

**THE GERMAN
CONSTITUTION**

THE GERMAN CONSTITUTION

by

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FOREWORD

It is a pleasure to introduce M. Brunet to the American public. He is a French scholar of the finest type, careful, objective, and sincere. The present work on the German constitution bears the impress of these high qualities. In this volume we find the scientific spirit that was to be expected, combined with an intimate, first-hand knowledge of the forces and materials which are described. All this is very significant. The long night of the Great War was hardly over before M. Brunet began an impartial and thorough-going study of the state of affairs created in Germany by the revolution of November, 1918. If a Frenchman who suffered so much can display such good sense and sobriety, then surely American scholars ought to give more than a hearty welcome to this volume. It is an excellent beginning in the reconstruction of the republic of letters.

In this book we have a plain and simple account of the German revolution and the conflict of forces which ended in the establishment of the republic. The balance of parties is examined. The results of the elections to the national assembly are summarized. Then follows a systematic analysis of the new plan of government, illuminated by continual reference to the concrete historical circumstances in which the makers of the German constitution had to operate.

M. Brunet has tried to steer his way on an even keel between the highly theoretical methods of the German political philosophers and the hard, matter-of-fact methods of the Anglo-Saxons. He has succeeded admirably. Accordingly, the usefulness of his volume extends beyond the information which it presents. It affords an interesting model to young American writers who have occasion to deal with constitu-

tional and legal matters. There is no reason why a doctor of philosophy should not love insight and form as much as the poet does. The great English doctor of law, Maitland, certainly did.

M. Brunet's excellent qualities have enabled him to write the best treatise on the German constitution which exists in any language. Any one who will spend a day comparing this volume with Dr. Fritz Stier-Somlo's *Die Verfassung des Deutschen Reichs vom 11, August, 1919*, for example, will soon discover how much more ingenious and penetrating is the French commentator. M. Brunet's volume is to be commended on other grounds than those of intrinsic excellence. It brings information to the American public on a subject concerning which very little is known at present. The new German constitution has been translated into English and there are a few stray articles by the way of commentary available to Americans, but this is the first systematic treatise on the topic in our tongue.

It would not be fitting to give in this foreword a résumé of M. Brunet's volume. The admirable survey presented in the analytical table of contents can be seen at a glance. It may not be out of place, however, to indicate some points of contact between the present course of American thinking and the system of government here described. Notwithstanding the curious constitution worship that flourishes in many places in the United States, there are signs of fresh currents of thinking. Mr. Woodrow Wilson, in his remarkable essay, *Congressional Government*, set in train new opinions as to our constitutional system which have by no means been lost to view in the general revulsion of feeling that followed the war. Only recently Professor Lindsay Rogers, of Columbia University, took occasion to remark, in the course of an interesting article on modern French politics, that we ought to have a more lively and intelligent discussion of constitutional questions in America. The ink was hardly dry on his paper before Professor William Macdonald accepted the challenge by bringing out his highly

suggestive book, entitled *A New Constitution for a New America*.

The rhythm of human affairs is such that we may reasonably expect a return to the constitutional searchings of 1912 on a higher and different plane. Those who fix their eyes not upon the written letter of our Constitution, but upon judicial decisions, political practice, and congressional procedure are never under the delusion that our constitutional system does not change. If, as Professor Seligman long ago pointed out, economic conditions are rapidly becoming the same all over the world with similar legal results, then we may, with proper warrant, expect very soon a new and lively examination of constitutional principles to break in upon us. M. Brunet's book fits in with the signs of the times. No person who pretends to be intelligent about constitutional matters can neglect it.

It would be difficult to imagine anything more illuminating than a comparison of the Constitution of the United States drawn up in 1787, the fundamental law of the Australian Commonwealth adopted in 1900, and the new German *Reichsverfassung* of 1919, which vibrates with the tramp of the proletariat. In the attempt of the Germans to combine the strength of Hamilton's government with the democratic control so vaunted by Jefferson we have an experiment that ought to stir our deepest interest. In the provisions for social, not to say socialistic, enterprise, both the Australian and the German constitutions offer noteworthy contrasts to our own fundamental law. It will not escape the close observer that the Germans have not created a supreme court, on the model of our own, endowed with power to set aside acts of the executive and legislative branches of the government. The relations established by the Germans between the federal government and the states, ingenious compromises all must admit, ought to be studied in connection with Mr. Roosevelt's "New Nationalism"—not as an echo of a dead past but as a prophecy of the future.

The science of comparative government is as fruitful to-day as it was a generation ago when it flourished in such vigour. A teacher who will place M. Brunet's book and "The Federalist" in the hands of a college class cannot fail to evoke a lively interest in politics and a more intelligent consideration of American constitutional problems.

To the historian, the introductory part of M. Brunet's volume will afford food for thought. There is no doubt that the new German constitution is the product of a sharp and determined conflict of classes. M. Brunet records the fact and gives the alignment of parties. No sophisticated person will ever imagine (whatever he may say) that the German fundamental law was drawn from abstract political thinking, theories about the rights of states, or reflections on the fate of Greek democracies and ancient Rome. The pressure of class interests is evident in almost every line. If one should underscore the socialist sections with red, the Centre clauses with yellow, and the capitalist phrases with black, one would have an interesting study in constitutional artistry. From time to time, M. Brunet makes specific references to the precise effect of party pressures upon legal phraseology. It would, however, be a work of supererogation to point out to American scholars the relevancy of these passages. Having recovered from the shock of learning that the Fathers of our Constitution were made of mortal clay, they are prepared to receive M. Brunet's book with open minds.

My hearty thanks are due to Mr. Knopf, who, on my suggestion, undertook to make this volume available to the American public. I am indebted to Professors Munro and Holcombe for the right to use their translation of the "Constitution of the German Commonwealth" issued by the World Peace Foundation. Especially am I under obligation to Mr. Joseph Gollomb for undertaking the translation of M. Brunet's text. Mr. Gollomb was himself a witness at many of the scenes described in these pages. He has first-hand knowledge of European politics. His long residence in Paris gave him a

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mastery of the French tongue. In making this English version, he has kept in mind the requirements of the general reader as well as those of technical students.

CHARLES A. BEARD.

New Milford, Conn.,
December 14, 1921.

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APPENDIX

THE CONSTITUTION
OF THE
GERMAN COMMONWEALTH

PREAMBLE

The German People, united in all their branches, and inspired by the determination to renew and strengthen their Commonwealth in liberty and justice, to preserve peace both at home and abroad, and to foster social progress, have adopted the following Constitution.

PART ONE

Structure and Functions of the Commonwealth

SECTION I

COMMONWEALTH AND STATES

ARTICLE 1

The German Commonwealth is a republic.
Political authority is derived from the People.

ARTICLE 2

The territory of the Commonwealth consists of the territories of the German States. Other territories may be incorporated into the Commonwealth by national law, if their inhabitants, exercising the right of self-determination, so desire.

ARTICLE 3

The national colours are black, red and gold. The merchant flag is black, white and red, with the national colours in the upper inside corner.

ARTICLE 4

The generally recognized principles of the law of nations are accepted as an integral part of the law of the German Commonwealth.

ARTICLE 5

Political authority is exercised in national affairs by the National Government in accordance with the Constitution of the Commonwealth, and in State affairs by the State Governments in accordance with the State constitutions.

ARTICLE 6

The Commonwealth has exclusive jurisdiction over:

1. Foreign relations;
2. Colonial affairs;
3. Citizenship, freedom of travel and residence, immigration and emigration, and extradition;
4. Organization for national defence;
5. Coinage;
6. Customs, including the consolidation of customs and trade districts and the free interchange of goods;
7. Posts and telegraphs, including telephones.

ARTICLE 7

The Commonwealth has jurisdiction over:

1. Civil law;
2. Criminal law;
3. Judicial procedure, including penal administration, and official co-operation between the administrative authorities;
4. Passports and the supervision of aliens;
5. Poor relief and vagrancy;
6. The press, associations and public meetings;
7. Problems of population; protection of maternity, infancy, childhood and adolescence;
8. Public health, veterinary practice, protection of plants from disease and pests;
9. The rights of labour, social insurance, the protection of wage-earners and other employes, and employment bureaus;
10. The establishment of national organizations for vocational representation;
11. Provision for war-veterans and their surviving dependents;

12. The law of expropriation;
13. The socialization of natural resources and business enterprises, as well as the production, fabrication, distribution, and price-fixing of economic goods for the use of the community;
14. Trade, weights and measures, the issue of paper money, banking, and stock and produce exchanges;
15. Commerce in foodstuffs and in other necessities of daily life, and in luxuries;
16. Industry and mining;
17. Insurance;
18. Ocean navigation, and deep-sea and coast fisheries;
19. Railroads, internal navigation, communication by power-driven vehicles on land, on sea, and in the air; the construction of highways, in so far as pertains to general intercommunication and the national defence;
20. Theatres and cinematographs.

ARTICLE 8

The Commonwealth also has jurisdiction over taxation and other sources of income, in so far as they may be claimed in whole or in part for its purposes. If the Commonwealth claims any source of revenue which formerly belonged to the States, it must have consideration for the financial requirements of the States.

ARTICLE 9

Whenever it is necessary to establish uniform rules, the Commonwealth has jurisdiction over:

1. The promotion of social welfare;
2. The protection of public order and safety.

ARTICLE 10

The Commonwealth may prescribe by law fundamental principles concerning:

1. The rights and duties of religious associations;
2. Education, including higher education and libraries for scientific use;
3. The law of officers of all public bodies;
4. The land law, the distribution of land, settlements and homesteads, restrictions on landed property, housing, and the distribution of population;
5. Disposal of the dead.

ARTICLE 11

The Commonwealth may prescribe by law fundamental principles concerning the validity and mode of collection of State taxes, in order to prevent:

1. Injury to the revenues or to the trade relations of the Commonwealth;
2. Double taxation;
3. The imposition of excessive burdens, or burdens in restraint of trade on the use of the means and agencies of public communication;
4. Tax discriminations against the products of other States in favour of domestic products in interstate and local commerce; or
5. Export bounties;

or in order to protect important social interests.

ARTICLE 12

So long and in so far as the Commonwealth does not exercise its jurisdiction, such jurisdiction remains with the States. This does not apply in cases where the Commonwealth possesses exclusive jurisdiction.

The National Cabinet may object to State laws relating to the subjects of Article 7, Number 13, whenever the general welfare of the Commonwealth is affected thereby.

ARTICLE 13

The laws of the Commonwealth are supreme over the laws of the States which conflict with them.

If doubt arises, or difference of opinion, whether State legislation is in harmony with the law of the Commonwealth, the proper authorities of the Commonwealth or the central authorities of the States, in accordance with more specific provisions of a national law, may have recourse to the decision of a supreme judicial court of the Commonwealth.

ARTICLE 14

The laws of the Commonwealth will be executed by the State authorities, unless otherwise provided by national law.

ARTICLE 15

The National Cabinet supervises the conduct of affairs over which the Commonwealth has jurisdiction.

In so far as the laws of the Commonwealth are to be carried into effect by the State authorities, the National Cabinet may issue general instructions. It has the power to send commissioners to the central authorities of the States, and, with their consent, to the subordinate State authorities, in order to supervise the execution of national laws.

It is the duty of the State Cabinets, at the request of the National Cabinet, to correct any defects in the execution of the national laws. In case of dispute, either the National Cabinet or that of the State may have recourse to the decision of the Supreme Judicial Court, unless another court is prescribed by national law.

ARTICLE 16

The officers directly charged with the administration of national affairs in any State shall, as a rule, be citizens of that State. The officers, employes and workmen of the national administration shall, if they so desire, be employed in the districts where they reside as far as is possible and not inconsistent with their training and with the requirements of the service.

ARTICLE 17

Every State must have a republican constitution. The representatives of the People must be elected by the universal, equal, direct and secret suffrage of all German citizens, both men and women, according to the principles of proportional representation. The State Cabinet shall require the confidence of the representatives of the People.

The principles in accordance with which the representatives of the People are chosen apply also to municipal elections; but by State law a residence qualification not exceeding one year of residence in the municipality may be imposed in such elections.

ARTICLE 18

The division of the Commonwealth into States shall serve the highest economic and cultural interests of the People after most thorough consideration of the wishes of the population affected. State boundaries may be altered and new States may be created within the Commonwealth by the process of constitutional amendment.

With the consent of the States directly affected, it requires only an ordinary law of the Commonwealth.

An ordinary law of the Commonwealth will also suffice, if one of the States affected does not consent, provided that the change of boundaries or the creation of a new State is desired by the population concerned and is also required by a preponderant national interest.

The wishes of the population shall be ascertained by a referendum. The National Cabinet orders a referendum on demand of one-third of the inhabitants qualified to vote for the National Assembly in the territory to be cut off.

Three-fifths of the votes cast, but at least a majority of the qualified voters, are required for the alteration of a boundary or the creation of a new State. Even if a separation of only a part of a Prussian administrative district, a Bavarian circle, or, in other States, a corresponding administrative district, is involved, the wishes of the population of the whole district must be ascertained. If there is no physical contact between the territory to be cut off and the rest of the district, the wishes of the population of the district to be cut off may be pronounced conclusive by a special law of the Commonwealth.

After the consent of the population has been ascertained the National Cabinet shall introduce into the National Assembly a bill suitable for enactment.

If any controversy arises over the division of property in connection with such a union or separation, it will be determined upon complaint of either party by the Supreme Judicial Court of the German Commonwealth.

ARTICLE 19

If controversies concerning the Constitution arise within a State in which there is no court competent to dispose of them, or if controversies of a public nature arise between different States or between a State and the Commonwealth, they will be determined upon complaint of one of the parties by the Supreme Judicial Court of the German Commonwealth, unless another judicial court of the Commonwealth is competent.

The President of the Commonwealth executes judgments of the Supreme Judicial Court.

SECTION II

THE NATIONAL ASSEMBLY

ARTICLE 20

The National Assembly is composed of the delegates of the German People.

ARTICLE 21

The delegates are representatives of the whole People. They are subject only to their own consciences and are not bound by any instructions.

ARTICLE 22

The delegates are elected by universal, equal, direct and secret suffrage by all men and women over twenty years of age, in accordance with the principles of proportional representation. The day for elections must be a Sunday or a public holiday.

The details will be regulated by the national election law.

ARTICLE 23

The National Assembly is elected for four years. New elections must take place at the latest on the sixtieth day after its term comes to an end.

The National Assembly convenes at the latest on the thirtieth day after the election.

ARTICLE 24

The National Assembly meets each year on the first Wednesday in November at the seat of the National Government. The President of the National Assembly must call it earlier if the President of the Commonwealth, or at least one-third of the members of the National Assembly, demand it.

The National Assembly determines the close of its session and the day of re-assembling.

ARTICLE 25

The President of the Commonwealth may dissolve the National Assembly, but only once for the same cause.

The new election occurs at the latest on the sixtieth day after such dissolution.

ARTICLE 26

The National Assembly chooses its President, Vice-President and its Secretaries. It regulates its own procedure.

ARTICLE 27

During the interval between sessions, or while elections are taking place, the President and Vice-President of the preceding session conduct its affairs.

ARTICLE 28

The President administers the regulations and policing of the National Assembly building. The management of the building is subject

to his direction; he controls its receipts and expenses in accordance with the provisions of the budget, and represents the Commonwealth in all legal affairs and in litigation arising during his administration.

ARTICLE 29

The proceedings of the National Assembly are public. At the request of fifty members the public may be excluded by a two-thirds vote.

ARTICLE 30

True and accurate reports of the proceedings in public sittings of the National Assembly, of a State Assembly, or of their committees, are absolutely privileged.

ARTICLE 31

An Electoral Commission to decide disputed elections will be organized in connection with the National Assembly. It will also decide whether a delegate has forfeited his seat.

The Electoral Commission consists of members of the National Assembly, chosen by the latter for the life of the Assembly, and of members of the National Administrative Court, to be appointed by the President of the Commonwealth on the nomination of the presidency of this court.

This Electoral Commission pronounces judgment after public hearings through a quorum of three members of the National Assembly and two judicial members.

Proceedings apart from the hearings before the Electoral Commission will be conducted by a National Commissioner appointed by the President of the Commonwealth. In other respects the procedure will be regulated by the Electoral Commission.

ARTICLE 32

The National Assembly acts by majority vote unless otherwise provided in the Constitution. For the conduct of elections by the National Assembly it may, in its rules of procedure, make exceptions.

The quorum to do business will be regulated by the rules of procedure.

ARTICLE 33

The National Assembly and its committees may require the presence of the National Chancellor and of any National Minister.

The National Chancellor, the National Ministers, and Commissioners designated by them, have the right to be present at the sittings of the National Assembly and of its committees. The States are entitled to send their plenipotentiaries to these sittings to submit the views of their Cabinets on matters under consideration.

At their request the representatives of the Cabinets shall be heard during the deliberations, and the representatives of the National Cabinet shall be heard even outside the regular order of business.

They are subject to the authority of the presiding officer in matters of order.

ARTICLE 34

The National Assembly has the right, and, on proposal of one-fifth of its members, the duty to appoint committees of investigation. These committees, in public sittings, inquire into the evidence which they, or the proponents, consider necessary. The public may be excluded by a two-thirds vote of the committee of investigation. The rules of procedure regulate the proceedings of the committee and determine the number of its members.

The judicial and administrative authorities are required to comply with requests by these committees for information, and the record of the authorities shall on request be submitted to them.

The provisions of the code of criminal procedure apply as far as is suitable to the inquiries of these committees and of the authorities assisting them, but the secrecy of letter and other post, telegraph, and telephone services will remain inviolate.

ARTICLE 35

The National Assembly appoints a Standing Committee on foreign affairs which may also act outside of the sittings of the National Assembly and after its expiration or dissolution until a new National Assembly convenes. Its sittings are not public, unless the committee by a two-thirds vote otherwise provides.

The National Assembly also appoints a Standing Committee for the protection of the rights of the representatives of the People against the National Cabinet during a recess and after the expiration of the term for which it was elected.

These committees have the rights of committees of investigation.

ARTICLE 36

No member of the National Assembly or of a State Assembly shall at any time whatsoever be subject to any judicial or disciplinary

prosecution or be held responsible outside of the House to which he belongs on account of his vote or his opinions uttered in the performance of his duty.

ARTICLE 37

No member of the National Assembly or of a State Assembly shall during the session, without the consent of the House to which he belongs, be subject to investigation or arrest on account of any punishable offence, unless he is caught in the act, or apprehended not later than the following day.

Similar consent is required in the case of any other restraint of personal liberty which interferes with the performance by a delegate of his duties.

Any criminal proceeding against a member of the National Assembly or of a State Assembly, and any arrest or other restraint of his personal liberty shall, at the demand of the House to which he belongs, be suspended for the duration of the session.

ARTICLE 38

The members of the National Assembly and the State Assemblies are entitled to refuse to give evidence concerning persons who have given them information in their official capacity, or to whom they have given information in the performance of their official duties, or concerning the information itself. In regard also to the seizure of papers their position is the same as that of persons who have by law the right to refuse to give evidence.

A search or seizure may be proceeded with in the precincts of the National Assembly or of a State Assembly only with the consent of its President.

ARTICLE 39

Civil officers and members of the armed forces need no leave to perform their duties as members of the National Assembly or of a State Assembly.

If they become candidates for election to these bodies, the necessary leave shall be granted them to prepare for their election.

ARTICLE 40

The members of the National Assembly shall have the right of free transportation over all German railroads, and also compensation as fixed by national law.

SECTION III

THE NATIONAL PRESIDENT AND THE
NATIONAL CABINET

ARTICLE 41

The National President is chosen by the whole German People.

Every German who has completed his thirty-fifth year is eligible for election.

The details will be regulated by a national law.

ARTICLE 42

The National President, on assuming his office, takes before the National Assembly the following oath:

I swear to devote all my energy to the welfare of the German People, to increase their prosperity, to protect them from injury, to preserve the Constitution and the laws of the Commonwealth, to perform my duties conscientiously, and to deal justly with all.

The addition of a religious affirmation is permitted.

ARTICLE 43

The term of the National President is seven years. He is eligible for re-election.

The President may be removed before the end of his term by vote of the People on proposal of the National Assembly. The act of the National Assembly in such case requires a two-thirds majority vote. Upon such action the President is suspended from further exercise of his office. A refusal by the People to remove the President has the effect of a new election and entails the dissolution of the National Assembly.

The National President shall not be subject to criminal prosecution without the consent of the National Assembly.

ARTICLE 44

The National President may not at the same time be a member of the National Assembly.

ARTICLE 45

The National President represents the Commonwealth in matters of international law. He concludes in the name of the Common-

wealth, alliances and other treaties with foreign powers. He accredits and receives ambassadors.

War is declared and peace concluded by national law.

Alliances and treaties with foreign States, relating to subjects within the jurisdiction of the Commonwealth, require the consent of the National Assembly.

ARTICLE 46

The President appoints and dismisses the civil and military officers of the Commonwealth if not otherwise provided by law. He may delegate this right of appointment or dismissal to other authorities. c

ARTICLE 47

The National President has supreme command over all the armed forces of the Commonwealth.

ARTICLE 48

If any State does not perform the duties imposed upon it by the Constitution or by national laws, the National President may hold it to the performance thereof by force of arms.

If public safety and order in the German Commonwealth is materially disturbed or endangered, the National President may take the necessary measures to restore public safety and order, and, if necessary, to intervene by force of arms. To this end he may temporarily suspend, in whole or in part, the fundamental rights established in Articles 114, 115, 117, 118, 123, 124 and 153.

The National President must immediately inform the National Assembly of all measures adopted by authority of Paragraphs 1 or 2 of this Article. These measures shall be revoked at the demand of the National Assembly.

If there is danger from delay, the State Cabinet may for its own territory take provisional measures as specified in Paragraph 2. These measures shall be revoked at the demand of the National President or of the National Assembly.

The details will be regulated by a national law.

ARTICLE 49

The National President exercises the right of pardon for the Commonwealth.

National amnesties require a national law.

ARTICLE 50

All orders and directions of the National President, including those concerning the armed forces, require for their validity the counter-

signature of the National Chancellor or of the appropriate National Minister. By the countersignature responsibility is assumed.

ARTICLE 51

The National President is represented temporarily in case of disability by the National Chancellor. If such disability seems likely to continue for any considerable period, he shall be represented as may be determined by a national law.

The same procedure shall be followed in case of a premature vacancy of the Presidency until the completion of the new election.

ARTICLE 52

The National Cabinet consists of the National Chancellor and the National Ministers.

ARTICLE 53

The National Chancellor and, on his proposal, the National Ministers are appointed and dismissed by the National President.

ARTICLE 54

The National Chancellor and the National Ministers require for the administration of their offices the confidence of the National Assembly. Each of them must resign if the National Assembly by formal resolution withdraws its confidence.

ARTICLE 55

The National Chancellor presides over the National Cabinet and conducts its affairs in accordance with rules of procedure, which will be framed by the National Cabinet and approved by the National President.

ARTICLE 56

The National Chancellor determines the general course of policy and assumes responsibility therefor to the National Assembly. In accordance with this general policy each National Minister conducts independently the particular affairs intrusted to him and is held individually responsible to the National Assembly.

ARTICLE 57

The National Ministers shall submit to the National Cabinet for consideration and decision all drafts of bills and other matters for which this procedure is prescribed by the Constitution or by law, as well as differences of opinion over questions which concern the departments of several National Ministers.

ARTICLE 58

The National Cabinet will make its decisions by majority vote. In case of a tie the vote of the presiding officer will be decisive.

ARTICLE 59

The National Assembly is empowered to impeach the National President, the National Chancellor, and the National Ministers before the Supreme Judicial Court of the German Commonwealth for any wrongful violation of the Constitution or laws of the Commonwealth. The proposal to bring an impeachment must be signed by at least one hundred members of the National Assembly and requires the approval of the majority prescribed for amendments to the Constitution. The details will be regulated by the national law relating to the Supreme Judicial Court.

SECTION IV

THE NATIONAL COUNCIL

ARTICLE 60

A National Council will be organized to represent the German States in national legislation and administration.

ARTICLE 61

In the National Council each State has at least one vote. In the case of the larger States one vote is accorded for every million inhabitants. Any excess equal at least to the population of the smallest State is reckoned as equivalent to a full million. No State shall be accredited with more than two-fifths of all votes.

[German-Austria after its union with the German Commonwealth will receive the right of participation in the National Council with the number of votes corresponding to its population. Until that time the representatives of German-Austria have a deliberate voice.]¹

¹ Stricken out at the demand of the Supreme Council of the Allied and Associated Powers. The Supreme Council addressed the following demand to Germany on September 2, 1919:

"The Allied and Associated Powers have examined the German Constitution of August 11, 1919. They observe that the provisions of the second paragraph of Article 61 constitute a formal violation of Article 80 of the Treaty of Peace signed at Versailles on June 28, 1919. This violation is twofold:

"1. Article 61 by stipulating for the admission of Austria to the Reichsrat assimilates that Republic to the German States composing the German Em-

The number of votes is determined anew by the National Council after every general census.

ARTICLE 62

In committees formed by the National Council from its own members no State will have more than one vote.

ARTICLE 63

The States will be represented in the National Council by members of their Cabinets. Half of the Prussian votes, however, will be at the disposal of the Prussian provincial administrations in accordance with a State law.

The States have the right to send as many representatives to the National Council as they have votes.

pire—an assimilation which is incompatible with respect to the independence of Austria.

"2. By admitting and providing for the participation of Austria in the Council of the Empire Article 61 creates a political tie and a common political action between Germany and Austria in absolute opposition to the independence of the latter.

"In consequence the Allied and Associated Powers, after reminding the German Government that Article 178 of the German Constitution declares that 'the provisions of the Treaty of Versailles can not be affected by the Constitution,' invite the German Government to take the necessary measures to efface without delay this violation by declaring Article 61, Paragraph 2, to be null and void.

"Without prejudice to subsequent measures in case of refusal, and in virtue of the Treaty of Peace (and in particular Article 29), the Allied and Associated Powers inform the German Government that this violation of its engagements on an essential point will compel them, if satisfaction is not given to their just demand within 15 days from the date of the present note, immediately to order the extension of their occupation on the right bank of the Rhine."

Article 29 of the Treaty of Peace refers to Map No. 1 which shows the boundaries of Germany and provides that the text of Articles 27 and 28 will be final as to those boundaries. Article 80 reads as follows:

"Germany acknowledges and will respect strictly the independence of Austria, within the frontiers which may be fixed in a Treaty between that State and the Principal Allied and Associated Powers; she agrees that this independence shall be inalienable, except with the consent of the Council of the League of Nations."

A diplomatic act was signed at Paris on September 22, 1919, by the representatives of the Principal Allied and Associated Powers and Germany in the following terms:

"The undersigned, duly authorized and acting in the name of the German Government, recognizes and declares that all the provisions of the German Constitution of August 11, 1919, which are in contradiction of the terms of the Treaty of Peace signed at Versailles on June 28, 1919, are null.

"The German Government declares and recognizes that in consequence Paragraph 2 of Article 61 of the said Constitution is null, and that in particular the admission of Austrian representatives to the Reichstag could only take place in the event of the consent of the Council of the League of Nations to a corresponding modification of Austria's international situation.

"The present declaration shall be approved by the competent German legislative authority, within the fortnight following the entry into force of the Peace Treaty.

"Given at Versailles, September 22, 1919, in the presence of the undersigned representatives of the Principal Allied and Associated Powers."

ARTICLE 64

The National Cabinet must summon the National Council on demand by one-third of its members.

ARTICLE 65

The chairmanship of the National Council and of its committees is filled by a member of the National Cabinet. The members of the National Cabinet have the right and on request [of the National Council] the duty to take part in the proceedings of the National Council and its committees. They must at their request be heard at any time during its deliberations.

ARTICLE 66

The National Cabinet, as well as every member of the National Council, is entitled to make proposals in the National Council.

The National Council regulates its order of business through rules of procedure.

The plenary sittings of the National Council are public. In accordance with the rules of procedure the public may be excluded during the discussion of particular subjects.

Decisions are taken by a majority of those present.

ARTICLE 67

The National Council shall be kept informed by the National Departments of the conduct of national business. At deliberations on important subjects the appropriate committees of the National Council shall be summoned by the National Departments.

SECTION V

NATIONAL LEGISLATION

ARTICLE 68

Bills are introduced by the National Cabinet or by members of the National Assembly.

National laws are enacted by the National Assembly.

ARTICLE 69

The introduction of bills by the National Cabinet requires the concurrence of the National Council. If an agreement between the National Cabinet and the National Council is not reached, the National

Cabinet may nevertheless introduce the bill, but must state the dissent of the National Council.

If the National Council resolves upon a bill to which the National Cabinet does not assent, the latter must introduce the bill in the National Assembly together with a statement of its attitude.

ARTICLE 70

The National President shall compile the laws which have been constitutionally enacted and within one month publish them in the National Bulletin of Laws.

ARTICLE 71

National laws go into effect, unless otherwise specified, on the fourteenth day following the date of their publication in the National Bulletin of Laws at the national capital.

ARTICLE 72

The promulgation of a national law may be deferred for two months, if one-third of the National Assembly so demands. Laws which the National Assembly and the National Council declare to be urgent may be promulgated by the National President regardless of this demand.

ARTICLE 73

A law enacted by the National Assembly shall be referred to the People before its promulgation, if the National President so orders within a month.

A law whose promulgation is deferred at the demand of at least one-third of the National Assembly shall be submitted to the People, if one-twentieth of the qualified voters so petition.

A popular vote shall further be resorted to on a measure initiated by the People if one-tenth of the qualified voters so petition. A fully elaborated bill must accompany such petition. The National Cabinet shall lay the bill together with a statement of its attitude before the National Assembly. The popular vote does not take place if the desired bill is enacted without amendment by the National Assembly.

A popular vote may be taken on the budget, tax laws, and laws relating to the classification and payment of public officers only by authority of the National President.

The procedure in connection with the popular referendum and initiative will be regulated by national law.

ARTICLE 74

The National Council has the right to object to laws passed by the National Assembly.

The objection must be filed with the National Cabinet within two weeks after the final vote in the National Assembly and must be supported by reasons within two more weeks at the latest.

In case of objection, the law is returned to the National Assembly for reconsideration. If an agreement between the National Assembly and the National Council is not reached, the National President may within three months refer the subject of the dispute to the People. If the President makes no use of this right, the law does not go into effect. If the National Assembly disapproves by a two-thirds majority the objection of the National Council, the President shall promulgate the law in the form enacted by the National Assembly within three months or refer it to the People.

ARTICLE 75

An act of the National Assembly may be annulled by a popular vote, only if a majority of those qualified take part in the vote.

ARTICLE 76

The Constitution may be amended by process of legislation. But acts of the National Assembly relating to the amendment of the Constitution are effective only if two-thirds of the legal membership are present, and at least two-thirds of those present give their assent. Acts of the National Council relating to the amendment of the Constitution also require a two-thirds majority of all the votes cast. If an amendment to the Constitution is to be adopted by the People by popular initiative, the assent of a majority of the qualified voters is required.

If the National Assembly adopts an amendment to the Constitution against the objection of the National Council, the President may not promulgate this law, if the National Council within two weeks demands a popular vote.

ARTICLE 77

The National Cabinet issues the general administrative regulations necessary for the execution of the national laws so far as the laws do not otherwise provide. It must secure the assent of the National Council if the execution of the national laws is assigned to the State authorities.

SECTION VI

THE NATIONAL ADMINISTRATION

ARTICLE 78

The conduct of relations with foreign countries is exclusively a function of the Commonwealth.

The States, in matters subject to their jurisdiction, may conclude treaties with foreign countries; such treaties require the assent of the Commonwealth.

Agreements with foreign countries regarding changes of national boundaries will be concluded by the Commonwealth with the consent of the State concerned. Changes of boundaries may be made only by authority of a national law, except in cases where a mere adjustment of the boundaries of uninhabited districts is in question.

To assure the representation of interests arising from the special economic relations of individual States to foreign countries or from their proximity to foreign countries, the Commonwealth determines the requisite arrangements and measures in agreement with the States concerned.

ARTICLE 79

The national defence is a function of the Commonwealth. The organization of the German People for defence will be uniformly regulated by a national law with due consideration for the peculiarities of the people of the separate States.

ARTICLE 80

Colonial policy is exclusively a function of the Commonwealth.

ARTICLE 81

All German merchant ships constitute a unified merchant marine.

ARTICLE 82

Germany forms a customs and trade area surrounded by a common customs boundary.

The customs boundary is identical with the international boundary. At the seacoast the shore of the mainland and of the islands belonging to the national territory constitutes the customs boundary. Deviations may be made for the course of the customs boundary at the ocean and at other bodies of water.

Foreign territories or parts of territories may be incorporated in the customs area by international treaties or agreements.

Portions of territory may be excluded from the customs area in accordance with special requirements. In the case of free ports this exclusion may be discontinued only by an amendment to the Constitution.

Districts excluded from the customs area may be included within a foreign customs area by international treaties or agreements.

All products of nature or industry, as well as works of art, which are subjects of free commerce within the Commonwealth, may be transported in any direction across State and municipal boundaries. Exceptions are permissible by authority of national law.

ARTICLE 83

Customs duties and taxes on articles of consumption are administered by the national authorities.

In connection with national tax administration by the national authorities, arrangements shall be provided which will enable the States to protect their special agricultural, commercial, trade and industrial interests.

ARTICLE 84

The Commonwealth has authority to regulate by law:

1. The organization of the State tax administrations so far as is required for the uniform and impartial execution of the national tax laws;
2. The organization and functions of the authorities charged with the supervision of the execution of the national tax laws;
3. The accounting with the States;
4. The reimbursement of the costs of administration in connection with the execution of the national tax laws.

ARTICLE 85

All revenues and expenditures of the Commonwealth must be estimated for each fiscal year and entered in the budget.

The budget is adopted by law before the beginning of the fiscal year.

Appropriations are ordinarily granted for one year; in special cases they may be granted for a longer period. Otherwise, provisions extending beyond the fiscal year or not relating to the national revenues and expenditures or their administration, are inadmissible in the national budget law.

The National Assembly may not increase appropriations in the budget bill or insert new items without the consent of the National Council.

The consent of the National Council may be dispensed with in accordance with the provisions of Article 74.

ARTICLE 86

In the following fiscal year the National Minister of Finance will submit to the National Council and to the National Assembly an account concerning the disposition of all national revenue so as to discharge the responsibility of the National Cabinet. The auditing of this account will be regulated by national law.

ARTICLE 87

Funds may be procured by borrowing only in case of extraordinary need and in general for expenditures for productive purposes only. Such procurement of funds as well as the assumption by the Commonwealth of any financial obligation is permissible only by authority of a national law.

ARTICLE 88

The postal and telegraph services, together with the telephone service, are exclusively functions of the Commonwealth.

The postage stamps are uniform for the whole Commonwealth.

The National Cabinet, with the consent of the National Council, issues the regulations prescribing the conditions and charges for the use of the means of communication. With the consent of the National Council it may delegate this authority to the Postmaster General.

The National Cabinet, with the consent of the National Council, establishes an advisory council to co-operate in deliberations concerning the postal, telegraph and telephone services and rates.

The Commonwealth alone concludes treaties relating to communication with foreign countries.

ARTICLE 89

It is the duty of the Commonwealth to acquire ownership of the railroads which serve as means of general public communication, and to operate them as a single system of transportation.

The rights of the States to acquire private railroads shall be transferred to the Commonwealth on its demand.

ARTICLE 90

With the taking over of the railroads the Commonwealth also acquires the right of expropriation and the sovereign powers of the States pertaining to railroad affairs. The Supreme Judicial Court decides controversies relating to the extent of these rights.

ARTICLE 91

The National Cabinet, with the consent of the National Council, issues the regulations governing the construction, operation and traffic of railroads. With the consent of the National Council it may delegate this authority to the appropriate national minister.

ARTICLE 92

The national railroads, irrespective of the incorporation of their budget and accounts in the general budget and accounts of the Commonwealth, shall be administered as an independent economic enterprise which shall defray its own expenses, including interest and the amortization of the railroad debt, and accumulate a railroad reserve fund. The amount of the amortization and of the reserve fund, as well as the purpose to which the reserve fund may be applied, shall be regulated by special law.

ARTICLE 93

The National Cabinet with the consent of the National Council establishes advisory councils for the national railroads to co-operate in deliberations concerning railroad service and rates.

ARTICLE 94

If the Commonwealth takes over the operation of railroads which serve as means of general public communication in any district, additional railroads to serve as means of general public communication within this district may only be built by the Commonwealth or with its consent. If new construction or the alteration of existing national railroad systems encroaches upon the sphere of authority of the State police, the national railroad administration, before its decision, shall grant a hearing to the State authorities.

Where the Commonwealth has not yet taken over the operation of the railroads, it may lay out on its own account by virtue of national law railroads deemed necessary to serve as means of general public communication or for the national defence, even against the opposition of the States, whose territory they will traverse, without, however,

impairing the sovereign powers of the States, or it may turn over the construction to another to execute, together with a grant of the right of expropriation if necessary.

Each railroad administration must consent to connection with other roads at the expense of the latter.

ARTICLE 95

Railroads serving as means of general public communication which are not operated by the Commonwealth are subject to supervision by the Commonwealth.

The railroads subject to national supervision shall be laid out and equipped in accordance with uniform standards established by the Commonwealth. They shall be maintained in safe operating condition and developed according to the requirements of traffic. Facilities and equipment for passenger and freight traffic shall be maintained and developed in keeping with the demand.

The supervision of rates is designed to secure non-discriminatory and moderate railroad charges.

ARTICLE 96

All railroads, including those not serving as means of general public communication, must comply with the requirements of the Commonwealth so far as concerns the use of the roads for purposes of national defence.

ARTICLE 97

It is the duty of the Commonwealth to acquire ownership of and to operate all waterways serving as means of general public communication.

After they have been taken over, waterways serving as means of general public communication may be constructed or extended only by the Commonwealth or with its consent.

In the administration, development, or construction of such waterways the requirements of agriculture and water-supply shall be protected in agreement with the States. Their improvement shall also be considered.

Each waterways administration shall consent to connection with other inland waterways at the expense of the latter. The same obligation exists for the construction of a connection between inland waterways and railroads.

In taking over the waterways the Commonwealth acquires the right

of expropriation, control of rates, and the police power over waterways and navigation.

The duties of the river improvement associations in relation to the development of natural waterways in the Rhine, Weser, and Elbe basins shall be assumed by the Commonwealth.

ARTICLE 98

Advisory national waterways councils will be formed in accordance with detailed regulations issued by the National Cabinet with the consent of the National Council to co-operate in the management of the waterways.

ARTICLE 99

Charges may be imposed on natural waterways only for such works, facilities, and other accommodations as are designed for the relief of traffic. In the case of state and municipal public works they may not exceed the necessary costs of construction and maintenance. The construction and maintenance costs of works designed not exclusively for the relief of traffic, but also for serving other purposes, may be defrayed only to a proportionate extent by navigation tolls. Interest and amortization charges on the invested capital are included in the costs of construction.

The provisions of the preceding paragraph apply to the charges imposed for artificial waterways and for accommodations in connection therewith and in harbours.

The total costs of a waterway, a river basin, or a system of waterways may be taken into consideration in determining navigation tolls in the field of inland water transportation.

These provisions apply also to the floating of timber on navigable waterways.

Only the Commonwealth imposes on foreign ships and their cargoes other or higher charges than on German ships and their cargoes.

For the procurement of means for the maintenance and development of the German system of waterways the Commonwealth may by law call on the shipping interests for contributions also in other ways [than by tolls].

ARTICLE 100

To cover the cost of maintenance and construction of inland navigation routes any person or body of persons who in other ways than through navigation derives profit from the construction of dams may also be called upon by national law for contributions, if several

States are involved or the Commonwealth bears the costs of construction.

ARTICLE 101

It is the duty of the Commonwealth to acquire ownership of and to operate all aids to navigation, especially lighthouses, lightships, buoys, floats and beacons. After they are taken over, aids to navigation may be installed or extended only by the Commonwealth or with its consent.

SECTION VII

THE ADMINISTRATION OF JUSTICE

ARTICLE 102

Judges are independent and subject only to the law.

ARTICLE 103

Ordinary jurisdiction will be exercised by the National Judicial Court and the courts of the States.

ARTICLE 104

Judges of ordinary jurisdiction are appointed for life. They may against their wishes be permanently or temporarily removed from office, or transferred to another position, or retired, only by virtue of a judicial decision and for the reasons and in the forms provided by law. The law may fix an age limit on reaching which judges may be retired.

Temporary suspension from office in accordance with law is not affected by this Article.

If there is a re-organization of the courts or of the judicial districts, the State department of justice may order involuntary transfers to another court or removal from office, but only with allowance of full salary.

These provisions do not apply to judges of commercial tribunals, lay associates, and juries.

ARTICLE 105

Extraordinary courts are illegal. No one may be removed from the jurisdiction of his lawful judge. Provisions of law relating to military courts and courts-martial are not affected hereby. Military courts of honour are abolished.

ARTICLE 106

Military jurisdiction is abolished except in time of war and on board war-vessels. Details will be regulated by national law.

ARTICLE 107

There shall be administrative courts both in the Commonwealth and in the States, in accordance with the laws, to protect the individual against orders and decrees of administrative authorities.

ARTICLE 108

In accordance with a national law a Supreme Judicial Court will be established for the German Commonwealth.

PART TWO

Fundamental Rights and Duties of Germans

SECTION I

THE INDIVIDUAL

ARTICLE 109

All Germans are equal before the law.

Men and women have fundamentally the same civil rights and duties.

Privileges or discriminations due to birth or rank and recognized by law are abolished. Titles of nobility will be regarded merely as part of the name and may not be granted hereafter.

Titles may be conferred only when they designate an office or profession; academic degrees are not affected by this provision.

Orders and honorary insignia may not be conferred by the state.

No German may accept a title or order from a foreign Government.

ARTICLE 110

Citizenship in the Commonwealth and in the States will be acquired and lost in accordance with the provisions of a national law. Every citizen of a State is at the same time a citizen of the Commonwealth.

Every German has the same rights and duties in each State of the Commonwealth as the citizens of that State.

ARTICLE 111

All Germans enjoy the right to travel and reside freely throughout the whole Commonwealth. Every one has the right of sojourn and settlement in any place within the Commonwealth, the right to acquire land and to pursue any gainful occupation. No limitations may be imposed except by authority of a national law.

ARTICLE 112

Every German has the right to emigrate to foreign countries. Emigration may be limited only by national law.

All German citizens, both within and without the territory of the Commonwealth, have a right to its protection with respect to foreign countries.

No German may be surrendered to a foreign Government for prosecution or punishment.

ARTICLE 113

Those elements of the People which speak a foreign language may not be interfered with by legislative or administrative action in their free and characteristic development, especially in the use of their mother tongue in the schools or in matters of internal administration^c and the administration of justice.

ARTICLE 114

Personal liberty is inviolable. An interference with or abridgement of personal liberty through official action is permissible only by authority of law.

Persons, who are deprived of their liberty, shall be informed at latest on the following day by what authority and on what grounds they have been deprived of liberty, and they shall without delay receive an opportunity to present objections against such loss of liberty.

ARTICLE 115

The house of every German is his sanctuary and is inviolable. Exceptions are permissible only by authority of law.

ARTICLE 116

An act can be punishable only if the penalty was fixed by law before the act was committed.

ARTICLE 117

The secrecy of postal, telegraphic, and telephonic communications is inviolable. Exceptions may be permitted only by national law.

ARTICLE 118

Every German has a right within the limits of the general laws to express his opinion freely by word, in writing, in print, by picture, or in any other way. No relationship arising out of his employment may hinder him in the exercise of this right, and no one may discriminate against him if he makes use of this right.

There is no censorship, although exceptional provisions may be made by law in the case of moving pictures. Legal measures are also permissible for combating obscene and indecent literature as well as for the protection of youth at public plays and spectacles.

SECTION II
COMMUNITY LIFE

ARTICLE 119

Marriage, as the foundation of family life and of the maintenance and increase of the nation, is under the special protection of the Constitution. It is based on the equal rights of both sexes.

The maintenance of the purity, the health, and the social advancement of the family is the task of the state and of the municipalities. Families with numerous children have a claim to equalizing assistance.

Motherhood has a claim to the protection and care of the State.

ARTICLE 120

The physical, mental, and moral education of their offspring is the highest duty and the natural right of parents, whose activities are supervised by the political community.

ARTICLE 121

Illegitimate children shall be provided by law with the same opportunities for their physical, mental, and moral development as legitimate children.

ARTICLE 122

Youth shall be protected against exploitation as well as against neglect of their moral, mental, or physical welfare. The necessary arrangements shall be made by state and municipality.

Compulsory protective measures may be ordered only by authority of the law.

ARTICLE 123

All Germans have the right of meeting peaceably and unarmed without notice or special permission.

Previous notice may be required by national law for meetings in the open, and such meetings may be forbidden in case of immediate danger to the public safety.

ARTICLE 124

All Germans have the right to form associations or societies for purposes not contrary to the criminal law. This right can not be limited by preventive measures. The same provisions apply to religious associations and societies.

Every association has the right of incorporation in accordance with the civil law. No association may be denied this right on the ground that it pursues a political, social-political, or religious object.

ARTICLE 125

The liberty and secrecy of the suffrage are guaranteed. Details will be regulated by the election laws.

ARTICLE 126

Every German has the right to petition or to complain in writing to the appropriate authorities or to the representatives of the People. This right may be exercised by individuals as well as by several persons together.

ARTICLE 127

Municipalities and unions of municipalities have the right of self-government within the limits of the laws.

ARTICLE 128

All citizens without distinction are eligible for public office in accordance with the laws and according to their ability and services.

All discriminations against women in the civil service are abolished.

The principles of the official relation shall be regulated by national law.

ARTICLE 129

Civil officers are appointed for life, in so far as is not otherwise provided by law. Pensions and provisions for surviving dependents will be regulated by law. The duly acquired rights of the civil officers are inviolable. Claims of civil officers based upon property rights may be established by process of law.

Civil officers may be suspended, temporarily or permanently retired, or transferred to other positions at a smaller salary only under the legally prescribed conditions and forms.

A process of appeal against disciplinary sentence and opportunity for reconsideration shall be established. Reports of an unfavorable character concerning a civil officer shall not be entered in his official record, until he has had the opportunity to express himself. Civil officers shall also be permitted to inspect their official records.

The inviolability of the duly acquired rights and the benefit of legal processes for the establishment of claims based on property rights are also assured especially to regular soldiers. In other respects their position is regulated by national law.

ARTICLE 130

The civil officers are servants of the whole community, not of a part of it.

To all civil officers freedom of political opinion and of association are assured.

The civil officers receive special representation in their official capacity in accordance with more precise provisions of national law.

ARTICLE 131

- If a civil officer in the exercise of the authority conferred upon him by law fails to perform his official duty toward any third person, the responsibility is assumed by the state or public corporation in whose service the officer is. The right of redress [by the state or public corporation] against the officer is reserved. The ordinary process of law may not be excluded.

Detailed regulations will be made by the appropriate law-making authority.

ARTICLE 132

Every German, in accordance with the laws, has the duty of accepting honorary offices.

ARTICLE 133

All citizens are obliged, in accordance with the laws, to render personal services to the state and the municipality.

The duty of military service will be defined in accordance with the provisions of the national defence law. This will determine also how far particular fundamental rights shall be restricted in their application to the members of the armed forces in order that the latter may fulfil their duties and discipline may be maintained.

ARTICLE 134

All citizens, without distinction, contribute according to their means to the support of all public burdens, as may be provided by law.

*SECTION III***RELIGION AND RELIGIOUS SOCIETIES**

ARTICLE 135

All inhabitants of the Commonwealth enjoy complete liberty of belief and conscience. The free exercise of religion is assured by the Constitution and is under public protection. This Article leaves the general laws undisturbed.

ARTICLE 136

Civil and political rights and duties are neither conditioned upon nor limited by the exercise of religious liberty.

The enjoyment of civil and political rights as well as eligibility to public office is independent of religious belief.

No one is under any obligation to reveal his religious convictions.

The authorities have a right to inquire about religious affiliation only so far as rights and duties are dependent thereon or in pursuance of a statistical enumeration prescribed by law.

No one may be forced to attend any church ceremony or festivity, to take part in any religious exercise, or to make use of any religious oath.

ARTICLE 137

There is no state church.

Freedom of association in religious societies is guaranteed. The combination of religious societies within the Commonwealth is not subject to any limitations.

Every religious society regulates and administers its affairs independently within the limits of the general law. It appoints its officers without interference by the state or the civil municipality.

Religious societies may be incorporated in accordance with the general provisions of the civil law.

Existing religious societies remain, to the same extent as heretofore, public bodies corporate. The same rights shall be accorded to other religious societies if by their constitution and the number of their members they offer a guaranty of permanence. If a number of such public religious societies unite, this union is also a public body corporate.

The religious societies, which are recognized by law as bodies corporate, are entitled on the basis of the civil tax rolls to raise taxes according to the provisions of the laws of the respective States.

The associations, which have as their aim the cultivation of a system of ethics, have the same privileges as the religious societies.

The issuance of further regulations necessary for carrying out these provisions comes under the jurisdiction of the States.

ARTICLE 138

State contributions to religious societies authorized by law, contract, or any special grant, will be commuted by State legislation. The general principles of such legislation will be defined by the Commonwealth.

The property of religious societies and unions and other rights to their cultural, educational, and charitable institutions, foundations, and other possessions are guaranteed.

ARTICLE 139

Sundays and legal holidays remain under the protection of law as days of rest and spiritual edification.

ARTICLE 140

The members of the armed forces shall be granted the necessary leave for the performance of their religious duties.

ARTICLE 141

In so far as there is need for religious services and spiritual care in hospitals, prisons or other public institutions, the religious societies shall be permitted to perform the religious offices, but all compulsion shall be avoided.

SECTION IV

EDUCATION AND SCHOOLS

ARTICLE 142

Art, science and the teaching thereof are free. The state guarantees their protection and takes part in fostering them.

ARTICLE 143

The education of the young shall be provided for through public institutions. In their establishment the Commonwealth, States and municipalities co-operate.

The training of teachers shall be regulated in a uniform manner for the Commonwealth according to the generally recognized principles of higher education.

The teachers in the public schools have the rights and duties of state officers.

ARTICLE 144

The entire school system is under the supervision of the state; it may grant a share therein to the municipalities. The supervision of schools will be exercised by technically trained officers who must devote their time principally to this duty.

ARTICLE 145

Attendance at school is obligatory. This obligation is discharged by attendance at the elementary schools for at least eight school years and at the continuation schools until the completion of the eighteenth year. Instruction and school supplies in the elementary and continuation schools are free.

ARTICLE 146

The public school system shall be systematically organized. Upon a foundation of common elementary schools the system of secondary and higher education is erected. The development of secondary and higher education shall be determined in accordance with the needs of all kinds of occupations, and the acceptance of a child in a particular school shall depend upon his qualifications and inclinations, not upon the economic and social position or the religion of his parents.

Nevertheless, within the municipalities, upon the petition of those entitled to instruction common schools shall be established of their faith or ethical system, in so far as this does not interfere with a system of school administration within the meaning of Paragraph 1. The wishes of those entitled to instruction shall be considered as much as possible. Details will be regulated by State laws in accordance with principles to be prescribed by a national law.

To facilitate the attendance of those in poor circumstances at the secondary and higher schools, public assistance shall be provided by the Commonwealth, States, and municipalities, particularly, assistance to the parents of children regarded as qualified for training in the secondary and higher schools, until the completion of the training.

ARTICLE 147

Private schools, as a substitute for the public schools, require the approval of the state and are subject to the laws of the States. Approval shall be granted if the private schools do not fall below the public schools in their educational aims and equipment as well as in the scientific training of their teachers, and if no separation of the pupils according to the wealth of their parents is fostered. Approval shall be withheld if the economic and legal status of the teachers is not sufficiently assured.

Private elementary schools shall be only permissible, if for a minority of those entitled to instruction whose wishes are to be considered according to Article 146, Paragraph 2, there is no public elementary school of their faith or ethical system in the municipality,

or if the educational administration recognizes a special pedagogical interest.

Private preparatory schools shall be abolished.

The existing law remains in effect with respect to private schools which do not serve as substitutes for public schools.

ARTICLE 148

All schools shall inculcate moral education, civic sentiment, and personal and vocational efficiency in the spirit of German national culture and of international conciliation.

In the instruction in public schools care shall be taken not to hurt the feelings of those of differing opinion.

Civics and manual training are included in the school curriculum. Every pupil receives a copy of the Constitution on completing the obligatory course of study.

The common school system, including university extension work, shall be cherished by the Commonwealth, States and municipalities.

ARTICLE 149

Religious instruction is included in the regular school curriculum, except in the nonsectarian (secular) schools. The imparting of religious instruction is regulated by the school laws. Religious instruction is imparted in accordance with the principle of the religious society concerned, without prejudice to the right of supervision of the state.

The imparting of religious instruction and the use of ecclesiastical ceremonies is optional with the teachers, and the participation of the pupils in religious studies and in ecclesiastical ceremonies and festivities is left to the decision of those who have the right to control the religious education of the child.

The theological faculties in the universities will be continued.

ARTICLE 150

The artistic, historical and natural monuments and scenery enjoy the protection and care of the state.

The prevention of the removal of German art treasures from the country is a function of the Commonwealth.

SECTION V

ECONOMIC LIFE

ARTICLE 151

The regulation of economic life must conform to the principles of justice, with the object of assuring humane conditions of life for all.

Within these limits the economic liberty of the individual shall be protected.

Legal compulsion is permissible only for safeguarding threatened rights or in the service of predominant requirements of the common welfare.

The freedom of trade and industry is guaranteed in accordance with the national laws.

ARTICLE 152

Freedom of contract prevails in economic relations in accordance with the laws.

Usury is forbidden. Legal practices which conflict with good morals are void.

ARTICLE 153

The right of private property is guaranteed by the Constitution. Its nature and limits are defined by law.

Expropriation may be proceeded with only for the benefit of the community and by due process of law. There shall be just compensation in so far as is not otherwise provided by national law. If there is a dispute over the amount of the compensation, there shall be a right of appeal to the ordinary courts, in so far as not otherwise provided by national law. The property of the States, municipalities, and associations of public utility may be taken by the Commonwealth only upon payment of compensation.

Property-rights imply property-duties. Exercise thereof shall at the same time serve the general welfare.

ARTICLE 154

The right of inheritance is guaranteed in accordance with the civil law.

The share of the state in inheritances is determined in accordance with the laws.

ARTICLE 155

The distribution and use of the land is supervised by the state in such a way as to prevent its misuse and to promote the object of insuring to every German a healthful dwelling and to all German families, especially those with numerous children, homesteads corresponding to their needs. War-veterans shall receive special consideration in the enactment of a homestead law.

Landed property, the acquisition of which is necessary to satisfy the demand for housing, to promote settlement and reclamation, or to

improve agriculture, may be expropriated. Entailments shall be dissolved.

The cultivation and utilization of the soil is a duty of the landowner toward the community. An increase of the value of land arising without the application of labour or capital to the property shall inure to the benefit of the community as a whole.

All mineral resources and all economically useful forces of nature are subject to the control of the state. Private royalties shall be transferred to the state, as may be provided by law.

ARTICLE 156

The Commonwealth may by law, without impairment of the right to compensation, and with a proper application of the regulations relating to expropriation, transfer to public ownership private business enterprises adapted for socialization. The Commonwealth itself, the States, or the municipalities may take part in the management of business enterprises and associations, or secure a dominating influence therein in any other way.

Furthermore, in case of urgent necessity the Commonwealth, if it is in the interest of collectivism, may combine by law business enterprises and associations on the basis of administrative autonomy, in order to insure the co-operation of all producing elements of the people, to give to employers and employes a share in the management, and to regulate the production, preparation, distribution, utilization and pecuniary valuation, as well as the import and export, of economic goods upon collectivistic principles.

The co-operative societies of producers and of consumers and associations thereof shall be incorporated, at their request and after consideration of their form of organization and peculiarities, into the system of collectivism.

ARTICLE 157

Labour is under the special protection of the Commonwealth.
The Commonwealth will adopt a uniform labour law.

ARTICLE 158

Intellectual labour, the rights of the author, the inventor and the artist enjoy the protection and care of the Commonwealth.

The products of German scholarship, art, and technical science shall also be recognized and protected abroad through international agreement.

ARTICLE 159

The right of combination for the protection and promotion of labour and economic conditions is guaranteed to everybody and to all professions. All agreements and measures which attempt to limit or restrain this liberty are unlawful.

ARTICLE 160

Any one employed on a salary or as a wage-earner has the right to the leave necessary for the exercise of his civil rights and, so far as the business is not substantially injured thereby, for performing the duties of public honorary offices conferred upon him. To what extent his right to compensation shall continue will be determined by law.

ARTICLE 161

For the purpose of conserving health and the ability to work, of protecting motherhood, and of guarding against the economic effects of age, invalidity and the vicissitudes of life, the Commonwealth will adopt a comprehensive system of insurance, in the management of which the insured shall predominate.

ARTICLE 162

The Commonwealth commits itself to an international regulation of the legal status of the workers, which shall strive for a standard minimum of social rights for the whole working class of the world.

ARTICLE 163

Every German has, without prejudice to his personal liberty, the moral duty so to use his intellectual and physical powers as is demanded by the welfare of the community.

Every German shall have the opportunity to earn his living by economic labour. So long as suitable employment can not be procured for him, his maintenance will be provided for. Details will be regulated by special national laws.

ARTICLE 164

The independent agricultural, industrial, and commercial middle class shall be fostered by legislation and administration, and shall be protected against oppression and exploitation.

ARTICLE 165

Wage-earners and salaried employes are qualified to co-operate on equal terms with the employers in the regulation of wages and working conditions, as well as in the entire economic development of the productive forces. The organizations on both sides and the agreements between them will be recognized.

The wage-earners and salaried employes are entitled to be represented in local workers' councils, organized for each establishment in the locality, as well as in district workers' councils, organized for each economic area, and in a National Workers' Council, for the purpose of looking after their social and economic interests.

The district workers' councils and the National Workers' Council meet together with the representatives of the employers and with other interested classes of people in district economic councils and in a National Economic Council for the purpose of performing joint economic tasks and co-operating in the execution of the laws of socialization. The district economic councils and the National Economic Council shall be so constituted that all substantial vocational groups are represented therein according to their economic and social importance.

Drafts of laws of fundamental importance relating to social and economic policy before introduction [into the National Assembly] shall be submitted by the National Cabinet to the National Economic Council for consideration. The National Economic Council has the right itself to propose such measures for enactment into law. If the National Cabinet does not approve them, it shall, nevertheless, introduce them into the National Assembly together with a statement of its own position. The National Economic Council may have its bill presented by one of its own members before the National Assembly.

Supervisory and administrative functions may be delegated to the workers' councils and to the economic councils within their respective areas.

The regulation of the organization and duties of the workers' councils and of the economic councils, as well as their relation to other social bodies endowed with administrative autonomy, is exclusively a function of the Commonwealth.

SECTION VI

TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 166

Until the establishment of the National Administrative Court, the National Judicial Court takes its place in the organization of the Electoral Commission.

ARTICLE 167

The provisions of Article 18, Paragraphs 3 to 6, become effective two years after the promulgation of the national Constitution.

ARTICLE 168

Until the adoption of the State law as provided in Article 63, but at the most for only one year, all the Prussian votes in the National Council may be cast by members of the State Cabinet.

ARTICLE 169

The National Cabinet will determine when the provisions of Article 83, Paragraph 1, shall become effective.

Temporarily, for a reasonable period, the collection and administration of customs-duties and taxes on articles of consumption may be left to the States at their discretion.

ARTICLE 170

The Postal and Telegraphic Administrations of Bavaria and Wurtemberg will be taken over by the Commonwealth not later than April 1, 1921.

If no understanding has been reached over the terms thereof by October 1, 1920, the matter will be decided by the Supreme Judicial Court.

The rights and duties of Bavaria and Wurtemberg remain in force as heretofore until possession is transferred to the Commonwealth. Nevertheless, the postal and telegraphic relations with neighbouring foreign countries will be regulated exclusively by the Commonwealth.

ARTICLE 171

The state railroads, canals and aids to navigation will be taken over by the Commonwealth not later than April 1, 1921.

If no understanding has been reached over the terms thereof by October 1, 1920, the matter will be decided by the Supreme Judicial Court.

ARTICLE 172

Until the national law regarding the Supreme Judicial Court becomes effective its powers will be exercised by a Senate of seven members, four of whom are to be elected by the National Assembly and three by the National Judicial Court, each choosing among its own members. The Senate will regulate its own procedure.

ARTICLE 173

Until the adoption of a national law according to Article 138, the existing state contributions to the religious societies, whether authorized by law, contract or special grant, will be continued.

ARTICLE 174

Until the adoption of the national law provided for in Article 146, Paragraph 2, the existing legal situation will continue. The law shall give special consideration to parts of the Commonwealth where provision for separate schools of different religious faiths is not now made by law.

ARTICLE 175

The provisions of Article 109 do not apply to orders and decorations conferred for services in the war-years 1914-1919.

ARTICLE 176

All public officers and members of the armed forces shall be sworn upon this Constitution. Details will be regulated by order of the National President.

ARTICLE 177

Wherever by existing laws it is provided that the oath be taken in the form of a religious ceremony, the oath may be lawfully taken in the form of a simple affirmation by the person to be sworn: "I swear." Otherwise the content of the oath provided for in the laws remains unaltered.

ARTICLE 178

The Constitution of the German Empire of April 16, 1871, and the law of February 10, 1919, relating to the provisional government of the Commonwealth, are repealed.

The other laws and regulations of the Empire remain in force, in so far as they do not conflict with this Constitution. The provisions of the Treaty of Peace signed on June 28, 1919, at Versailles, are not affected by the Constitution.

Official regulations, legally issued on the authority of laws heretofore in effect, retain their validity until superseded by other regulations or legislation.

ARTICLE 179

In so far as reference is made in laws or executive orders to provisions and institutions which are abolished by this Constitution, their places are taken by the corresponding provisions and institutions of this Constitution. In particular, the National Assembly takes the place of the National Convention, the National Council that of the Committee of the States, and the National President elected by authority of this Constitution that of the National President elected by authority of the law relating to the provisional government.

The power to issue executive orders, conferring upon the Committee of the States in accordance with the provisions heretofore in effect, is transferred to the National Cabinet; in order to issue executive orders it requires the consent of the National Council in accordance with the provisions of this Constitution.

ARTICLE 180

Until the convening of the first National Assembly, the National Convention will function as the National Assembly. Until the inauguration of the first National President the office will be filled by the National President elected by authority of the law relating to the provisional government.

ARTICLE 181

The German People have ordained and established this Constitution by their National Convention. It goes into effect upon the day of its promulgation.

SCHWARZBURG, August 11, 1919

(Signed)

The National President
EBERT

The National Cabinet
BAUER

ERZBERGER	HERMANN MÜLLER	DR. DAVID	
NOSKE	SCHMIDT	SCHLICKE	GIESBERTS
DR. MAYER		DR. BELL	