

THE SPANISH CONSTITUTION OF 1812
AND THE INFLUENCE OF
THE FRENCH REVOLUTION
THEREON

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Ancien Regime in Spain

Chapter I

A proper perspective of the changes from 1808 to 1813 demands a summary of the ancien regime in Spain up to that time. The prestige gained for Spain by Charles III, the benevolent despot, was speedily dissipated by his weakling son who succeeded him in 1789. Charles IV was a kind, well intentioned man but very stupid and completely under the domination of his wife, Maria Luisa.

The first two ministers, Floridoblanca and Aranda were pushed aside (1792) to give control to Godoy, the Queen's lover. Under his inexperienced and weak guidance, the Spanish foreign policy was sadly mismanaged.

In 1793 Spain entered the coalition against France. After disastrous campaigns, a peace treaty was signed at Basle (1795). Santo Domingo was ceded to France and Godoy was proclaimed Prince of Peace by this treaty. England, annoyed at Spanish defection, siezed ships and carried on contraband trade with the Spanish colonies.

This action drove Spain into the arms of the Directory. In 1796, the treaty of St. Ildefonso was signed, creating an offensive and defensive alliance. Napoleon consistently snubbed Spain and by his hold over Godoy, siezed Parma, a possession of the King's son-in-law.

A second treaty of St. Ildefonso (1800) arranged for the cession of Parma and Tuscany to form the Kingdom of Etruria for the dispossessed son-in-law. In return, Spain handed over Louisiana to Napoleon and placed at his disposal six warships.

The following year, Spain was forced into a war with Portugal to shut out English shipping and influence. At the peace congress of Amiens (1802) Trinidad was taken from Spain, and Minorca given in exchange.

A further humiliation was the sale of Louisiana to the United States by Napoleon without consulting Spain. The alliance cost Spain most of her navy at Trafalgar (1805).

"Public opinion was now so strong against the French alliance that Godoy decided to change sides."¹ He courted an alliance with Austria, Russia and England but the victory of Jena stopped him in his preparations. He hastened to make submission to Napoleon and signed the treaty of Fontainebleau (Nov. 1806). "This provided for the partition of Portugal, the northern third to go to the again-dispossessed Queen of Etruria, the southern part to Godoy as Prince of Algarves, and the center portion to be administered by France and Spain. A contingent of 15,000 Spanish troops were sent to Holstein and Spain was to permit French troops to pass through her country and support them in attacking Portugal."²

1. R. Altamira, Historia de Espana, Barcelona, 1911, vol. 4, p. 93
2. Ibid, p. 93

In August 1807 Napoleon sent an ultimatum to Portugal and followed it by an attack. Lisbon was taken with scarcely a struggle. French troops held most of the strong positions in Spain and more soldiers poured across the Pyrenees.

"With Portugal conquered, Napoleon bluntly told the Queen of Etruria, Charles' daughter, not to expect her kingdom in Northern Portugal."³ Such treatment at the hands of Napoleon aroused the Spanish people against the detested Godoy. By March 1808 his position was undermined, the populace clamouring for Ferdinand, the prince of Asturias, and the kingdom was in the vise-like grip of the French Emperor.

The only method of remedying such a situation was a mob insurrection of the Spanish people to overthrow the minister. There were no legal checks on the king or his ministers. The King had absolute power in Spain. "The kings of the Bourbon house had completed the evolution toward pure absolutism commenced in the previous centuries."⁴ This was unhampered since "loyalty to the sovereign personally was a deeply rooted national tradition."⁵ The policies of Ferdinand and Isabella in crushing the nobles, the flouting of Cortes by Charles I and Phillip II and especially by the Bourbon line later had borne fruit in the absolutism inherited by Charles IV.

The king ruled by decree appending the statement "as

³ R. Altamira, Historia de Espana, Barcelona, 1911, vol. 4, p. 98

⁴ Ibid, p. 140

⁵ M.A.S. Hume, Modern Spain, New York 1900, p. 8

though sanctioned by Cortes." ⁶ "He was assisted by a Council of State of sixteen members, all royal appointees from the clergy and nobility." ⁷ A sort of cabinet comprising the secretaries of War, Foreign Affairs, Grace and Justice, Marine and Finance, responsible to the King carried out royal orders.

"This in turn was often swayed by a camarilla (little chamber) the favorites and associates of the King, a motley assemblage of persons, male and female, lay and ecclesiastical, high and low, bishops and buffoons. The whole executive and judicial magistracy was appointed directly by royal warrant." ⁸

As has been suggested above, the Cortes began to decline after 1523 and retained only a phantom existence. Those of Castille had been summoned six times in the eighteenth century. The last convocation had been in 1789. The heir to the throne was pledged the allegiance of the Cortes, the Salic Law was annulled, and the Cortes dismissed. "Exempt from direct taxation the nobles and clergy had long ceased to attend." ⁹

As punishment for espousing the Austrian cause in the War of Spanish Succession, the Cortes of Aragon, Catalonia and Valencia were abolished (1714). Only Navarre preserved its parliament which shared power with the viceroy of that province.

The Cortes had no control over taxation, were not needed for legislation and even lost the right of petition.

6 R. Altamira, *Historia de Espana*, Barcelona, 1911, v014, p.155

7 Butler Clarke, *Modern Spain*, Cambridge, 1906.

8 *Ibid*, p.4

9 Butler Clarke, *Modern Spain*, Cambridge, 1906, p.4

At the assembly of 1789 this right was denied them although they were free to present petitions as individuals.

In the same fashion the charters and rights of the municipalities were taken from them. The revolting provinces lost their charters when Philip V gained ascendancy. The province of Castille had already been subjected to absolutist administration.

The central power was strengthened by the appointment of corregidores for the cities who exercised the functions of magistrates. These royal appointees and the captains-general took over the local administration and crushed local privileges and charters. Their power was supported by royal courts, audiencias, which usurped the jurisdiction of provincial and local courts. The machinery of taxation was in the hands of the royal appointees.

The colonies were administered by viceroys for the four great vice royalities. The twenty-two provinces were governed by captains-general and audiencias representing the King. Thus in Spain and in its possessions, a bureaucratic system, controlled by the monarch, exercised all the powers of government.

The only institution comparing with the monarchy in power was the Church. Because of the expulsion of heretics of all kinds and the stifling influence of the mighty Inquisition, the Roman Catholic Church was firmly entrenched in Spain. It

possessed broad lands, the income from which, together with tithes, first fruits, seignorial dues and a multitude of other gifts or dues, rendered an annual sum double that of the crown. The clergy were generally exempt from direct taxation. "Ecclesiastical courts claimed jurisdiction in all cases connected even remotely with the interests of the Church."¹⁰ Approximately two per cent of the population claimed benefit of clergy. This included hangers-on at the universities and dependents of the Church or monastic institutions. "There were above 3000 monastic houses in 1797 containing 93,000 persons of whom the majority were not under vows."¹¹ Of the secular clergy, there were about 60,000.

This great number of economically unproductive persons and the tremendous revenues of the Church, were problems attacked with energy by Charles III. His anti-clerical legislation reduced the number of vagrants living on the Church, placed limitation on Papal power, effected the expulsion of the Jesuits, and gained for the Crown a portion of the revenues of the Church, and some influence in appointments.

His policies were not continued by his successor except in individual cases such as the protection of Godoy from the clutches of the Holy Office.

The Inquisition still clung to its powers and policies. Its property amounted to some \$10,000,000. Even Charles III's

10 Butler Clarke, *Modern Spain*, Cambridge, 1906, p.6

11 R.Altamira, *Historia de Espana*, Barcelona, 1911, vol.4, p.240

ministers were summoned before it. Its strength was a tremendous detriment to the advancement of Spain. For "the Church and the Inquisition between them, in their anxiety to shut out the religious schism which troubled other countries, had built a Chinese wall around education which successfully prevented the introduction of scientific advancement or intellectual progress from abroad and had strictly limited the exercise of Spanish genius to works of imagination."¹²

Another great evil was the enormous number of those claiming nobility and their dependents. "This class numbered over 600,000 persons."¹³ The higher nobles with large estates possessed extensive seignorial rights and were exempted from direct taxation. Their number was small in comparison to the large number of hidalgos (gentlemen) with whom Spain was cursed.

In summary, (1) Spain was in a despicable position in foreign affairs; (2) was governed by an absolute monarch, associated by a bureaucratic system; (3) representative government no longer existed in any form; (4) the Church ranked with the monarchy in power and resources and together with the Inquisition suppressed any whisper of dissent and (5) the almost bankrupt nation was burdened with a disproportionate leisured class. Such in brief were conditions in 1808.

12 M.A.S.Hume, Modern Spain, New York, 1900, p.3

13 M.A.S.Hume, Modern Spain, New York, 1900, p.45

Chapter II

The Cortes

Events in the first half of 1808 followed one another with bewildering speed. Godoy was overthrown, Charles IV abdicated the throne and Ferdinand VII succeeded to the Crown within a very few days' action culminating on 19 March. In April all three were on their way to Bayonne to meet Napoleon.

The will of Napoleon for Spain was made manifest in the 2 May uprising in Madrid. By 8 May the royal family had completed its submission to the Emperor and were off to their French estates.

With the expulsion of the Bourbons, their absolutist system collapsed. The proclamation of Joseph as King and his government were never accepted by the vast majority of the Spanish people. In each city and town a Junta for Defense was organized to repel the invader. These sent representatives to provincial Juntas. "During June, Asturias, Galicia, Valencia, Murcia, Badajoz, and Granada had established representative assemblies."¹

Demand for a national assembly arose on all sides. "The Junta of Defense in Seville published a manifesto calling for a convocation of Cortes. It declares, 'The nation must be convinced and persuaded that as soon as we are free...from

1 Butler Clarke, *Modern Spain*, Cambridge, 1906, p.15

the cruel war that the French have imposed upon us and when our King and Lord, Ferdinand VII has been restored, the Cortes shall be assembled by him and under him to reform abuses and to establish laws that time and experience dictate for public welfare and happiness!"²

Representatives of provincial juntas gathered to form the "Supreme Central Junta of Government of the Kingdom" at Aranjuez (25 September). This was a bold beginning since representative government had been practically dead for at least a century.

"Some doctrinaires (in the Junta) wished to revert to the ancient procedure of the Cortes of Castille, some were for the provincial autonomy which formerly existed; others, imbued with the modern ideas of the French Revolution were in favour of imitating the National Convention."³

When the Council of Castille swore loyalty to the Central Junta, they asked "that the Cortes be convoked in accordance with the decree of Ferdinand VII at Bayonne."⁴ A week later, Jovellanos, the distinguished economist and member of the Junta, proposed "the assembling of the Cortes at such a time as the invaders left the country or in any case by October 1810."⁵

This proposition was speedily quashed by the reactionary Count Florida blanca, former minister of Charles III

2 Enciclopedia Universal Ilustrada, Barcelona, vol. 10, p. 335

3 M. A. S. Hume, Modern Spain, New York, 1900, p. 148

4 Enciclopedia, p. 335

5 Ibid, p. 335

and Charles IV and president of the Junta. The approach of French troops forced the Junta to ingloriously quit Aranjuez for Seville.

In the following spring, April 1809, Jovellanos revived his measure for discussion. (Floridablanca was now dead) A member, Valdes, asked that "all branches and institutions of the government be reformed, save the religion and the continuation of Ferdinand as King"⁶ This truly seems to be the forerunner of the work of the Cortes.

On 9 May, the Junta decreed the establishment of a national Cortes and their assembly in the following year (May 1810). "This summons to Parliament (without royal sanction) might well be considered an innovation but much more so, and without historical precedent was the extension of the summons to the colonies to participate in the national Parliament was a gesture to win back their financial and moral support, fast slipping away because of the incompetency of the Junta.

Of the Junta, Hume's estimate seems justifiable, "The members originally elected by the Provincial Juntas were mainly the creatures of chance... and had assumed powers and titles (also salaries and full dress uniforms) which were never for a moment contemplated by their constituent bodies. The country was in a state of division and anarchy, mostly occupied by foreign armies and the people were practically new to really rep-

⁶ Enciclopedia Universal Ilustrada, Barcelona, vol.10,p.335

representative institutions.....What the country needed was not yet a strong legislative power but a really honest able and powerful executive, which the Junta was not; for its constitution was accidental, its majority reactionary but weak and many of its members vicious, treacherous, or corrupt."⁸

Again the Junta had to flee for dear life, this time to Cadiz, protected by the English and Spanish fleets. By the first part of 1810, this committee was so discredited that it resigned its powers to a Regency of five members (31 January).

Before resignation, the Junta decreed (1 January) the convocation of Cortes for 10 May. The three customary estates were to meet in a two-chambered parliament, one popular chamber and the other dignitary (de dignidades). For the provinces occupied by the French and for the distant colonies, substitute representatives were to be elected.

The Regency coming into power was not anxious to try an experiment in legislative bodies at so critical a time. Furthermore they feared liberal tendencies in such an assembly. So they postponed its date of opening in spite of the protests of the Provincial Juntas.

However the liberals, crowded together with the Regency in Cadiz by the besieging French armies, forced the hand of the Regents. "The liberals were able to bring to bear upon it an amount of pressure quite out of proportion to their num-

⁸ Hume, p. 161

bers and importance in the country!"⁹

The Regents set the opening of Cortes for August. The plan of a two-chambered parliament was altered to a single chambered body, elected indirectly. The suffrage was extended to all property holders above twenty-five years of age. These men were to elect, in parish juntas, representatives for district juntas. These in turn elected provincial representatives who were to assemble to choose deputies. Every fifty thousand souls were to have one deputy.

The plan of the colonial representation was designed to exclude participation of Indians and negroes. The town councils (ayuntamientos) sent representatives to provincial juntas to select one deputy for each province.

Such a system however much it might tend toward the conservatism desired by the Regency was decidedly impractical.

"In Spain not only was the vast majority of the inhabitants ignorant of the nature of a vote, but the civil power was in abeyance and three-fourths of the land was occupied by the invader. The election therefore was managed by a few enthusiasts and a large number of busybodies who without going outside Cadiz, elected themselves....It was decided that at first, the places of the missing deputies should be occupied by natives of the otherwise unrepresented constituencies who chanced to be present in Cadiz!"¹⁰

"Thus the number of substitutes for the colonies was thirty, for Spain, twenty-three!"¹¹ In view of the fact that the Cortes opened with a membership of about one hundred deputies,

9 Clarke, p.19

10 Clarke, p.19

11 Hume, p.167; Enciclopedia, p.335

this majority of substitutes is a tremendously important factor in evaluating the early work of that body.

The delegates "were for the most part lawyers and literary men who had received such enlightenment as they possessed, though French culture and were vaguely imbued with the theories which had produced the earlier French Revolution."¹²

That French ideas had influenced Spanish thought is made evident by the following information gleaned from Altamira, Historia de Espana. "The works of Voltaire, Rousseau, Helvetis, Mirabeau, and Quesnay representing French thought, those of Hobbes, Locke, Hume, Tucker, and Josiah Child of English origin, and those of Galiani Filanguri along with other Italians, all liberal, encyclopedist or revolutionary were frequent in the libraries of Spanish individuals." 13

"There was a nucleus of reformish ideas at the University of Salamanca where many of the Liberals of the Cortes of Cadiz were educated. The study of Natural Law using the texts of Grotius, Puffendorf, Montesquieu, Rousseau, etc. was fostered there. The encyclopedist paper El Seminario was published there." 14

French agents were sent to Spain during the revolution and were well received in the seaboard cities and border provinces. Professors and master artisans of other nations brought in Revolutionary ideas. Secret revolutionary societies, a sort of free masonry were formed.

The Inquisition repeated its edicts against the introduction of forbidden books and published a long index of them.

- 12 Hume, p.167
 13 Altamira, pp.148-149
 14 Ibid,p.149

(1790) "The Abbot Marchena, a Jacobin of Spanish origin directed committees for the diffusion of French propaganda in Spain and published a manifesto (1792) calling for a meeting of the Cortes, a federal republic and the abolition of the Holy Office."¹⁵

A plot to start a revolution in Spain was uncovered and the leader Picomell was exiled to the colonies. There he wrote the Rights of Man and of the Citizens which was read widely in the colonies and smuggled into Spain."¹⁶

Godoy writes in 1793, "The middle class and better educated group, professors of science, students and some notable persons are adherents to these new ideas."¹⁷ This group was a small minority in northern Spain, along the seaboard and in the universities. "It planted the seeds which soon in the Cortes of Cadiz was to bear fruit of a radicalism that no one had dared to express in the eighteenth century."¹⁸

These deputies, some one hundred strong, gathered for the opening session on the Isla de Leon, 24 September 1810. High Mass was celebrated by Cardinal Don Luis de Borbon. Diego Munoz Torrero (later president of Constitutional Commission) submitted on the first day, the following propositions which were approved. They give a foretaste of the tone of the Cortes and Constitution.

- 15 Altamira, p.151
- 16 Ibid, p.151
- 17 Ibid, p.152, quoted from Godoy, Memoirs.
- 18 Ibid, p.153

" 1. National sovereignty resides in these legitimately constituted Cortes.

2. Ferdinand VII is proclaimed rightful King. No candidate of Bonaparte may rule because he has not the consent of the nation.

3. Of the legislative, executive and judicial powers, the Cortes exercise only the first.

4. Persons chosen to administer during Ferdinand's absence are responsible for their administration. They must take an oath to recognize the Cortes as representative of the sovereignty of the nation, obey its decrees, laws and the Constitution it will create, defend the Apostolic Roman Catholic religion and the monarchy, and to work for the reestablishment of Ferdinand on the throne.

5. To confirm all courts and tribunals and civil and military authorities.

6. Freedom of speech in the Cortes and immunity from arrest are guaranteed. " 19

An inspection of these propositions together with the Constitution later promulgated, will show that here are some of the cardinal positions of the Cortes; defense of the Roman Catholic religion and the kingship of Ferdinand; in rather striking contrast the ideas of national sovereignty in a popular legislative assembly, the division of power, protection of deputies and the theory of social contract.

In fact these two tendencies, (1) the conservative retention of monarchy and the religion of the Roman Catholic Church and (2) the application of the principles of the French Revolution underlie all the legislation of the Cortes and the Constitution.

Before a month had elapsed there was a sharp division of delegates into parties. Such unity as the Cortes had possessed at their inception, was destroyed on the question of

freedom of the press. On 19 October censorship was relaxed for all secular books. Books on religious subjects were left to episcopal censorship. The measure was carried by a vote of seventy to thirty-two. The "ayes" comprised the "liberals" or progressive party "adherents of the reforms and ideas of the French Revolution". The leaders of the party were Arguelles, Nicasio Gallego, Munoz Torrero, Toseno, Perez de Castro, Capmany, Calatrava, Golfín Garcia Herreros, Lujan, Diaz Canejo, Ruiz Padron, Antillon, Espiga, Villanneva, Porcel y Aguirre²⁰ Incidentally Butler Clarke points out that "during this controversy was heard for the first time the now universal word 'liberal' (from liber ?)"²¹

The conservative group was dubbed "serviles" "whose views were still limited by the formula 'Church and King' "²² Their "spokesmen were Iguanzo, Valiente, Gutierrez de la Huerta, Creux, Morales Gallego, Aner y Canedo"²³

An American faction "watching out for the interests of the colonials.....and demanding absolute equality with the European Spaniards"²⁴ soon came into being. Their "most notable representatives were Larrazabal, Duarez, Leira, Morales, Gutierrez de Teran, Arispe, Gordoa, Castillo, Alcocer y Felice"²⁵

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- 20 Enciclopedia, p.336
 - 21 Clarke, p.21
 - 22 Ibid, p.21
 - 23 Enciclopedia, p.336
 - 24 Ibid, p.336
 - 25 Ibid, p.336

The conservative Regents refused to sanction the acts of Cortes and resigned on 27 October. They were replaced by a new Regency responsible to the Cortes.

For the rest of the year they tried to establish their sovereign right and to raise armies and money. Nomination to ecclesiastical prebends was suspended as a measure of economy, salaries were scaled down and those unjustly imprisoned were released, (1 December). On 23 December a commission for the preparation of a constitution was elected. It comprised fourteen deputies, six of whom were ecclesiastics. Their names are given at the end of the constitution. It is interesting to notice that three are outstanding Liberals, one a Conservative leader and another an American leader. The political complexion of the majority of the others was probably Liberal.

The probability of Ferdinand's marriage to a Bonaparte princess caused the Cortes to decree (1 January 1811) that "the King could not marry without the consent and approval of the Cortes and that any agreements made by the King in captivity were null."²⁶

The first part of 1811 was devoted to the task of meeting the tremendous cost of warfare. The Secretary of Finance, Canza Arguelles presented a fiscal estimate showing

that the national debt had risen to a point where national credit could no longer be secured. "The expenditures were L12,000,000 per annum, the income about one fifth of that sum or L2,500,000."²⁷ The deficit was supplied by the Confiscation of property of the French and Afrancesados, by taxes on church plate and the establishment of lotteries."²⁸ "The sympathies of the Church and the rich were alienated by a high war tax on property...and appropriation of the income of vacant benefices."²⁹ Few, however, could afford to buy and were not anxious, furthermore, to gain control of property under so unstable a government.

Torture was abolished on 22 April, 1811. In August manors (senoriss) were abolished. In 18 August the reading and discussion of the Constitution began. This engrossed most of the attention of the deputies until 23 January 1812. The articles were read and debated upon separately. Voting on each article was carried on by roll-call, each deputy indicating approval or disapproval orally.

The Constitution was promulgated on 19 March, the fourth anniversary of the overthrow of Godoy, amidst popular rejoicing: "The mobs ran through the streets (of Cadiz) singing patriotic songs, preceeded by bands of music, indifferent to the French shells that fell among the population."³⁰

- 27 Clarke, p.22
- 28 Enciclopedia, p.337
- 29 Clarke, p.22
- 30 Enciclopedia, p.337

The membership of the Cortes at the time of promulgation was as follows: "from Spain, one hundred twenty seven regular deputies and nineteen substitutes and from the colonies twenty eight regular deputies and twenty six substitutes, a (total of two hundred deputies). The representation was unfairly apportioned. Some glaring cases are: "Navarre with a population of 270,000 had one deputy, Biscay with 130,000 and Slava with 85,000 each had one deputy. However the mountains of Ronda sent two."³¹

"Galicia sent twenty-three members and Cataluna twenty while Madrid was represented by one substitute only, and the Kingdom of Leon by six. The kingdom of Navarre with a population of 270,000 sent one deputy while Valencia with 1,000,000 sent nineteen."³²

One hundred eighty-four deputies signed the Constitution. These and the Regents and such military and civil officers as were in Cadiz swore fidelity to the Constitution in the presence of the Papal Nuncio and the British and Portugese Ambassadors.

The Cortes continued their labors on legislation for the cultivation of waste lands and the establishment of a special court for the army and navy. They set about to the institution of provincial and town governments in accordance with the constitution.

31 H. Walton, Revolutions in Spain 1803-1838, London, 1838, p.19
32 Ibid, p.19

On 14 October the voto de Santiago, an annual voluntary gift of the "best bread and best wine" to the clergy, was abolished. Two months later (3 December, 1812) the clerical party was even more alienated by the abolition of the Inquisition. The propositions are:

1. The Apostolic Roman Catholic religion shall be protected by laws in conformity with the Constitution.
2. The Tribunal of the Inquisition is incompatible with the Constitution and is hereby abolished and its property confiscated." 33

This step, previously taken by Napoleon on 4 December 1808 was bitterly opposed by the Serviles. The measure was carried by a vote of ninety to sixty. As a compromise a bill was passed to "prohibit all kinds of writing contrary to the dogma and discipline of the Church."³⁴

Anti-clerical legislation was carried on in the next year also. Behind these measures we see strong economic motives: The Church possessed most of the wealth of Spain. The bills provided chiefly for the stoppage of funds being given to the Church and for the reduction of economic unproductivity in monastic institutions. Measures were passed (8 February 1813) "permitting the reestablishment of conventsno ruined by the war; forbidding alms seeking to restore ruined convents; prohibiting of monastic institutions housing less than twelve individuals and prohibiting two convents of the same order in the same town." 35

The Regents, who disapproved of this measure were replaced by more liberal men. The vicar and three canons of Ca-

33 Enciclopedia, p. 338

34 Ibid, p. 338

35 Ibid, p. 338

diz were expelled for their opposition. Finally the Nuncio as the instigator of the Cadiz clergy in opposition was exiled from the country, taking refuge in Portugal.

The legislation of the year 1813 until the dissolution of the Cortes on 14 September may be summarized as follows: Enclosure of open fields was permitted; (under the ancien regime, this was prohibited in order to encourage raising of sheep) substituted the gallows for the garrote (a method of strangling) as capital punishment; abolished whipping; established the right of intellectual property during the life of the author and for the following ten years; founded a School of Agriculture and simplified the fiscal arrangements of the government.

In addition on 6 June they abolished all vassalage. Much time was devoted to plans for reconciling the colonies which were asserting their independence.

The Serviles presented a proposition that the Cortes should dissolve on 14 September and that regular Cortes should be elected. This was carried out and the newly liberated northern provinces sent back a strongly conservative representation.

Little was accomplished in these second Cortes, convened 1 October 1813, except that the general command of all the armies was handed over to Wellington. The Cortes were prorogued 29 November to meet again on 14 January in Madrid.

In the meantime, Ferdinand had obtained his freedom by the Treaty of Valencay (December 1813). The Cortes prescribed the route for the King and he was to be obliged to subscribe to the oath of the Constitution in Cortes.

When Ferdinand entered Spain (22 March 1814) he had not committed himself on the Constitution. As he saw the enthusiastic receptions given him by loyal subjects and after he had received a pledge from the military chieftains, he disregarded the Cortes.

Finally on 10 May the prominent Liberals in the Cortes and Madrid were siezed and imprisoned by a frantically loyal mob. Ferdinand brushed aside the past six years and reaction of the darkest order set in.

"The restored King with hardly an effort, by help of the clergy and the mob, overthrew the democracy that had saved his throne."³⁶ For "Ferdinand, the exiled prince, had become the symbol of the national ideal, the name round which patriotic, loyal, and religious feelings were grouped."³⁷

The Constitution, though thus swept away, "demands examination because of the disastrous attempt to realise its dreams in 1820, and because it is the prototype of a long series of somewhat similar constitutions."³⁸

36 Clarke, p.31

37 Ibid, p.32

38 Ibid, p.23

Chapter III

French Influence upon the Spanish Constitution of 1812

It would be exceeding difficult to determine exactly the influence of the French Revolution upon the Cortes of 1810-1813. Evidences of the spread of the principles and doctrines of that Revolution have been advanced in the preceding chapter. A close examination of the Spanish Constitution and the three French Constitutions of 1791, 1793, and 1795 will show striking similarities, both in underlying principles and governmental organization. The following objective study is designed to bring forward some of the similarities as proof of French influences.

In both France and Spain, the absolute ruler was limited by constitutional checks (Art.14 and C.91,T III,4) The monarchs, in promulgating laws, appended "and by the constitution, King" to the usual "by the Grace of God" (Art. 155 and C91, T III,Ch.IV.,Sect.I,3). Even their titles were specified (Art. 169 and C.91,T III,Ch.II,Sect.I,2).

The executive power was placed in the hands of the king (Art.16 and C.91, T. III,4). This power was delegated to the monarch to maintain internal public order and to protect national security abroad (Art. 170 and C.91, T. III,Ch.III,1) To enable the kings of both nations to perform these functions the following common powers were assigned:

1. The command of the army and navy (Art.171,7 and

- C.91, T. III, Ch. IV, 1)
2. The distribution of these forces (Art. 171, 8 and C.91, T. III, Ch. IV, 1)
 3. The appointment and direction of ambassadors and "other agents of political negotiation" (Art. 171, 9 and C.91, T. III, Ch. IV, 2)
 4. The supervision of the coining of monies on which his image is stamped (Art. 171, 10 and C.91, T. III, Ch. IV, 2)
 5. The supervision of the disbursement of national funds (Art. 171, 11 and C.91, T. V, 5)
 6. The suggestion of legislation to the legislative body (Art. 171, 13 and C.91, T. III, Ch. III, Sect. IV, 1)
 7. The free choice and dismissal of ministers (Art. 171, 14 and C.91, T. III, Ch. II, Sect. IV, 1)

The monarch's relation to the legislative body was similarly limited in the two nations:

1. The King opened the sessions of the legislative body (Art. 121 and C.91, T. III, Ch. III, Sect. IV, 1)
2. He was not to be accompanied by a military guard in the legislative chamber (Art. 122 and C.91, T. III, Ch. III, Sect. IV, 6)
3. The legislative body was not permitted to deliberate in his presence (Art. 124 and C.91, T. III, Ch. III, Sect. IV, 8)
4. The ministers were permitted to speak in the leg-

- islative body (Art.125 and C.91,T.III,Ch.III, Sect.IV,10)
5. Bills passed by the legislative body were subject to royal veto (Art.142 and C.91,T.III,Ch.III,Sect.IV,1
 6. The formulae for sanction or veto were stipulated (Arts.143 and 144 and C.91,T.III,Ch.III,Sect.III,3)
 7. A time limit was given for sanction or veto (Art.145 and C.91, T.III,Ch.III,Sect.III,4)
 8. A vetoed bill could not be reintroduced until the next session (Art.146 and C.91, T.III,Ch.III,Sect.III,5)
 9. A copy of each bill was preserved in both royal and legislative archives (Art.146 and C.91,T.III,Ch.IV,Sect.I,2)
 10. The King promulgated laws according to a constitutional formula. (Arts.154 and 155 and C.91, T.III,Ch.IV,Sect.III,1 and 3)
 11. The King took the constitutional coronation oath before the legislative body (Art.173 and C.91, T.III,Ch.II,Sect.I,4)
 12. The person of the King was sacred and inviolable (Art.168 and C.91,T.III,Ch.II,Sect.I,2)
 13. The King could not dissolve the legislative body (Art.172 and C.91, T.III,Ch.I,5)

The makers of the constitutions of 1791 and 1812 were not content to check the official position of the King; they also regulated his personal and dynastic affairs.

1. They established the age of majority for the King (Art.185 and C.91,T.III,Ch.II,Sect.II,1)
2. The legislative body could judge the moral or physical incapacity of the King and set up a Regency. (Arts.186 and 187 and C.91,T.III,Ch.II,Sect.II,18)
3. The title of the heir apparent was decided (Art. 201 and C.91,T.III,Ch.II,Sect.III,1)
4. The rank of prince was limited to members of the royal family (Art.204 and C.91,T.III,Ch.II, Sect.III,6)
5. The heir appraent could not leave without consent of the legislative body and if he left without it, he could be barred from the succession. (Art.206 and C.91,T.III,Ch.II,Sect.IV,1)
6. The King was granted a civil list by the legislative body, the amount not to be changed during his reign (Arts.213,220, and C.91,T.III,Ch.II, Sect.I,10)
7. The birth, marriage, and death certificates of the members of the royal family were deposited in the archives of the legislative body (Art. 209 and C.91,T.III,Ch.II,Sect.III,7)

8. The income of the younger sons of the King was fixed by the legislative body (Art.217 and C.91, T. III, Ch. II, Sect. III, 3)
9. The oath for Regency contained vows, to be faithful to the King, to maintain the Constitution and to cause the laws to be executed. (Art.196 and C.91, T. III, Ch. II, Sect. II, 11)
10. The education of the minor King was governed by laws of the legislative body. (Art.199 and C.91, T. III, Ch. II, Sect. III, 4)
11. The legislative body determined the salary or salaries of the Regent or Regency.

The legislative body was made the dominating partner in governing each kingdom. The power of making laws resided in the legislative body with the sanction of the King (Art.12 and C.91, T. III, 3) It was a one chambered assembly popularly elected. (Art.27 and C.91, T. III, 3) The deputies represented constituencies, divided numerically. (Art.31 and C.Y.I, 22) In this case the Spanish followed the plan of the second French constitution.

The Spanish election system, far more complicated than the French, possesses some resemblances to the latter:

1. Primary assemblies were held every two years to choose electors in proportion to population (Art. 34 and C.91, T. III, Ch. I, Sect. II, 1)
2. These assemblies comprised all citizens resident in that parish or canton (Art.35 and C.Y.I, 11)

3. Assemblies were constituted by the selection of officers (Art.48 and C.Y.III,21)
4. The right of judgement of qualifications of members was confined to the assembly alone (Art.50 and C.91,Ch.I,Sect.IV,5)
5. No one could enter bearing arms (Art.56 and C.91,T.III,Ch.I,Sect.IV,2)
6. The functions of the assembly were limited to election (Art.57 and C.91,T.III,Ch.I,Sect.IV,1)
7. All active citizens were eligible for election as deputies (Art.91 and C.91,T.III,Ch.I,Sect.III,3)
8. No royal appointee could be eligible for deputyship while holding his appointment (Arts.95,97 and C.91,T.III,Ch.I,Sect.III,4)

Some of the general regulations for the legislative body were almost identical.

1. The term of deputyship was two years (Art.108 and C.91,T.III,Ch.I,2)
2. The deliberations were public (Art.126 and C.91,T.III,Ch.III,Sect.II,1)
3. Freedom of speech in assembly was guaranteed (Art.128 and C.91,T.III,Ch.I,Sect.V,7)
4. Deputies could not receive royal appointments, gifts, pensions, honors or promotions. (Art.129 and C.91,T.III,Ch.II,Sect.IV,2)

The powers of the legislative branch in each country included the following:

1. To propose and decree laws (Art.131,1 and C.91,T. III,Ch.III,Sect.I,1)
2. To have custody of the minor King (Art.131,6 and C.91,T.III,Ch.II,Sect.II,17)
3. To ratify treaties of alliance and commercial agreements (Art.131,7 and C.91,T.III,Ch.III, Sect.I,3)
4. To permit or forbid the admission of foreign troops in the kingdom (Art.131,8 and C.91,T.III, Ch.III,Sect.I,7)
5. To decree the creation or suppression of public offices (Art.131,9 and C.91,T.III,Ch.III,Sect. I,5)
6. To fix annually at the proposal of the King the military and naval forces (Art.131,10, and C.91 T.III,Ch.III,Sect.I,2)
7. To fix public expenditures (Art.131,12 and C.91, T.III,Ch.III,Sect.I,2)
8. To establish public taxes and apportion them among the provinces or departments (Art.131,13, and 15, and C.91,T.III,Ch.III,Sect.I,3 and4)
9. To determine the administration and alienation of public lands (Art.131,18 and C.91,T.III,Ch.III, Sect.I,9)
10. To determine the weight, type, value and denom-

ination of monies (Art.131,19 and C.91,T.III, Ch.III,Sect.I,6)

11. To supervise public instruction (Art.131,22, and C.Y.I,54)
12. To make effective the responsibility of ministers and other executive officials (Art.131, 25 and C.91,T.III,Ch.III,Sect.I,10)
13. To regulate the number and forms of the tribunals (Art.270 and C.91,T.III,Ch.V,8)
14. To pass on the accounts of expenditures submitted by the ministers (Art.349 and C.91,T.V, 3 and C.Y.I.,106)

Checks on the executive power and ministerial responsibility were established in both France and Spain.

1. Royal orders had to be countersigned by the proper ministers before the orders could be executed. (Art.224 and C.91,T.III,Ch.II,Sect.IV,4)
2. The ministers were responsible for authorization of orders contrary to the Constitution and laws. The excuse of royal command could not shield a minister (Art.225 and C.91,T.III,Ch.II,Sect.IV, 5 and 6)
3. Estimates of annual expenditures were presented by the ministry to the legislative body (Art.226 and C.91,T.III,Ch.II,Sect.IV,7)
4. The national funds were deposited in a national

treasury (Art.343 and C.Y.I.,102)

5. Detailed accounts of annual expenditures prepared and signed by the ministry were submitted to the legislative body (Art.349 and C.91,IV,3)

In the judicial division of the governments there were also correlations.

1. The power of interpreting law was resident in the courts (Art.17 and C.91,T.III,5)
2. Neither King nor legislative body could exercise judicial powers (Art.242 and C.91,T.III,Ch.V,1)
3. The tribunals could not interfere with exercise of the legislative or executive powers. (Art. 245 and C.91,T.III,Ch.V,3)
4. The military were subject to their own courts (Art.249 and C.91,T.IV,13)
5. Judges could not be removed nor suspended except by accusation legally constituted (Art. 251 and C.91,Ch.V,9)
6. Court proceedings were public (Art.300 and C. 91,Ch.V,9)

Civil rights were constitutionally guaranteed to protect the citizen from arbitrary action of the government.

1. No citizen could be tried in a court other than stipulated by law. (Art.246 and C.91,T.III,Ch. V,4)
2. No distinction of persons could be made in civil

- and criminal cases (Art.247 and C.91,T.I,3)
3. The right of termination of civil suits by arbitration could not be denied (Art. 278 and C.91,T.III,Ch.V,5)
 4. The decision of arbitrators was final, unless the right to appeal was reserved (Art.279 and C.Y.I,37)
 5. No one could be put under arrest except in virtue of a warrant of arrest (Art.285 and C.Y.III,T.VIII,222)
 6. Resistance to orders of police officials was criminal (Art.286 and C.91,Rights of Man,7)
 7. Every person arrested must be examined within twenty-four hours after arrest (Art.288 and C.91,T.III,Ch.V,11)
 8. In any case where bail may be offered, if the prisoner offers it, he may not be detained in prison. (Art.294 and C.91,T.III,Ch.V,12)
 9. Inviolability of private property and just indemnity in case of condemnation were guaranteed. (Art.172,10 and C.Y.III,358)

The regulations for naturalization, qualifications for citizenship and the loss thereof indicated a strong French influence.

1. Citizens were those (1) who were born and resi-

dent in the kingdom (Art.6,1 and C.91,T.II,2); (2) foreign born who resided in the kingdom and had married a native woman or acquired real estate or had formed a commercial or industrial establishment (Arts. 6,3, and 20 and C.91,T.II 2 and 3). This applied only to freemen in Spain.

2. Only citizens could hold office and vote (Art. 23 and C.Y.III,T.II,11)
3. Citizenship was lost (1) by naturalization in a foreign country (Art.24 and C.91,T.II,6); (2) by degrading punishment until the citizen is rehabilitated. (Art.24 and C.91,T.II,6).
4. Citizenship was suspended (1) by a court decision of moral or physical incapacity (Art.25,1 and C.Y.III,T.II,11); (2) by condition of bankruptcy (Art.25,2 and C.91,T.II,6); (3) by condition of domestic service (Art.25,3 and C.91,T.III, Sect.II,2); (4) by condition of accusation (Art. 25,5 and C.Y.III,T.II,12)
5. The test of literacy was to be applied after a certain number of years (Art.25,6 and C.Y.III, T.II,16)
6. The colonies were raised to the same legal standing as provinces or departments of the mother country (Art.11 and C.Y.III,T.I,6)

The influence of French Revolutionary principles is very clear in the ideology of the Spanish Constitution. Some of the more obvious principles are given below:

"Sovereignty resides essentially in the nation and therefore the right of establishing its laws and adopting the most suitable form of government belongs to it exclusively," (Art.3) may well be coupled with, "The source of all sovereignty is essentially in the nation; no body, no individual can exercise authority that does not proceed from it in plain terms." (C.91, Rights of Man,2)

Again, "The aim of government is the well being of the nation since the end of all society is the welfare of the individuals who compose it," (Art.4) resembles strongly, "The aim of every political association is the preservation of the natural and imprescriptible rights of man. These rights are liberty, property, security and resistance to oppression," (C.91, Rights of Man,2)

Another example is, "The nation is bound to guard and protect by wise and just laws the civil liberty, the property and the other legitimate rights of all the individuals who compose it," (Art.5) compared to "The social guarantee consists in the action of all to secure to each the enjoyment and maintenance of his rights (C.Y.I, Rights of Man,23)

Idealism is unrestrained in "Love of country is one of the principal obligations of all Spaniards and likewise justice and kindness," (Art.7) and in "Do continually for others that which you wish to receive from them" (C.Y.III, Duties,2)

The vows to the nation are similar, "It is the duty of every Spaniard to be faithful to the constitution, to obey the laws and to respect established authorities" (Art.8) and "The civic oath is: I swear to be faithful to the nation, the law and the King and to maintain with all my power the constitution of the kingdom." (C.91, T. II,5)

Contribution to national expenses in proportion to property was enjoined on citizens of both lands (Art.9 and C.91, Rights of Man, 12). Citizens must also bear arms for the nation when summoned by law (Art.10 and C.Y.III, Duties,9)

Freedom to write, print, and publish political ideas without censorship was stipulated (Art.369 and C.91, Rights of Man,3). Of course freedom of press in France was not limited to political ideas. The Spanish restriction protected religious censorship.

The right of petition was granted in both countries (Art.317 and C.91, Rights of Man,3)

In addition to these classifications, there are scattered examples of similarity which demand attention. Local administrators were elected by the citizens of the municipalities (Art.310 and C.91, T.III, Ch.IV, Sect.II,2). These administrators were charged with the apportionment of direct taxes and the care of municipal funds (Art.333,1 and 2 and C.91, T.III, Ch.IV, Sect. II,4)

A permanent military force was established (Art.354 and C.Y.I,108) Primary schools were established for instruction in reading, writing, and counting (Art.364 and C.9, T.I, 3, and C.Y.III, T.X,296)

Finally, the Constitutions could not be altered by the next two legislatures (Art.373 and C.91, T.VII,3)

The most pointed contrast is in the matter of religion. The French established complete toleration in the declaration "No one should be disturbed on account of his opinions, even religious" (C.91, Rights of Man,10) and even more clearly in the article, "The free pursuit of religion cannot be forbidden," (C.Y.I, Rights of Man,7)

The Spanish Constitution puts all question of religious toleration to silence in Art.13 "The religion of the

Spanish nation is and ever shall be Catholic Apostolic, Roman, *the only true religion*. The nation protects it by wise and just laws and prohibits the exercise of any other."

Its position is further assured in the oaths of office:

For deputies--"Then the deputies shall swear the following oath.....'Do you swear to defend and guard the Apostolic Roman Catholic religion, not admitting any other in this realm?' Ans., 'I swear it!'" (Art.117)

For King--"that I will defend and protect the Apostolic Roman Catholic religion not permitting any other in the realm" (Art.173)

For Prince of Asturias--"that I will defend and protect the Apostolic Roman Catholic religion, not permitting any other in the realm (Art.212)

The clergy were subjected to special ecclesiastical courts. (Art.249) All of the electoral conventions whether parish, district or provincial are opened with a mass of the Holy Spirit and an address by the resident priest or bishop and closed with another religious service. (Arts.47,58,71,86) Thus the influence of the Church was firmly entrenched in Spanish political life.

In summary, the deputies of the Constituent Cortes borrowed heavily from French Revolutionary Constitutions. For governmental set-up, the Constitution of 1791 was followed most

since it established a constitutional monarchy which the deputies were anxious to emulate. The bill of rights was drawn from the Declaration of the Rights of Man, incorporated in all three of the French documents.

A study of the debates and speeches of the deputies in Cortes during the discussion of the Constitution would lead the student to believe that French influence was negligible. Allusions were made to England, the United States and the ancient Cortes of the various Spanish kingdoms but rarely to France. This may readily be explained by the facts that the nation was overrun by French soldiers, Cadiz was besieged by Napoleon's legions and that anti-French sentiment was very high.

The influence of Napoleon upon the Cortes and its work was similar to his influence upon Stein and Hardenburg in Prussia. The principles of the French Revolution were used by nationalists against Napoleon. Reforms were made not by him but in spite of him.

The succeeding pages present the Spanish Constitution which I have translated and compiled from the journal of the Constituent Cortes (Diario de las Actas y Discusiones de las Cortes de 1810-1813). The translation appears on the left side of each page. On the right are excerpts from the French Constitution of 1791, the Constitution of the Year I and the Constitution of the Year III. These have been so arranged that the similarities of the Spanish Constitution to the ideas embodied in the three French constitutions may be readily apparent. In one case, Article 13 of the Spanish document has been contrasted with the religious toleration of the French. This renders patent the greatest difference between the nations in the adoption of French Revolutionary principles.

In translation some liberties have been taken. Words like junta, alcalde, regidor ayuntamiento and compromisario have been translated into their nearest English equivalent. In some cases the meaning is somewhat distorted by this practice but the practical value of the explanation of these technical expressions in Anglo-Saxon terminology might be considered to outweigh this deviation from accuracy. In a few cases where there is no good English equivalent as audiencia, or where the term is commonly known, as Cortes, the Spanish word has been left intact. The French Constitutions used appear in F.M.And-

erson, Constitutions and Documents, France, 1789-1907, Minneapolis, 1908.

Key for abbreviations:

T - Title

Ch. - Chapter

Sect.- Section

Rights of Man - Declaration of Rights of Man

C.Y.I - Constitution of the Year I

C.Y.III - Constitution of the Year III

Art.^o - Article

Project of a Political Constitution of the Spanish Monarchy.

Presented to the general and special Cortes by the Constitutional Commission

In the name of Almighty God, Father, Son and Holy Spirit, Author and Supreme Ruler of Society.

The special and general Cortes of the Spanish nation, duly assembled, after extended examination and mature deliberation of the ancient fundamental laws of this monarchy and together with such wise foresight and precautions as will assure in a permanent and stable fashion, its accomplishment, to attain the objective of advancing the glory, prosperity and well being of the whole nation, decree the following political constitution for the good government and right administration of the state.

Chapter I

The Spanish nation
and the Spanish

Art.1 The Spanish nation is
the political association
of all Spaniards of both
hemispheres.

Art.2 The Spanish nation is
free and independent and is
not nor can it be the patri-
mony of any family or person.

Art.3 Sovereignty resides
essentially in the nation and
therefore the right of estab-
lishing its laws and adopting
the most suitable form of
government belongs to it ex-
clusively.

Art.4 The aim of government
is the well being of the na-
tion since the end of all so-
ciety is the welfare of the
individuals who compose it.

Rights of Man 2.

The source of all sov-
ereignty is essentially in the
nation; no body, no individual
can exercise authority that does
not proceed from it in plain
terms.

Rights of Man 2.

The aim of every polit-
ical association is the preserva-
tion of the natural and impre-
scriptible rights of man. These
rights are liberty, property, se-
curity, and resistance to oppres-
sion.

Art.5 The nation is bound to guard and protect by wise and just laws the civil liberty the property and the other legitimate rights of all individuals who compose it.

Art.6 The following are Spanish:

1. All free men born in and resident in the dominions of Spain and their sons.

2. The foreign born who have obtained a certificate of naturalization from the Cortes.

3. Those who without such certificates have fulfilled ten years of residence according to the law in some community of the monarchy.

C.Y.I. Rights of Man, 23

The social guarantee consists in the action of all to secure to each the enjoyment and the maintenance of his rights.

T.II,2 French citizens are:

Those who are born in France of a French father.

Those who, born in a foreign country of a French father, have become established in France and have taken the civic oath.

Those residing in France who were born outside of the kingdom from foreign parents, become French citizens after five years of continued domicile in the kingdom, if they have in addition acquired real estate, or married a French woman, or formed an agricultural or commercial

Art.7 Love of country is one of the principal obligations of all Spaniards and likewise justice and kindness.

Art.8 It is the duty of every Spaniard to be faithful to the constitution, to obey the laws and to respect established authorities.

Art.9 It is also the duty of every Spaniard to contribute, without any distinction to the expenses of the state in proportion to his property.

Art.10 It is likewise the duty of every Spaniard to bear arms in defense of his country when called upon by law.

establishment, and have taken the civic oath.

C.Y.III,Duties,2

Do continually for others that which you wish to receive from them.

T.II,5

The civic oath is: I swear to be faithful to the nation, the law and the King and to maintain with all my power the constitution of the kingdom...

Rights of Man,13

For the maintenance of the public force and for the expenses of administration a general tax is indispensable; It ought to be equally apportioned among all citizens according to their means.

C.Y.III,Duties,9

Every citizen owes his services to the Fatherland and to the maintenance of liberty, equality, and property whenever the law summons him to defend them.

Chapter II

The Territory, Religion, and Government of Spain and the Citizenship of Spaniards.

Art. 11 Spanish territory comprises in the peninsula and adjacent islands, Aragon, Asturias, Old Castile, New Castile, Cataluna, Cordoba, Extremadura Galicia, Granada, Jaen, Leon, Murcia, Navarre, the Basque Provinces, Seville and Valencia, Belearic and Canary Islands, and other possessions in Africa. In North America, New Spain with New Galicia, Guatemala, Inner Eastern Provinces, Inner Western Provinces, Island of Cuba, Two Floridas, the Spanish section of Santo Domingo, Island of Porto Rico, and the other islands adjacent to these or to the continent in either sea; in South America New Granada, Venezuela, Peru,

C.Y. III, T. I, 6

The French colonies are integral parts of the Republic and are subject to the same constitutional law.

Chile, Provinces of the Plata River and all adjacent islands in the Atlantic and Pacific Oceans; in Asia, the Phillipine Islands and the islands that are ruled by their government.

Art.12 A more suitable division of Spanish territory will be made by constitutional law as soon as the political circumstances of the nation permit.

Art.13 The religion of the Spanish nation is and ever shall be Catholic Apostolic, Roman, the only true religion. The nation protects it by wise and just laws and prohibits the exercise of any other.

Art.14 The government of the Spanish nation is a limited hereditary monarchy.

Art.15 The power of making laws resides in the Cortes

Rights of Man 10

No one should be disturbed on account of his opinions, even religious...

C.Y.I, Rights of Man, 7

The free pursuit of religion cannot be forbidden.

T.III, 4

The government is monarchical.

T.III, 3

The legislative power is

with the King.

Art.16 The power of executing the laws resides in the King.

Art.17 The power of interpreting laws in civil and criminal cases resides in the courts established by law.

Art.18 Those Spaniards are citizens who through both lines of descent are natives of the Spanish dominions of both hemispheres and are resident in some community of the aforesaid dominions.

Art.19 Aliens already enjoying the rights of Spaniards, who shall obtain a special certificate of citizenship are also citizens.

Art.20 In order to obtain from the Cortes this certificate of citizenship, the alien must be married to a

delegated to one National Assembly, in order to be exercised by it with the sanction of the king.

T.III,4

The executive power is delegated to the king.

T.III,5

The judicial power is delegated to judges elected at stated times by the people.

Spanish woman, have brought to or established in Spain, some invention or appreciable industry or have acquired real property on which he pays a direct tax or have become established in commerce with capital deemed sufficient in the judgment of the Cortes.

Art.21 The legitimate sons of foreigners, residing in Spain, who, born in Spanish dominions, have never left without permissions of the Government and having attained the age of twenty-one, have lived in a community of these dominions, employing themselves in some useful profession, undertaking, or industry, are also citizens.

Art.22 So that Spaniards who, by either line of descent have African ancestry, may aspire to citizenship,

the door of virtue and merit is opened to them; and therefore the Cortes may grant a certificate of citizenship to those who have performed eminent services to the nation or to those who have distinguished themselves by their talents, industry, and conduct; under the following conditions: that they be sons of legal marriages, of native parents, that they be married to native women and be resident in the dominions of Spain and that they carry on some profession or undertaking, or useful industry with sufficient of their own capital to maintain their own households and to educate their children honorably.

Art. 23 Only those who are citizens will be able to obtain municipal offices and

C.Y. III, T. II, 11

Only French citizens can vote in the primary assemblies, and be

be eligible to vote for them in the cases stipulated by law.

Art.24 Citizenship is lost:

1. By becoming naturalized in a foreign country.
2. By accepting employment of some other government.

3. By a sentence in which afflictive or degrading punishment is imposed provided rehabilitation is not obtained.

4. By having resided five consecutive years outside of Spanish territory without commission or permission of the Government.

Art.25 The exercise of the rights of citizenship is suspended:

1. By virtue of a court decision of physical or moral incapacity.

2. By the status of

summoned to the offices established by the constitution.

T.II,6 The title to French citizenship is lost: 1. By naturalization in a foreign country.

2. By condemnation to the penalties which involve civic degradation as long as the condemned is not rehabilitated.

C.Y.III,T.II,11

By judicial inhibition because of delerium, insanity, or imbecility.

T.II,6

being a bankrupt debtor or in arrears in public taxes.

3. By the status of being a domestic servant.

4 By not having a recognized employment, industry, or mode of earning a living.

5. Through criminal prosecution.

6. Those who for the first time enter upon the exercise of the rights of citizenship after 1830 must be able to read and write.

Art.26 The rights of citizenship may be suspended or lost only for the reasons listed in the above articles.

Chapter III

The Cortes

By the condition of bankruptcy.

T.III,Sect.II,2 (An active citizen is) Not to be in a state of domestic service, that is to say, not to be a servant for wages.

C.Y.III,T.II,12

By condition of accusation.

C.Y.III,T.II,16

Young men cannot be enrolled upon the civic register unless they prove that they know how to read and write...This article to take effect from Year XII (1804)

C.Y.III,T.II,14

The exercise of the rights of citizenship is neither lost nor suspended except in the cases listed in the preceding articles.

Art.27 The Cortes are the Assembly of all the deputies that represent the nation, chosen by the citizens in the manner to be prescribed.

T.III,3

The legislative power is delegated to one National Assembly-composed of temporary representatives freely elected by the people.

Art.28 The basis for national representation is the same in both hemispheres.

Art.29 This basis is the electorate composed of nationals who by both lines of descent are native Spaniards, and of those who have obtained from the Cortes a certificate of citizenship, and also those included in article 21.

Art.30 For the computation of the population of the European dominions, the last census (1797) will be used until another can be taken and a bureau will be formed for the computation of the population of the over-

seas dominions.

Art.31 For every seventy thousand people of the electorate as specified in article 29 there will be a deputy to the Cortes.

Art.32 After distributing the electorate into the various provinces, if there is a remainder in excess of thirty-five thousand people, they shall elect another deputy as if there were another complete constituency; but if the remainder does not exceed thirty five thousand people, it shall not be counted for representation.

Art.33 If there be any province whose electorate does not reach seventy thousand people, it shall be joined to the most adjacent province to complete the number required for the election of a deputy. However

C.Y.I,22

There is one deputy for every forty thousand persons.

the island of Santo Domingo whose electorate does not reach that number, shall elect a deputy.

Art.34 Electoral conventions T.III,Ch.I,Sect.II,1

(juntas) of parish, district, and province shall be held for the election of deputies to Cortes. In order to form the National Legislative Assembly the active citizens shall meet every two years in primary assemblies in the cities and cantons.

Art.35 The electoral con- C.Y.I,11

ventions (junta) of the parish shall comprise all citizens resident therein, including the secular clergy. The primary assemblies are composed of the citizens domiciled for six months in each canton.

Art.36 These conventions shall always be held in the peninsula, islands, and adjacent possessions, on the first Sunday of October of the year preceding the session of those Cortes.

Art.37 In the overseas provinces, they shall meet on the first Sunday in December, fifteen months prior to the

session of those Cortes with the provision that notice be duly given according to law.

Art.38 In parish conventions T.III,Ch.I,Sect.II,6

(juntas) one parish elector shall be elected for each two hundred voters.

Art.39 If the number of voters in a parish exceeds three hundred but does not reach four hundred two electors shall be chosen; if it exceeds five hundred but does not reach six hundred, three electors shall be chosen and so progressively.

Art.40 For parishes whose number of voters does not reach two hundred but exceeds one hundred and fifty, there shall be one elector and in those lacking this number, ~~the~~ voters shall be joined with those of the most adjacent parish to elect the elector or electors as the case may be.

The primary assemblies shall select electors in proportion to the number of active citizens domiciled in the city or canton.

There shall be one elector selected at the rate of one hundred active citizens.

There shall be two selected for hundred and fifty-one up to two hundred and so on.

Art.41 The parochial convention shall elect by plurality of votes, eleven delegates (compromisarios) to elect the parish elector.

Art.42 If in the parish convention, two electors are to be chosen, twenty one delegates shall be chosen; if three, thirty one delegates, but the number of delegates must never exceed thirty one, to avoid confusion.

Art.43 To best suit the convenience of small voting groups, a parish that has twenty voters shall elect one delegate, a parish having between thirty and forty shall elect two delegates, between fifty and sixty shall elect three delegates, and so on progressively. Parishes having less than twenty voters shall unite with the most adjacent parish to e-

lect a delegate.

Art.44 The, delegates of the parishes of small voting population, thus elected will meet in the most suitable town and if they number eleven or at least nine, they shall elect one parish elector; if they number twenty five or at least seventeen, they shall elect two parish electors; if they number thirty-one or at least twenty-five, they shall elect three parish electors.

Art. A parish elector must be a citizen over twenty-five years of age, settled and resident in the parish.

Art.46 The chief alderman (corregidor) or judge of the city, town, or village of meeting shall preside over the parish convention and if there are more than one convention in the same communi-

ty the chief councilman or mayor shall preside over one and the other councilman chosen by lot over the other conventions.

Art.47 When the voters meet at the appointed time in the town hall or the customary place, they shall pass to the church with their president to attend a solemn Mass of the Holy Spirit celebrated by the parish priest who shall present a discourse appropriate to the circumstances.

Art.48 After the Mass, they shall return to the town hall and open the session, selecting two examiners and a secretary from those voters present, all in open session. C.Y. III, 21 Primary assemblies are definitely constituted through the selection of a president, secretary, and three tellers.

Art.49 Immediately the President shall inquire whether any voter has any charge concerning bribery or corruption for the election

of some predetermined person and if he has, he must make a public and vocal substantiation of the charge at the same time. If the charge is found true, those who have committed the crime shall be deprived of their active and passive voice in the convention. Calumniators shall suffer the same penalty. From this judgment there is no recourse.

Art.50 Questions concerning the required qualifications of anyone present shall be decided by the convention itself and the decision shall be executed without recourse.

Art.51 They will then proceed to the election of delegates. Each voter shall write the names of the persons he chooses in the presence of the President, examiners and secretary at their

T.III,Ch.I,Sect.IV,5

The electoral assemblies have the right to verify the title and credentials of all who present themselves there.

table.

Art.52 After the balloting the President, Examiners, and Secretary shall count the votes and the President shall announce to all present the names of the voters who have been elected delegates by plurality.

Art.53 The selected delegates shall gather in a separate place before the dissolution of the convention and in conference, shall elect the parish elector or electors by a majority vote. The result shall be immediately announced in the electoral convention.

Art.54 The President and delegates shall sign a document, drawn up and signed by the Secretary, confirming the election of the parish elector.

Art.55 No citizen may pre-

excuse himself from this
commission for any motive or
under any pretext.

Art.56 No citizen may pre- T.III,Ch.I,Sect.IV,2

sent himself at the paroch- No citizen can enter or cast
ial convention bearing arms. his vote in an assembly if he is
armed.

Art.57 After the confirma- T.III,Ch.I,Sect.IV,1

tion of the election of the The functions of the primary
parish electors, the conven- and electoral assemblies are con-
tion shall dissolve itself. fined to election; they shall
Any other act in which it separate immediately after the
engages itself shall be null. elections have taken place.

Art.58 Voters composing the
convention shall proceed to
the parish church where a
solemn Te Deum shall be sung.
The parish elector or elec-
tors shall be accompanied by
the President, the Examiners,
and the Secretary.

Art.59 The district elector-
al conventions (juntas) shall
comprise the parish electors
who shall assemble in the
capitol of each district to

elect the district electors who in turn will meet in the provincial capital to elect Cortes deputies.

Art.60 These conventions shall be held in the peninsula and adjacent islands and possessions on the first Sunday of November prior to the meeting of those Cortes.

Art.61 In the overseas provinces, they shall be held the first Sunday of January following the December parish elections.

Art.62 The following rules shall determine the number of electors that each district may elect.

Art.63 The number of district electors shall be three times the number of deputies to be elected.

Art.64 If the number of districts of a province exceeds the number of electors required by the preceding art-

icle for the election of deputies to correspond, one elector shall be chosen for each district regardless of the excess.

Art.65 If the number of districts should be less than that of the electors to be chosen each district shall elect one, two or more until the necessary number be completed, but if one elector is lacking the district of the largest voting population shall elect one; if another is needed, the next most populous district shall elect one and so on successively.

Art.66 In accordance with Arts.31 and 32 and with the three preceding articles, the census determines how many deputies correspond to each province and how many electors to each district.

Art.67 The chief councilman (corregidor) or judge of the district capital shall preside over the district electoral convention. Parish electors shall present their credentials to him to be registered in the journal of the acts of the convention.

Art.68 On the specified day the parish electors shall meet with the president in the city hall in open session and shall commence by electing two examiners and a secretary from the electors.

Art.69 The Secretary and the Examiners shall examine the credentials presented by the electors and report on their authenticity on the following day. The certification of the Secretary and Examiners shall be checked by a commission of three members of the convention selected

for this purpose who shall also report on their examination of the following day.

Art.70 On the second day in assembly of the parish electors the committee shall report on the credentials and if they have reason to question them or the electors through lack of proper qualifications the convention shall deal with the matter and the decision shall be executed without recourse.

Art.71 After this procedure, the electors shall repair with their President to the largest church where the highest local church dignitary shall celebrate a solemn Mass of the Holy Spirit and shall present a discourse appropriate to the circumstances.

Art.72 Then the electors shall return to the city hall

and seating themselves in any order, shall hear the Secretary read this chapter of the Constitution. The President shall ask the same question as in Art. 49 and shall carry out all that is ordered therein.

Art.73 Immediately afterward they shall proceed to the selection of district electors voting singly and secretly by means of a ballot on which they shall write the name of the person selected.

Art.74 The President, Secretary, and Examiners shall count the ballots and he who receives a majority is elected, the President announcing the result. If no one has a majority, the two highest shall be voted upon and he receiving a majority is elected. In case of a tie, decision shall be by lot.

Art.75 A district elector must be a citizen in exercise of his rights, settled and resident in the district, over twenty five years of age, either of secular status or of secular clergy. Members of the convention or those outside of it are equally eligible for election.

Art.76 To ratify the election the Secretary shall draw up a document, confirmed and signed by the President, Secretary, and Examiners for the person or persons elected. The President shall send a duplicate copy to the President of the provincial convention for publication in the official papers.

Art.77 In district electoral conventions, all the directions specified in Arts. 55, 56, 56, and 58 for parish conventions must be observed.

Art.78 The provincial electoral conventions (juntas) shall comprise the district electors of the province assembled in the capital of the province to select deputies who shall attend the Cortes as representatives of the nation.

Art.79 These conventions shall always be held on the first Sunday of December of the year previous to the session of those Cortes, in the peninsula and adjacent islands and possessions.

Art.80 In the overseas provinces they shall be held on the second Sunday of March of the same year of the district conventions.

Art.81 The political magistrate of the capital of the province shall preside over the convention. The district electors shall present their credentials to him to be

registered in the journal of the acts of the convention.

Art.82 On the specified day the district electors shall meet with the President in the city hall or in a building more appropriate for so solemn a meeting. In open session they shall elect by a majority a secretary and two examiners from their own members.

Art.83 If no more than one deputy to a province is desired, at least five electors shall meet to elect him, distributing this number among the districts as they have been divided or districts may be formed for this purpose.

Art.84 The chapter of the Constitution dealing with elections shall be read.

Then the reports on districts elections sent by the presidents shall be read. The

The electors shall present their credentials to be examined by the Secretary and Examiners who must report on their authenticity on the following day. The report of the Secretary and Examiners shall be checked by a commission of three members of the convention chosen for this purpose. They shall report on it on the following day.

Art.85 The Examiners in full T.III,Ch.I,Sect.IV,5 ,

session shall read the credentials and if there is any reason to question them or the electors through lack of proper qualifications the convention shall decide on these cases and its decision shall be executed without recourse.

The electoral assemblies have the right to verify the title and credentials of those who present themselves.

Art.86 Then the electors with their president shall repair of the cathedral or largest

church where the bishop or the next highest church dignitary shall celebrate a solemn Mass of the Holy Spirit and shall present a discourse appropriate to the circumstances.

Art.87 This rite concluded they shall return to their place of meeting and seating themselves in any order shall hold open session. The President shall ask the same question as in Art.49 and shall carry out all that is ordered therein.

Art.88 The electors shall immediately proceed to the election of deputy or deputies. They shall come to the table where are seated the President, Examiners, and the Secretary. The latter shall write on a sheet of paper in the presence of the voter, the name of the per-

son each elects. The Secretary and the Examiners shall vote first.

Art.89 The President, Secretary, and the Examiners shall count the votes and he who receives a majority is elected. If no one has a majority, the two highest shall be voted upon and he receiving a majority is elected. In case of tie, the election shall be decided by lot; the President shall announce the result.

Art.90 After the election of deputies, alternates shall be elected in the same manner to the number of one-third of the number of deputies.

If any province elects only one or two deputies an alternate shall be chosen. Alternates shall attend the Cortes upon the death of the incumbent deputy or upon the

impossibility of his holding his position as judged by the Cortes after the election.

Art.91 A deputy must be a citizen in exercise of his rights, above twenty-five years of age, born in the province or resident for more than seven years, either of secular status or of the secular clergy. The convention members or those outside it are equally eligible.

Art.92 Furthermore deputy to the Cortes must have a suitable annual income derived from his own property.

Art.93 The requirement of the preceding article is suspended until the Cortes in its regular session shall decide that the time has come for putting it into effect. They shall stipulate the amount of income and the

T.III,Ch.I,Sect.III,3

All active citizens....can be elected representatives of the the nation.

kind of property. furnishing it and this decision shall be constitutional as though expressed in this article.

Art.94 If a person be elected by the province of his birth and by the province of his residence, the election by province of residence has precedence. The alternate for the province of birth shall be sent in his stead to the Cortes.

Art.95 The Cabinet Secretaries, the Councillors of State

and those employed in the Royal Palace may not be elected deputies to the Cortes.

T. III, Ch. I, Sect. III, 4'

The ministers and other agents of the executive power removable at pleasure, the commissioners of the national treasury, the collectors and receivers of the direct taxes, the overseers of the collection and administration of the indirect taxes and national domains and those who under any denomination whatsoever are attached to the military and civil household of the King shall be obliged to choose (be-

tween their office and that of representative.)

Art.96 No foreign born person although he has obtained a certificate of citizenship may be elected deputy to the Cortes.

Art.97 No public employe appointed by the Government may be elected deputy to the Cortes for the province in which he discharges his office.

Art.98 The Secretary shall make an official record of the elections which he, the President, and all the electors shall sign.

Art.99 Then all the electors without any exception shall invest each of the deputies with ample powers of attorney (poderes) according to the formula below. Each deputy shall be delivered his own letter of attorney to be presented in the Cortes.

Art.100 The letters of attorney (poderes) shall be drawn up in these terms: In the city or village of ... on ... day... of the month of ... of the year ... in the hall of ... the following men (here the president and the district electors composing the provincial convention shall affix their names) have sworn before me, the notary public, and witnesses called for this purpose, that, having proceeded in accordance with the political constitution of the Spanish monarchy, to the election of parish and district electors with all the solemnities prescribed by the constitution as is evident from the certificates, which documents were executed for this purpose, the aforementioned electors of the districts of the province of ... on the day ... of the month of ... of the present year, assembled in session, have elected deputies who in the name and in representation of this province shall attend the Cortes; and that N.N.N, were elected deputies to Cortes for this province as a result of the report drawn up and signed by N.N.: therefore they grant ample powers to them corporately and singly to fulfill and discharge the august functions of their charge and so that with the other deputies in Cortes, as representatives of the Spanish nation, they may agree and resolve whatever they deem conducive to the welfare of the nation in the use of the powers determined by the Constitution and within the limits prescribed by it, without the power of annulling, altering or varying in any way any of its articles, under any pretext; and that these granting the letters and themselves and all the inhabitants of this province

by virtue of the powers given to them as electors chosen for this act, to consider valid, to obey and to fulfill whatsoever these deputies to the Cortes enact and resolve in conformity with the political Constitution of the Spanish monarchy. Thus have they spoken and granted, witnessed by N. and N. who sign it along with these investing electors which I attest.

Art.101 The President, Examiners, and the Secretary shall immediately send a copy, signed by themselves, of the results of the election to the Permanent Deputation of the Cortes and shall publish in print the results of the election, sending a copy to each community of the province.

Art.102. The deputies shall be remunerated by their respective provinces with the funds that the Cortes in the second year of their term shall stipulate for the succeeding session; the overseas deputies shall receive, in addition, for traveling expenses such funds as their provinces deem necessary.

Art.103 In provincial electoral convention, all that is prescribed in Arts. 55, 56, 57, and 58 must be ob-

served.

Art.104 The Cortes shall meet every year in the capital of the kingdom, in a building erected for this sold purpose.

Art.105 The place of meeting may be changed when considered suitable provided that the place is no more than twelve leagues from the capital and that two-thirds of the deputies agree to the removal.

Art.106 The sessions of the Cortes each year shall be of three months duration at the maximum, beginning on the first day of March.

Art.107 The Cortes may prorogue their sessions for another month in only two cases: at the petition of the King and by resolution of two-thirds of the deputies of the Cortes.

T.III,Ch.I,Sect.V,1

The representatives shall meet on the first Monday of May in the place of the sittings of the last legislature.

Art.108 The entire body of deputies shall be renewed every two years.

Art.109 If war or enemy occupation of any part of the territory of the monarchy should prevent any or all deputies from one or more provinces from attending the Cortes their places shall be filled by the former deputies of the respective provinces, chosen by lot until the number is complete.

Art.110 The deputies may not be reelected to the next session of Cortes.

Art.111 The deputies upon arrival in the capital shall present themselves at the Permanent Deputation of the Cortes which shall record their names and the provinces that they represent in a register of the secretariat of the Cortes.

T.III,Ch.I,2

It (the National Assembly) shall be formed every two years by new elections.

Art.112 In the year of renewal of deputies, the first preparatory session (juntas) shall be held on the fifteenth of February. The President of the Permanent Deputation shall preside over the session and the other members of the Permanent Deputation shall serve as secretary and examiners.

Art.113 In this first session all the deputies shall present their letters of attorney and shall elect by majority of votes two commissions, one of five individuals to examine the credentials of the deputies and one of three to examine the credentials of the five in the other commission.

Art.114 On the twentieth of the same February a second preparatory session (junta) shall be held in which the

two commissions shall report on the legality of the credentials, having at hand, the copies of the records of the provincial elections.

Art.115 In this session and the others deemed necessary until the twenty-fifth of February they shall decide by majority of votes, questions arising over the legality of the credentials and qualifications of the deputies.

Art.116 In the year following the renewal of deputies, the first preparatory session shall be held on the twentieth of February and may continue if necessary until the twenty-fifth, in order to decide, in the manner expressed in the three preceding articles, on the legality of the credentials of the deputies presenting them-

selves for the first time.

Art.117 Every year on the twenty-fifth of February the last preparatory session shall be held. There all the deputies shall swear the following oath, placing their hand on the Holy Gospels: Do you swear to defend and guard the Apostolic Roman Catholic religion, not admitting any other in this realm? Ans. I swear it. Do you swear to protect and cause to be protected religiously the constitution of the Spanish monarchy approved by the general and special session of the Cortes of the nation in the year? Ans. I swear it. Do you swear to conduct yourself well and faithfully in the charge that the nation has placed upon you, looking always to the well-being and prosperity of this nation? Ans. I swear

it. If you fulfill this oath, God shall reward you and if you do not, He will demand an account.

Art.118 Then they shall proceed to elect from their own members by secret ballot and by a majority a president, vice-president, and four secretaries. Then the Cortes shall be considered constituted and the Permanent Deputation shall cease in all its functions.

Art.119 On the same day, twenty-two deputies and two secretaries shall be chosen as a deputation to inform the King that the Cortes are constituted and of the president elected so that he may announce whether he will attend the opening of the Cortes that shall be held on the first of March.

Art.120 If the King is ab-

sent from the capital this announcement shall be sent in writing and the King shall answer in the same way.

Art.121 The King shall personally attend the opening of the Cortes and if he can not, the president shall attend on the stipulated day since the opening may not be deferred for any reason.

The same formalities shall be observed for the act of closing the session of Cortes.

Art.122 The King shall enter the chamber of the Cortes without a guard and only those persons shall accompany him as the ceremony for the reception and departure of the King prescribes in the ruling of the internal government of the Cortes.

Art. The King shall present a discourse setting forth to the Cortes what he deems suitable and the Pres-

T.III;Ch.III,Sect.IV,1

The King can each year open the session.

T.III,Ch.III,Sect.IV,6

When the King repairs to the place of the sittings of the legislative body, he shall be received and conducted by a deputation; he cannot be accompanied within the interior of the hall except by the prince royal and the ministers.

ident shall respond in general terms. If the King does not attend, he shall send his speech to the President to be read in the Cortes.

Art.124 The Cortes may not deliberate in the presence of the King.

Art.125 When the Cabinet Secretaries deliver proposals to the Cortes in the name of the King, they shall attend the discussions at the time and in the manner determined by the Cortes and shall speak in Cortes but they may not be present for the voting.

Art.126 The sessions of the Cortes shall be public and only in the cases that demand secrecy shall a closed session be held.

Art.127 In the discussions of the Cortes and all other

T.III,Ch.III,Sect.IV,8

The legislative body shall cease to be a deliberative body as long as the King shall be present.

T.III,Ch.III,Sect.IV,10

They (ministers) shall be heard (in National Assembly) whenever they shall demand it upon matters relative to their administrations or when they shall be required to give information.

T.III,Ch.III,Sect.II,1

The deliberations of the legislative body shall be public.

matters pertaining to its government and internal order, the ruling formed by these general and special Cortes shall be observed regardless of the reforms, that successive Cortes may consider suitable to make in it.

Art.128 The deputies shall be inviolable for their opinions and at no time and in no case and by no authority can they be held responsible for them. In criminal cases brought against them they may be tried only by the court of the Cortes in the manner prescribed by the ruling of the internal government of the Cortes. During sessions of Cortes and for a month afterward, they may not be sued for debts.

Art.129 During the term of deputyship beginning from the time of registration in the

T.III,Ch.I,Sect.V,7

The representatives of the nation are inviolable; they cannot be questioned, accused nor tried at any time for what they have said, written, or done in the exercise of their functions as representatives.

T.III,Ch.II,Sect.IV,2

The members of the present National Assembly and of the leg-

registry of the Cortes, the deputies may not receive for themselves nor seek for another, any office at the disposal of the King, nor any promotion in career unless it be the next regular promotion according to scale.

islatures following...cannot be promoted to the ministry, nor receive any place, gift, pension, stipend, commission from the executive power or from its agents during the continuance of their functions nor for two years after having ceased the exercise of them.

Art.130 During the term of deputyship and for a year following it deputies may not obtain for themselves nor solicit for another a pension or decoration at the disposal of the King.

Art.131 The powers of the Cortes are:

1. To propose and decree laws, to interpret them and annul them if necessary.

2. To receive the oath of the King, the Prince of Asturias and the Regency on proper occasions.

3. To decide any question of right of order of succession to the Crown.

T.III,Ch.III,Sect.I,1

To propose and enact laws.

4. To elect the Regency or Regent of the kingdom at the time prescribed in the Constitution and to stipulate the limitations under which the Regent or Regency shall exercise the royal power.

5. To make public recognition of the Prince of Asturias.

6. To select a guardian for the minor King at the time prescribed in the Constitution.

7. To approve before ratification treaties of foreign alliance, of subsidies and special commercial agreements.

8. To permit or prohibit the admission of foreign troops in the kingdom.

9. To decree the creation or suppression of offices in the tribunals established by the Constitution and the creation or suppression

T. III, Ch. II, Sect. II, 4

The legislative body cannot elect the regent.

T. III, Ch. II, Sect. II, 17

The custody of the minor King ... shall be bestowed by the legislative body.

T. III, Ch. III, Sect. I, 3

The ratification of treaties of peace alliance and commerce belongs to the legislative body.

7 To permit or forbid the introduction of foreign troops upon French soil.

5 To decree the creation or suppression of public offices.

sion of public offices.

10. To fix each year at the proposal of the King, the military and naval forces stipulating the standing strength in time of peace and the increase in time of war.

11. To give ordinances to the army, navy, and national militia, in all the branches comprising them.

12. To fix the expenses of public administration.

13. To establish yearly the direct taxes and imposts.

14. To borrow money on the national credit in case of necessity.

15. To approve the apportionment of the taxes among the provinces.

16. To examine and approve the accounts of the collection of public funds.

17. To establish customs houses and books of

T. III, Ch. III, Sect. I, 8

To determine annually after the proposal of the King, the number of men and vessels of which the land and naval forces shall be composed.

Ibid, 2

To fix the public expenditures.

Ibid, 3

To establish the public taxes.

Ibid, 4

To make the apportionment of direct taxes among the departments of the kingdom.

rates.

18. To make suitable dispositions for the administration, preservation and alienation of public property. Ibid,9
To determine upon the administration and alienation of public lands.

19. To determine the value weight, standard, type and denomination of money. Ibid,6
To determine the title, weight, stamp, and denominations of the monies.

20. To adopt the most suitable and just system of weights and measures.

21. To promote and encourage all kinds of industry and to remove the obstacles that hinder them.

22. To establish the general plan of instruction for all the monarchy and to approve that designed for the education of the Prince of Asturias. C.Y.I,54
Included under the general name of law are the acts of the legislative body in respect to: public instruction.

23. To approve the general regulations for the police and health system of the kingdom.

24. To protect the political liberty of the press.

25. To make effective the responsibility of the Secretaries of State and Cabinet and other public employes.

26. To give or refuse consent in all the cases and acts prescribed in the Constitution as subject to Cortes approval or rejection.

Art.132 Every deputy has the right of proposing to the Cortes projects of law.

These shall be in writing and the deputy proposing shall set forth the reasons for the law.

Art.133 At least two days after the presentation and reading of the project, he shall read it a second time and the Cortes shall decide whether it is admitted or not admitted to discussion.

Art.134 If admitted to discussion and if the gravity

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To institute before the High National Court, legal proceedings for securing the responsibility of the ministers and the principal agents of the executive power.

T. III, Ch. III, Sect. II, 4

There shall be three readings of the project for a decree at three intervals each of which shall not be less than eight days.

of the matter required special consideration in committee, in the judgment of the Cortes, it shall be sent to committee.

Art.135 At least four days after the admission to discussion, it shall be read a third time and a day shall be set for opening discussion on it.

Art.136 On the day selected for discussion, they shall discuss the project as a whole and each of its parts.

Art.137 The Cortes shall decide when the bill has been sufficiently discussed and when decided, they shall resolve whether it should be voted upon.

Art.138 If it should be voted upon, they shall proceed to the voting immediately approving or rejecting

T.III,Ch.III,Sect.II,6

After the third reading, the president shall be required to put in deliberation and the legislative body shall decide whether it finds itself in condition to render a definitive decision...

all or any part of it or changing and modifying it according to the opinions given in discussion.

Art.139 A majority of votes T.III,Ch.III,Sect.II,7 shall be necessary to carry ...no decree shall be passed a bill and a quorum consists except by a majority of votes. of a majority of the deputies composing the Cortes.

Art.140 If the Cortes re- Ibid,8
jects a bill in any stage of No project of law which sub-
examination or resolves not mitted to discussion shall have
to put it to a vote, the been rejected after the third
bill may not be repropoused reading can be presented again
that year. in the same session.

Art.141 If adopted, the bill shall be duplicated and shall be read in Cortes. When signed by the President and the two secretaries, it shall immediately be presented to the King by a deputation.

Art.142 The sanction of T.III,Ch.III,Sect.III,1
law resides in the King.

The decrees of the legisla-
tive body are presented to the
King who can refuse his consent

Art.143 The King gives sanction by this formula written in his own hand: Publish this as law.

Art.144 The King refuses his sanction by writing in his own hand: Return to the Cortes. He shall send at the same time an exposition of the reasons that have led him to refuse it.

Art.145 The King shall have thirty days to use this prerogative and if he has not given or refused his sanction in that time it shall be understood that he has given it and the bill becomes law.

Art.146 When royal sanction has either been given or refused one of the copies of the two original documents shall be returned to the Cortes, the other shall re-

to them.

T.III,Ch.III,Sect.III,3

The consent of the King is expressed upon each decree by this formula signed by the King: The King consents and will cause it to be executed. The suspensive refusal is expressed by this: The King will examine.

Ibid,4

The King is required to express his consent or refusal upon each decree within two months from the presentation.

T.III,Ch.IV,Sect.I,2

(Of the two original copies of each law) one shall remain on deposit in the archives of the seal and the other shall be placed in the archives of the legislative

main with the King.

Art.147 If the King refuses his sanction the bill shall not be brought up again in the Cortes that year.

Art.148 If the same project be proposed admitted and approved in the next year when it is presented to the King, he may give his sanction or refuse it a second time in the terms of Arts. 143 and 144 and in the latter case, the bill shall not be brought up again in that year.

Art.149 If the same bill is proposed admitted and approved for the third time in the Cortes of the following year, it is understood that the King gives his sanction and it shall be published with the formula in Art. 143.

Art.150 If the day of adjournment of the Cortes should fall within the thirty day period for the royal

body.

T.III,Ch.III,Sect.III,5

No decree to which the King has refused his consent can be presented again by the same legislature.

sanction of a bill, the King shall give or refuse sanction in the first eight days of the succeeding Cortes and if he does not do so the bill shall become law in the prescribed form without his sanction.

Art.151 If one or several years pass after royal veto of a bill and the same bill is not repropesed, when it is again proposed in the same deputation that passed it for the first time or in the two succeeding deputations, it shall be considered as the same bill with regard to royal sanction; but if in the sessions of three aforementioned deputations it is not repropesed it shall be considered a new bill when next proposed even if reproduced in the same wording.

Art.152 If a bill is re-

jected a second or third time by the Cortes within the six year limit given in the preceding article, when repropoed it shall be considered a new bill.

Art.153 Laws shall be annulled with the same formalities and with the same processes as their enactment.

Art.154 After a law has been T.III,Ch.IV,Sect.I,1

published in the Cortes, the King shall be notified immediately of it so that he may proceed to its solemn promulgation. The executive power is charged to cause the laws to be promulgated.

Art.155 The King in promul- T.III,Ch.IV,Sect.I,3

gating the laws shall use the following formula: N (the name of the King) by the grace of God and the Constitution of the Spanish monarchy, King of Spain, to all who see and hear these present, know: that the Cortes have decreed and we sanction the following (here inserted without any change). We The promulgation shall be thus expressed: N (the name of the King) by the grace of God and by the constitutional law of the state, King of the French to all present and to come, greeting. The National Assembly has decreed and we wish and order as follows (a literal copy of the decree shall be inserted without any change). We

the literal text of the law). command and order to all the ad-
 Therefore we order all courts administrative bodies and tribunals
 justices, magistrates, gov- that they cause these presents to
 ernors and all others in au- be recorded in their registers,
 thority whether civil or read, published, and posted in
 military or ecclesiastic of their respective departments and
 whatever rank or dignity to jurisdictions and executed as law
 guard, fulfill and execute of the kingdom.

this law in all its parts.
 You shall have it announced
 that it may be fulfilled and
 you shall make disposition
 for its printing, publication
 and circulation. (Directed
 to the respective Cabinet
 Secretaries.)

Art.157 Before the adjourn-
 ment of the Cortes, they
 shall appoint a deputation to
 be called the Permanent Dep-
 utation of Cortes, composed
 of seven deputies, three
 from the European provinces,
 three from the overseas prov-
 incés and the seventh select-
 ed by lot from the European
 and overseas deputies.

Art.159 The Permanent Deputation shall hold office from one general session of Cortes until the next session.

Art.160. The powers of this deputation are:1.to watch over the observance of the Constitution in order to inform the next Cortes of infractions of the Constitution.

2. To convoke special sessions in the cases prescribed by the Constitution.

3. To exercise the functions stated in Arts. 111 and 112.

4. To notify the alternates to take the place of regular deputies and in the lack of or incapacity of deputies and alternates of any province to meet in Cortes, to communicate the proper orders for a new election, to that province.

Art.161 The special sessions of the Cortes shall be com-

posed of the same deputies that compose the regular sessions of the two years of the deputation.

Art.162 The Permanent Deputation shall convoke a special session, stipulating the day of meeting, in the following cases:

1. When the throne is vacant.
2. When the King is incapacitated for administering the government or when he wishes to abdicate the crown.
3. When, in critical circumstances or arduous negotiations, the King notifies the Permanent Deputation that he considers it suitable that the Cortes meet and participate.

Art.163 The Cortes in special session shall deal only with the object for which they have been convoked.

Art.164 The special sessions shall be opened and closed with the same formalities as the general sessions.

Art.165 The meeting of special sessions shall not prevent the elections of new deputies at the prescribed time.

Art.166 If the special session shall not have concluded on the day fixed for the meeting of the general session, it shall cease its functions and the general session shall continue the business for which the former was called.

Art.167 The Permanent Deputation shall continue the functions as given in Arts. 111 and 112 in the case comprehended in the preceding article.

Chapter IV

The King

Art.168 The person of the

T. III, Ch. II, Sect. I, 2

King is sacred and inviolable and is not subject to responsibility.

Art.169 The King shall be given the title of Catholic Majesty.

Art.170 The power of executing the laws resides exclusively in the King and his authority extends to everything conducive to the conservation of internal public order and national security in external affairs, in conformity with the Constitution and the laws.

Art.171 In addition to the prerogative of sanctioning the laws and promulgating them, the following powers are resident in the King:

1. To issue decrees, regulations, and instructions conducive to the execution of

The person of the King is inviolable and sacred.

Ibid

His only title is King of the French.

T.III,Ch.IV,1

The supreme executive power resides exclusively in the hands of the King. The King is the supreme head of the general administration of the kingdom; the task of looking after the maintenance of public order and tranquillity is confided to him.

The task of looking after the external security of the kingdom... is delegated to the King.

the laws.

2. To see that prompt and full justice be administered in all the kingdom.

3. To declare war and to make and ratify peace.

4. To appoint the magistrates of all criminal and civil courts from the nominees of the Council of State.

T.III,Ch.IV,2

He appoints the commissioners before the tribunals.

5. To oversee all civil and military officers.

6. To prefer for all bishoprics and for all the ecclesiastical dignities and benefices of royal patronage, at the nomination of the Council of State.

7. To command the armies and navies and to appoint the generals.

T.III,Ch.IV,1

The King is the supreme head of the army and navy.

8. To dispose the armed force distributing it in the most suitable fashion.

T.III,Ch.IV,Sect.III,1

The King alone can ... distribute the forces of the army and navy as he shall deem suitable.

9. To direct diplomatic and commercial relations with the other powers and to appoint the ambassadors, ministers, and consuls. Ibid,2
The King appoints the ambassadors and other agents of political negotiations.
10. To care for the minting of money on which shall be placed his bust and name. Ibid,2
He superintends the coining of monies... The image of the King is stamped upon all the monies of the kingdom.
11. To decree the distribution of funds for each of the branches of public administration. T.V,5
The executive department directs and supervises the ... disbursement of the taxes and gives all necessary orders for that purpose.
12. To pardon prisoners in accordance with the laws. T.III,Ch.III,Sect.IV,1
The King can ... bring forward matters which he believes ought to be taken into consideration in the course of that session.
13. To make proposals of laws or reforms that he considers conducive to the well-being of the nation, to the Cortes for deliberation in the usual form.
14. To appoint and dismiss freely Cabinet secretaries. T.III,Ch.II,Sect.IV,1
The choice and dismissal of the ministers shall belong to the King alone.

Art.172 The restrictions upon royal authority are the following:

1. The King may not under any pretext hinder the meeting of the Cortes at the times and occasions stipulated by the Constitution; nor may he suspend or dissolve them, nor in any way obstruct their sessions and deliberations. Those who counsel or aid in any attempt at these acts are declared traitors and shall be prosecuted as such.

2. The King may not yield, cede, renounce, or in any other manner grant to another the royal authority or any of its prerogatives.

3. If for any reason he might wish to abdicate the throne in favor of the immediate successor, he may not do so without the consent of the Cortes.

T.III,Ch.I,5
The legislative body may not be dissolved by the King.

4. The King may not alienate, cede or exchange a province, city, village, or place or any part of Spanish territory, regardless of size.

5. The King may not make an offensive alliance or special commercial treaty with any foreign power without the consent of Cortes.

6. He may not obligate himself by any treaty to give subsidies to any foreign power without consent of Cortes.

7. The King may not cede or alienate national property without consent of Cortes.

8. The King may not impose direct or indirect taxes for himself, nor make requests under any name for any object whatsoever unless the Cortes have decreed them.

9. The King may not

grant an exclusive privilege to any person or corporation.

10. The King may not seize the property of any person or corporation, nor disturb him in the possession thereof or in its use and profit; if for an object of recognized usefulness, it should be necessary to take the property of an individual he shall be indemnified and a fair exchange shall be made in the presence of honorable men.

11. The King may not, on his own responsibility, deprive any individual of his liberty nor impose any punishment. The Cabinet Secretary who signs the order and the judge executing it shall be responsible to the nation and shall be punished as criminals making an attempt against individual liberty.

C.Y.358

The Constitution guarantees the inviolability of all properties or just indemnification for those of which legally established public necessity may demand the sacrifice.

T.III,Ch.V

The judicial power cannot in any case be exercised by the legislative body nor the King.

Only when the welfare and security of the nation demand the arrest of any person, the King issues orders to that effect; but with the condition that within forty-eight hours he must have the person turned over to the disposal of the competent judge or court.

12. Before contracting marriage, the King shall consult the Cortes to obtain their consent.

Art.173 The King at coronation or if he is a minor when he enters upon the government of the realm, shall take the following oath before the Cortes: N (here his name) by the grace of God and the Constitution of the Spanish monarchy, King of Spain, swear by God and His Holy Gospels, that I will defend and protect the Apostol-

T.III,Ch.II,Sect.I,4

The King upon his accession to the throne or as soon as he shall have attained his majority shall take to the nation in the presence of the legislative body, the oath: to be faithful to the nation and the law, to employ all the power which is delegated to him, to maintain the constitution decreed by the National Constituent Assembly in the years 1789,1790, and 1791 and

ic Roman Catholic religion without permitting any other in the realm; that I will maintain and cause to be maintained the Constitution and laws of the Spanish monarchy, looking only to the welfare and profit of the nation; that I will not grant, cede or dismember any part of the kingdom; that I will never demand any resources, money, or anything except that decreed by Cortes; that I will not deprive anyone of his property and that I will respect the political liberty of the nation and the private liberty of the individual.

And if I commit any act contrary to these promises or any part of them I ought not to be obeyed; let any deed in the commission of the transgression be null and void.

God heop me and be my defense

to cause the laws to be executed.

if I do thus and if not, may

He call me in judgment.

The commission proposed that which the nation demands and which the Cortes have proclaimed and solemnly sworn in favor of Don Ferdinand VII present King of Spain and of his descendants and legitimate successors; but the Cortes have reserved themselves the right to treat of the succession in detail at a later time. (The commission has left a space of eleven articles to deal with the succession to the crown at some later time.)

Art.185 The King is a minor until he reaches the age of eighteen years.

T. III, Ch. II, Sect. II, 1
The King is a minor until he is fully eighteen years old.

Art.186 During the minority of the King, the kingdom shall be governed by a Regency.

Ibid, 1
During his minority there is a regent of the kingdom.

Art.187 A Regency shall govern when the King is unable to exercise his authority for any moral or physical reason.

T. III, Ch. II, Sect. II, 18
In case of notoriously recognized insanity legally established and declared by the legislative body, after three deliberations taken successively from month to month, there shall be occasion for a regency as long as the insanity lasts.

Art.188 If the incapacity of the King should exceed two years and his successor is over eighteen years of age, the Cortes may appoint him Regent of the kingdom instead of a Regency.

Art.189 From the death of the King until the meeting of the Cortes, if there is no

regular session at that time, a provisional Regency shall be composed of the Queen mother, if there is one; two deputies of the Permanent Deputations, the oldest in point of election to the Deputation; the two senior Councillors of State; i.e., the dean and the next ranking in seniority. If there is no Queen mother the third ranking Councillor of State shall be in the Regency.

Art.190 The Queen Mother shall preside over the Provisional Regency. If there is no Queen Mother, the member of the Permanent Deputation, oldest in point of election, shall preside.

Art.191 The provisional Regency shall despatch only such business as does not permit delay and may not remove nor appoint officials

except temporarily.

Art.192 When the Cortes meet in special session they shall appoint a Regency composed of three to five persons.

Art.193 A regent must be a native of the kingdom.

Art.194 The Cortes shall appoint the president of the Regency, establishing whether there shall be successive order in the presidency and the limits thereof.

Art.195 The Regency shall exercise the royal authority under the limitations established by the Cortes.

Art.196 Both kinds of Regencies shall take an oath according to the formula prescribed in Art.173, adding the clause: that they will be faithful to the King; the permanent Regency shall add that it will observe the limitations for the exercise

T.III,Ch.II,Sect.II,11

The Regent exercises, until the majority of the King, all the functions of royalty.

Ibid,12

The Regent can begin the exercise of his functions only after having taken to the nation in the presence of the legislative body the oath: to be faithful to the nation, the law and the King; to employ all the power delegated to the King and the exercise of which

of royal authority, imposed by the Cortes and that when the King reaches majority or the incapacity of the King ceases, it will have over to the King the government of the kingdom under the penalty, if they withhold it for a moment, of being considered and punished as traitors.

Art.197 All acts of the Regency shall be published in the name of the King.

Art.198 The guardian of the minor King shall be he whom the dead King selects. If none is selected the Queen mother shall be guardian so long as she remains a widow. If there is no Queen mother, the Cortes shall appoint a guardian.

Art.199 The Regency shall take care that the education of the minor King be most suitable for the great object of his high dignity and that

is confided to him during the minority of the King, to maintain the Constitution decreed by the National Constituent Assembly in the years 1789, 1790, and 1791 and to cause the laws to be executed.

T. III, ChII, Sect. III, 4

A law shall be made to govern the education of the minor King and that of the heir presumptive.

the plan approved by the Cortes for his education be carried out.

Art.200 The Cortes shall appoint the salaries for the individuals of the Regency.

Art.201 The first born son of the King shall have the title, Prince of Asturias.

Art.202 The other children of the King shall be and shall be called Infantes of Spain.

Art.203 The children of the Prince of Asturias also shall be called Infantes of Spain.

Art.204 The rank of Infante of Spain shall be limited to the aforementioned persons.

Art.205 The Infantes of Spain shall enjoy the distinctions and honors that they have previously enjoyed and may be selected for any

T. III, Ch. II, Sect. II, 13

.....the legislative body shall determine his (Regent's) stipend.

T. III, Ch. II, Sect. III, 1

The heir presumptive shall bear the Royal name of Prince.

T. III, Ch. II, Sect. III, 6

The members of the family of the King entitled to eventual succession to the throne shall add the denomination of French Prince to the name which shall have been given in the civil certificate attesting their births.

Ibid, 6

The denomination of prince shall not be given to any other person....

king of career except that of the judicature and deputyship to the Cortes.

Art.206 The Prince of Asturi-Ibid,1

as may not leave the kingdom without consent of Cortes and if he should leave without it, he would be excluded from the succession to the Crown.

He (heir apparent) cannot leave the kingdom without a decree of the legislative body, and the consent of the King. If he does leave it and if having reached the age of eighteen years, he does not return to France after having been required to do so by a proclamation of the legislative body, he is considered to have abdicated the right of succession to the throne.

Art.207 The same exclusion shall take place if he remains away from the kingdom for a greater amount of time than specified in the permission, provided he does not return within the time limit given by the Cortes.

Art.208 The Prince of Asturias, the infantes and infantas, and their descendants may not marry without consent of the King and Cortes under the penalty of being excluded from the succession to the Crown.

Art.209 An authentic copy

T. III, Ch. II, Sect. III, 7

of the certificates of birth marriage and death of the members of the Royal Family shall be sent to the Cortes or the Permanent Deputation to be preserved in their archives.

Art.210 The Prince of Asturias shall be recognized by the Cortes with the formalities set forth in the regulations of the internal government of the Cortes.

Art.211 This recognition shall be made in the first Cortes that are held after his birth.

Art.212 The Prince of Asturias upon reaching the age of fourteen years shall take before the Cortes the following oath: N (here his name) Prince of Asturias, swear by God and the Holy Gospels, that I will defend and pro-

T.III,Ch.II,Sect.III,7

The certificates by which shall be attested the births, marriages, and deaths of the French princes shall be presented to the legislative body which shall order the deposit of them in its archives.

protect the Apostolic Roman Catholic religion, not permitting any other in the kingdom, that I will guard the Constitution of the Spanish monarchy and that I will be faithful and obedient to the King. So help me God.

Art.213 The Cortes shall assign the annual civil list to the King, which shall be commensurate with the high dignity of his person.

Art.214 All the royal palaces enjoyed by his predecessors shall belong to the King and the Cortes shall assign lands suitable to be reserved for his personal recreation.

Art.215 The Cortes shall assign to the Prince of Asturias from the day of birth and to the infantes and infantas from their seventh year an annual income suit-

T.III,Ch.II,Sect.I,10

The nation provides for the splendor of the throne by a civil list.

able to their respective dignities.

Art.216 The Cortes shall grant a suitable dowry to the infantas when they marry. The yearly income ceases after this.

Art.217 The assigned annual income shall be continued for the infantas if they marry and reside in Spain; if they reside out of the realm an amount granted by the Cortes shall be given at once and the yearly income shall be discontinued.

T. III, Ch. II, Sect. III, 8

The younger sons of the King shall receive at the age of twenty one or at the time of their marriage an appanaged income which shall be fixed by the legislative body...

Art.218 The Cortes shall assign the civil list to be given to the Royal Widow.

Art.219 The salaries of the members of the Regency shall be taken from the civil list granted to the King's household.

Art.220 The civil list of the King and the allowances of his family shall be assigned by the Cortes at the be-

T. III, Ch. II, Sect. I, 10

The nation ...provides... a civil list of which the legislative body shall determine the sum

ginning of each reign and at each change of reign for the
may not be changed during its entire duration of the reign.

Art.221 All these allowan-
ces shall be payable at the
national treasury to the
administrator chosen by the
King.

Art.222 There shall be
eight Cabinet secretaries,
to wit: Secretary of State,
Secretary of Administration,
of the realm, Secretary of
Grace and Justice, Secretary
of Finance, Secretary of
War, Secretary of Marine,
and two general Secretaries
for Overseas, one for the
affairs of North America
and its islands, and the
other for South America, its
islands and the Asiatic
provinces. This arrangement
of two secretaries for over-
seas shall be considered tem-
porary because the succeed-
ing Cortes shall effect the
variation that experience or

circumstances demand.

Art.223 Each secretary shall be assigned the affairs that fall to his office by a special regulation passed by the Cortes.

Art.224 All royal orders must be countersigned by the secretary of the branch to which the affair belongs. No court nor public authority shall execute an order lacking this requisite.

Art.225 The Cabinet Secretaries shall be responsible to the Cortes for the orders that they authorize contrary to the Constitution or the laws. The excuse of royal command shall be of no avail.

Art.226 The Cabinet Secretaries shall draw up an annual estimate of the expenses of the public administration.

T.III,Ch.II,Sect.IV,4

No order of the King can be executed unless it is signed by him and countersigned by the minister or administrator of the department.

Ibid,5

The ministers are responsible for all the offences committed by themselves against the national security and the constitution.

Ibid,6

In no case can the order of the King, verbal or in writing shield a minister from his responsibility.

T.III,Ch.II,Sect.IV,7

The ministers are required to present each year to the legislative body at the opening of the session

that are needed for their re-
 spective branches and shall
 render account of expenditur-
 es in the manner to be stip-
 ulated.

an estimate of the expenditures
 to be made in their departments,
 to render account of the employ-
 ment of sums which were appropri-
 ated to them...

Art.227 When the Cortes
 makes effective the responsi-
 bility of any Cabinet Secre-
 tary, they shall first de-
 cree whether the accusation
 should be presented.

Art.228 When the decree has
 been given, the Secretary
 shall be suspended and the
 Cortes shall send to the
 Supreme Court all the docu-
 ments concerning the case
 which must be tried by that
 Court. The Court shall
 weigh the evidence and de-
 cide in accordance with the
 laws.

Art.229 The Cortes shall
 assign the salaries that
 the Cabinet Secretaries shall
 enjoy during their adminis-
 tration.

Art.230 There shall be a Council of State composed of forty members.

Art.231 The Council of State shall be composed as follows: four ecclesiastics of established dignity, two of whom shall be bishops; four grandes of Spain and no more, distinguished for virtue, talent, and useful accomplishments and the others (32) selected from the subjects that are serving or have served in diplomatic, military, economic, and magisteral careers and have distinguished themselves by their talent, knowledge, and services. The Cortes may not propose for Councillor any individual who is a deputy at the time of the selection. At least twelve of the Councillors of State shall be from the overseas provinces.

Art.232 All the Councillors of State shall be proposed by the Cortes and appointed by the King.

Art.233 For the formation of this Council, a commission of twelve deputies shall present to the Cortes a triple list of the classes aforementioned in the indicated proportion. From these the King shall select the forty individuals for the Council, selecting ecclesiastics from their list, the grandes from their list and likewise with the others.

Art.234 The Cortes shall always keep this list complete, filling the vacancies caused by appointment or by the absence of those included in the list.

Art.235 The Council of State is the Council of the King. It shall give its opinion on grave matters especially on the sanctioning or vetoing

of bills, the declaration of war and the making of treaties.

Art.236 The Council shall propose in a triple list to the King, candidates for all ecclesiastical benefices and for judicial offices.

Art.237 The King shall form a regulation for the government of the Council, after hearing the opinions of the Council on it and shall present it to the Cortes for approval.

Art.238 Councillors of State may no be removed except by judicial procedure of the Supreme Court.

Art.240 The Cortes shall assign the salary that the Councillors of State shall enjoy.

Chapter V

The Courts and the Administration of Criminal and Civil Justice.

Art.241 The power of interpreting the laws in criminal and civil cases belongs exclusively to the courts.

Art.242 Neither the King nor the Cortes may exercise judicial functions, plead pending cases or order a settled decision reopened.

Art.243 The laws shall designate the order and formalities of procedure and neither the Cortes nor the King may dispense them.

Art.244 The tribunals may not exercise functions other than judging and executing the judgment.

Art.245 They may not suspend the execution of laws nor make any regulation for the administration of justice.

Art.246 No Spaniard may be tried in a criminal or civil case by a commission.

T.III,Ch.V,1

The judicial power cannot in any case be exercised by the legislative body nor by the King.

T.III,Ch.V,3

The tribunals cannot interfere in the exercise of the legislative power nor suspend the execution of the laws, nor encroach upon the administrative functions...

Ibid,4

Citizens cannot be deprived of the judges whom the law assigns

He must be tried by the competent court previously determined by law. to them by any commission...

Art.247 In the usual civil T.I,3

and criminal cases there shall be only one jurisdiction for every class of person. That like offences shall be punished by like penalties without any distinctions of persons.

Art.248 The clergy shall continue to enjoy the jurisdiction of their own courts in the limits prescribed by law or that shall be prescribed.

Art.249 The military shall T.IV,13

enjoy also their particular jurisdiction in the crimes against discipline as the ordinance determines. The army and navy are subject to special laws in the matter of military offences...

Art.250 A magistrate or judge must be native and above twenty-five years of age.

The other qualifications shall be determined by law.

Art.251 Magistrates and T.III,Ch.V,2

judges may not be removed from their benches either Judges cannot be removed except for duly pronounced forfeit-

temporarily or permanently
except for a legally proved
cause demanding removal.

Neither may they be suspend-
ed from office except by
accusation legally constitu-
ted.

Art.252 If complaints a-
gainst any magistrate, drawn
up in a petition, seem well-
founded to the King, he may
upon consultation with the
Council of State suspend him.
The King shall send the pe-
tition immediately to the
Supreme Court for judgment
in accordance with the laws.

Art.253 All lack of obser-
vance of laws determining
procedure in criminal and
civil cases makes the offend-
ing judges personally respon-
sible.

Art.254 Bribery, subornation
and perjury of judges bring
government action against
those who commit the crimes.

ure nor suspended save by an
accepted accusation.

Art.255 The Cortes shall assign a suitable salary to the magistrates and judges.

Art.256 Justice shall be administered in the name of the King, and executions and provisions of the higher courts shall be registered in his name.

Art.257 The civil, criminal T.I,3

and commercial codes shall be the same for all the monarchy, regardless of the variations for special circumstances that succeeding Cortes may make.

Art.258 There shall be in the Court, a tribunal that shall be called the Supreme Court of Justice.

Art.259 The Cortes shall determine the number of magistrates that shall compose it and the chambers into which they shall be distributed.

Art.260 These judges upon

A code of civil laws common to all the kingdom shall be established.

taking office shall swear an oath on the hands of the King; to protect the Constitution, to be faithful to the King and to fulfill zealously the laws of the land.

Art.261 This Supreme Court shall be empowered to:

1. To divide the competences of the audiencias among themselves and those of the audiencias from other superior courts in the peninsula and adjacent islands.

2. To pass judgment on the Secretaries of the Cabinet when the Cortes have decreed impeachment.

3. To have jurisdiction over the dismissal and suspension of Councillors of State and the judges of the audiencias.

4. To have jurisdiction over the criminal cases of Cabinet Secretaries, of Councillors of State and of

the judges of all the audiencias. The highest political magistrate shall arrange the process for bringing these cases to this tribunal.

5. To have jurisdiction of all criminal cases brought against the members of this Supreme Court.

6. To have jurisdiction of the residence of every public employe who is subject to it by disposition of the laws.

7. To have jurisdiction of all litigation pertaining to royal patronage.

8. to have jurisdiction of the recourse to force of all the superior ecclesiastical courts.

9. To have jurisdiction of the appeals of de-feasance which are entered against sentences given in the last instances for the express effect of restoring

the suit to its primitive state and to make effective the responsibility treated in Art.253.

10. To hear the questions on the intelligence of some law, presented by the other courts, and to consult with the King about it and its underlying principles, so that he may advance a suitable declaration in the Cortes.

11. To examine the lists of civil and criminal cases that the audiencias must send in to advance the speedy administration of justice, to send a copy to the Government for the same reason and effect the publication thereof.

Art.262 The audiencias shall have cognizance of all the civil cases of the lower tribunals of its demarcation in second and third instance and also for the criminal

cases according to the provision of the laws.

Art.263 The judges that have given sentence in the second instance may not review the same case in the third.

Art.264 The audiencias shall have cognizance of the competences of all the inferior judges of their territory.

Art.265 They shall also have jurisdiction over the recourse to force employed by the ecclesiastical courts and authorities.

Art.266 They shall receive from all the inferior judges of their territory, prompt notices of the cases being instituted for crime and lists of the civil and criminal causes pending in their courts with a statement of the progress of all of them in order to expedite the

speediest administration of justice.

Art.267 The overseas audiencias shall have cognizance of the special appeals of defeasance. These ought to be presented in those audiencias that have a number sufficient for the formation of three chambers in which the case, at no instance has been tried. In the audiencias not comprising this number of magistrates, these appeals shall be presented from one to another audiencia of those included in the same administrative unit; if there is only one audiencia in that unit, they shall be presented at the nearest audiencia of the next unit.

Art.268 If defeasance is declared, the audiencia which has had cognizance of it shall report it with suitable comments in the

testimony, to the Supreme Court to make effective the responsibility treated in Art.253.

Art.259 The audiencias shall send to the Supreme Court of Justice accurate lists of civil cases every year and of criminal cases every six months, cases both terminated and pending, with a statement of the present status of the case. They shall include the reports received from the lower courts.

Art.270 Special laws and regulations shall determine the form of the audiencias, the place of residence and the number of judges, which may not be less than seven.

Art.271 At the time of the suitable division of Spanish territory indicated in Art. 12, the number of audiencias

T.III,Ch.V,8

It belongs to the legislative body to regulate the number and districts of the tribunals and the number of the judges of which each tribunal is and shall be composed.

and their respective territories shall be determined.

Art.272 Proportionately equal districts shall be established and in each district capital there shall be a counsellor at law (juez de letras) with an appropriate jurisdiction.

Art.273 The powers of these judges shall be limited to litigation and the laws shall determine their rights in the capital and towns of the district; likewise the limit of the civil cases under their jurisdiction without appeal.

Art.274 Mayors shall be established in all the towns and laws shall determine the extent of their powers both in litigation and in

Art.275 All the judges of the lower courts must give an account within three days

of the cases occasioned by crimes committed in their territory, to their respective audiencias. They shall continue to give accounts of the progress of the case at the times prescribed by the audiencia.

Art.276 They must also send to their respective audiencias general lists of the pending civil cases every six months and of the pending criminal cases every three months with a statement of the status of the case.

Art.277 Laws shall determine if there shall be special courts to try cases pertaining to the public right of the nation...

Art.278 No Spaniard may be deprived of the right to settle his differences by means of judge-arbiters selected by both sides.

T.III,Ch.V,5

The right of citizens to terminate definitively their controversies cannot be impaired by the acts of the legislative power.

Art.279 The sentence given by the arbiters shall be executed if the contestants have not reserved the right of appeal when making the compromise.

Art.280 The mayor (alcalde) of each community shall exercise the office of conciliator in it and those bringing claims for civil suit or for injuries ought to present themselves before him for this purpose.

Art.281 The mayor with two competent men appointed, one by each disputant, shall hear the plaintiff and the defendant, shall inform himself of the reasons supporting each contestant and upon hearing the decision of his associates, shall take the course of action which seems proper so that he may put an end to the litigation without fur-

C.Y.I,87

The decision of these arbiters is final if the citizens do not reserve the right to object.

ther trial. It shall be thus terminated if the disputants agree to this extrajudicial decision.

Art.282 No civil suit may be begun unless it is proven that the medium of arbitration has been attempted.

Art.283 No civil suit, regardless of amount involved, after three definitive judgments have been passed upon it may be revived or reopened under any pretext or by any authority. The third sentence remains an unalterable judgment.

Art.284 The laws shall apportion jurisdiction and shall arrange the administration of criminal justice so that the process may be carried out speedily and without fraud. Thus crimes shall be promptly punished.

- Art.285 No Spaniard may be imprisoned unless summary evidence of the deed be first presented, for which he merits its physical punishment according to law and likewise a written order from the judge informing him of the act of apprehension.
- Art.286 All persons must obey these orders; any resistance shall be considered a serious crime.
- Art.287 When resistance is offered or flight attempted, force may be employed to make a person prisoner.
- Art.288 An arrested person before being committed to prison shall be presented to the judge, provided there is nothing to hinder it, so that a deposition may be received; but if he cannot corroborate his statement he shall be taken to jail
- C.Y.III,T.VIII,222
- No one can be put under arrest or detained except in virtue of a warrant of arrest from police officers.
- Rights of Man,7
-Every citizen summoned or seized in virtue of the law ought to render instant obedience; he makes himself guilty by resistance.
- T.III,Ch.V,11
- Every man siezed and brought before the police-officers shall be examined immediately or, at the latest, within twenty-four hours.

for detention and the judge shall receive his deposition within twenty-four hours later.

Art.289 The deposition of an arrested person shall be without oath. No one shall be compelled to give an oath in criminal matters on the exact point in litigation.

Art.290 In burglary, any culprit may be arrested by anyone and brought to the judge; after presentation to the judge or commitment to custody, the procedure shall be the same as set forth in the two previous articles.

Art.291 If it be resolved that the arrested person be placed in jail or that he remain in it as a prisoner, he shall thereby be provided for and a copy of the commitment shall be given to the mayor to file in his register of prisoners. Without this

requisite, the mayor may not admit any prisoner as such, under the strictest responsibility.

Art.292 Only in crimes involving pecuniary responsibility shall the property of any individual be confiscated and then only in proportion to the amount to which it may be extended.

Art.293 No person offering bail may be taken to jail in cases in which the law does not prohibit the giving of bail.

Art.294 At any stage of a case when it appears that corporal punishment may not be imposed upon the prisoner he may be given his liberty provided he furnished bail.

Art.295 The prisons shall be so disposed as to assure the security of the inmates but not to molest them. The mayor shall keep them thus in good custody, separating

T.III,Ch.V,12

No arrested man can be kept in confinement in any case in which the law permits remaining free under bail, if he gives sufficient bail.

those sentenced to solitary confinement by the judge but never shall they be placed in underground and unhealthy dungeons.

Art.296 The law shall determine the frequency of prison inspection and no prisoner may be kept from presenting himself at the inspection under any pretext.

Art.297 The judge and mayor who are remiss in the preceding articles shall be punished as perpetrators of arbitrary detention; this shall be included as a crime in the criminal code.

Art.298 The reason for imprisonment and the name of his accuser, if possible, shall be shown to the person under arrest within twenty-four hours.

Art.299 At the preliminary trial of the arrested person all the documents and

declarations of the witnesses along with their names shall be read; and if by the names he does not know their identity he shall be given as many opportunities as he demands in order to learn their identity.

Art.300 The procedure following this shall be public, in the manner and form determined by law.

T.III,Ch.V,9

The proceedings shall be pub-

lic.....

Art.301 Neither torture nor constraint may ever be employed.

Art.302 Neither shall the punishment of confiscation of property be imposed.

Art.303 No penalty imposed for any crime may be imposed upon the family of him who suffers it; the punishment shall have all its effect only upon him who deserves it.

Art.304 The house of any Spaniard may not be confiscated except in the cases

determined by law for the good order and security of the state.

Art.305 If in the future, succeeding Cortes believe it suitable to make a distinction between judges of law and of equity, they shall establish it in the form they judge most advisable.

Art.306 If in unusual circumstances the security of the state demands the suspension of some of the formalities prescribed for the arrest of criminals, in any part or all of the kingdom, the Cortes may decree it for a stated length of time.

Chapter VI

The Internal Government of the Provinces and Towns.

Art.307 For the internal government of the towns there shall be town-councils (ayun-

tamiento) composed of the mayor or mayors (alcaldes), aldermen (regidores), and the attorney general (procudor syndico). The governor (of the province) shall preside whenever possible and in his absence, the mayor or if there are two, the first appointed of the two.

• Art.308 Town councils shall be established in towns that do not have them and need them. Every town having over one thousand inhabitants must have a town council.

Art.309 The laws shall determine the number of individuals of each class that should compose the councils of the towns in proportion to its population.

Art.310 The mayors, aldermen and attorneys-general shall be chosen by election in the towns. The permanent aldermen shall cease their

T. III, Ch. IV, Sect. II, 2

The administrators are agents elected at stated times by the people to exercise.....administrative functions.

functions regardless of their rank.

Art.311 Every December the citizens of each town shall meet to elect by a majority of votes a stated number of electors, in proportion to the population, who reside in the same town and who exercise the rights of citizenship.

Art.312 The electors shall elect in the same month by majority of votes, the mayor or mayors, aldermen and attorney or attorneys-general so that they may assume their duties on the first of January of the following year.

Art.313 The mayors shall be changed every year, half of the aldermen every year and the same for the attorneys-general, if there are two; if there is only one the attorney shall be changed every year.

Art.314 Anyone holding one of these offices may not hold any other of them until at least two years pass, where ever the population permits.

Art.315 The qualifications for mayor, alderman or attorney-general, in addition to full exercise of the rights of citizens are:

• twenty five years of age and at least five years of residence in the town. Other qualifications shall be determined by law.

Art.316 The mayor, alderman and attorney general may not hold any office, the nomination to which resides in the King. This ruling does not include those who serve in the regular militia.

Art.317 All the above mentioned municipal offices must be held in turn by all eligible. No one may be ex-

empted without legitimate reason.

Art.318 Every council shall elect, by a majority, a secretary to take charge of the town funds.

Art.319 The town councils shall have the following duties:

1. To care for health and comfort of the townspeople.
2. To assist the mayor in all matters pertaining to the security of the individual and his property and the maintenance of public order.
3. The administration and expenditure of the funds of taxes and excises in conformity with the laws and regulations. They must appoint a trustee responsible to them.
4. To make the apportionment and collection of taxes and send them to their respective treasury.

5. To administer the primary schools and all the other educational establishments supported by community funds.

6. To administer the hospitals, hospices, homes for foundlings and other charitable institutions under the prescribed regulations.

7. To administer the construction and repair of roads, causeways, bridges, and jails, of woods and nurseries and all public works of necessity, utility, or beauty.

8. To draw up municipal ordinances and present them for the approval of the Cortes by means of the provincial deputation which shall include them in their report.

9. To promote agriculture, industry, and commerce according to the locality

and circumstances of the towns and their needs.

Art.320 If the property taxes are not sufficient to construct public works of general utility and if it should be necessary to impose an excise tax to carry out the construction, the approval of the Cortes, through the provincial deputation, is necessary to impose the duty. In case of urgent necessity, the town council may, with the approval of the provincial deputation, impose a duty temporarily until the decision of the Cortes. These funds from the excise shall be administered like funds from taxation of property.

Art.321 The councils shall discharge these duties under the supervision of the provincial deputation. They

shall render a certified account of disbursements of public funds each year to the deputation.

Art.322 The chief executive of each province is the governor, appointed by the King.

Art.323 In each province there shall be a provincial deputation to promote prosperity. The governor (jefe politico) shall be its president.

Art.324 This deputation shall be composed of the president, the intendant, and seven individuals elected in the manner to be prescribed regardless of any change in number that the Cortes may make after the redivision of provinces provided for by Art.12.

Art.325 Half of the provincial deputation shall be renewed every two years, the

larger number withdrawing the first time, the smaller number withdrawing the second time and so on successively.

Art.326 These individuals shall be elected by the district electors at the same time and in the same manner as the election of deputies to Cortes.

Art.327 Three alternated for each deputation shall be elected at the same time and in the same manner.

Art.328 Members of the provincial deputation must be citizens in full exercise of their rights, above twenty five years of age, native or resident of the province, of at least seven years residence, receiving enough income for decent maintenance; no officer appointed by the King may be a member.

Art.329 A member is not

eligible for reelection until four years have passed after ceasing his functions as a member.

Art.330 In the absence of the governor, the intendant shall preside and in his absence, the member first elected.

Art.331 The deputation shall appoint a secretary in charge of public funds of the province.

Art.332 The deputation shall have at the maximum, ninety days of sessions at the most suitable occasions. In the peninsula they ought to meet for the first day of March, and overseas for the first day of June.

Art.333 The duties of these T.III,Ch.IV,Sect.II,4
deputations are:

1. To supervise and approve the apportionment to the towns of the taxes that have fallen to the province.

The administrators are essentially charged with the apportionment of the direct taxes and the surveillance of the monies arising from all the public taxes

2. To watch over the just expenditure of public funds in the towns and to examine their accounts in order to give the approval of the deputation. To enforce the observance of laws and regulations in all these matters.

3. To effect the establishment of town councils in conformance with Art. 308.

4. To propose to the Government the most suitable excises to effect the construction of new public works or the repair of old ones, in order to obtain the permission of the Cortes. In overseas provinces, if the urgency of public works does not permit waiting until the Cortes shall have given permission, the deputation with the express approval of the governor may employ, temporarily, funds from excise taxes,

and revenues in their territory.

giving immediate notice to the Government for approval by the Cortes. The deputation shall appoint a trustee responsible to it for the collection of duties and the accounts of the disbursements after examination by the deputation shall be sent to the Government for inspection and comment and finally to the Cortes for approval.

5. To promote education of children according to the approved plans and to foster agriculture, industry, and commerce, protecting inventors of new discoveries in any of these fields.

6. To inform the Government of the abuses detected in the administration of public funds.

7. To take the census and statistics of the provinces.

8. To take care that

charitable establishments fulfill their objects, proposing to the Government regulations deemed conducive to the reform of the abuses that they observe.

9. To inform the Cortes of the infractions of the Constitution that they observe in the province.

10. The deputations of overseas provinces shall watch over the administration order and progress of the missions for the conversion of heathen Indians. Their charges shall give them supervision in order to avoid abuses. The deputation shall bring abuses to the attention of the Government.

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| <p>Art. 334 If any deputation abuses its powers, the King may suspend the members composing it, informing the Cortes of his action and of his reasons for doing so. During the suspension the alternates</p> | <p>T. III, Ch. IV, Sect. II, 5 He can suspend administrators from their functions in case of persistent disobedience or if they compromise by their acts the public. Ibid, 6 He shall (the King) give notice of</p> |
|--|---|

shall enter upon these functions.

Art.335 All members of town councils and provincial deputations upon entering office shall take an oath: to maintain the Constitution of the Spanish monarchy, to observe its laws, to be faithful to the King and to religiously fulfill the obligations of their office. The town council shall take the oath on the hands of the first elected mayor; the provincial deputation, on the hands of the governor.

Chapter VII

Art.336 The Cortes shall establish or confirm annually the taxes, both direct and indirect, general, provincial and municipal. The old taxes shall be levied until their annulment is announced or others are imposed.

suspension to the legislative body.

T.V,1

The public taxes are considered and fixed each by the legislative body.

Art.337 The taxes shall be apportioned among all Spaniards in proportion to their property without any exemption or privilege.

Art.338 The taxes shall be distributed for the expenses of the public administration in all its branches.

Art.339 In order that the Cortes may fix the expenditures in all branches of public service and the funds to cover them, the Secretary of Finance shall present to the Cortes at the opening of their session, a budget composed of the reports of the other Secretaries of the funds needed for their branches.

Art.340 The Secretary of Finance himself shall present with the budget, a plan

Rights of Man, 13

For the maintenance of the public force and for the expenses of administration a general tax is indispensable; it ought to be equally apportioned among all the citizens according to their means.

of impositions to meet the budget.

Art.341 If any tax seems to the King burdensome or unfair, he shall point it out to the Cortes through the Secretary of Finance, presenting at the same time a suitable substitute.

Art.342 After fixing the quota of direct taxes, the Cortes shall approve the apportionment of them among the provinces; to each shall be assigned the burden proportional to its wealth. For each province the Secretary of Finance shall present the proposed budget.

Art.343 There shall be a national treasury which shall dispose of all the funds destined for the service of the State.

Art.344 There shall be provincial treasuries in each province in which shall be deposited the funds collected

T.III,Ch.III,Sect.I,4 (Powers of Legislative Assembly)

To make the apportionment of the direct tax among the departments of the kingdom.

C.Y.I,102

The national treasury is the central point of the receipts and expenditures of the Republic.

for the expenses of the state. These treasuries shall be in correspondence with the national treasury at whose disposal they shall hold their funds.

Art.345 No payment shall be made at the general treasury except by royal decree, countersigned by the Secretary of Finance. They shall stipulate the expenditure for which the money is to be used and the decree of Cortes authorizing it.

Art.346 So that the general treasury may conduct its affairs with appropriate integrity, the creditor and debtor ought to be inscribed by the auditors of revenue and of distribution of public funds.

Art.347 Special regulations shall arrange these details so that the purpose of the institution may be best

served.

Art.348 For the inspection of all accounts of public funds, there shall be established by a special law, a General Board of Auditors of Accounts.

Art.349 The account of the general treasury that shall include the annual statement of all the taxes and income and its disbursements, as soon as it passes the Cortes shall be printed, published and circulated to the provincial deputations and to the town councils.

Art.350 In the same manner the accounts rendered by Cabinet Secretaries of the disbursements in their respective branches shall be printed, published, and circulated.

Art.351 The management of public finance shall always

T.V,3

The detailed accounts of the expenditures of the ministerial departments signed and certified by the ministers or ordainders-general shall be made public by being printed at the beginning of the session of each legislature.

C.Y.I,106

The legislative body approves the accounts.

be independent of any authority except that to which it has been committed.

Art.352 There shall be customs houses only at the seaports and the frontiers; however, this ruling shall not take effect until the Cortes so disposes it.

Art.353 The recognized public debt shall be one of the first cares of the Cortes and they shall employ the greatest care in verifying its progressive extension and in paying the accrued interest, arranging everything concerning the direction of this important branch.

Chapter VIII

The National Military Force.

Art.354 There shall be a permanent national military force on land and on sea for the external defense of the

C.Y.I,108 The Republic supports even in time of peace, a paid army and navy.

state and the preservation of internal order.

Art.355 The Cortes shall fix annually the number of troops necessary, according to the circumstances and manner of raising them that shall be most suitable.

Art.356 The Cortes shall likewise fix annually the number of ships to be fitted out or to be kept fitted out.

Art.357 The Cortes shall establish by ordinances everything relating to discipline, order of promotion, salaries, administration and whatsoever corresponds to the good condition of the army and navy.

Art.358 Military schools shall be established for the teaching and instruction of all branches of military and naval service.

Art.359 No Spaniard may be

C.Y.I,55

Included under the name of decree are the acts of the legislative body in regard to:

The annual establishment of the land and sea forces.

exempted from military service at the time and manner stipulated by law.

Art.360 Each province shall have provincial bodies of national militia composed of the inhabitants of the respective province, in proportion to its population and circumstances.

Art.361 A special ordinance shall arrange the manner of formation, their number and the special constitution of all its branches.

Art.362 The service of these militias shall not be continuous and shall take place only when circumstances require it.

Art.363 When necessary, the King may dispose of this force within its respective province; but the militia may not be employed outside the province without consent of Cortes.

Chapter IX

Public Instruction

Art.364 In all the communi- T.I,3
 ties of the monarchy, pri-
 mary schools shall be estab-
 lished for the instruction
 of children in reading, writ-
 ing, and counting. The cat-
 echism of the Catholic re-
 ligion and a brief exposition
 of civic obligations shall
 also be taught.

Art.365 An adequate number
 of universities and other
 establishments of instruction
 shall be established for in-
 struction in all the sciences
 literature, and belles lett-
 res.

Art.366 The general plan of
 instruction shall be uniform
 in all the kingdom. The po-
 litical Constitution of the
 monarchy must be taught in
 all the universities and lit-
 erary establishments where

There shall be created and
 organized a system of public in-
 struction, common to all citizens.
 C.Y.III,T.X,296

There are in the Republic
 primary schools where the pupils
 may learn reading, writing, the
 elements of computation and those
 of morality.

political and ecclesiastical sciences are taught.

Art.367 There shall be a general commission of Education composed of persons of recognized learning whose charge shall be the inspection of public education, under the authority of the Government.

Art.368 The Cortes by means of plans and special statutes shall regulate all pertaining to the important object of public instruction.

Art.369 All Spaniards have freedom to write, print and publish their political ideas without license, revision or approval previous to publication, under the restrictions and responsibility established by law.

Chapter X

The Observance of the Constitution and Manner

Rights of Man,3

(The Constitution guarantees)

Liberty to every man to speak, write, print and publish his ideas without having his writings subjected to any censorship or inspection before their publication.

of Amending It.

Art.370 The Cortes in their first session shall take into consideration the infractions of the Constitution that will have been made to devise a suitable remedy and make effective the responsibility of those who have made infractions thereon.

Art.371 Every Spaniard has the right to petition the Cortes or the King demanding the observance of the Constitution.

Art.372 Every person who discharges the duties of a civil, public, ecclesiastical or military office, upon entering office, shall swear: to maintain the Constitution, to be faithful to the King and duly discharge his duty.

Art.373 No alteration, addition or reform in any arti-

Rights of man,3

Liberty to address individually signed petitions to the constituted authorities.

T.VII,3

The next legislature and the

cles of the constitution may be proposed until eight years have passed after its promulgation.

Art.374 To make any alteration, addition or reform in the Constitution, the deputation about to decree it definitely must be authorized with special powers for this purpose.

Art.375 Any proposition of reform in any article of the Constitution must be made in writing and be supported and affirmed by at least twenty deputies.

Art.376 The proposition of reform shall be read three times with intervals of six days between each reading, and after the third reading, they shall decide whether it should be admitted to discussion.

Art.377 If admitted to dis-

one following shall not propose the alteration of any article.

cussion, the deputies shall proceed with the same formalities and steps as prescribed for the passing of laws. After this they shall decide whether it should be taken up in the following general deputation; a two-thirds vote is necessary to carry this decision.

Art.378 The following general deputation after the same formalities, may declare in the session of either year, by a two-thirds vote, that the grant of special powers to make the reform shall take place.

Art.379 After making this declaration, it shall be published and circulated in all the provinces and in accordance with the time of making the declaration the Cortes shall decide whether the next deputation or the

deputation following the next one shall receive the special grants of power.

Art.380 These grants shall be made by the provincial electoral conventions, adding to the regular letter of attorney, the following clause; Likewise they grant the special power to make in the Constitution, the reform of which the decree of Cortes treats, the contents of which are the following (here the literal decree) All in accord with the provisions of the Constitution. And they oblige themselves to recognize and consider as constitutional that which they have established by virtue of this grant.

Art.381 The proposed reform shall be again discussed; if it is passed by two-thirds of the deputies, it shall become constitutional law and as such shall be published in

the Cortes.

Art.382 A deputation shall present the decree of reform to the King so that he may have it published and circulated to all the authorities and communities, of the monarchy.

Diego Munoz Toner, President of the Commission.

Jose Espiga

Vicente Morales Duarez

Agustin de Arguelles

Antonio Joaquin Perez

Antonio Oliveros

Mariano Mendiola

Joaquin Fernandez de Leyva

Alonso Canedo

Pedro Maria Rio

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Francisco Gutierrez de la Huerta

Francisco de Sales Rodriguez de la Barcena

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Deputy Secretary of
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