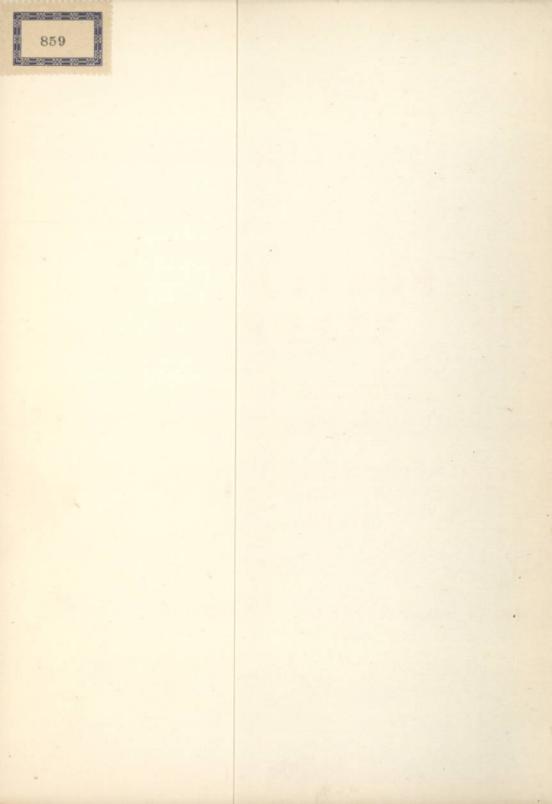
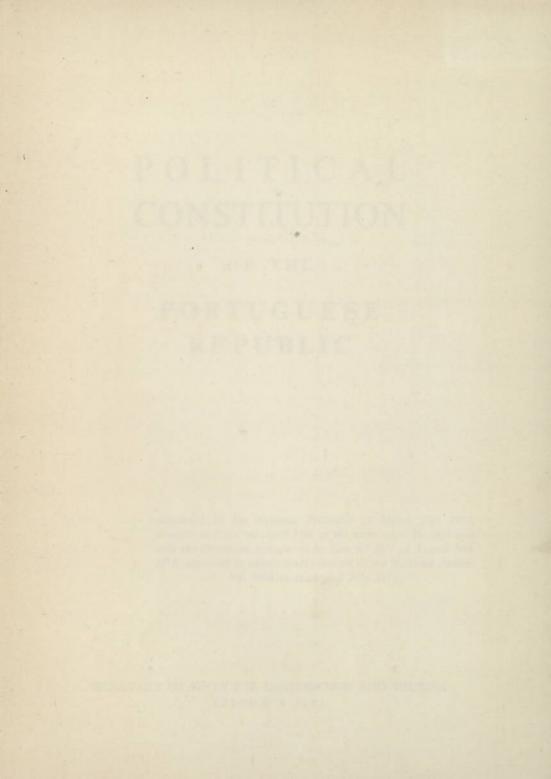
POLITICAL CONSTITUTION OF THE PORTUGUESE REPUBLIC

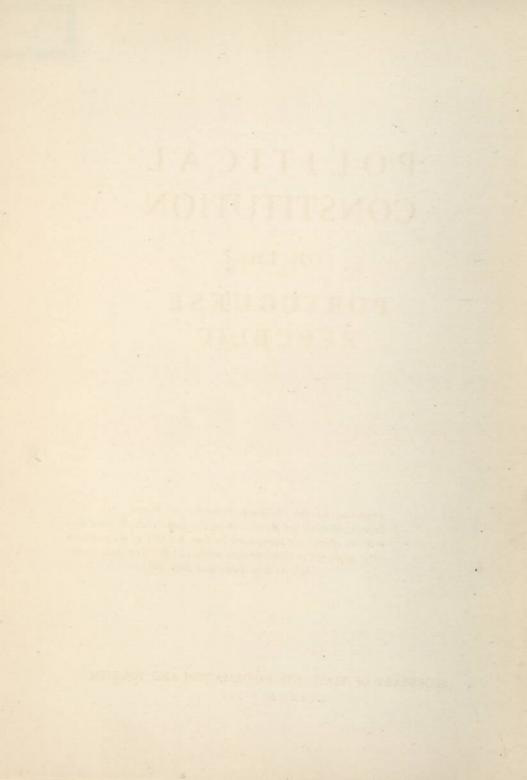
SECRETARY OF STATE FOR INFORMATION AND TOURISM

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POLITICAL CONSTITUTION

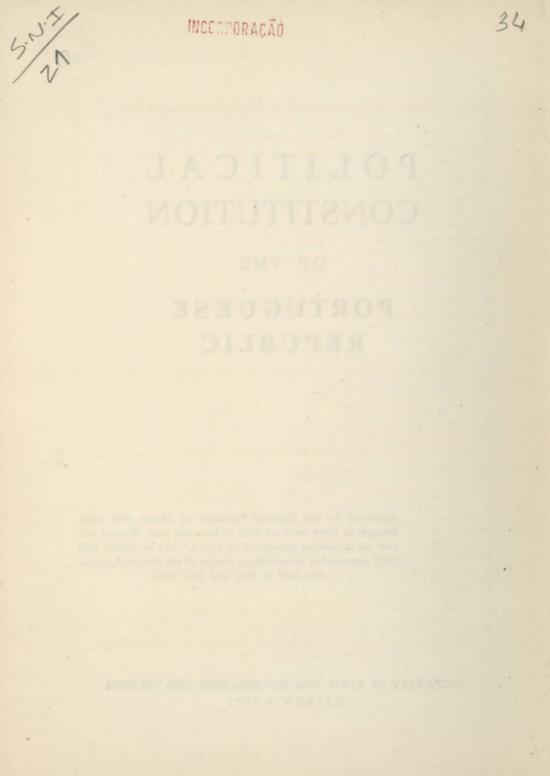
OF THE

PORTUGUESE REPUBLIC

Approved by the National Plebiscite of March 19th 1933. Brought in force on April 11th of the same year. Revised text with the alterations introduced by Law n.º 3/71 of August 16th 1971, approved in extraordinary session of the National Assembly, held in June and July 1971.



SECRETARY OF STATE FOR INFORMATION AND TOURISM LISBON * 1971



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Political Constitution of the Portuguese Republic

PART I

ON THE FUNDAMENTAL GUARANTEES

CHAPTER I

On the Portuguese Nation

Art. 1. The territory of Portugal is that which at present belongs to it and comprises:

- I) in Europe: the mainland and the archipelagoes of Madeira and the Azores;
- II) in West Africa: the Cape Verde archipelago, Guinea, S. Tomé and Principe and their dependencies, S. João Baptista de Ajudá, Cabinda and Angola;
- III) in East Africa: Mozambique;
- IV) in Asia: the State of India and Macau and their respective dependencies;
 - V) in Oceania: Timor and its dependencies.

Sole. §. The nation does not renounce the rights which it has or may hereafter acquire over any other territory.

Art. 2. The State shall not in any way alienate part of the national territory or the sovereign rights it exercises over it, except in so far as concerns the rectification of frontiers when approved by the National Assembly.

§ 1. No part of national territory may be acquired by the Government or public legal entity of a foreign country, except for the installation of diplomatic or consular representation where there is reciprocity in favour of the Portuguese State.

§ 2. The acquisition by a foreign State of land or buildings for the installation of consular offices in the overseas provinces will be conditional on the approval of the Portuguese Government of the site chosen.

Art. 3. The nation consists of all Portuguese citizens resident within or outside its territory and they shall be considered as subject to the State and Portuguese law, without prejudice to the rules of international law which may be applicable.

Sole §. Foreigners sojourning or resident in Portugal are also subject to the State and Portuguese laws, without prejudice to the provisions of international law.

Art. 4. The Portuguese Nation constitutes an independent State: the only limitations on its sole, indivisible sovereignty are morality and law.

§ 1. The norms of international law binding on the Portuguese State shall be carried out in its domestic activities provided that they are laid down in a treaty or other act approved by the National Assembly or by the Government, the text of which has been duly published.

§ 2. The Portuguese State will co-operate with other States in preparing and adopting solutions affecting peace between the nations and the progress of mankind, and advocates arbitration as a means of solving international conflicts.

Art. 5. The Portuguese State forms one unit, and may comprise autonomous regions having a political and administrative organization suited to their geographical situation and the conditions of their social environment.

§ 1. The form of system is the Corporative Republic, based on the equality of citizens before the law, the untrammelled access of all Portuguese to the benefits of civilization and the participation of the structural elements of the Nation in politics and in general and local administration.

§ 2. Equality before the law includes the right to be empowered in public office, according to qualifications or services rendered, and the negation of any privilege of birth, race, sex, religion or social condition, except, as regards sex, those differences of treatment justified by nature and, as for the liabilities or advantages of citizens, those imposed by the variety of circumstances or the very nature of things.

§ 3. The structural elements of the Nation are the citizens, the families, the local authorities and the corporative bodies.

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Art. 6. It is the duty of the State:

- To promote unity and to lay down the juridical organization of the Nation, defining, ensuring respect for and the exercise of, the rights, liberties and guarantees imposed by morality, by justice or by the law, in favour of persons, families, the local authorities and collective bodies, public or private.
- II) To co-ordinate, stimulate and direct all social activities in order to promote a proper harmony of interests within the lawful subordination of private interests to the general good;
- III) To promote social well-being, seeking to guarantee all citizens a standard of living in accordance with human dignity.

CHAPTER II

On Citizens

Art. 7. The law lays down the ways in which the quality of Portuguese citizen is acquired and is forfeited. The citizen enjoys the rights, liberties and guarantees stipulated in the Constitution except, for those who are not Portuguese by birth, the limitations laid down in the Constitution and in legislation.

§ 1. Only Portuguese citizens by birth may carry out the functions of President of the Republic, Councillor of State, Member of the National Assembly, Member of the Corporative Chamber, member of the Government, judge of the supreme courts, Attorney-General of the Republic, governor of the overseas provinces, diplomatic agent, general, air marshal or admiral of the armed forces; only Portuguese by birth may participate in the electoral college for the election of the President of the Republic.

§ 2. In Portugal foreigners enjoy the rights and guarantees attributed by the Constitution to Portuguese citizens, where the law does not stipulate otherwise. An exception is made of political rights, except for the carrying out of public functions of a markedly technical character, and those public rights which imply a financial liability to the State: in this latter case, however, reciprocity is observed as to those advantages granted to Portuguese subjects by other States.

§ 3. On condition of equal treatment in favour of Portuguese citizens in Brazil, Brazilian citizens may be placed on an equal footing with Portuguese nationals as regards the enjoyment of rights, excepting those to which § 1 of this article refers; the exercise of political rights will, however, only be permitted for Brazilians whose main, permanent residence is on Portuguese territory.

Art. 8. Portuguese citizens shall enjoy the following rights, liberties and individual guarantees:

- I) The right to life and personal safety;
- I-A) The right to work within the terms prescribed by law;
 - II) The right to good name and reputation;
- III) Liberty and inviolability of religious beliefs and practices, on the ground of holding which nobody may be persecuted, deprived of a right or exempted from any obligation or civic duty. Nobody shall be compelled to answer questions concerning the religion he professes, except in a legally conducted census;
- IV) The free expression of thought in any form;
- V) Freedom of teaching;
- VI) The inviolability of residence and the privacy of correspondence as may be determined by law;
- VII) Freedom of choice of profession or nature of work, art or trade, subject to such legal restritions as may be necessary in the interests of public welfare and to monopolies which, by law, can only be granted by the State and administrative bodies for reasons of recognised public utility;
- VIII) Not to be deprived of personal freedom nor be subject to preventive detention, except in the cases and on the terms allowed for in §§ 3 and 4;
 - IX) Not to be sentenced for commission of crimes except on the terms of a previous law declaring the act of omission or commission concerned to be punishable, or to be sentenced to a term of imprisonment longer than that laid down at the time of the commission of the crime, or security measures other than in the cases allowed in previous legislation;
 - X) There shall be contradictions in the preparation of the case for the prosecution: defendants shall enjoy the necessary guarantees of defence, before a charge is brought, afterwards and as regards the application of security measures:
 - XI) There shall be no death penalty except in the case of war with a foreign country, to be applied in the theatre of war on the terms of military penal law, nor penalties or security measures restricting or taking away personal liberty of a perpetual nature, of unli-

mited duration or laid down for periods indefinitely renewable, except for security measures which are based on psychic anomalies and have a therapeutic purpose;

- XII) There shall be no confiscation of goods nor can any personal punishment be inflicted except upon the delinquent;
- XIII) Nobody shall suffer imprisonment for failure to pay cost or stamp duties;
- XIV) Freedom of meeting and association;
- XV) The right of property and its transmission during life or by death, as provided by the civil law;
- XVI) Freedom from the payment of taxes not decreed in accordance with the Constitution;
- XVII) The right to reparation for all actual damage in accordance with the provisions of the law, which may prescribe pecuniary reparation for damages of a moral character;
- XVIII) The right of making representation or petition, claim or complaint, to sovereign or other public authority, on matters affecting personal rights or the general good;
 - XIX) The right to resist any orders which infringe individual rights, liberties and guarantees, except where these have been legally suspended, and to repel by force private acts of aggression, when it proves impossible to have recourse to public authorities;
 - XX) Sentences for criminal offences shall be open to revision, and the right to an indemnity from the State for loss and damage shall be assured to the convicted person or his heirs by measures to be defined by law.
 - XXI) There shall be the right of appeal against definitive and executive administrative acts that are accused of being illegal.

§ 1. The specification of these rights, liberties and guarantees does not exclude any others stipulated by the Constitution or legislation: it shall be understood that citizens must always make use of them without detriment to the rights of others, without harming the interests of society or the principles of morality.

§ 2. Special laws will regulate the exercise of the freedom of thought, of education, of meeting and association and of religious freedom; as regards the first of these, they shall prevent, by prevention or by repression, the perversion of public opinion in its function as a

social force and shall safeguard the moral integrity of citizens, to whom is recognized the right to have their defence inserted without charge, or a rectification, in the publication in which they have been insulted or defamed, without detriment to any other responsibility or proceedings allowed for by the law.

§ 3. The law may authorize preventive imprisonment in case of flagrant commission of an offence or for a premeditated crime for which the penalty is not less than one year's imprisonment. Preventive imprisonment without a charge being brought is subject to the timelimits laid down in the law and can only be ordered when there is a strong suspicion that a crime has been committed.

§ 4. Outside cases of flagrant commission, imprisonment in a public prison or detention in a private domicile or mental institution can only be carried out by means of a written order by the judicial authority or other authorities expressly indicated in the law, laying down the objective justification for such acts of imprisonment or detention. In both cases imprisonment without a charge being brought shall be submitted to a decision on renewal and continuance, after the prisoner has been questioned within the time-limits laid down by the law. Imprisonment will neither be ordered nor maintained when it may be replaced by any measures of provisional liberty, legally admissible, which are sufficient to effect its purposes. Nonfulfilment of the conditions governing the form of provisional liberty applied may lead to the preventive imprisonment of the defendant.

Misuse of power may be guarded against by use of habeas corpus.

Art. 9. No one shall be prejudiced in his situation or permanent employment by virtue of the obligation to undergo military service or in consequence of his services in the civil defence of the territory.

Art. 10. The State shall bestow distinctions of honour or rewards on those citizens who distinguish themselves by reason of personal merit or civic or military deeds, and likewise on foreigners when there is an international interest; the law prescribing the orders, decorations, medals and diplomas which may be used for this purpose.

Art. 11. It is forbidden for the organs of sovereignty, jointly or separately, to suspend the Constitution or restrict the rights, liberties and guarantees therein stipulated, except in those cases for which the same makes provision.

CHAPTER III

On the Family

Art. 12. The State assures the formation and defence of the family as the source of preservation and development of the Portuguese people, as the first basis of education, social discipline and harmony, and as the foundation of political and administrative order, by its grouping and representation in the parish and the municipality.

Art. 13. The constitution of the family is based upon:

- I) marriage and legitimate offspring;
- II) equality of rights and duties of husband and wife in regard to the maintenance and education of their legitimate children;
- III) the obligation to register the marriage and birth of children.

§ 1. The civil law shall determine the rules governing the persons and goods of husband and wife, parental authority and its substitution, the rights of succession in direct or collateral line, and the right of maintenance.

§ 2. Legitimate children shall be guaranteed those full rights necessary for the order and unity of the family, and rights corresponding to their position shall also be recognised in the case of illegitimate children who can be recognised as offspring, and likewise unborn children, particularly the right to maintenance which shall be the liability of those upon whom, after investigation, the duty is found to fall.

Art. 14. With the object of protecting the family it is the duty of the State and local bodies:

- to encourage the establishment of separate homes under healthy conditions, and the institution of the family household;
- II) to protect maternity;
- III) to adjust taxation to the legitimate obligations of the family, and to promote the adoption of a family wage;
- IV) to assist parents in the discharge of their duty of instructing and educating their children, and to co-operate with them by means of public institutions for education and correction, or by encouraging private establishments having the same objects;
 - V) to take all measures necessary to prevent the corruption of morals.

Art. 15. The registration of the civil status of citizens is a matter proper to the State.

CHAPTER IV

On Corporative Bodies

Art. 16. It is the duty of the State to authorise, unless otherwise provided by law to the contrary, all corporative, collective, intellectual or economic bodies, and to promote and assist their formation.

Art. 17. The principal aims of the corporative bodies, referred to in the preceding article, shall be scientific, literary or artistic, or physical training, relief, alms, or charity; technical improvement or solidarity of interests.

Sole §. The constitution of these bodies and the way in which they function shall be governed by special regulations.

Art. 18. Foreigners domiciled in Portugal may be members of the corporative organisations referred to, on such conditions as may be determined by law; but, however they shall not be allowed a share in the exercise of the political rights granted to these bodies.

CHAPTER V

On the Family, Corporative Organisation and Autonomous Bodies as Political Units

Art. 19. It is the particular privilege of families to elect the parish councils.

Sole §. This right is exercised by the head of the family.

Art. 20. All the activities of the Nation shall be organically represented in corporative bodies, and it shall be their place to share in the election of town councils and district boards, and in the constitution of the Corporative Chamber.

Art. 21. In the political organization of the State, the parish boards take part in the election of town councils, and the latter in that of the district boards. Representatives of local authorities shall sit in the Corporative Chamber.

CHAPTER VI

On Public Opinion

Art. 22. Public opinion is a fundamental part of the policy and administration of the country; it shall be the duty of the State to protect it against all those influences which distort it from the truth, justice, good administration, and the common weal.



Art. 23. The press exercises functions public in nature, and by virtue of this cannot refuse to print official news sent to it by the Government on matters of national interest. A special law shall define the rights and duties both of newspaper companies and of professional journalists so as to safeguard the independence and dignity of both.

Sole §. Radio and television also perform a public function.

CHAPTER VII

On the Administrative Order

Art. 24. Civil servants are for the service of the community and not for that of any part or association of private interests; it is their duty to respect the authority of the State and cause others to do so.

Art. 25. The employees and servants of local autonomous authorities, of the corporative bodies and organisations for economic co-ordination, of bodies engaged in administrative public utilities and of firms which conduct services of public interest, are subject to the discipline prescribed in the previous article.

Art. 26. Planned interruption of public services or of those of interest to the community shall involve the dismissal of the offenders, without prejudice to any other liability at law.

Art. 27. Nobody shall be allowed to hold more than one office in the employment either of the State or local bodies, or of both, except on such conditions as may be laid down by law.

Sole §. Rules as to incompatibility, whether in regard to public offices or to the exercise of other professions in conjunction with same, shall be determined by a special law.

Art. 28. All citizens are bound to lend their services and cooperation to the State and local bodies as established by law and to contribute towards public expenditure according to their means.

CHAPTER VIII

On the Economic and Social Order

Art. 29. The economic organisation of the nation must provide the maximum production and wealth for the benefit of society, and shall create a collective existence from which shall flow power to the State and justice to its citizens.

Art. 30. The State shall conduct its economic relations with other countries according to the principle of proper co-operation, without

prejudice to the commercial advantages to be obtained from any particular country, or the necessity for protection against external threats or attacks.

Art. 31. It shall be the right and duty of the State to co-ordinate and control economic and social life with the following objects:

- to promote the economic and social development of the Nation and of each of its constituent parts and regions, and the just distribution of income;
- II) to protect the national economic system from agricultural, industrial and commercial ventures of a parasitic nature, or those incompatible with the higher interests of human life;
- III) to secure the lowest price and the highest wage consistent with fair remuneration for other factors of production, by means of improved technical methods, services and credit;
- IV) to prevent exaggerated profits for capital, not allowing the latter to diverge from its humane and Christian purpose;
- V) to develop the settlement of national territories, to protect emigrants and to regulate emigration;
- VI) to encourage private initiative and effective competition, whenever the latter would contribute to the rationalization of productive activities.

Art. 32. The State shall encourage those private economic activities which are the most profitable, relative costs being equal, but without detriment to the social benefit conferred and to the protection due to small home industries.

Art. 33. State may only assume responsibility, exclusive or shared, for economic sectors of predominant collective interest and intervene in the management of private economic activities when it is called on to finance them or to obtain social benefits superior to those that would be obtained without its intervention.

Sole §. State undertakings carried on for profit, even if working on the basis of free competition, are likewise subject to the provisions laid down in the latter part of the present article.

Art. 34. The State shall promote the formations and development of the national corporative economic system, taking care to prevent any tendency among its constituent bodies to indulge in unrestricted competition with each other, contrary to their own proper aims and those of society, and shall encourage them to collaborate as members of the same community. Art. 35. Property, capital and labour have a social function in the field of economic co-operation and common interest, and the law may determine the conditions of their use or exploitation in accordance with the community aim in view.

Art. 36. Labour, whether unskilled, skilled, or technical, may be associated with an undertaking in any form that circumstances render advisable.

Art. 37. Only economic corporations which are recognised by the State may conclude collective labour contracts, in accordance with the law, and those made without their intervention shall be null and void.

Art. 38. Conflicts arising from individual labour contracts will be judged by labour tribunals.

Art. 39. Collective differences in labour relations will be solved, as the law provides, by conciliation or by arbitration: neither side may suspend its activities with the intention of making its interests prevail.

Art. 40. Obstacles will be placed in the way of the accumulation of posts in private enterprises, as being contrary to public economy and morality.

Art. 41. The State shall promote and encourage community concerns and provident, co-operative, and mutual benefit institutions.

CHAPTER IX

On Education, Instruction and National Culture

Art. 42. Education and instruction are obligatory and are the concern of the family and of public or private institutions in co-operation with the same.

Art. 43. The State shall endeavour to ensure to all citizens access to the several levels of education and the benefits of culture, without any other distinction than that arising from capacity and merit, and shall officially maintain teaching, research and cultural establishments.

§ 1. Basic education is compulsory.

§ 2. The arts and sciences shall be encouraged and their development, teaching and dissemination favoured, provided that respect is maintained for the Constitution, the authorities and the co-ordinating functions of the State.

§ 3. The instruction provided by the State, in addition to aiming at physical fitness and the improvement of intellectual faculties, has as its object the formation of character and of professional ability as well as the development of all moral and civic qualities, the former according to the traditional principles of the country and to Christian doctrine and morality. § 4. No permission shall be required for the teaching of religion in private schools.

Art. 44. The establishment of private schools on the lines of the State schools shall be free, but subject to State inspection; schools may be subsidised by the State or authorised to grant diplomas if their *curricula* and standard of their teaching staff are not inferior to those of the corresponding public institutions.

CHAPTER X

On religious liberty and the relations between the State and the Catholic Church and other religions

Art. 45. The State, aware of its responsibilities towards God and men, ensures the liberty of worship and organization of such religious creeds whose doctrines do not run counter to the basic principles of the constitutional order and do not harm social order and moral customs, and provided that the worship practised respects the life, physical wholeness and dignity of persons.

Art. 46. The Roman Catholic faith is considered to be the traditional religion of the Portuguese Nation. The Catholic Church is recognized to possess legal entity. The system of relations between the State and religious creeds is separation, without detriment to the existence of concordats or agreements with the Holy See.

Sole §. The Portuguese Catholic missions in the overseas provinces and their training establishments will be protected and aided by the State as institutions of teaching and assistance and as instruments of civilization.

Art. 47. The State may not assign to any other purpose any chapel, building, or article belonging to a religious body.

Art. 48. Public cemeteries shall be secular in character and ministers of any religions may freely practise their respective rites therein.

CHAPTER XI

On the Public and Private Domains of the State

Art. 49. The public domain of the State shall comprise the following:

I) mineral deposits, medicinal mineral springs and other natural wealth below the surface;

- II) the territorial waters, with their sea-bed, and the continental shelf;
- III) lakes, lagoons, and watercourses navigable to ships or rafts, their respective beds or channels, and also any others recognised by special decree to be of public utility as suitable for the production of electric power, national or regional, or for irrigation:
- IV) dykes opened up by the State;
- V) the air over the land beyond such limits as the law fixes in favour of the owner of the surface;
- VI) railways of public interest of any kind, public highways and roads;
- VII) territorial areas reserved for military defence;
- VIII) any other property placed by law under the régime of public domain.

§ 1. The authority of the State over the property of the public domain and the use of it by citizens shall be governed by law and by the international conventions concluded by Portugal, without prejudice to the prior rights of the State and the acquired private rights of individuals. The latter rights, however, shall be subject to expropriation as may be determined by the public interest and upon payment of reasonable indemnity.

§ 2. Rocks and common earths, and materials commonly employed in building are expressly excepted from the natural riches specified in above.

§ 3. The State shall undertake the demarcation of those private lands which abut on any property of public domain.

Art. 50. The administration on the mainland and on the adjacent islands of property owned by the State in a private capacity pertains to the Ministry of Finance, except when it is expressly attributed to any other Ministry.

Art. 51. The law shall specify the property that cannot be transacted because it lies in the public domain, is essential to the prestige of the State or for any other reasons of the highest public interest.

Sole §. The law will also regulate the use or occupation of such property by public or private bodies, at all times safeguarding the public interest.

Art. 52. Artistic, historical and natural monuments, and artistic objects officially recognised as such, are under the protection of the State, and their alienation in favour of foreigners is prohibited.

CHAPTER XII

On national defence

Art. 53. The State guarantees the existence of the military land, sea and air institutions called for by the supreme defence needs of national integrity and the keeping of the order and public peace.

Sole §. There shall be a single military organisation for the entire territory.

Art. 54. Military service shall be general and compulsory. The law shall determine the conditions of service.

Art. 55. The law shall regulate the general organisation of the nation in wartime in accordance with the principle of a nation in arms.

Art. 56. The State shall promote, encourage and assist civil institutions whose aim is to teach and discipline young persons in preparation for the fulfilment of their military and patriotic duties.

Art. 57. No citizen may hold or obtain employment from the State or local autonomous bodies unless he has fulfilled the duties to which he is liable under military law.

Art. 58. The State guarantees protection and pensions to persons who are incapacitated on military service in defence of the country or of order, and likewise to the families of individuals who lose their lives in such service.

CHAPTER XIII

On undertakings of collective interest and concessions

Art. 59. As regards their rights and duties, nationality, management, staff and the intervention or inspection of the State, according to the needs of national defence, public safety and economic and social development, undertakings holding concessions for public services, public works projects or the exploitation of things in the public domain of the State, mixed economy enterprises and public economy enterprises, undertakings performing certain activities on an exclusive basis or thanks to privileges not conferred by general law, and also all undertakings which carry out any activity that the law considers to be of national interest, are considered to be of collective interest and are subject to a special system.

Art. 60. Concessions made by the State or the local authorities, within their powers, shall always be subject to clauses ensuring, within a just balance of the interests involved, the safeguarding of the public interest and respect for the conveniences of the national economy. Art. 61. Tariffs of exploitation of public services thus granted shall be subject to State regulation and inspection.

Art. 62. The following shall obey uniform regulations, without detriment, on secondary points, to necessary forms of specialization:

- the establishment or transformation of land, river, sea or air communications, whatever their nature or purposes;
- II) the building of works to make use of water or coal to produce electrical power, and also the building of networks for the transmission, supply or distribution of such power, and also general agricultural irrigation and drainage works;
- III) exploitation of public services regarding such communications, works and networks.

CHAPTER XIV

On State Finance

Art. 63. There shall be a single general State budget for the mainland and adjacent islands, showing the sum total of public receipts and expenditure and likewise those of the autonomous services. Detailed explanations of these may be published separately.

Art. 64. The general State budget shall be drawn up annually and put into effect by the Government, in conformity with the legal provisions in force and particularly the law of authorisation mentioned in Article 91 (IV).

Art. 65. Expenditure corresponding to the legal or contractual obligations of the State, or that which is permanent by reason of its nature or purpose, including interest charges and redemption of the Public Debt, shall be taken as the basis for fixing taxation and other State revenue.

Art. 66. The budget shall state the measures which are essential for meeting total expenditure.

Art. 67. The State may only borrow for extraordinary expenditure for economic expansion, for redemption of other loans, and for essential increase of State patrimony, or vital requirements for the defence and preservation of the nation.

Sole §. Essential supplementary revenue may however be obtained by means of floating debt, representing receipts of the current administrative period, at the end of which the amount must be liquidated, or the Treasury placed in a position to liquidate it through its funds. Art. 68. The State may not reduce the capital or interest of the funded public debt to the detriment of the bondholders, but may convert it on equitable terms.

Art. 69. Sums due on account of deposits placed in State funds or its credit institutions may not be subjected to compulsory consolidation.

Art. 70. The law shall fix general principles in regard to the following matters:

- I) taxation;
- II) rates chargeable on public services;
- III) administration and exploitation of State property and undertakings.

§ 1. As regards taxation the law shall determine its incidence, its rates and its limits, the forms of exemption which may de allowed, complaints and forms of appeal in favour of the taxpayer.

§ 2. The collection of taxes laid down for an unspecified period or for a period of time extending beyond one financial year depends, in financial years following the one in which they were instituted, on the authorization of the National Assembly.

PART II

ON THE POLITICAL ORGANIZATION OF THE STATE

CHAPTER I

On Sovereignty

Art. 71. Sovereignty is vested in the nation; its representatives are the Head of the State, the National Assembly, the Government and the Courts of Justice.

CHAPTER II

On the Head of the State

SECTION I

On the election of the President of the Republic and of his Prerogatives

Art. 72. The Head of State is the President of the Republic elected by the nation through an electoral college made up of the members of the National Assembly and the Corporative Chamber on active duty and by the municipal representatives of each administrative district and each overseas province not divided into districts, and also the representatives of the elective organs enjoying legislative powers in the overseas provinces.

The municipal representatives shall be chosen by the town councils elected as the law provides; the latter will stipulate the number applicable to each district or overseas province to correspond to the number of the respective town councils; the representatives of the elective organs with legislative powers in the overseas provinces will be chosen by those organs as the law provides, the latter laying down the number applicable to each of them to correspond to their representative character.

§ 1. The President is elected for seven years, not prolongable except when events make it impossible for the electoral college to meet, in which case the term of office shall end as soon as his successor takes office.

§ 2. For the purposes of election the electoral college meets of its own right, under the chairmanship of the Chairman of the National Assembly, on the fifteenth day preceding the end of a president's term of office.

§ 3. Election shall fall on candidates proposed by a minimum of twenty electors and a maximum of fifty.

§ 4. The election shall be effected without previous debate by secret vote. That candidate shall be considered to be elected and shall be so proclaimed who receives two thirds of the votes cast by the legal number of members of the electoral college in the first poll.

§ 5. Should no candidate receive the majority of votes established in the preceding clause, a second poll shall be cast, and the candidate elected who receives an absolute majority of the votes referred to in that clause.

§ 6. If it be necessary to proceed to a third poll, that candidate who receives the largest number of votes shall be elected.

Art. 72-A. If the date of election established in § 2 of the previous article should fall after the period of presentation of candidatures for a new legislature, then the electoral college shall meet after the new National Assembly has been elected, and the election shall take place on the fifteenth day following the commencement of the term of office of the new Members of the National Assembly.

If the same circumstances should refer to a period following the dissolution of the National Assembly, then the presidential election shall take place on the thirtieth day following the close of the election period.

Art. 73. Only a Portuguese citizen over thirty-five years of age, who has always possessed Portuguese nationality, and is in full enjoyment of his civil and political rights, may be elected President of the Republic.

Sole §. If the elected person be a member of the National Assembly or of the Corporative Chamber, then he shall lose his seat.

Art. 74. Relatives of the kings of Portugal, up to the sixth degree, are ineligible for the office of President of the Republic.

Art. 75. The President elected shall take up office on the day on which the term office of his predecessor expires. He shall assume his

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functions before the National Assembly and the Corporative Chamber, met in joint session, and the following formula of oath shall be used:

«I swear to maintain and loyally and faithfully to carry out the Constitution of the Republic, to observe the laws, to promote the general welfare of the nation and to uphold and protect the integrity and independence of the Portuguese fatherland».

Art. 76. The President of the Republic may only leave the country with the assent of the National Assembly and of the Government. Such assent is not called for in cases of mere transit or non-official journeys lasting not longer than five days.

Sole §. Failure to observe the provisions of this article shall in the full meaning of the law involve loss of office.

Art. 77. The President of the Republic shall receive a salary, fixed before his election, and he may choose two State properties for use as the Presidential Secretariat and as a private residence for himself and the members of his family.

Art. 78. The President of the Republic shall be directly and exclusively responsible to the nation for actions performed in the exercise of his duties. Both the exercise of the latter and his office as magistrate shall be independent of any vote of the National Assembly.

Sole §. For crimes unconnected with the exercise of his functions the President shall be answerable to ordinary courts of law but only after conclusion of his mandate.

Art. 79. The President of the Republic may resign his office in a message addressed to the nation and published in the *Diário do Governo* (Official Gazette).

Art. 80. In the case of a vacancy in the office of President of the Republic, due to death, resignation, permanent physical unfitness of the President, or absence abroad without the assent of the National Assembly and of the Government, the new President shall be elected on the thirtieth day following the declaration of the vacancy.

§ 1. The President's permanent physical disability must be recognised by the Council of State summoned for the purpose by the President of the Council of Ministers who, if the disability is confirmed, shall publish in the *Diário do Governo* an announcement of the presidential vacancy.

§ 2. Until such time as the election provided for in this article takes place, or when for any reason there is a transitional impediment in presidential functions, the Prime Minister, and in his absence or incapacity the Chairman of the National Assembly, will assume the duties of the Head of State; in the latter case he shall not then be able to perform his own duties.

Art. 80-A. In those cases where it is impossible for the electoral college to meet, such impossibility to be checked by the Council of

State, the election of the new President of the Republic shall be carried out on the fifteenth day after that on which the Council of State considers the situation of force majeure to have terminated.

SECTION II

On the Attributes of the President of the Republic

Art. 81. It shall be the business of the President of the Republic:

- to appoint the Chairman of the Council of Ministers and the Ministers, Secretaries and Under-Secretaries of State from among Portuguese citizens and to release them from their offices.
- II) solemnly to open the first meeting of each legislative session and to address messages to the National Assembly, directing them to its Chairman, who shall read them at the first meeting to be held after their receipt;
- III) to fix a day, in accordance with the electoral law, for a general election or by-election of deputies;
- IV) to confer constituent powers upon the National Assembly and to submit to a National Plebiscit such alterations of the Constitution as may refer to the legislative functions or to public bodies charged therewith, in accordance with art. 138 (I) and (II);
 - V) to convene the National Assembly in extraordinary session, in time of urgent public emergency, for the consideration of specified matters, and to adjourn its sessions, without prejudice to the duration fixed for the Legislative Session in each year;
- VI) to dissolve the National Assembly when the supreme interests of the nation so require;
- VII) to represent the Nation and to direct the foreign policy of the State, to reach agreements and adjust international treaties, directly or through representatives, and ratify treaties, after they have been approved by the National Assembly or by the Government;
- VIII) to grant pardons and commute punishments. No pardon may be granted until half the sentence has been served;
 - IX) to promulgate and order to be published the laws and resolutions of the National Assembly, and also decreelaws, decrees for the overseas provinces and regulatory decrees, and to sign other decrees. Such items of legis-

lation mentioned in this paragraph as are not promulgated, signed and published as it provides are legally non-existent.

Art. 82. The acts of the President of the Republic must be countersigned by the Prime Minister and by the competent Minister or Ministers; otherwise they shall be legally non-existent.

§ 1. The following do not need countersigning:

- I) the appointment and dismissal of the Prime Minister;
- II) messages sent to the National Assembly;
- III) message of resignation of his post.

§ 2. All Ministers must countersign decree-laws and decrees approving international treaties which deal with legislative matters, unless they have been approved by the Council of Ministers.

§ 3. The promulgation of laws and resolutions of the National Assembly will be countersigned by the Prime Minister alone.

SECTION III

On the Council of State

Art. 83. The President of the Republic shall perform his functions in conjunction with the Council of State, composed of the following members:

- I) the President of the Council of Ministers;
- II) the President of the National Assembly;
- III) the President of the Corporative Chamber;
- IV) the President of the Supreme Court of Justice;
- V) the Attorney-General of the Republic;
- VI) ten public men of outstanding ability, appointed for life by the Chief of State.

Art. 84. The Council of State shall be obliged to discharge the following functions:

a) to check the impossibility of meeting of the electoral college to which art. 72 refers and the cessation of such impossibility for the purposes of art. 80-A, and also the impossibility of holding the elections for members of the National Assembly allowed for in art. 85.

- b) to assist the Chief of State when exercising certain of the functions assigned to him by paragraphs 4, 5, 6 of art. 81 and § sole of art. 87.
- c) to deliver its opinion, in the manner laid down by § 1, of art. 80, in all emergencies threatening the life of the Nation and whenever the President of the Republic deems it necessary to summon it.

Sole §. The Council shall meet of its own right to carry out the powers to which the first part of sub-section *a*) refers.

CHAPTER III

On the National Assembly and the Corporative Chamber

SECTION I

On the National Assembly

Art. 85. The National Assembly consists of one hundred and fifty members, elected by direct suffrage of citizen electors: their mandate shall be for four years, which may not be extended, except in the case of events making the holding of an election impossible.

§ 1. The necessary qualification for deputies, and the organization of the electoral colleges and procedure, shall be governed by a special law.

§ 2. Nobody may be a member of the National Assembly and of the Corporative Chamber at the same time.

§ 3. Vacancies occuring in the National Assembly, provided they attain the number fixed by the electoral law and not exceeding one fifth of the total number of deputies required by law, shall be filled by means of by-elections, the respective mandates expiring with the life of the legislature.

§ 4. Deputies may resign their mandates, but such resignation shall not be effective unless accepted by the Assembly or its Chairman, according to whether it is presented during or in an interval between sessions.

Art. 86. It shall be the duty of the National Assembly to examine and recognise the powers of its members, to elect its board, to draw up its own internal rules, and to regulate its policy.

Art. 87. If the National Assembly is dissolved, elections shall be held within sixty days, under the electoral law in force at the time of the dissolution. The new Chambers shall meet within the thirty days following the closing of the electoral proceedings; if the legislative session of that year has not been concluded, they shall continue for the full legislative period without reckoning the time during which they functioned in completion of the previous legislative session, and without prejudice to the right of dissolution.

Sole §. If the supreme interest of the country render it advisable, the period of sixty days mentioned in this article may be extended to six months.

Art. 88. After the final ordinary legislative session of the four-year period, the National Assembly shall remain in being until the results of the new general election have been ascertained.

SECTION II

On the members of the National Assembly

Art. 89. The members of the National Assembly shall enjoy the following immunities and privileges:

- a) they may not be attacked for the opinion and votes they give in the exercise of their mandates, subject to the limitations laid down in § 1 and 2;
- b) they may not be called upon to serve on juries, or as experts or witnesses, without the sanction of the Assembly;
- c) they may not be detained or arrested without the consent of the Assembly, except in cases of crimes punishable by the maximum sentence or its equivalent in the penal scale, provided that in the latter case they are arrested *in flagrante delictu* or under a warrant of the Court;
- d) if criminal proceedings are taken against any deputy and he is formally charged, the judge shall notify the Assembly of the fact; the Assembly (save in the case mentioned in the latter part of paragraph c) of this article) shall then decide whether or not the deputy shall be suspended to enable the proceedings to take their course;
- e) they are entitled to the official precedence corresponding to their dignity as representatives of the Nation and to the subsidy that the electoral law lays down.

§ 1. Freedom from attack in respect of their opinions and votes does not exempt members of the National Assembly from civil and criminal liability for defamation, calumny and abuse, outrage of public morals, or open incitement to crime. § 2. The National Assembly may withdraw the mandates of those deputies who express opinions opposed to the existence of Portugal as an independent state, or who in any way instigate the violent overthrow of social and political order.

§ 3. The forms of immunity and the perquisites laid down in sub-sections b) and d) and the second part of sub-section e) only refer to the effective exercise of their legislative functions.

Art. 90. Members of the National Assembly shall forfeit their seats in the following circumstances:

- if they should accept any remunerated employment or commission by way of subsidy from the Government or from any foreign government;
- II) if, being civil or military officers, they should exercise these functions during the actual session of the National Assembly;
- III) if they occupy posts of an administrative, executive or inspectional nature otherwise than by government appointment; or as legal or technical advisers in undertakings or companies formed under special State contract or concession, or which enjoy a State privilege not confered by general law, or which receive a subsidy or guarantee of revenue or interest;
- IV) if they should enter into contracts with the government;
 - V) if they should act as concessionaires, contractors of partners in firms contracting for public concessions, public adjudicated contracts or contracts subject to public tender; and also if they should participate in State financial operations.

§ 1. The following are excepted from the provision laid down in n.º 1 above:

- a) temporary diplomatic missions and military commissions or military commands which do not involve residence away from the mainland;
- b) appointments by advancement, legal promotions, acts which confirm temporary appointments as definitive and appointments to equivalent posts arising out of the reorganisation of services;
- c) competitive appointments made by the government in pursuance of regulations, or on the recommendation of bodies legally entitled to recommend or choose officials; as also the appoint-

ments to posts and commissions only open to a certain class or category of officials.

§ 2. The recognition by the President of the facts referred to in (I) and (II) shall have the same effect as the acceptance of resignation.

§ 3. The circumstances mentioned in (IV) and (V), further, render the contracts and acts in question null and void.

SECTION III

On the Attributes of the National Assembly

Art. 91. The functions of the National Assembly are:

- I) to make, interpret, suspend and revoke laws;
- II) to oversee the fulfilment of the Constitution and the laws and to appraise the acts of the Government or the Administration; it may declare the unconstitutional nature of any norms with general compulsory force, but always making allowance for the situations created by the cases judged;
- III) to receive the accounts for each economic year, both for metropolitan Portugal and the overseas territories. These shall be laid before it with the report and resolution of the Court of Accounts, if the accounts have been examined by this Court, and such other information as may be necessary for their appreciation;
- IV) to authorise the government up to December 15th of each year to collect State revenues and to meet public expenditure for the ensuing financial period; also to determine in the appropriate authorizing enactment the principles which shall govern that part of the budget dealing with expenditure of sums not fixed by previously existing laws;
- V) to authorise the government to float loans or other similar operations not included in the floating debt, and to fix the general conditions of the same;
- VI) except in the case of actual or imminent aggression by foreign forces, to authorise the Head of the State to make war (should recourse to arbitration be impossible or of no avail) and to make peace;
- VII) to approve peace, alliance or arbitration treaties, those referring to the association of Portugal with other States

and those which deal with matters that are of its exclusive competence, and also the international treaties submitted for its appraisal;

- VIII) to declare martial law with total or partial suspension of the constitutional guarantees, in one or more places on national territory, in the case of actual or imminent agression by foreign forces, or when public order and safety are seriously disturbed or threatened;
 - IX) to define the boundaries of national territories;
 - X) to grant amnesties;
 - XI) to receive addresses from the Head of the State;
- XII) to discuss the revision of the Constitution;
- XIII) to bestow legislative authority on the government.

Art. 92. Laws voted by the National Assembly must be confined to the examination of the general legal principles of the enactements, but the constitutional legality of any provisions contained therein may not be impugned on the ground of violation of such principles.

Art. 93. It is in the exclusive powers of the National Assembly to approve general principles on the following:

- a) the acquisition and forfeiture of Portuguese nationality;
- b) the organization of the courts, the statute of the judges of ordinary courts and the terms on which they may be seconded to permanent or temporary commissions;
- c) organization of national defence and definition of the duties arising therefrom;
- d) exercise of the liberties to which sub-section 2 of art. 8 refers;
- e) definition of criminal penalties and security measures;
- f) conditions of the use of *habeas corpus*;
- g) expropriation for reasons of public utility and requisition;
 - h) taxes, on the terms of art. 70, with the exception, however, of the powers of the legislative organs for the overseas provinces;
 - *i*) the monetary system;
 - i) system of weights and measures;
 - *I*) creation of issue institutions;
 - m) general system of government of the overseas provinces;
 - n) definition of the powers of the Government and the overseas authorities on the area and time-limit of concession of land or others involving exclusive rights or special privileges;
 - authorization for the overseas provinces to draft contracts, other than for loans, when such call for security or special guarantees.

§ 1. In case of urgency and public necessity, the Government may, independently of legislative authority and outside the effective fuctioning of the National Assembly, legislate on matters of taxation and the monetary system: the decree-law in which it does this, however, must be ratified in the legislative session following its publication, on pain of losing its validity.

§ 2. The initiative for legislation specially regarding the overseas provinces belongs to the Government exclusively.

SECTION IV

On the Activities of the National Assembly and of the Promulgation of Laws and Orders

Art. 94. The legislative session of the National Assembly comprises two periods, the first from 15 November to 15 December and the second from 15 January to 30 April, except for the provisions of arts. 75, 76 and 81, section 5.

Art. 95. The National Assembly shall meet in full session and its decisions shall be taken by absolute majority vote provided there is a quorum; it may set up permanent committees of its members or form special committees for specific purposes.

§ 1. Plenary sessions are public, unless otherwise resolved by the Assembly or by its President.

§ 2. The committees shall only function between the beginning and the close of the legislative session, except where this period must continue by virtue of their functions or because of the special purpose for which they were instituted, or when the Chairman calls on them, in the two weeks preceding the opening of the legislative sessions, to occupy themselves with already presented proposals or bills which the Assembly will be called on to debate.

In the interval between sessions the ad-hoc committees set up by the Chairman outside the period of full functioning of the Assembly may meet.

§ 3. Members of the Government may take part in the meetings of the committees; whenever projects or proposed alterations suggested by the Corporative Chamber are under discussion, a member of that Chamber may take part as a delegate.

Art. 96. The Members may:

1. Put written questions on any acts of the Government or the Administration, in order to enlighten public opinion;

2. Independently of the effective functioning of the National Assembly, hear, consult or solicit information from any corporation or official sphere. The official spheres, however, cannot reply without previous authorization from the Minister concerned.

Sole §. In both cases it is only licit to refuse a reply on the grounds of State secret.

Art. 97. The right to introduce legislation is vested equally in the government, and in any member of the National Assembly; individual members, however, may not introduce bills nor propose amendments involving any increase in State expenditure, or any reductions of State revenue created by former laws.

§ 1. During the discussion of proposals or projects, the Government may submit to the appraisal of the Assembly any alterations it thinks fit, provided that they deal with topics not yet dealt with.

§ 2. Without detriment to the provisions of the sole sub-clause of art. 101, the National Assembly may, on its own initiative or at the request of the Government, declare any proposal or bill to be urgent: in this case the latter will be submitted to special procedure.

Art. 98. The proposals and bills approved by the National Assembly are called decrees of the National Assembly and are sent to the Presidency of the Republic to be made law within a period of fifteen days.

Sole §. The decrees not declared to be law within that period shall be re-submitted to the National Assembly. If they are then approved by a majority of two thirds of its members in active discharge of their functions the Head of the State cannot refuse to make them law.

Art. 99. Promulgation of laws shall be in the following form:

«In the name of the Nation, the National Assembly decrees and I promulgate the following Law (or Order)».

Sole §. The following shall be promulgated as Orders:

- a) the ratification of decree-laws;
- b) the deliberations to which sections 3, 6, 7 and 12 of art. 91 refer and other similar ones.

Art. 100. Any motions or bills brought before the National Assembly but not discussed during that session shall be reintroduced during the next session of the Assembly; should they finally be rejected they may not be introduced again in the same Legislative Session, except in the case of a motion for dissolution of the National Assembly.

Art. 101. The regulations of the Assembly shall contain:

- a) a prohibition to alter the agenda by introduction of fresh matter without at least twenty-four hours previous notice;
- b) the conditions for introducing bills;
- c) regulation of the exercise of the other powers, rights, forms of immunity and perquisites of the Members;

d) the terms of the special procedure to which sub-section 2 of art. 97 refers.

Sole §. The agenda of the meetings of the National Assembly shall be laid down by its Chairman and shall take into account the priorities requested by the Prime Minister for proposals of the Government and projects or other initiatives of the Members.

SECTION V

On the Corporative Chamber

Art. 102. There shall be a Corporative Chamber, equal in length of term with the National Assembly, composed of representatives of local autonomous bodies and social interests, the latter being those of an administrative, moral, cultural and economic order; the law shall designate those bodies on which such representation falls, the manner of their selection and the duration of their mandate.

§ 1. When vacancies occur in offices whose holders as such have a seat in the Corporative Chamber, the representation of such offices devolves upon those who properly substitute them according to law or by statute. The same principle applies to cases of impediment.

§ 2. Except in the case mentioned in the preceding paragraph, vacancies occurring in the Corporative Chamber shall be filled in the same manner as the original officer was appointed.

§ 3. The provisions of art. 89 and its subsections shall apply to the members of this Chamber; but the action envisaged in b), c) and d) of that article shall be taken on the authority, or by the decision, of the President. The amount of the remuneration mentioned in e) (of art. 89) and the conditions on which it is granted shall be regulated by law.

Art. 103. It is the duty of the Corporative Chamber to report and gave its opinion on all proposals or draft bills and on all international conventions or treaties submitted to the National Assembly, before discussion thereof is commenced by the latter.

§ 1. The report shall be given within thirty days or within such period as the Government or the Assembly shall fix if the matter concerned is considered urgent.

§ 2. Should the time limit referred to in the preceding subsection expire before the report has been sent to the National Assembly discussion may proceed immediately.

§ 3. If the Corporative Chamber, while advising on general grounds the rejection of a bill, recommends that it be replaced by

another, the Government or any Member may adopt the bill in question and it shall then be considered jointly with the original bill, independently of further reference to the Corporative Chamber. If the latter suggests alterations of detail in a proposal or bill, the National Assembly may decide that a vote be taken first on the text proposed by the Corporative Chamber and any Deputy may always move such amendments as his own.

Art. 104. The Corporative Chamber shall function in plenary sessions or in committees and subcommittees.

§ 1. Apart from a permanent section, there shall be sections corresponding to the various interests of an administrative, moral, cultural and economic nature represented in the Chamber, and there may be sub-sections corresponding to specialized interests within each sector.

§ 2. When the matter under discussion so requires, two or more committees or sub-committees may meet jointly.

§ 3. Reports drafted by the Corporative Chamber arising from cases of compulsory consultation cannot be issued through the permanent section.

§ 4. In the debate on proposals or projects the Prime Minister and the Ministers may intervene, as well as Secretaries and Under-Secretaries of State of the departments concerned, or their representatives, and the Member on whose initiative the proposal or project was put forward.

§ 5. The sessions of the sections and sub-sections of the Corporative Chamber are not open to the public, but plenary sessions may be.

Art. 105. The Government may consult the Corporative Chamber on enactments to be published or on draft bills to be presented to the National Assembly; it may decide that the work of the committees or sub-committees shall continue or take place during adjournments, interruptions or intervals between legislative sessions; and it may request the convocation of all or any of the committees or sub-committees in order to make a communication to them.

§ 1. The discussion of draft bills in the National Assembly shall not be dependent on fresh reference to the Corporative Chamber if the latter has already been consulted by the Government.

§ 2. During the legislative session of the National Assembly the Corporative Chamber may suggest to the Government such measures as it considers advisable or necessary.

Art. 106. The provisions of art. 86 are applicable to the Corporative Chamber except as regards the checking of powers, which will be dealt with by a special committee chosen by the Chamber. § 1. The Regulations of the Corporative Chamber shall include a prohibition on any postponement of the agenda by any matter not announced at least twenty-four hours in advance, and also the conditions of presentation of suggestions for provisions to which art. 105 alludes.

§ 2. The faculty conferred by art. 96 section 2 on members of the National Assembly is applicable to the sections and sub-sections of the Corporative Chamber.

CHAPTER IV

On the Government

Art. 107. The Government consists of the Chairman of the Council of Ministers who may administer the affairs of one or more Ministries, and by the Ministers. The latter shall always be substituted by the former in acts within their sphere of competence when they are absent abroad, or unable to appear, when, that is, interim Ministers have not been appointed.

§ 1. The Chairman of the Council of Ministers is freely appointed and released from his duties by the President of the Republic. The Ministers, Secretaries and Under-Secretaries of State are appointed by the President of the Republic on the proposal of the Chairman of the Council of Ministers. The latter countersigns the President's appointments of Ministers as well as the release from duties of outgoing Ministers.

§ 2. The functions of the Secretaries and Under-Secretaries of State cease with the release from duties of the respective Minister.

Art. 108. The President of the Council shall be responsible to the President of the Republic for the general policy of the government and shall co-ordinate and direct the activities of all the Ministers, who shall be responsible to him politically for their acts.

Art. 109. It shall be the duty of the Government:

- I) to countersign the acts of the President of the Republic;
- II) To draft decree-laws and to approve such international treaties or agreements as deal with legislative matter in which it has powers;
- III) to draw up decrees, regulations and instructions for the proper carrying out of laws;
- IV) to superintetnd public administration as a whole, ensuring that the laws and resolutions of the National Assembly are carried out, controlling the acts of administrative

bodies and of corporate entities of public administrative utility, and doing whatever may be necessary in relation to the appointment, transfer, resignation, retirement, superannuation, dismissal or reinstatement of civil or military officers, subject to the right of recourse of the parties concerned to the competent courts.

§ 1. Any action by the President of the Republic and the Government which involves an increase or decrease of revenue or expenditure shall be countersigned by the Minister of Finance.

§ 2. Legislative authorisations may not be utilized more than once, except those which by their nature are for repeated use. The Government may however utilize them in stages until they expire.

§ 3. If, during the effective functioning of the National Assembly, the Government publishes decree-laws outside the cases of legislative authorization, they shall be subject to ratification: this will be considered to be granted when, in the first ten sessions after publication, fewer than ten Members have requested that such decree-laws be submitted to the appraisal of the Assembly.

If ratification is refused, the decree-law shall cease to be in force from the day on which the notification of the fact appears by decision of the Chairman of the Assembly in the Official Gazette.

Ratification may be granted after emendations have been made; in this case the decree-law will be sent to the Corporative Chamber, unless it has already been consulted, but it will continue in force unless the National Assembly, by a majority of two-thirds of the active Members, suspends its execution.

§ 4. In cases of urgency and public need and outside the normal period of functioning of the National Assembly, the Government may take its place in the approval of international treaties dealing with matters which are of the exclusive competence of the Assembly, but the Government's decree shall be ratified at the first legislative session following its publication.

§ 5. In the cases allowed for in part 8 of art. 91, if the National Assembly is not functioning and if it cannot be called together in time, the Government may, provisionally, declare the state of siege, with the effects enumerated in that provision. The state of siege declared by the Government cannot last for more than ninety days without the decreelaw being expressly ratified by the National Assembly, except where any meeting of the latter continues to be absolutely impossible. Once the state of siege terminates, the Government shall send to the Assembly a report of the measures taken during its effectivation.

§ 6. Where grave subversive acts take place at any part of national territory, the Government may, when a declaration of the state of siege is not justified, adopt the measures necessary to repress subversion and to prevent it from spreading, with such restrictions on individual liberties and guarantees as are seen to be indispensable; when this situation is prolonged, however, the National Assembly should express its opinion on the existence and gravity thereof.

§ 7. When the law is not practicable by itself, the Government shall publish the respective regulatory decrees within a period of six months counting from the date of its publication, unless the latter specifies some other period of time.

§ 8. The appointment of the governors of the overseas provinces is carried out in the Council of Ministers.

§ 9. The appointment, transfer, release from office, retirement, dismissal or re-appointment of the President of the High Court, the Attorney-General of the Republic, diplomatic and consular agents and the governors of overseas provinces, whether having a governor-general or not, shall take the form of a decree.

Art. 110. Ministers may not exercise any other public duties, or any private employment, in addition to their ministerial offices.

§ 1. Ministers shall be subject to the other prohibitions and provisions contained in art. 90.

§ 2. Those members of the National Assembly or of the Corporative Chamber who accept office as Minister, Secretary or Under-Secretary of State do not forfeit their seats, but many not sit in the Chamber concerned.

Art. 111. The Council of Ministers shall meet when its President or the Head of State considers it necessary. When the said President or the Head of the State thinks fit, the meeting shall take place under the presidency of the latter and it shall be obligatory for the Head of the State to preside, when he has to use the powers conferred upon him in art. 81 (II), (III), (IV), (V), (VI) and (VIII).

Art. 112. The Government depends exclusively upon possessing the confidence of the President of the Republic, and its continuance in office shall not depend upon the fate of its draft bills, or upon any vote of the National Assembly.

Art. 113. The President of the Council shall transmit to the President of the National Assembly the draft bills to be submitted to the latter, together with any explanations requested of the government or which the government may deem it appropriate to give.

Sole §. In the case of matters that are of recognized national importance, the Chairman of the Council of Ministers or a Minister authorized by him may attend the National Assembly to deal with them.

Art. 114. Each Minister is responsible politically, civilly and criminally for any acts which he may legalise or carry out; Ministers shall be tried in the ordinary courts for acts involving civil or criminal liability.

Sole §. If any Minister be prosecuted for a criminal offence, the Supreme Court of Justice in full session, the Attorney General of the Republic being present, shall, provided the proceedings have not gone beyond the stage of formally charging the offender, decide whether the Minister shall be tried immediately, in which case his suspension shall be decided on, or whether the trial shall be conducted on the completion of his tenure of office.

Art. 115. Criminal liability attaches to Ministers, Secretaries and Under-Secretaries of State and government agents in respect of any acts directed:

- I) against the political existence of the nation:
- II) against the Constitution and the established political system;
- III) against the free exercise of their functions by the representatives of national sovereignty;
- IV) against the enjoyment and exercise of political and individual rights;
- V) against the internal security of the country;
- VI) against the integrity of the administration;
- VII) against the custody and constitutional employment of public moneys;
- VIII) against the law dealing with public accounts.

Sole §. Conviction for any of those crimes involves loss of office and exclusion from holding public office.

CHAPTER V

On the Courts

Art. 116. The exercise of judicial functions belongs to the ordinary courts and special tribunals.

The Supreme Court of Justice and the judicial courts of first and second instance are the ordinary courts, and they shall have such material and territorial jurisdiction as is determined by law.

Art. 117. The establishment of special courts with exclusive jurisdiction to try a certain category of crime or certain categories of crimes, is forbidden, unless the crimes are fiscal or social by nature or are against the safety of the State.

Art. 118. The State shall be represented in the courts by the Public Attorney.

Art. 119. Judges of the ordinary courts are appointed for life, and cannot be removed; the conditions of their appointment, promotion, dismissal, suspension, transfer and nomination outside the cadre shall be fixed by law and they may not accept any other office of profit from the government; this shall not however prejudice their being requisitioned for permanent or temporary commissions.

Art. 120. Judges shall not be held responsible for the judgements pronounced by them, except in cases specified by law.

Art. 121. Court proceedings are held in public, except in the special cases indicated in the law and whenever publicity would be contrary to public interest and order or to morality.

Art. 122. In the execution of their decisions and judgements, the courts shall have a right to the collaboration of other authorities whenever required.

Art. 123. In acts submitted to judgment, the courts may not apply norms that would infringe the provisions of this Constitution or offend its principles; for this purpose they should appraise the existence of unconstitutionality on the terms of § 2 of this article, except where this is the sole privilege of the National Assembly.

§ 1. The law may concentrate in one or more courts powers to appraise the unconstitutionality mentioned in the body of this article and give the decisions of such courts a general binding force.

§ 2. The organic or formal unconstitutionality of the rule of law arising from items of legislation promulgated by the President of the Republic or of norms embodied in treaties or other international acts can only be appraised by the National Assembly and on its own initiative or on that of the Government; the Assembly shall determine the effects of the unconstitutionality, without detriment, however, to the situations brought about by the cases judged.

Art. 124. As a means of preventing and suppressing crime, penalties and precautionary measures shall be introduced for the protection of society and as far as possible for the social rehabilitation of the offender.

CHAPTER VI

On the Administrative Division and Local Autonomous Authorities in Metropolitan Portugal

Art. 125. Without detriment to the regional designation of «province», the territory of the Continent (Continental Portugal) is divided into municipalities, comprising parishes and grouped into districts. The law shall establish the limits of all these divisions.

§ 1. The boroughs of Lisbon and Oporto are subdivided into wards, and the latter into parishes.

§ 2. The territorial division of the adjacent islands and their administrative organisation shall be the subject of a special law.

Art. 126. The administrative bodies are the town councils, the parish boards and the district boards.

Art. 127. The administrative activities of local autonomous authorities are subject to scrutiny by government inspectors and the resolutions of their executive committees may be subject to confirmation or require the approval of other bodies or authorities and be submitted to examination.

Art. 128. In order to give effect to their resolutions, and for other purposes specified by law, administrative authorities shall appoint a President or special sub-committees in accordance with the said law.

Art. 129. Resolutions of administrative authorities can only be amended or annulled in the cases and in the manner prescribed by administrative enactments.

Art. 130. Administrative authorities enjoy financial autonomy under conditions to be determined by law but town councils are bound to divide among the parishes for the purpose of rural improvements such part of their revenues as is fixed by law.

Art. 131. Systems of local taxation shall be organised in such a manner as to avoid interfering with the general tax or financial organisation of the State, and the circulation of produce and merchandise between different districts of the country.

Art. 132. Administrative authorities may only be dissolved in such cases and in such manner as prescibed by administrative enactments.

CHAPTER VII

On the overseas provinces

Art. 133. The territories of the Portuguese Nation situated outside Europe are overseas provinces, which shall have their own statutes as autonomous regions: they may be known as States, according to the Portuguese tradition, when the progress of their social environment and the complexity of their administration justify bestowal of this honorary title.

Sole §. The law laying down the general system of government of the overseas provinces and fixing the corresponding statutes shall allow for the possibility of the creation of national public departments, integrated in the organization of the whole of Portuguese territory. Art. 134. Each province constitutes a collective entity in public law, with capacity to acquire, contract and take legal action: its statutes will lay down the political and administrative organization suited to its geographical situation and the conditions of its development.

Art. 135. The autonomy of the overseas provinces comprises:

- a) the right to possess its own elective organs of government;
- b) the right to legislate through its own organs, respecting the norms of the Constitution and those emanating from the organs of sovereignty, on all topics that are of exclusive interest to the province concerned and which are not set aside by the Constitution or by the law to which section m) of art. 93 refers for the sole competence of the organs of sovereignty;
- c) the right to ensure, through its own organs of government, the execution of laws and domestic administration;
- d) the right to dispose of its revenue and to apply it to public expenditure, in accordance with the authorization voted by its own organs of representation and the principles laid down in arts. 63 and 66;
- e) the right to possess and dispose of its own patrimony and to perform acts and contracts in which it is concerned;
- f) the right to possess an economic system suited to the needs of its development and the well-being of its population;
- g) the right to refuse entry to its territory to Portuguese nationals or foreigners for reasons of public interest and to order their expulsion, in accordance with the law, when their presence gives rise to serious disadvantages of a domestic or international nature; appeal may be made to the Government.

Art. 136. The exercise of the autonomy of the overseas provinces shall not affect the unity of the Nation, the solidarity among all the portions of Portuguese territory or the integrity of the sovereignty of the State.

For this purpose, it is for the organs of sovereignty of Republic:

- a) to represent, at home and abroad, all the Nation; the provinces may not maintain diplomatic or consular relations with foreign countries, nor sign, separately, agreements or conventions with such countries or seek loans therefrom;
- b) to lay down the statutes of the overseas provinces, legislate on matters of common interest or the higher interest of the State, as is specified in the law to which section m) of art. 93 refers, to revoke or annul such local items of legislation as run counter to such interests or which contradict the norms

embodied in the Constitution or which emanate from the organs of sovereignty;

- c) to appoint the governor of each province, as the representative of the Government and head of the local executive;
- d) to secure national defence;
- e) to superintend the administration of the provinces, in harmony with the higher interests of State;
- f) to supervise their financial management, giving them indispensable aid in return for adequate guarantees, and benefiting them with such credit operations as are advisable;
- g) to ensure the integration of the economy of each province in the general economy of the Nation;
- h) to protect, whenever necessary, the population against threats to their safety and well-being that cannot be overcome by local means;
- i) to watch over the respect for individual rights, as the Constitution provides, the cultural values of the population and such of their usage and customs as are compatible with morality and Portuguese public law.

§ 1. The organs of sovereignty with legislative powers over the oversas provinces are the National Assembly, in matters that are of its exclusive competence or when it has to legislate for all national territory or part thereof, comprising the homeland and one or more provinces and the Government, through decree-laws or, in the cases where legislation is for the provinces only, through an act of the Minister on whom the law confers special powers for the purpose.

§ 2. The legislative acts of the Minister enjoying special powers for the overseas provinces shall take the shape of a decree, promulgated and countersigned as the Constitution stipulates; the form of a ministerial legislative order may be adopted when the Minister is carrying out his duties in any of the overseas provinces, and the form of a Ministerial Order in the other cases envisaged by the law.

§ 3. Ministerial legislative powers for the overseas provinces will be carried out after a suitable advisory organ has been consulted, except in cases of urgency, when the Minister is carrying out his duties in any of the overseas provinces and in the other cases enumerated in the law.

§ 4. The applicability in the overseas provinces of any item of legislation published by the Government depends on the indication that it is to be published in the Official Gazette of the province or provinces where it is to be put into practice.

§ 5. In each of the overseas provinces it is the indeclinable duty of the governor to uphold the rights of sovereignty of the Nation

and to promote the welfare of the province, in harmony with the principles embodied in the Constitution and in the law.

COMPLEMENTARY PROVISIONS

Art. 137. The Constitution may be revised every ten years, counted from the date of the last law of revision; and the National Assembly whose life includes the last year of the decade or the National Assemblies which follow the tenth year until the law of revision is published shall, for this purpose, enjoy constituent powers.

§ 1. Constitutional revision may be anticipated by five years if, at the beginning of the legislative session corresponding to the last year of the five-year term, it is so decided by two thirds of the Deputies in effective exercise of their mandate.

In this case the ten year period shall likewise be counted from the date of the law of revision then voted.

§ 2. When a proposal or project for revision of the Constitution has been put forward, no other proposals of projects may be put forward within a period of thirty days, counting from the date of presentation of the former.

§ 3. Proposals or draft bills for constitutional revision shall not be accepted for consideration unless the proposed amendments are clearly defined.

§ 4. The bills for constitutional revision shall be signed by a minimum of ten and a maximum of fifteen Members in the effective discharge of their duties.

§ 5. As soon as the law of revision has been published the constituent powers of the National Assembly shall cease.

Art. 138. Notwithstanding the provisions of the preceding article, should public interest urgently demand it, the Head of the State, after consulting the Council of State, may by a decree signed by all the Ministers:

- I) determine that the National Assembly to be elected shall assume constituent powers and revise the Constitution in such parts as are specified in the relative decree;
- II) submit to a national plebiscite the alterations of the Constitution referring to the legislature or its instruments; such approved alterations shall enter into effect as soon as the final results of the plebiscite are published in the Diário do Governo (Official Gazette).

Art. 139. The law shall establish the method of substitution of the organs of sovereignty and the conditions of their activity when, in case of need and to safeguard the free exercise of power in the face of an external enemy, they cannot function or act freely.

Art. 140. A transitional regime shall be adopted for carrying into effect the sole § of art. 53, with such temporary restrictions as are . deemed essential.

Art. 141. Until such time as the corporative organization of the Nation is completed, temporary measures shall be adopted to give effect to the principle of organic representation laid down in Chapter V of Part I.

Art. 142. Laws, and decrees having the force of law, that have been or may be published not later than the first meeting of the National Assembly shall continue in operation and remain in force as laws insofar as they contain nothing explicitly or implicitly contrary to the principles contained in the present Constitution.

Art. 143. The laws and decree-laws referred to in the preceding article may nevertheless be revoked by regulating decrees in all matters concerning internal service organization provided the juridical position of private individuals at law and the statute of Civil Servants are unaffected.

Sole §. The restrictions laid down in this article do not include laws and decree-laws defining what constitutes legislative matter, nor the exceptions under § 1 of art. 70 and art. 93.

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