore, is purely consultative and the influence of its suggestions comes only from the careful study it makes of a subject and from the prestige of the individuals who sign its reports. The latter receive wide attention, for they are not only published in the Proceedings of the Corporative Chamber but also in the Journal of Sessions of the National Assembly, and in addition are compiled in volumes.

The reports are only exceptionally voted by plenary sessions; as a rule they are the work of a single section or of a joint meeting of two or more relevant sections. In order to obtain a balanced expression of the general interest, the usual practice is to put representatives of the public administration and jurists alongside of the representatives of economic interests (employers and wage-earners).

Former Chairmen of the Corporative Chamber, together with the administrative vice-chairmen and the chairmen of the Corporations, constitute a Presidential Council, to which will also belong four representatives chosen by the Chairman from among former Ministers.

This Council decides what section or sections are to study a bill and functions as a committee on rules.

10. OVERSEAS COUNCIL — As special overseas legislation may in part take the form of decree by the Overseas Minister, the constitution lays down that these decrees be only issued, except in urgent cases, after consultation of the Overseas Council.

The Overseas Council is the only Portuguese administrative body whose essential characteristics date from the old days: they are still what they were when it was created by King John IV in 1643.

It has one section for litigation and two for consultation; it is the supreme administrative tribunal for the Overseas Territories and functions as the court which decides upon the constitutionality of legislation within the competence of the governments of those territories.

11. LOCAL GOVERNMENT — When Portugal became an independent country in the Middle Ages, there arose in it a great number of councils, or municipal communities possessing a charter laying down in detail their collective obligations to the Crown or their lord on the one hand and the rights of their members on the other. These councils had their own magistrates who looked after administration and dispensed justice.

The councils were the basis of local government, particularly from the XIVth century on. Their political importance was already marked in the XIIIth century, for beginning in 1254 the representatives of the principal municipalities were called upon to sit in the Cortes, where they formed the third estate.

To-day the council is still the basic cell of the Portuguese administrative structure, although its character and functions are naturally no longer the mediaeval ones.

It is composed of «freguesias» (parishes), each parish comprising the group of families engaged in common social activity through suitable organs within the municipal area.

In each municipality, representatives of the «freguesias», of the agricultural corporative bodies, of the guild «grémios», of the various syndicates (wage-earners, salaried employees, and members of the liberal professions), of welfare institutions, etc., from the municipal council, a body which guides and controls local administration. A small collegial body composed of aldermen and a president named by the Government forms the «Câmara Municipal» which attends permanently to the affairs of the council. The President of the Chamber is also the representative of the Government and as such supervises certain general police matters.

This organization is in line with the Portuguese tradition, for until the XIXth century, in the principal councils, the Chamber was composed of aldermen and of a magistrate who was appointed by the King. In the XIXth century the Chamber became entirely elective but saw its authority greatly restricted, for alongside of it was created the post of administrator of the council, an official endowed with wide powers, subordinate to the Government and required to be politically reliable.

The councils are grouped into districts, each of them headed by a «civil governor». He represents the governmental influence in local administration.

In the overseas provinces the highest official is a governor. He is subject to the Overseas Ministry and is assisted by legislative councils or government councils.

12. JUSTICE — The fundamental principles of the organization of justice in Portugal are *the independence of the judges and the separation between the courts of justice and the administrative tribunals.*

The independence of the judges is assured in two ways: 1) the decision of a given court can only be altered by a new decision of the same court or by decision of a higher court according to the procedure laid down by law, and it is carried out under the authority of the Judiciary, 2) judges are recruited by means of examinations by a board composed of magistrates and professors of law, and their appointment, promotion and discipline are in the hands of the Higher Council of the Judicature, made up of the President of the Supreme Court of Justice and the Presidents of the Courts of second instance (Appeal Courts).

As a result of the separation between administrative and other litigation, courts of justice deal with civil, commercial and criminal cases in particular with everything concerning personal status, liberty and property; while administrative tribunals (also composed of independent judges) rule on the legality of decisions taken by central or local administrative authorities (including Ministers).

There are special courts for minors, and others to deal with litigation over the execution of labour contracts, individual or collective, and cases arising from legislation for the protection of workers (labour courts).

A military jurisdiction with special tribunals tries cases of crimes committed by members of the armed forces.

There is a representative of the Attorney-General's department attached to every court and tribunal. His duty is to see to it that the law is observed, to defend the public interest and represent the Government. These magistrates form a hierarchy headed by the Attorney-General of the Republic and subject to the Minister of Justice.

The Minister of Justice is simply the intermediary between the judicature and the Government and the co-ordinator of all the administrative services which complement the activity of the courts and tribunals (Attorney-General's department, judicial police, prison services, the civil, criminal and real estate register offices, etc.).

13. CONCLUSION — The dominant idea behind the Portuguese political organization is to secure an equilibrium between the liberty that it is possible for citizens to enjoy and the necessary authority of the State.

The liberty of the citizens is secured by constitutional guarantees deriving from the definition of individual rights, the legal control of administration, and the independence of the courts.

The necessary authority of the State rests on an effectual Executive, entrusted to a President chosen by the country and responsible to it alone, who forms an independent, stable and strong government.

The goal towards which Portuguese political organization tends is the creation between individuals and



the State of intermediate communities, the Corporations. They are intended to promote decentralization and to be both instruments of delegated government authority and associations for the defence of private interests as much as these are compatible with the national interest.

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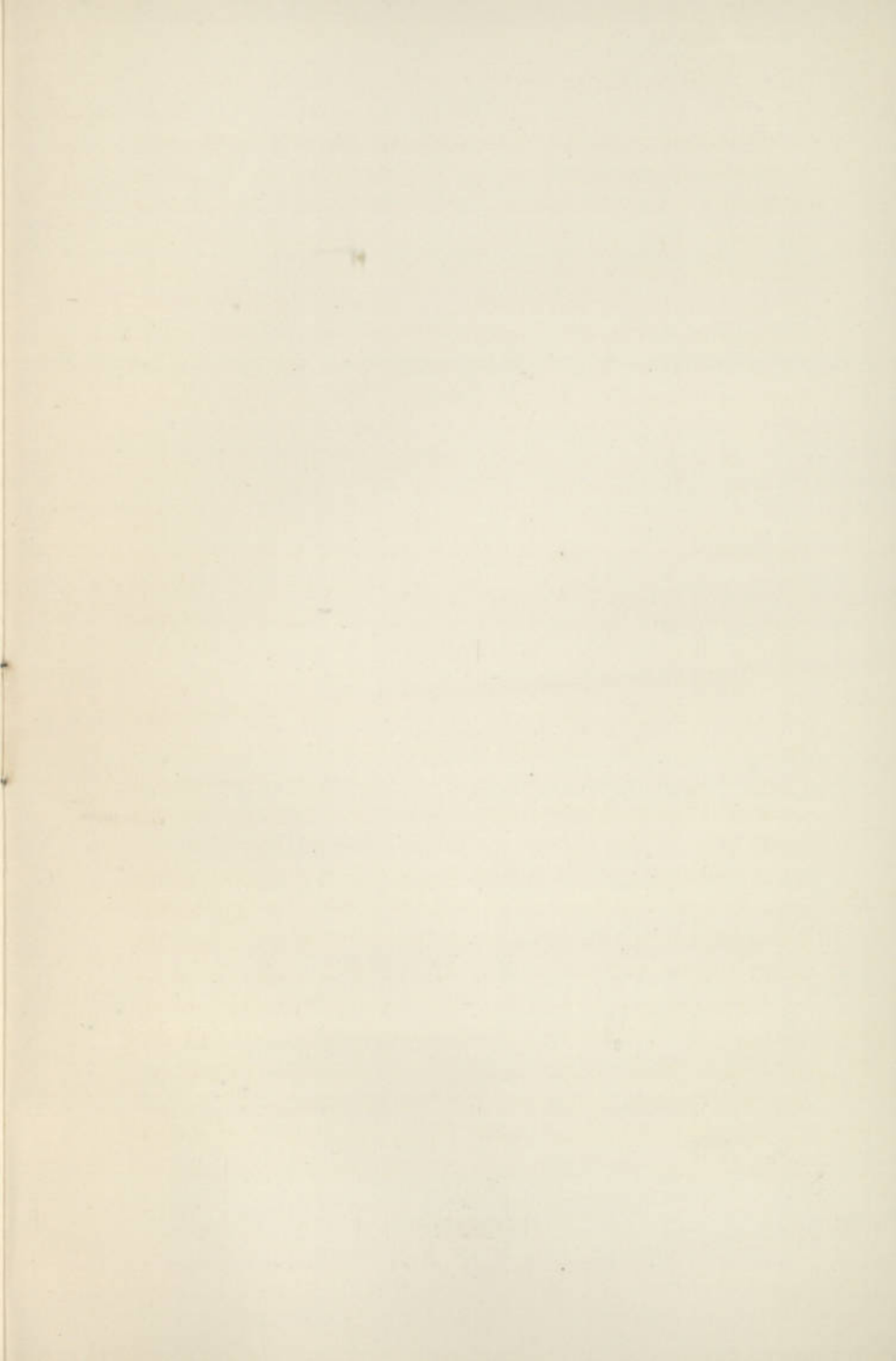
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