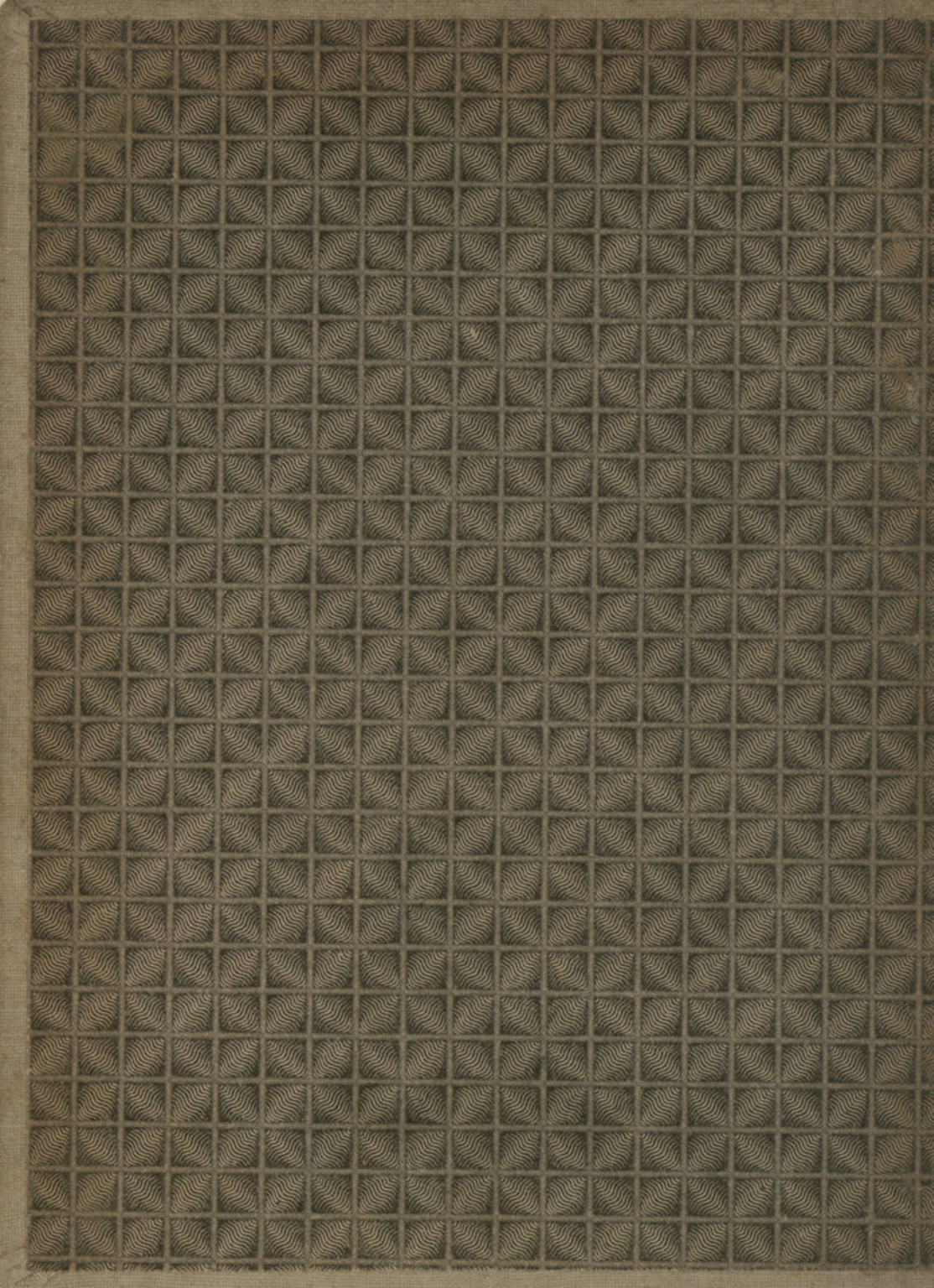


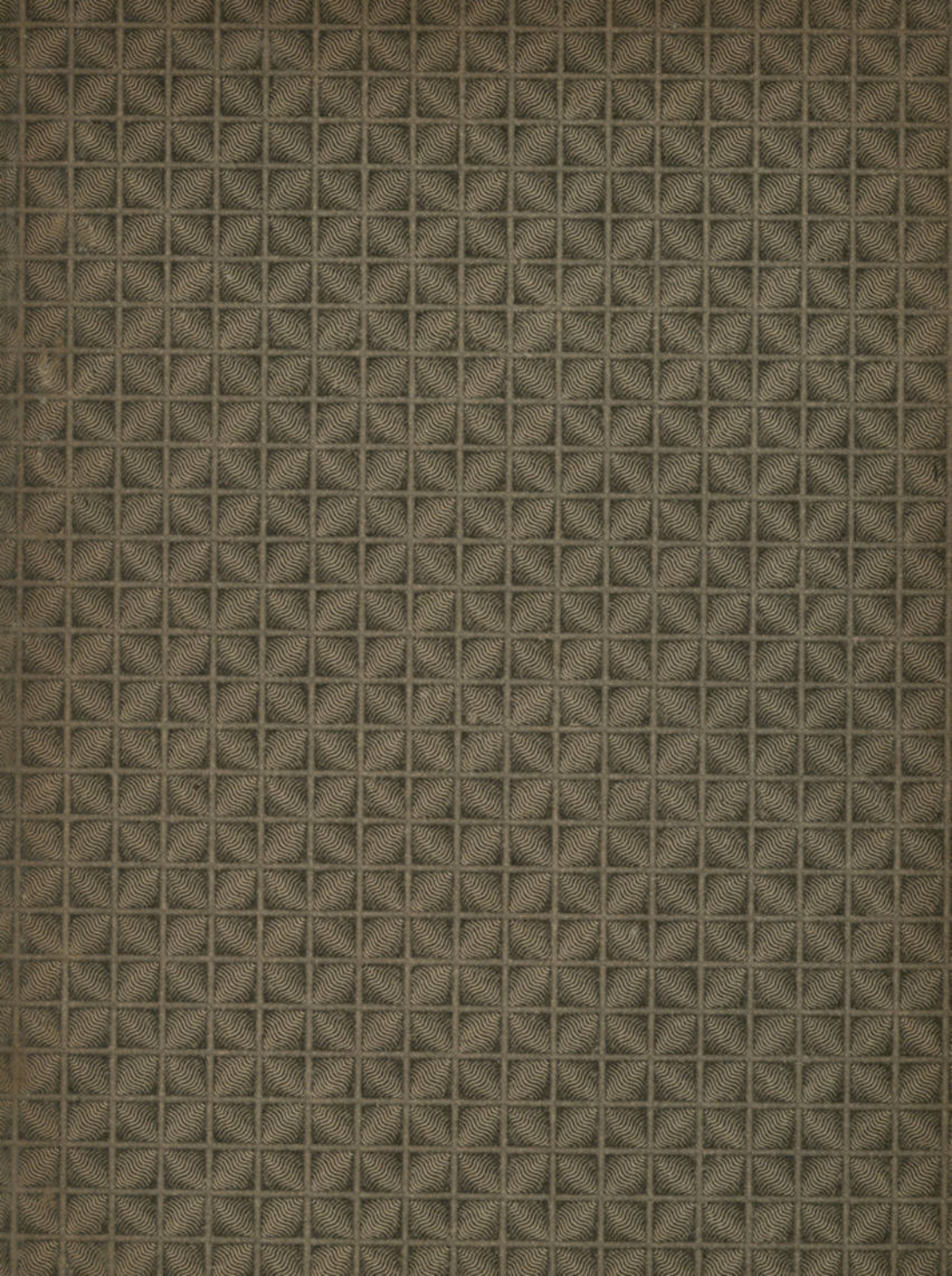
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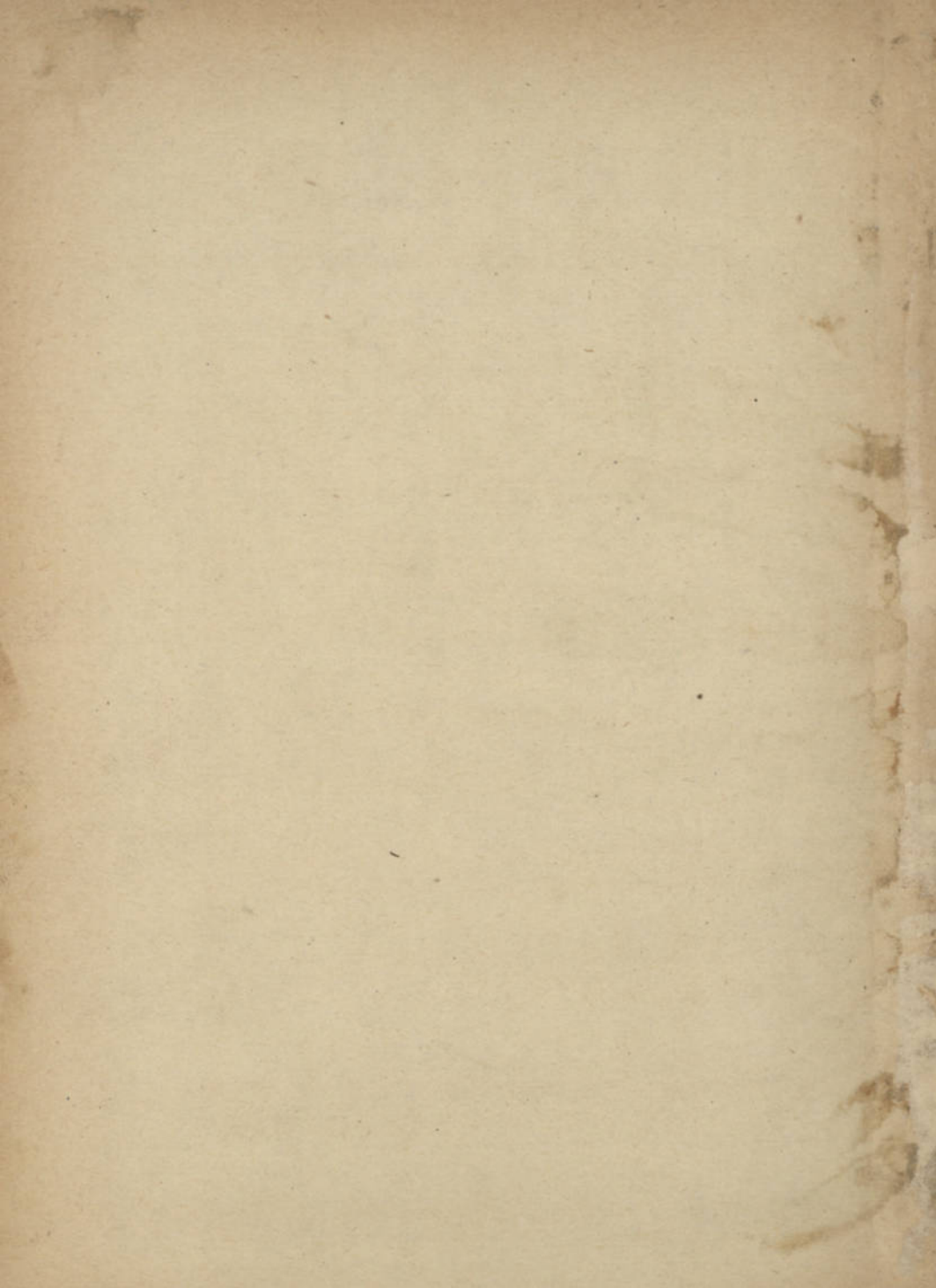
POLITICAL
CONSTITUTION
OF THE
PORTUGUESE
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**P O L I T I C A L
C O N S T I T U T I O N**
of the
**P O R T U G U E S E
R E P U B L I C**

Approved by the National Plebiscite of
19th March 1933; entered into force on
11th April of same year and was modi-
fied by Laws N.ºs 1885 and 1910, of
23rd March and 23rd March respectively,
and Law N.º 1945 of 21st December 1936



COLONIAL ACT

With alterations contained in Law
N.º 1900 of 21st May 1935

THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT

PHYSICS 311

LECTURE NOTES

BY

ROBERT A. FAY

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EDITIONS

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INCORPORAÇÃO

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POLITICAL CONSTITUTION OF THE PORTUGUESE REPUBLIC^(a)

PART I

Fundamental Guarantees

SECTION I

THE PORTUGUESE NATION

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

(1) In Europe: the mainland and the archipelagos of Madeira and the Azores;

(2) In West Africa: Cape Verde archipelago, Guinea, S. Tomé and Príncipe and their dependencies, S. João Baptista de Ajudá, Cabinda and Angola;

(3) In East Africa: Mozambique;

(4) In Asia: the State of India and Macao and their respective dependencies;

(5) In Oceania: Timor and its dependencies.

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

2. No part of the national territory may be acquired by any Government or juridical entity of a foreign coun-

(a) Revised version published in the supplement of the *Diário do Governo*, N.º 176, 1st series, 1st August 1935, with amendment contained in Law N.º 1945 of 21st December 1936.

try, except for the purpose of establishing diplomatic or consular representation if there is reciprocity in favour of the Portuguese State.

3. The nation shall comprise all Portuguese citizens resident in or outside its territory, who shall be held to be subject to the State and Portuguese laws, without prejudice to the rules of international law applicable.

Sole §. Without prejudice to the provisions of international law, foreigners sojourning or resident in Portugal shall also be subject to the State and to Portuguese laws.

4. The Portuguese nation shall constitute an independent State. In the domestic sphere its sovereignty shall only admit the limitations of morality and law, and internationally, those restrictions imposed by conventions or treaties freely concluded, or by customary law freely accepted. Its duty shall be to cooperate with other States in the preparation and adoption of measures in the interests of peace among peoples and the progress of humanity.

Sole §. Portugal shall advocate arbitration as a means of settling international disputes.

5. The Portuguese State is a unitary and corporative republic founded on the equality of its citizens before the law, the free access of all classes to the benefits of civilisation, and the participation of all the structural elements of the nation in its administrative life and the enactment of its laws.

Sole §. Equality before the law includes the right of provision with public employment in conformity with capability or services rendered, and does not admit any privilege of birth, titular or other nobility, sex or posi-

tion, subject however, where women are concerned, to differences due to their nature and the welfare of the family and, in regard to the obligations and privileges of citizens, to differences imposed by varying circumstances or natural conditions.

6. It is the duty of the State:

(1) To promote unity of the nation and establish order according to law by determining and compelling respect for the rights and guarantees derived from morals, equity or law, for the benefit of individuals, families, local autonomous bodies and other corporate, public or private entities;

(2) To co-ordinate, instigate and direct all social activities and to promote due harmony of interests, subject to those of a private nature being lawfully subordinated to the general interest;

(3) To strive for improvement in the condition of the least favoured classes of society and to prevent their standard of life from falling below an adequate human minimum.

SECTION II

THE CITIZENS

7. The civil law shall determine the manner in which Portuguese citizenship is acquired and forfeited. A citizen shall enjoy the rights and guarantees laid down by the Constitution, but naturalized citizens shall be subject to the restrictions prescribed by law.

Sole §. Foreigners resident in Portugal shall enjoy the same rights and guarantees, unless the law determi-

nes otherwise. This shall not apply to political and public rights which correspond to a duty towards the State, although, as regards public rights, reciprocity of advantages granted to Portuguese nationals by other States shall be observed.

8. The following constitute the rights and individual guarantees of Portuguese citizens :

(1) The right to life and personal inviolability ;

(2) The right to good name and reputation ;

(3) Liberty and inviolability of religions beliefs and practice, on the ground of which no one may be persecuted, deprived of a right or exempted from any obligation or civic duty. No one shall be compelled to answer questions concerning the religion which he professes, unless for statistical enquiry prescribed by law ;

(4) The free expression of thought in any form ;

(5) Freedom of education ;

(6) Inviolability of domicile and secrecy of correspondence on conditions determined by law ;

(7) Freedom of choice of profession, or nature of work, industry or commerce, subject to the legal restrictions required for the public welfare and the exceptions which only the State and administrative bodies can grant according to the provisions of the law, for reasons of recognized public utility ;

(8) No one shall be deprived of personal liberty or arrested without a charge being brought, except in the cases contemplated in §§ 3 and 4 ;

(9) No one shall receive a penal conviction except by virtue of a law of earlier date which declares the act or omission to be punishable ;

(10) The right of examination, both sides being

heard, and the accused being given the necessary guarantees for defence before and after the drawing up of the charge;

(11) No one shall suffer punishment by perpetual imprisonment, or the penalty of death, except, as regards the latter, during a state of belligerency with a foreign country, in which case the sentence must be carried out in the theatre of war;

(12) There shall be no confiscation of goods or transfer of any punishment from the person of the delinquent;

(13) No one shall suffer imprisonment for failure to pay costs or stamps;

(14) Freedom of meeting and association;

(15) The right of property and the right to transfer it during life or owing to death, according to the conditions laid down by the civil law;

(16) There shall be no payment of taxes which have not been decreed in accordance with the Constitution;

(17) The right to reparation for all actual damage in conformity with the provisions of the law, which may also prescribe pecuniary reparation for wrongs of a moral character;

(18) The right of making representation or petition, claim or complaint, to Government departments or any authorities, in defence of personal rights or general interests.

(19) The right of resistance to any order which may infringe individual guarantees, unless they have been legally suspended, and of repelling by force private aggression when recourse to public authority is impossible;

(20) Penal sentences shall be subject to revision, and the right of indemnification by the National Treasury for loss and damage shall be assured to the convicted person or his heirs by measures to be defined by law.

§ 1. The enumerations of the above rights and guarantees shall not exclude any others derived from the constitution or the laws, it being understood that citizens should always exercise them without injuring the rights of third parties, or damaging the interests of society or the principles of morality.

§ 2. Special laws shall control the exercise of the liberty of the expression of opinion, education, and meeting and association. As regards the first item, they shall prevent, by precautionary or restrictive measures, the perversion of public opinion in its function as a social force, and shall protect the moral integrity of citizens who, when libelled or abused in a periodical publication, shall have the right to have inserted in the same, free of charge, a correction or explanation, without prejudice to any other liability or proceedings prescribed by law.

§ 3. Imprisonment without specific charge is authorised in cases of *flagrante delicto*, and for the following offences when either committed, prevented or attempted: those against the safety of the State; the counterfeiting of money, and forgery of bank-notes and Government bonds; wilful homicide; burglary and robbery; theft, fraud, or breach of trust, when perpetrated by an habitual criminal; fraudulent bankruptcy; arson; the manufacture, possession, or use of explosive bombs and other similar appliances.

§ 4. Except in the cases specified in the preceding paragraph, imprisonment in a public gaol, or detention in a private residence or institution for lunatics, may only be effected on a written order from the competent authorities, and shall not be continued on the accused offering proper bail or bond in regard to residence, if allowed by law.

The exceptional safeguard of *habeas corpus* may be used against an abuse of authority in the circumstances prescribed in a special law.

9. All persons employed by the State, administrative bodies and corporations, or by companies which have a contract with any of these, are guaranteed the right to their posts during the period of compulsory military service.

10. The State shall bestow distinctions of honour or awards on those citizens who become conspicuous by reason of their personal merit or civic or military deeds, and likewise on foreigners for international services; orders, decorations, medals or diplomas shall be instituted by law for this purpose.

11. The sovereign organs are jointly and severally precluded from suspending the constitution or limiting the rights therein granted, except in the causes contemplated in the same.

SECTION III THE FAMILY

12. The State shall ensure the constitution and protection of the family as the source of the maintenance and development of the race, the primary basis of edu-

cation, discipline and social harmony, and, by its association and representation in the parish and the town, the foundation of all political and administrative order.

13. The constitution of the family is based upon:

(1) Marriage and legitimate offspring;

(2) Equality of the rights and duties of husband and wife in regard to the maintenance and education of their legitimate children;

(3) The obligation to register the marriage and the birth of children.

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

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

14. With the object of protecting the family it appertains to the State and local bodies:

(1) To encourage the establishment of separate homes under healthy conditions, and the institution of the family household;

(2) To protect maternity;

(3) To adjust taxation in accordance with legitimate family obligations and to promote the adoption of the family wage;

(4) 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 destined for the same purpose;

(5) To take all precautions likely to avert the corruption of morals.

15. The registration of the civil status of citizen is a matter pertaining to the State.

SECTION IV

CORPORATIVE ORGANISATIONS

16. It shall be the duty of the State to authorise, unless prevented by existing legislation, all corporative organisations, for intellectual, social and economic purposes and to promote and assist their formation.

17. The principal aims of the corporations, associations or organisations, referred to in the preceding article, shall be scientific, literary, or artistic, or physical training; relief, benevolence, or charity; and technical improvement or unification of interests.

Sole §. The constitution of these bodies and the exercise of their functions shall be controlled by special regulations.

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

SECTION V

THE FAMILY, CORPORATIVE ORGANISATIONS AND AUTONOMOUS BODIES AS POLITICAL UNITS

19. Families shall have the exclusive right to elect the parish boards.

Sole §. This right shall be exercised by the head of the family.

20. All the component parts of the nation shall be represented in the corporative organisations, through their appropriate organs, and it shall be their business to participate in the election of the municipal chambers and provincial boards and in the constitution of the Corporative Chamber.

21. Under the political organisation of the State the parish boards shall participate in the election of the municipal chambers, who will in turn help to elect the provincial boards. Local autonomous bodies shall be represented in the Corporative Chamber.

SECTION VI

PUBLIC OPINION

22. Public opinion is a fundamental element of the politics and administration of the country; it shall be the duty of the State to protect it against all those agencies which distort it contrary to truth, justice, good administration, and the common welfare.

23. The Press exercises a function of a public nature and may not therefore refuse to insert any official notices of normal dimensions, on matters of national importance, sent to it by the Government.

SECTION VII

ADMINISTRATIVE ORDER

24. Public officials shall be at the service of the community and not at the service of any party or organisation of private interests; it is their duty to respect the authority of the State and cause others to do so.

25. Employees of local autonomous bodies and administrative corporations, and likewise persons who work for public utility undertakings, shall be subject to the rule prescribed in the preceding article.

26. Planned interruption of public services or those of collective concern shall involve the dismissal of the delinquents, apart from other liabilities which the law may prescribe.

27. No one shall be allowed to hold a plurality of offices in the employment either of the State or local bodies, or of both, except on the conditions contemplated 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.

28. All citizens shall be compelled to lend their services and co-operation to the State and local bodies in accordance with the laws, and to contribute towards public burdens according to their means.

SECTION VIII

THE ECONOMIC AND SOCIAL ORDER

29. The economic organisation of the nation must provide the maximum production and wealth for the

welfare of society, and create a collective existence from which the State shall derive power and the citizens justice.

30. The State shall regulate its economic relations with other countries according to the principle of appropriate co-operation, without prejudice to the commercial advantages to be obtained from particular countries, or the necessity for protection against external threats or attacks.

31. It shall be the right and duty of the State to supervise the coordination and control of economic and social life with the following objects:

(1) To establish a proper balance of the population, the professions, occupations, capital and labour;

(2) To protect the national economic system from agricultural, industrial and commercial ventures of a parasitic nature, or of a character incompatible with the higher interests of human life;

(3) To secure the lowest price and the highest wage consistent with the fair remuneration of the other factors of production, by means of the improvement of technical methods, services and credit;

(4) To develop the settlement of the national territories, protect emigrants and regulate emigration.

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

33. The State may intervene directly in the management of private economic operations only when it is essential to finance the same in order to se-

cure greater social benefits than would otherwise be obtained.

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

34. The State shall promote the formation and development of the national corporative economic system. Care shall be taken to prevent any tendency among its constituent parts to indulge in unrestrained competition with each other, contrary to their own just aims and those of society; they shall be encouraged rather to collaborate as members of the same community.

35. Property, capital and labour shall fulfil a social duty in a system of economic co-operation and natural interest, and the law may determine the conditions of their use or exploitation in accordance with the common aim in view.

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

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.

38. Litigation relating to matters affecting collective labour shall be dealt with by special tribunals.

39. In their economic relation with one another, neither capital nor labour shall be allowed to suspend operations with the object of vindicating their respective interests.

40. It is the right and duty of the State to protect

morality, the wholesomeness of food and drink, and public health.

Sole §. The holding of a plurality of posts in private undertakings shall be discouraged as being contrary to public economy and morality.

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

SECTION IX

EDUCATION, INSTRUCTION AND NATIONAL CULTURE

42. Education and instruction shall be obligatory and the concern of the family in co-operation with public or private institutions.

43. The State shall officially maintain primary, complementary, secondary and high schools, and institutions for advanced education.

§ 1. Elementary, primary instruction is obligatory and may be given at home, or in private or State Schools.

§ 2. The arts and sciences shall be encouraged and their development, teaching and propaganda favoured, so long as respect is maintained for the constitution, the authorities and the co-ordinating activity of the State.

§ 3. The instruction furnished by the State besides instilling new physical vigour and improving the intellectual faculties, aims at the formation of character, of professional values as well as of every moral and civic virtue, the former in accordance with the traditional principles of Christian doctrine and morals, of the country.

§ 4. No authority shall be required for the teaching of religion in private schools.

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

SECTION X

THE RELATIONS OF THE STATE WITH THE CATHOLIC CHURCH AND THE REGIME OF CULTS

45. The public and private practice of any religion shall be free. Religious bodies may organise themselves freely, in accordance with the rules of their hierarchy and discipline, in such manner as to form associations or organisations whose civil existence and juridical personality shall be recognised by the State.

Sole §. This shall not apply to the practices of any religious body which are incompatible with the life and physical integrity of the human individual and with good morals.

46. Without prejudice to the provisions of *concordats* in the matter of the *Padroado*, the State shall maintain the regime of separation in relation to the Catholic Church and any other religion or cult practised within Portuguese territory, and the diplomatic relations between the Holy See and Portugal, with reciprocity of representation.

47. The State may not assign to any other purpose

any chapel, building, appurtenance or object of worship belonging to a religious body.

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

SECTION XI

THE PUBLIC AND PRIVATE DOMAINS OF THE STATE

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

(1) Mineral deposits, medicinal mineral water springs, and other natural wealth below the surface;

(2) Maritime waters and their bed;

(3) Lakes, lagoons and navigable watercourses, and waters on which floating operations can be performed, with their respective beds or channels, as well as those which shall be recognised, by special decree, to be of public utility as suitable for the production of electric power, national or regional, or for irrigation;

(4) Dykes opened up by the State.

(5) The aerial strata above the land, beyond such limits as the law fixes in favour of the owner of the surface;

(6) Railways of public importance of any kind, public highways and roads;

(7) Territorial areas reserved for military defence;

(8) Any other property placed by law under the régime of the public domain.

§ 1. The authority of the State over the property of the public domain and its use by the citizens shall

be regulated by law and by the international conventions concluded by Portugal, the prior rights of the State and the acquired rights of private persons continuing to be reserved. The latter rights, however, shall be subject to expropriation to be determined by the public requirements upon payment of reasonable compensation.

§ 2. Rocks and common earths, and materials commonly employed in buildings, shall be expressly excepted from the natural wealth specified in (1).

§ 3. The State shall undertake the delimitation of those lands which are private and abut on the property of the public domain.

50. The administration of property on the mainland and in the Adjacent Islands and belonging to the private domain of the State appertains to the Ministry of Finance, except when it is expressly attributed to any other Ministry.

51. No State property or rights which affect its prestige or the more important national interests may be alienated.

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

SECTION XII

NATIONAL DEFENCE

53. The State shall assure the existence and prestige of those military and naval institutions which are re-

quired by the supreme needs to defend national integrity and to maintain order and public tranquillity.

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

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

55. The law shall regulate the general organisation of the nation for war time, in accordance with the principle of a nation in arms.

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.

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.

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

SECTION XIII

ADMINISTRATION OF CONCERNS IN WHICH THE COMMUNITY MAY HAVE AN INTEREST

59. All undertakings which contemplate the utilisation or exploitation of anything forming part of the State public domain, shall be regarded as of interest to the community, and shall be subject to special State régimes of administration, competition, supervision, or

control, in accordance with the needs of public security, national defence, and economic and social relations.

60. Uniform rules, which shall not affect necessary particularities in points of minor importance, shall control the following:

(1) The establishment or alteration of land, river, maritime and air communications, whatever their nature or purpose may be;

(2) The construction of works for the utilisation of water supply or coal for the production of electric power, as well as the construction of grid systems for its transmission, supply or distribution, and also general plant for agricultural hydraulic purposes;

(3) The exploitation of public services in connexion with the abovementioned communications, works and grid systems.

61. The State shall promote the execution of the public improvements mentioned in the preceding article, and particularly the development of the national merchant marine, bearing in mind, especially, the ties with the overseas dominions and those countries where Portuguese are numerous.

62. The tables of charges relating to the exploitation of public services by concessions shall be subject to control and legal inspection by the State.

SECTION XIV

STATE FINANCES

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 explanation of these may be published separately.

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 contemplated in article 91 (4).

65. The expenditure which corresponds to the legal and contractual obligations of the State, or is permanent owing to its nature or purpose, including interest charges and amortisation of the Public Debt, must be taken as basis for fixing taxation and other State revenue.

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

67. Recourse may not be had to borrowing, unless for extraordinary expenditure for economic expansion, amortisation of other loans, and indispensable increase of State patrimony, or vital requirements for the defence and preservation of the nation.

Sole §. The necessary supplies may be obtained, however, 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 their funds.

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.

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

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

- (1) Taxation;
- (2) Charges to be levied in the public services;
- (3) Administration and exploitation of State property and undertakings.

§ 1. In the matter of taxation the law shall determine the incidence, rate, exemptions, where cause for such exists, and the claims and reliefs to be allowed in the taxpayer's favour.

§ 2. The collection of taxes established for an indefinite time, or for a fixed period exceeding a single administrative period shall be subject to the sanction of the National Assembly.

PART II

Political Organisation of the State

SECTION I

SOVEREIGNTY

71. Sovereignty shall reside in the nation; its organs are the Head of the State, the National Assembly, the Government and the Courts of Justice.

SECTION II

THE HEAD OF THE STATE

CHAPTER I

THE ELECTION OF THE PRESIDENT OF THE REPUBLIC AND HIS PREROGATIVES

72. The Head of the State is the President of the Republic, elected by the nation.

§ 1. The President shall be elected for seven years.

§ 2. The election shall take place on the Sunday nearest to the 60th day before the end of each presidential term, by direct suffrage of the citizen electors.

§ 3. The final scrutiny of the votes shall be made by the Supreme Court of Justice, which shall proclaim President the citizen obtaining the largest number of votes.

73. Only a Portuguese citizen, over 35 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 §. Should the individual elected be a member of the National Assembly, he shall lose his mandate.

74. Relatives of the Kings of Portugal, within the 6th degree, are ineligible for the office of President of the Republic.

75. The President-elect shall take up his duties on the day on which his predecessor's mandate expires, and assume office before the National Assembly, using the following form of oath:

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

76. The President of the Republic may not go abroad without the assent of the National Assembly and the Government.

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

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

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 magistracy 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.

79. The President of the Republic may resign his office in a message addressed to the nation and published in the *Diário do Govêrno*.

80. Should the presidency of the Republic fall vacant owing to the death, resignation or permanent physical disability of the President, or his absence in a foreign country without the assent of the National Assembly and the Government, the new President shall be elected within a period not exceeding 60 days.

§ 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 an announcement of the presidential vacancy in the *Diário do Govêrno*.

§ 2. So long as the election contemplated in this article does not take place, or when, for some reason there is a temporary interruption of the presidential duties, the President of the Council of Ministers shall be invested with the attributes of the Head of the State, which shall be added to those pertaining to his office.

CHAPTER II

ATTRIBUTES OF THE PRESIDENT OF THE REPUBLIC

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

- (1) To appoint the President of the Council and the

Ministers from among Portuguese citizens, and to dismiss them;

(2) Solemnly to open the first meeting of each Legislative Session and to address messages to the National Assembly, directing them to the President of same, who shall read them at the first meeting after receipt;

(3) To fix a day, in accordance with the electoral law, for a general election or by-election of Deputies;

(4) To give constituent powers to the National Assembly and to submit to a national plebiscite such alterations of the Constitution as may affect the legislative functions or organic bodies of same, in accordance with article 135 (1) and (2);

(5) To convoke the National Assembly in extraordinary session, in time of urgent public emergency, for the consideration of definite matters, and to adjourn its sessions, without prejudice to the duration fixed for the Legislative Session in each year;

(6) To dissolve the National Assembly when the supreme interests of the nation so require;

(7) To represent the nation and direct the foreign policy of the State; to conclude international conventions and negotiate treaties of peace, alliance, arbitration and commerce, submitting them through the Government to the National Assembly for approval;

(8) To grant pardons and commute punishments. The pardon may not be granted until half the punishment has been served;

(9) To promulgate and cause to be published, the laws and resolutions of the National Assembly as well as the Decree-Laws and Decrees laying down regulations,

and to sign all individual Decrees, which will otherwise be null and void.

82. The acts of the President of the Republic must be countersigned by the President of the Council and by appropriate Minister or Ministers, or otherwise they shall *ipso facto* be null and void.

Sole §. Countersignatures are not required for:—

(i) The appointment and dismissal of the President of the Council;

(ii) Messages addressed to the National Assembly;

(iii) The message of resignation from office.

CHAPTER III

THE COUNCIL OF STATE

83. The Council of State shall act in conjunction with the President of the Republic and shall be composed of the following members:

(1) The President of the Council of Ministers;

(2) The President of the National Assembly;

(3) The President of the Corporative Chamber;

(4) The President of the Supreme Court of Justice;

(5) The Procurator-General of the Republic;

(6) Five public men of outstanding ability, appointed for life by the Head of the State.

84. The Council of State shall be heard by the President of the Republic before he exercises the attributes referred to in article 81 (4), (5) and (6), and in the sole § of article 87, and in all grave emergencies of the State's existence. It may likewise be convoked whenever the President may deem it necessary.

SECTION III

THE NATIONAL ASSEMBLY

CHAPTER I

CONSTITUTION OF THE NATIONAL ASSEMBLY

85. The National Assembly shall consist of ninety deputies, elected by the direct suffrage of the citizen electors, and the duration of its mandate shall be four years.

§ 1. The necessary qualifications for deputies, and the organisation of the electoral colleges and election procedure, shall be determined by a special law.

§ 2. No one may be a member of the National Assembly and of the Corporative Chamber at the same time.

§ 3. Vacancies occurring in the National Assembly shall be filled by means of by-elections, the new mandates expiring with the life of the legislature.

86. It shall be the business of the National Assembly to examine and recognize the powers of its members, elect its committee, draw up its own regulations and determine its internal discipline.

87. On the dissolution of the National Assembly elections must be held within sixty days, under the electoral law force at the time of the dissolution. The new Chambers meet within thirty days following the completion of the electoral proceedings, unless the legislative session of that year has been concluded, and continue for a full legislature, without reckoning the period in which they have functioned in order to complete the previous

Legislative Session, and without prejudice to the right of dissolution.

Sole §. Should the supreme interests of the country render it advisable, the period of sixty days fixed in this article may be extended to six months.

88. On the completion of the final ordinary Legislative Session of the four-year period, the National Assembly shall remain in being, until the result of the new general elections has been verified.

CHAPTER II

MEMBERS OF THE NATIONAL ASSEMBLY

89. The members of the National Assembly shall enjoy the following immunities and prerogatives: —

(a) They shall be inviolable as regards the opinions and votes which they give in the exercise of their mandate, subject to the limitations laid down in §§ 1 and 2;

(b) They cannot be called upon to serve on juries, or as experts or witnesses, without the sanction of the Assembly;

(c) Neither can they be or remain arrested without the assent of the Assembly, unless it be in *flagrante delicto*, or for an offence involving a major penalty or its equivalent in the scale of punishments;

(d) If any deputy is prosecuted for a criminal offence and found guilty, the judge shall notify the finding to the Assembly who, except in the case contemplated in the latter part (c) of this article, shall decide whether or not the deputy should be suspended for the purpose of the continuation of the proceedings;

(e) They shall have the right to remuneration on conditions which shall be determined by the electoral law.

§ 1. Inviolability in respect of their opinions and votes shall not exempt members of the National Assembly from civil and criminal liability for libel, slander and abuse, outrage on public morality, or public 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 in any way instigate to the violent overthrow of the social and political order.

§ 3. The immunities and prerogatives set forth in (b), (c), (d) and (e) shall only be effective during the actual exercise of legislative duties.

90. The members of the National Assembly are forbidden:

(1) To enter into contracts with the Government, or to accept any remunerative employment or paid commission from them or from any foreign Government. This provision shall not apply to:

(a) Portuguese diplomatic missions;

(b) The military commissions or commands on the mainland and Adjacent Islands, and in the colonies, and overseas Government administrations;

(c) Advancement and legal promotion;

(d) Appointments which by law are made by the Government after competition, or on the proposal of bodies who are legally entitled to recommend or choose officials;

(2) To exercise their respective duties during the

actual functioning of the National Assembly, if they are public servants, either civil or military;

(3) To occupy posts in the administrative, executive or inspection services, which are not exercised by Government appointment, or as legal or technical advisers in undertakings or companies, formed for the purposes of special State contracts or concessions, or which hold a State privilege not granted by the general law, or receive a State subsidy or guarantee of profit or interest;

(4) To act as concessionaries, contractors or partners in firms contracting for public concessions, auctions or undertakings, or to participate in State financial operations.

§ 1. Appointments in the cases contemplated in (a) and (b) of (1), or in others which involve the exercise of their respective functions outside the mainland, shall cause the mandate to expire.

§ 2. Failure to observe the provisions contained in this article shall automatically involve, with full force of law, the loss of the mandate, and cause the acts and contracts therein referred to become null and void.

CHAPTER III

ATTRIBUTES OF THE NATIONAL ASSEMBLY

91. It shall be the business of the National Assembly:

- (1) To make, interpret, suspend and revoke laws;
- (2) To safeguard the observance of the Constitution and the laws;
- (3) To receive the accounts for each financial year,

which shall be laid before it with the report and resolution of the Court of Accounts (if the accounts have been appraised by this court), and other details necessary for their consideration;

(4) To authorise the Government up to 15th December of each year, to collect the State revenue and meet public expenditure for the ensuing financial period, and to determine in the appropriate law of authorisation the principles which shall govern that part of the budget dealing with expenditure of amounts not fixed in accordance with any existing laws;

(5) To authorise the Government to effect loans and other credit operations, not included in the floating debt, and to fix the general terms on which they may be carried out;

(6) To authorise the Head of the State to make war, should recourse to arbitration be impossible or of no avail, except in the case of actual or imminent aggression by foreign forces, and to make peace;

(7) To approve international conventions and treaties, in accordance with the provisions of article 81 (7);

(8) To declare a state of siege, with total or partial suspension of the constitutional guarantees, in one or more places in the national territory, in the case of actual or imminent aggression by foreign forces, or when public order and safety are seriously disturbed or threatened;

(9) To define the boundaries of the nation's territories;

(10) To grant amnesties;

(11) To take cognizance of the messages from the Head of the State;

(12) To deliberate regarding the revision of the Constitution, before the lapse of the ten-years period;

(13) To bestow legislative powers on the Government.

92. Laws voted by the National Assembly must be confined to ratification of the general fundamentals of juridical rules, but the constitutional legality of any provisions contained therein cannot be contested on the ground of violation of this principle.

93. The following, however, shall, perforce, be matters of law:

(a) The organisation of national defence;

(b) The establishment and suppression of public services;

(c) The weight, value, and denomination of coins;

(d) The standard of weights and measures;

(e) The establishment of banks or institutions of issue and the rules to which the fiduciary circulation must be subject;

(f) The organisation of the courts.

CHAPTER IV

ACTIVITIES OF THE NATIONAL ASSEMBLY AND PROMULGATION OF LAWS AND RESOLUTIONS

94. The National Assembly shall hold its sessions in Lisbon for an annual period of three months, which cannot be prorogued. Sessions shall begin on 25th November of each year, without prejudice to the provisions of articles 75, 76 and 81, N.º 5.

95. The National Assembly shall sit in full session,

and its resolutions shall be taken by majority vote, a majority of the legal number of its members being present.

Sole §. The sessions shall be public, unless otherwise decided by the Assembly or its president.

96. The members of the National Assembly may hear, consult, or request information from any official corporation or station in regard to matters of public administration; public stations, however, may not reply without previous authorisation from the respective Minister, whose sanction may only be lawfully withheld for reasons of State secrecy.

97. The initiative in legislation is vested in the Government, or in any of the members of the National Assembly without distinction, but the members may not present Bills nor propose amendments involving increase of State expenditure or decrease of State revenue.

Sole §. The presentation of Bills shall be subject to the vote of a special commission.

98. Bills passed by the National Assembly shall be sent to the President of the Republic for promulgation as law within the following 15 days.

Sole §. Bills not promulgated within the said period shall be submitted for reconsideration by the National Assembly and, if they are then passed by a two-thirds majority of the legal number of members, the Head of the State may not refuse to promulgate them.

99. Promulgation shall be effected in the following form:

«In the name of the nation, the National Assembly decrees and I promulgate the following law (or resolution)».

Sole §. The following shall be promulgated as resolutions:

(a) The ratifications of decree-laws drawn up in cases of public emergency and need;

(b) The decisions referred to in article 91 (3), (6), (7) and (12).

100. Motions or bills laid before the National Assembly and not discussed in the respective session shall be brought up again in the following sessions of the same Legislature; should they be finally rejected, they may not be brought up again in the same Legislative Session, except when a dissolution of the National Assembly has taken place.

101. The standing orders of the Assembly shall lay down:

(a) The time-limit for speeches;

(b) That the agenda may not be deviated from for any matter without prior notice of the least 24 hours;

(c) The obligation of the speaker to mount the tribune, when speaking on the *agenda*.

CHAPTER V

THE CORPORATIVE CHAMBER

102. Associated with the National Assembly, there shall function a Corporative Chamber composed of representatives of local autonomous bodies and social interests. These shall be regarded according to their essential branches — administrative, moral, cultural and economic — and the law shall designate those bodies on

which such representation is incumbent or the method of their selection and the duration of their mandate.

§ 1. When offices become vacant whose holders have, in that capacity, a seat in the Corporative Chamber, or when such persons become subject the incompatibility contemplated in § 2 of article 85, the respective interests shall be represented by the persons required by law or statute to replace them.

§ 2. Except in the case contemplated in the preceding paragraph, vacancies occurring in the Corporative Chamber shall be filled in the manner in which the persons being replaced were appointed.

§ 3. The provisions of article 89 and its paragraphs shall apply to the members of this Chamber.

103. It shall be the business of the Corporative Chamber to report and give an opinion on all motions or bills and on all international conventions or treaties brought before the National Assembly, prior to the commencement of their discussion by the latter.

§ 1. The opinion shall be given within 30 days or, if the matter concerned is considered by the Government or by the Assembly to be urgent, within such period as the Assembly shall fix, according to whether it is a motion or a bill.

§ 2. Should no opinion have been given on the lapse of the periods referred to in the preceding paragraph, the National Assembly may immediately open discussion on the respective bills or motions.

§ 3. If the Corporative Chamber while advising, on general grounds, the rejection of a bill, shall suggest its replacement by another one, the Government or any of the deputies may adopt the suggested bill, which shall

be discussed jointly with the original one, without further reference to the Corporative Chamber.

104. The Corporative Chamber shall function during the period of the National Assembly's sessions in separate specialist sections; two or more or all the specialist sections may, however, meet together, should the matter under examination so demand it.

§ 1. The President of the Council, the Minister or Under-Secretary of State for Corporations, if any, the appropriate Minister or Ministers their representatives and the Deputy presenting the motion or bill, may take part in the discussions regarding same.

§ 2. The sessions of the Corporative Chamber shall not be public.

105. In the interval between Legislative Sessions, the Government may consult the sections of the Corporative Chamber on Decree-Laws to be published or bills to be presented to the National Assembly; in such cases the Corporative Chamber need not be consulted anew, before the matter is submitted to the National Assembly.

106. The provisions of article 86 and of article 101, (a) and (b), shall apply to the Corporative Chamber, and the faculty conferred by article 96 on the members of the National Assembly shall likewise be admitted in the case of the corresponding sections of the Chamber.

SECTION IV

THE GOVERNMENT

107. The Government shall consist of the President of the Council, who may conduct the affairs of one or more Ministries, and the Ministers.

§ 1. The President of the Council shall be appointed and dismissed at will by the President of the Republic. The Ministers and Under-Secretaries of State, if there be such, shall be appointed by the President of the Republic on the recommendation of the President of the Council, who shall countersign their appointments, and likewise the resignations of retiring Ministers.

§ 2. The functions of the Under-Secretaries of State shall cease on the resignation of the respective Ministers.

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.

109. It shall be the business of the Government:

(1) To countersign the acts of the President of the Republic;

(2) To draw up decree-laws in the exercise of legislative authority or cases of urgency and public need, and to approve under similar circumstances international conventions and treaties;

(3) To draw up decrees, regulations and instructions for the due execution of the laws;

(4) To superintend public administration as a whole, causing the laws and resolutions of the National Assembly to be carried out, exercising supreme control over the acts of administrative bodies and corporations, and executing all measures relating to the appointment, transfer, resignation, retirement, superannuation, dismissal or reinstatement of civil or military officials, subject to the right of appeal of the parties concerned to the competent tribunals.

§ 1. All measures of the President of the Republic and the Government which involve an increase or decrease of revenue or expenditure shall be countersigned by the Minister for Finance.

§ 2. Legislative authorisations may not be utilised more than once, except those which, by virtue of their particular terms, cover repeated applications. Nevertheless, the Government may apportion their use until they are expended.

§ 3. Whenever the Government shall publish decrees-laws, under circumstances of urgency or public necessity, within the Legislative Session, they shall present same to the National Assembly for ratification within the first five sittings following upon publication.

Should the National Assembly not ratify the decree-law, the same shall cease to be valid from the day on which notification to this effect, issued by the President of the Assembly, appears in the *Diário do Govêrno*.

Ratification may be granted with amendments. In this case the decree shall be considered as converted into a bill, without prejudice to its validity, and sent to the Corporative Chamber, unless same has already been consulted.

§ 4. The appointment of Governors of the colonies shall be made by the ministers in council.

§ 5. The appointment, transfer, relieving of duties, retirement, pensioning, demission or reinstatement of the President of the Supreme Court of Justice, of the Procurator General of the Republic, of diplomatic or consular agents and of general or colonial governors, shall take the form of a decree.

110. Ministers may not exercise any other public

duties, or any private employment, in addition to their portfolios.

§ 1. Ministers shall be subject to the remaining prohibitions and provisions of article 90.

§ 2. Members of the National Assembly or of the Corporative Chamber who accept ministerial office shall not forfeit their mandates, but may not sit in their respective Chambers.

111. The Council of Ministers shall meet when its President, or the Head of the State, considers it necessary. When the said President, or the Head of the State, shall think fit, the meeting shall be under the presidency of the latter, and it shall be obligatory for him to preside, when he has to use the powers conferred upon him in article 81 (2), (3), (4), (5), (6) and (8).

112. The Government shall depend exclusively on the confidence of the President of the Republic, and their retention of power shall not depend on the fate suffered by their bills, or on any vote of the National Assembly.

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

Sole §. In the case of matters affecting the higher interests of the country, the President of the Council may appear in the National Assembly to attend to same.

114. Each Minister shall incur political, civil and criminal liability for any acts which he may legalise or execute. Ministers shall be tried by the ordinary tribunals for acts involving civil or criminal liability.

Sole §. Should any Minister be prosecuted for a cri-

minal offence, and the proceedings be in any stage up to and including judgment, the Supreme Court of Justice in full session, the Procurator-General of the Republic being present, shall decide whether the Minister shall be tried immediately, in which case his suspension shall be decided on, or whether the sentence shall be served on the completion of his tenure of office.

115. Criminal liability attaches to the acts of Ministers and Under-Secretaries of State and Government agents which are directed against:

- (1) The political existence of the nation;
- (2) The constitution and the established political system;
- (3) The free exercise of the organs of sovereignty;
- (4) The enjoyment and exercise of political and individual rights;
- (5) The internal security of the country;
- (6) The integrity of the administration;
- (7) The custody and constitutional employment of public monies;
- (8) The law dealing with public accounts.

Sole §. Conviction for any of these crimes involves the loss of office and incapacity to exercise public functions.

SECTION V

THE COURTS

116. The judicial power shall be exercised by ordinary and special courts.

The ordinary courts are:

(1) The Supreme Court of Justice ;
(2) The courts of second instance, in the judicial districts of the mainland and adjacent islands and of the colonies ;

(3) The judicial courts of first instance, in the districts throughout the national territory.

§ 1. The law may allow municipal judges of limited competence in judicial divisions forming part of districts.

§ 2. The office of justice of the peace shall be maintained.

117. The establishment of special courts with exclusive competence to try a certain category of crime or certain categories of crimes, shall not be allowed, unless the crimes are fiscal, social or directed against the safety of the State.

118. The State shall be represented at the courts by :

(1) The Procurator-General of the Republic ;

(2) The Procurator of the Republic, attached to each Court of Appeal ;

(3) The Procurator of the Republic's delegate attached to each court of first instance ;

(4) Legally appointed representatives attached to the special courts.

119. Judges of the ordinary courts shall be appointed for life, and are irremovable ; the conditions of their appointment, promotion, dismissal, suspension, transfer and allocation outside the cadre shall be fixed by law, and they may not accept any other office of profit from the Government, but this shall not prejudice their requisition for permanent or temporary commissions.

120. Judges shall not be held responsible for the judgments pronounced by them, except in cases which the law shall specify.

121. The hearing of the courts shall be public, except in the special cases prescribed by law, and whenever publicity is contrary to order, the interests of the State or good morals.

122. In the execution of their decisions and judgments, the courts shall have the right to the collaboration of other authorities, should they require it.

123. In cases submitted for judgment the courts may not apply laws, decrees or any other ordinances which transgress the provisions of this constitution or violate the principals therein contained.

§ 1. The National Assembly, on its own initiative or on that of the Government, may alone pronounce on the constitutional legality of a rule of law with respect to the competence of the body from which it originated, or the manner of its elaboration, and the said Assembly shall determine the effects of any constitutional illegality, without detriment, however, to the situations created by cases already judged.

§ 2. The exception laid down in the preceding paragraph applies only to legislation issued by organs of sovereignty.

124. Penalties and precautionary measures which aim at the protection of society and, as far as possible, the social rehabilitation of the offender, shall be introduced as a means of preventing and checking crime.

SECTION VI

POLITICAL AND ADMINISTRATIVE DIVISIONS AND LOCAL AUTONOMOUS BODIES

125. The territory of the mainland shall be divided into communes, formed of parishes, and grouped into districts and provinces, the boundaries of all such areas being fixed by law.

§ 1. The communes of Lisbon and Oporto shall be subdivided into wards, and the latter into parishes.

§ 2. The division of the territory of the adjacent islands and its administrative organisation shall be regulated by a special law.

126. The administrative bodies shall be the municipal chambers, parish boards and provincial boards.

127. The administrative life of the local autonomous bodies is subject to inspection by agents of the Government and the resolutions of the relative administrative bodies may be subject to the authorisation or require the approval of other organisations or authorities and be submitted to *referendum*.

128. In order to execute their resolutions, and for other purposes specified in the laws, administrative bodies shall have a president or committees appointed according to the terms of the same laws.

129. The resolutions of the administrative bodies may only be amended or annulled in the cases and in the manner contemplated in the administrative laws.

130. Administrative bodies shall have financial autonomy under conditions to be determined by law but municipal chambers shall be bound to distribute a part

of their revenue among the parishes, for the purpose of rural improvements; such part to be fixed by law.

131. Systems of local taxation shall be drawn up in a manner which shall not prejudice the fiscal organisation, or the finances of the State, or impede the circulation of produce and merchandise between the districts of the country.

132. The administrative bodies may only be dissolved in such cases and in such manner as provided for in administrative laws.

SECTION VII

THE PORTUGUESE COLONIAL EMPIRE

133. The provisions of the Colonial Act shall be regarded as constitutional matter and the Government must publish the Act afresh with the amendments required by the present Constitution.

Complementary provisions

(a) Revision of the Constitution

134. The Constitution shall be revised every ten years, and the National Assembly whose mandate includes the period of revision shall have constituent powers for the said purpose.

§ 1. The revision may be anticipated by five years if this is agreed to by two-thirds of the members of the National Assembly, and, in this case, the new ten-years period shall be counted from the date of the revision so anticipated.

§ 2. No motions or bills for the revision of the constitution may be accepted for discussion unless the proposed amendments are clearly defined.

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

1. Determine that the National Assembly to be elected shall assume constituent powers and revise such parts of the Constitution as are specified in the relative decree;

2. Submit to a national plebiscite the alterations of the Constitution which refer to the legislative function or organs of same, such approved alterations to enter into force as soon as the definitive results of the plebiscite are published in the *Diário do Governo*.

(b) Special and Transitory Provisions

136. A transitional régime shall be adopted for the execution of the sole § of article 53, with such temporary restrictions as are deemed essential.

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

138. The President of the Republic now in office is recognised by this constitution and his term of office shall be seven years, to be counted from the date on which he assumed the presidency.

139. The first National Assembly shall have constituent powers.

140. Laws and decrees with the force of law which

have been or may be published up to the first meeting of the National Assembly shall continue in operation and retain their validity as laws in so far as they contain nothing explicitly or implicitly contrary to the principles contained in the present constitution.

141. The laws and decree-laws referred to in the preceding article may nevertheless be revoked by regulatory decrees in all matters which concern the internal organisation of the services and do not alter the juridical position of private individuals or the statute of civil servants.

Sole §. The restrictions laid down in this article shall not include laws and decree-laws which prescribe that which constitutes legislative matter in them, nor that which is excepted by reason of § 1 of article 70 and article 93.

142. Until the laws required for the execution of the provisions of Chapter VI of Part II have been published, local administration shall continue to be regulated by the legislation in force, including that which concerns the appointment and dismissal of the administrative commissions of local autonomous bodies.

143. The present constitution shall enter into force after being approved by a national plebiscite and as soon as the final verification of the latter is published in the *Diário do Govêrno*.

Published by order of the President of the Council on 5th July 1395, in compliance with Article 7, of Law N.º 1885 of 23th March 1935, with amendment contained in Law N.º 1945 of 21st December 1936.

COLONIAL ACT

COLONIAL ACT (a)

PART I

GENERAL GUARANTEES

1. All those provisions of the Political Constitution of the Republic which, from their nature, do not refer exclusively to the Mother Country, shall be applicable to the colonies, provided that they are compatible with the principles set forth in the following articles.

2. It is the essential attribute of the Portuguese nation to fulfil the historic function of possessing and colonising overseas dominions and of civilising the native populations inhabiting them, as also that of exercising the moral influence ascribed to it by the *Padroado* in the East.

3. The overseas dominions of Portugal are termed colonies and constitute the Portuguese Colonial Empire.

The territory of the Portuguese Colonial Empire is that defined in Nos. (2) to (5) of article 1 of the Constitution.

4. Rights in respect of liberty and the security of person and property are guaranteed to nationals and aliens resident in the colonies, within the terms of the law. Both nationals and aliens may be refused entry into any colony, and both may be expelled in accordance with the regulations if their presence gives rise to se-

(a) Text published in the supplement of the *Diário do Governo* N.º 176, 1st Series of 1st August 1935.

rious inconvenience of domestic or international character. Their only appeal against such decisions is to the Government.

5. The component parts of the Portuguese Colonial Empire stand together in solidarity, with each other and with the Mother Country.

6. The solidarity of the Portuguese Colonial Empire comprises particularly the obligation of contributing in an adequate manner towards securing the aims of all its members and the integrity and defence of the nation.

7. The State shall not alienate in any manner any part of the colonial territories and rights of Portugal, without prejudice to the rectification of frontiers when approved by the National Assembly.

8. In the colonies a foreign government may not acquire any land or building for the housing of consular representation, except after authorisation by the National Assembly and in a place the choice of which is accepted by the Minister for the colony.

9. The following are not permitted:

(1) Concessions of land bordering the sea coast whether inside or outside bays, within a continuous zone of 80 metres beyond the maximum level of high tide;

(2) Concessions of land bordering navigable lakes and rivers open to international navigation, within a continuous zone of 80 metres beyond the normal level of the waters;

(3) Concessions of land within a distance of not less than 100 metres on either side of the area of constructed or projected railway stations;

(4) Other concessions of land which may not be

granted in conformity with the laws at present in force or which may be promulgated.

Sole §. In exceptional cases, when expedient in the interests of the State:

(a) The temporary occupation of plots of land situated within the zones mentioned in (1), (2) and (3) of this article may be permitted, in accordance with the law;

(b) The said plots may be comprised within the area of inhabited places under the terms of the law, with the express approval of Government after consultation with the departments concerned;

(c) Concessions may be granted, in conformity with the law, in respect of plots included within the area of inhabited places, the express approval of the Government after consultation with the department concerned being in this case also an indispensable condition.

10. In areas intended for coastal settlements in the colonies or for their natural expansion, concessions or sub-concessions of land shall be subject to the following regulations:

(1) They may not be granted to aliens without the approval of the Council of Ministers;

(2) They may not be granted to any individuals or companies unless for improvements which they have to make to their urban, industrial or commercial establishments.

§ 1. Private transfers of ownership of lands are not conditional upon previous authorisation on the part of the Government. If however, the transfer is contrary to the terms of (1) and (2) it may be cancelled by simple order of the Governors-General or colonial Go-

vernors published in the *Boletins Oficiais* within six months of the month in which they shall have become acquainted with the fact, without prejudice to cancellation at any time, by ordinary means under the terms of the following paragraph.

§ 2. Rights secured to the State by this and the previous article are imprescriptible.

§ 3. The limits of the areas of coastal settlements and of the areas destined for their natural expansion shall be fixed by measures published in the *Boletim Oficial* of the colony concerned.

11. In future the administration and exploitation of commercial ports in the colonies are reserved to the State. A special law shall regulate the exceptions which are to be allowed in each port in respect of certain establishments or services.

12. The State shall not grant to individual or collective enterprises in any colony:

(1) The exercise of the prerogatives of public administration;

(2) The privilege of establishing or fixing any dues or taxes, even though it be in the name of the State;

(3) The right of possessing lands or mine-prospecting areas with power to grant sub-concessions to other enterprises.

Sole §. In colonies where there at present exist concessions of the nature referred to in this article, the following shall be observed:

(a) They may not be prolonged or renewed either wholly or in part;

(b) The State shall exercise its rights of rescission

or redemption under the terms of the laws or contracts applicable;

(c) The State shall keep in view the complete administrative unification of the colony.

13. Concessions granted by the State, even when they are dependent on foreign capital, shall always be subjected to conditions which ensure nationalisation and other advantages to the economic system of the colony.

Special enactments having the same purpose in view shall regulate this matter.

14. In the application of articles 8, 9, 10, 11 and 12 rights acquired before the present date shall be reserved.

PART II

THE NATIVES

15. The State guarantees the protection and defence of the natives of the colonies, in accordance with the principles of humanity and sovereignty, the provisions of this Part and the international conventions which are at present in force or may come into operation.

The colonial authorities shall prevent and punish in accordance with the law all abuses against the persons and property of natives.

16. The State shall establish public institutions and encourage the creation of private institutions, in both cases Portuguese, to uphold the rights of natives or to render them assistance.

17. The law guarantees to the natives, in the terms stated therein, the ownership and possession of their

lands and crops, and this principle must be respected in all the concessions granted by the State.

18. The labour of natives in the service of the State or in that of administrative bodies shall be remunerated.

19. The following shall be prohibited:

(1) All systems under which the State undertakes to furnish native labourers to any enterprises working for their own economic development;

(2) All systems under which the natives in any territorial area are compelled to furnish labour to the said enterprises for any consideration;

20. The State may only compel natives to labour on public works of general benefit to the community, in occupations the proceeds of which will be enjoyed by them, in execution of judicial decisions of a penal nature or for the fulfilment of fiscal obligations.

21. The system of contracting native labour shall be based on individual liberty and on the right to a fair wage and assistance, the public authorities intervening only for purposes of supervision.

22. Attention shall be paid in the colonies to the stage of evolution of the native people. There shall be special statutes regarding natives which, under the authority of Portuguese public and private law, shall establish for them juridical rules in keeping with their individual, domestic and social usages and customs, provided that these are not incompatible with morality and the dictates of humanity.

23. The State shall ensure in all its overseas territories liberty of conscience and the free exercise of the various religions, subject to the restrictions necessitated by rights and interests of the sovereignty of Portugal,

the maintenance of public order and consonance with international treaties and conventions.

24. Portuguese Catholic missions overseas, being an instrument of civilisation and national influence, and establishments for the training of staffs for service therein and in the Portuguese Padroado, shall possess juridical personality and shall be protected and assisted by the State as educational institutions.

PART III

THE POLITICAL AND ADMINISTRATIVE SYSTEM

25. The colonies shall be governed by special enactments in accordance with the terms of this Part.

26. Administrative decentralisation and financial autonomy are guaranteed to the colonies so far as these are compatible with the Constitution, their stage of development and their own resources, without prejudice to the provisions of article 47.

Sole §. In each of the colonies political unity shall be maintained by the existence of a single capital and a single general or colonial government.

27. The following are within the exclusive competence of the National Assembly, following proposals by the Minister for the Colonies submitted in accordance with article 113 of the Constitution:

- (1) Enactments establishing or altering the form of government of the colonies;
- (2) Enactments which include:
 - (a) The approval of treaties, conventions or agreements with foreign nations;

(b) The authorisation of loans or other contracts which necessitate securities or special guarantees;

(c) A definition of the powers of the Government of the Mother Country and those of the colonial Governments in regard to the area and duration of concessions of land or other concessions which involve exclusive or special privileges.

Sole §. In cases of extreme urgency, the Minister for the Colonies with the affirmative vote of the Council of the Colonial Empire recorded at a session presided over by him, may legislate on the matters mentioned in (1) an in (a) and (b) of (2) of the present article, whenever the National Assembly is not in session or does not decide the matter within the period of 30 days counting from the presentation of the respective bill.

28. Enactments which are not included in the terms of the preceding article shall be within the competence of the Minister for the Colonies or of the Government of the colony, in accordance with the provisions of the enactments referred to in (1) of the foregoing article. The following, however, is laid down:

(1) It is incumbent upon the Minister for the Colonies to establish a colonial military organisation in harmony with the principles of national defence and without prejudice to special requirements;

(2) Agreements or conventions which duly authorised colonial Governments negotiate with other colonies, Portuguese or foreign, shall be subject to the approval of the Minister for the Colonies;

(3) Colonial Governments may not establish or modify regulations relating to matters included in articles 15 to 24 and (1) of this article.

Sole §. The normal legislative rights of the Minister for the Colonies shall only be exercised after consultation with the Council of the Colonial Empire, except in cases of urgency and on other occasions indicated in the law. This Council shall be the superior consultative body in respect of matters of policy and colonial administration and shall fulfil, in legal form, the functions of a Supreme Administrative Tribunal in relation to the Portuguese Colonial Empire.

29. Colonies shall only be governed by colonial Governors-General or Governors, neither of whom may be entrusted, in any way, with powers which under the Colonial Act appertain to the National Assembly, the Government or the Minister for the Colonies, save such limited powers as may be granted to them by rightful authority in connection with certain specified matters in exceptional circumstances.

Sole §. No persons interested in the direction or management of enterprises having their headquarters or economic activities in the respective colony may be appointed Governors.

30. The legislative function of colonial Governors, within the sphere of their competence, shall always be exercised under the supervision of the Mother Country, and as a rule, with the consent of the Government Councils, on which there shall be adequate representation in harmony with the social conditions.

31. Executive functions in each colony shall be undertaken, subject to the supervision of the Minister for the Colonies, by the Governor who in the cases contemplated in the enactments mentioned in (1) of

article 27, is assisted by a consultative body composed of members of the Government Council.

32. Municipal and local administrative institutions shall be represented in the colonies by municipal chambers, municipal commissions and local boards, according to the importance, development and European population of the respective area.

§ 1. The creation or abolition of municipal chambers is an attribute of the Governor of the Colony, with the affirmative vote of the Government Council and the express approval of the Minister for the Colonies.

§ 2. Foreigners habitually resident in a colony for a period of not less than 5 years, who are able to read and write Portuguese, may be members of the municipal chambers or commissions and local boards up to a maximum of one third of their members.

33. It shall be a supreme duty and matter of honour for the Governor, in each of the Portuguese dominions, to uphold the rights of sovereignty of the nation and to promote the welfare of the colony in accordance with the principals laid down in the Colonial Act.

PART IV

ECONOMIC AND FINANCIAL GUARANTEES

34. The Mother Country and the colonies, owing to their moral and political ties, have as the basis of their economic existence a natural community and solidarity which is recognised by law.

35. The economic systems of the colonies shall be established in accordance with the needs of their deve-

lopment, just reciprocity between them and the neighbouring countries and the rights and legitimate requirements of the Mother Country and the Portuguese Colonial Empire.

36. It shall appertain to the Mother Country, without prejudice to the guaranteed decentralisation, to ensure by means of her decisions the requirements of the interests which, under the terms of the foregoing article, must be considered as a whole in the economic systems of the colonies.

37. Each of the colonies possesses juridical personality, with power to acquire, contract and take legal proceedings.

38. Each colony shall have its own assets and liabilities, and it appertains to it to dispose of its revenue and assume responsibility for its expenditure, its acts, contracts and debts within the terms of the law.

39. The moveable and immoveable property in each colony which, the limits of its territory, does not belong to others, the property which the colony may have legally acquired outside of its own territory, the public and private securities which it may at present or in the future possess, the dividends, annuities or interest and shares in profits or of any other nature which may be due to it shall be considered to be the property of the colony.

Sole §. Shares and bonds of concessionary companies belonging to a colony may only be transferred or pledged to the National Treasury or the Caixa Geral de Depósitos, Crédito e Previdência, and the revenues derived from such securities as a result of any financial operation may also only be assigned to the same institutions.

40. Each colony have its separate budget, drawn up

according to a uniform plan and in accordance with the principles laid down in Article 63 of the Constitution.

§ 1. The general budget of a colony requires the express approval of the Minister for the Colonies, and expenditure or revenue not within the terms of legal enactments may not be included therein.

§ 2. When, owing to abnormal circumstances, the budget has been sent to the Ministry of the Colonies later than the period fixed, or when the Minister for the Colonies has not approved it, the budget of the preceding year and the credits sanctioned during that year to meet new permanent charges shall continue provisionally in force from month to month, but only in respect of ordinary expenditure.

§ 3. The action of the Minister for the Colonies in regard to the budget of each colony consists in the verification both of the computation of the revenue and the legality and correctness of the expenditure and in making the necessary corrections. Should a *deficit* exist or there be a risk of one existing the necessary alterations shall be made in the budget to restore equilibrium

41. The enactments referred to in (1) of article 27 shall fix:

(1) The expenditure for account of the colonies and that for account of the Mother Country;

(2) The rules and restrictions to which colonial Governments shall be subject by way of safeguard to their finances.

42. Accountancy in respect of the colonies shall be organised in the same manner as that in respect of the

Mother Country with such modifications as may be indispensable on account of special circumstances.

43. The colonies shall forward their annual accounts to the Minister for the Colonies within the periods fixed by law.

44. The Mother Country shall afford financial assistance to the colonies on provision of the necessary guarantees.

45. The colonies may not contract loans in foreign countries.

Sole §. When it is necessary to have recourse to foreign markets to obtain capital for the Government of a colony, the financial operation shall be concluded on account of the Mother Country exclusively, the colony not assuming any responsibility towards the said markets, but assuming it fully towards the Mother Country, to which the colony shall give the necessary guarantees.

46. The rights of the Treasury of the Mother Country or of the Caixa Geral de Depósitos, Crédito e Previdência in connection with the past or future debts of the colonies are imprescriptible.

47. The financial autonomy of the colonies shall be subject to such occasional restrictions as may be indispensable should a serious situation develop in regard to their finances or to the dangers accruing to the Mother Country as the result of same.

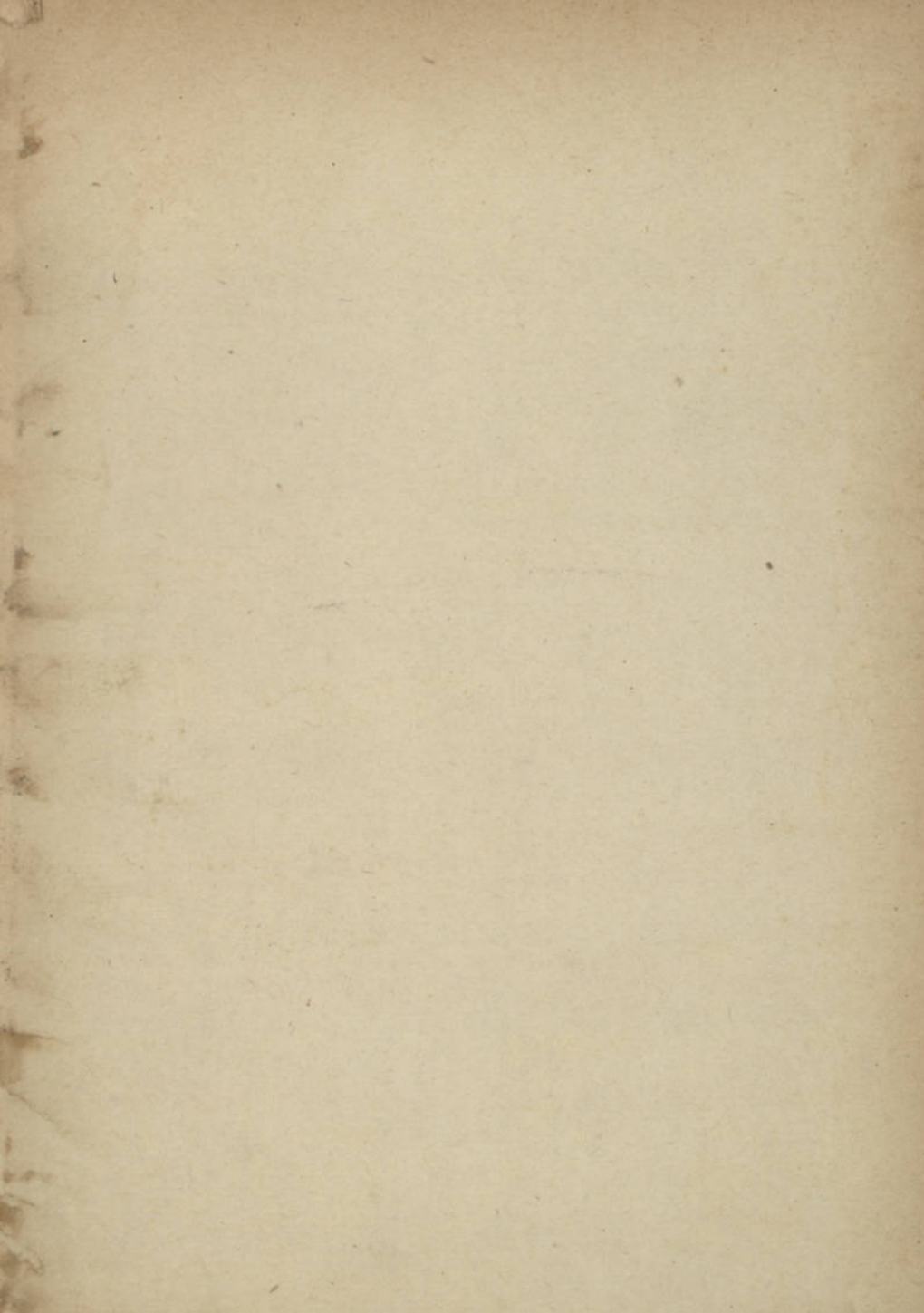
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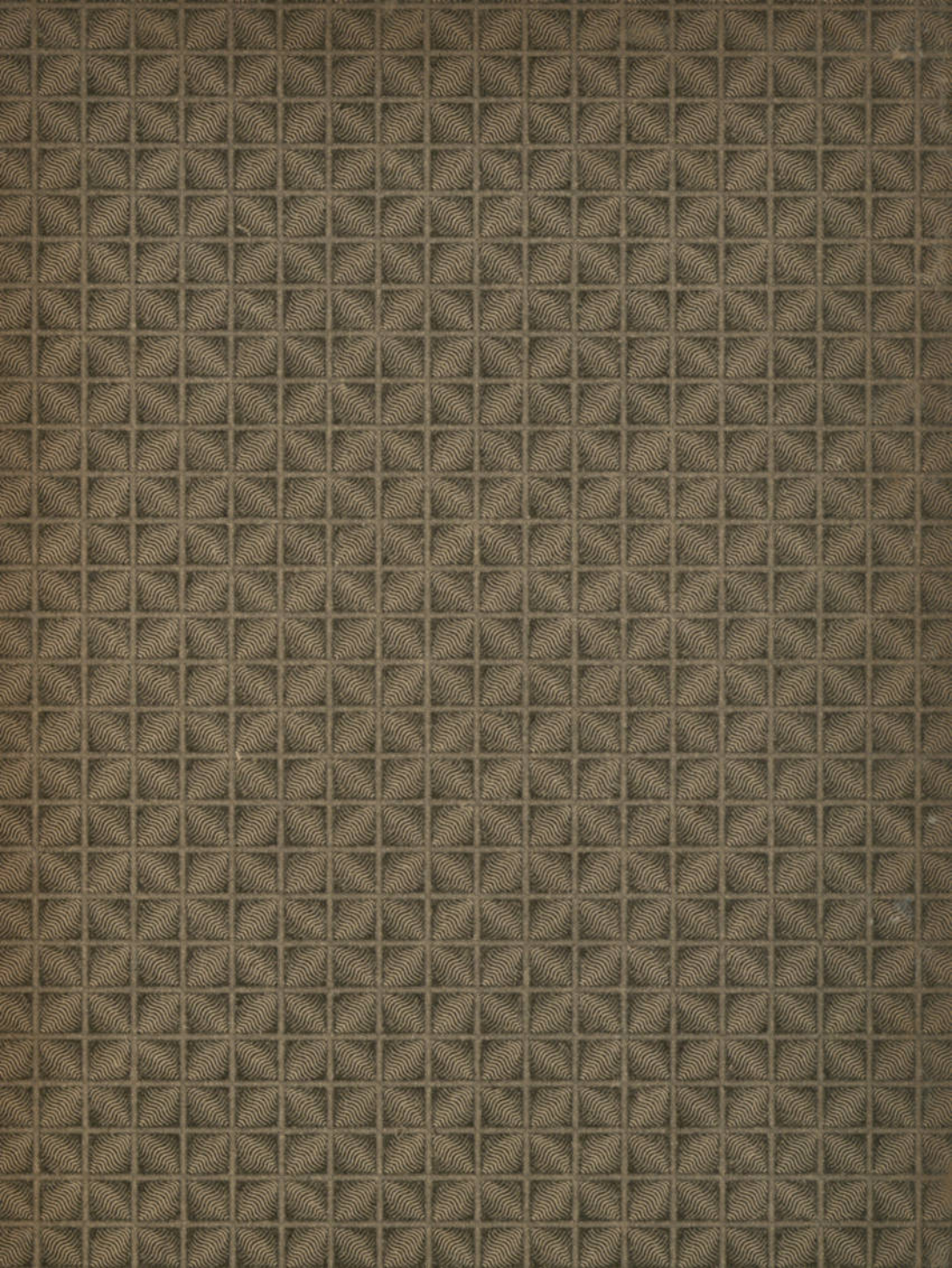
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