

A Digest of Federal Constitutions

Quick, John (1852-1932)

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A Digest of Federal Constitutions

by Author of "The Australasian Federal Congress Bill 1894."

Bendigo

J. B. Young, General Printer, Bookbinder, &c.

1896

Introduction.

THIS Pamphlet is published by the Bendigo Branch of the Australian Natives Association as a small contribution towards public information on the subject of Political Federation, with special reference to the Federation of the Australian Colonies. The absence of some popular work, obtainable in a handy form, and at a price placing it within the reach of the masses of the people has long been felt. In the forthcoming elections for the Federal Convention something of the kind will be particularly required. It is hoped that this little *brochure* will supply the want. The preliminary chapter will serve to direct attention to the elementary and salient features of Federal Constitutions generally, and will prepare the reader for the study of the details which are given in the succeeding chapters. No claim to originality for anything herein is suggested. To the massive learning and exhaustive histories in which federal literature is to be found embedded it would be difficult to add anything new. This is purely a work of condensation, arrangement and grouping, with a view to giving prominence to organic outlines and fundamental principles. The system of classification adopted in the Digest is a modification of that formulated with more numerous divisions and more copious cross-references in Dr. Bushnell—Hart's "**Conspectus.**" As far as the process of condensation and narration will permit the enacting words of the several constitutions or reliable translations thereof are reproduced. Only those constitutional provisions which may be useful as precedents, or for purposes of comparison in the preparation of a Federal Constitution for Australia are given. No particular form of Federal Government is advocated. Those who wish to study the subject more deeply are referred to the following. General:—Freeman's "History of Federal Government," Hart's "Introduction to the Study of Federal Government," Dicey's "Law of the Constitution." Book I. For the United States: Bancroft's "Constitution of the United States," Bryce's "American Commonwealth," Fiske's "Critical Years of American History." For Canada: Bourniot's "Federal Government in Canada," Goldwin Smith's "Canada and the Canadian Question." For Australia: Mr. Howard Willoughby's "Manual on Federation," Official Report of debates in the Sydney Federal Convention, 1891, Sir R. C. Baker's "Manual of Reference to Federal Authorities," Petherick and Co., Melbourne, 1891; Mr. G. B. Barton's "Australian Federation," **Year Book of Australia 1891**, Mr. G. B. Barton's "Notes on the Commonwealth Bill, 1891," and Dr. W. P. Cullen's "Federal Systems and Australian Federation," T. E. Lees, Sydney, 1891," Sir Henry Parkes' speech at Liverpool, N.S.W., in July, 1893, reported in the **Sydney Morning Herald**; speech at Corowa, N.S.W., August, 1893, reported in the Official Reports of the Corowa Conference; Mr. A. J. Peacock's lecture at Corowa, August, 1893, reported *idem*; "The New Federation Movement," published by the Bendigo Federation League, 1894; Mr. Edmund Barton's "Meaning of a Federal Constitution," address at Randwick, reported in **Commonwealth**, No. 1, 1894; Sir John Madden's address at Geelong,

“Federation,” reported in **Commonwealth**, No. 4, 1895; Mr. R. R. Garran's “Problem of Federation Under the Crown;” **Commonwealth** No. 6 and 8, 1895; “The Democratic Element in Federation,” by Mr. C. C. Kingston (South Australia); **Review of Reviews**, February, 1896; “The Progress and Present Conditions of Federation,” by the writer, **Review of Reviews**, March, 1896; Sir Samuel Griffith's “Conditions of Australian Federation,” an address to the University Extension Council, Brisbane, 12th June, 1896, reported in full, **Brisbane Courier**, partly reported in **Review of Reviews**, June, 1896; Sir Samuel Griffith's “Notes on Australian Federation, its nature and its probable effects,” presented to the Queensland Parliament, July, 1896. Sir Samuel Griffith's latest contributions are of the utmost value and importance.

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A Digest of Federal Constitutions

Chapter I. The Fundamental Principles of Political Federation.

I.—Definition.

A political federation may be defined as a permanent union for general purposes, of neighbouring related and homogeneous political communities, having an identity of interests and sympathies, under one Supreme Constitution, voluntarily adopted, in which there is a partition and appropriation of the totality of Sovereign Powers, provision being made for a representative National Government exercising all those powers and functions which concern the nation as a whole, and, at the same time, for the continuance of the local independence, local self-government and internal sovereignty of the several states.

II.—Analysis of the Definition.

UNION.—A federation is a governmental union; a union of the states as well as of the people of those states. It is not a loose confederation such as the States of America were before the adoption of the Federal Constitution of 1788. A federation is not a mere treaty, or an alliance, or an organised conference without powers of government between states that remain separated. A federation is a true union supplying a united government acting directly on its citizens.

PERMANENCE.—A federation is not a mere compact terminable at the will of the parties thereto, but is a permanent indissoluble union, “an indistructible union of indistructible states.”

GENERAL PURPOSES.—A federation is a union for certain defined general purposes, *viz.*, purposes of National Government, not for all purposes which would mean unification.

POLITICAL COMMUNITIES.—It is a union of independent, semi-independent, or autonomous, political communities enjoying the rights of self-government.

RELATED PEOPLE.—The people of those communities must be related or allied by common origin, history, race, language or religion.

COMMON INTERESTS AND SENTIMENTS.—Such people must have certain interests, sentiments and sympathies in common—a desire for federal union, coupled with a desire to retain unimpaired local and individual existence. There must thus be a federal sentiment in harmony with a local, autonomous sentiment.

CONTIGUOUS COUNTRIES.—Such communities must occupy adjacent or adjoining countries, having a natural base in land and measurement fit for a continuous compact state.

UNDER A SUPREME CONSTITUTION.—Such union must be accomplished under one Supreme Federal Constitution, freely and voluntarily adopted.

PARTITION OF SOVEREIGN POWERS.—Such constitution must contain an elaborate and complete partition and distribution of the totality of the sovereignty of the combined states.

OBJECT OF SUCH PARTITION.—The object of such partition, distribution and appropriation of political powers is to reconcile the apparently inconsistent and conflicting claims of state sovereignty with national sovereignty.

PRINCIPLES OF SUCH PARTITION.—(1.) That whatever concerns the nation as a whole through all its parts being interested, and that whatever can be best and most effectually done by the National Government representing the nation should be placed under the control of that government, acting directly on its citizens in enforcing its own laws. (2.) That the internal administration and local affairs of states and all matters not primarily of general interest should remain within the control of the states. (3.) That the power of constitutional amendment should be reserved to the people subject to defined conditions.

FEDERATION CONTRASTED.—In this definition it will be seen that a federation is distinguished—(1.) From a league, alliance, or treaty by its comprehensive, permanent and political objects. (2.) From a customs union by its national and general purposes. (3.) From a confederation by its form of government and its ability to act directly on its citizens in enforcing its commands without the intervention or assistance from its constituent states. (4.) From unification or amalgamation by the reservation to the several states of all those powers and functions which concern the states only.

ATTRIBUTES.—Professor Dicey has stated that a federation is a political contrivance intended to reconcile national unity and power with the maintenance of state rights. Professor Freeman has described it as “a government co-ordinate with the state governments' sovereign in its sphere as they are sovereign in their spheres.” “A state administration within its own range will be carried on as freely as if there were no such thing as a union; the federal administration within its own range will be carried on as freely as if there were no such thing as a separate state.” “A federal power will be in the strictest sense a government. It will act not only on the governments of the several states, but directly on every citizen of those

states. It will be a government with the usual branches, legislative, executive and judicial; with the direct power of taxation, and with the other usual powers of a government; with its army, its navy, its civil service and all the usual apparatus of a government, all leaning directly upon every citizen of the union without any reference to the governments of the several states.” Sir R. C. Baker, M.L.C., of South Australia, has defined a federation in these words:—“By federation is meant that form of union in which the central government legislates for and acts upon the people as individuals who, for the purpose of the central Government, and so far as its sphere of power extends form one nation, no matter in which of the constituent states they live.” Mr. Edmund Barton, Q.C., of New South Wales, has laid it down that in order to constitute a federation there are two prime necessities—(1.) The preservation of the supremacy of the national government within its sphere, and of each provincial government within its sphere, and (2) the power of the federal parliament and government to deal directly with the individual citizen, giving him his rights in the nation and acting upon him as a unit of a nation for national purposes, just as the provincial parliament and government under which he has his provincial rights can deal with him for the necessities of provincial control.”

AIMS.—The aims and objects of a proper scheme of federation are thus two-fold:—The first is out of a number of adjacent and kindred states having a community of interests, to create a central government forming a bond of union by which the aggregated strength and concentrated sovereignty of a great national state will be evolved, and in the benefits and prestige of which all the associated states will participate. The powers and functions conferred on this national state are defined and strictly limited to purposes of the widest and most general character, so as not to interfere with the second aim and object of a federation which is to maintain unimpaired in their integrity the rights, the advantages and the privileges of local self-government within the several states. In the construction of a Federal Constitution for Australasia these two matters must be steadily kept in view. If too great powers, or powers beyond those required for the purpose of national government only are conferred on the federal government, the result will be a tendency to obliterate the individuality, the usefulness, and the local patriotism of the states. If too great powers, or powers larger than those required for the purpose of local government only are conferred on the states the result will be a weak and impotent federation. Canada presents an example of a federation in which the provinces are dwarfed into insignificance by the assumption of excessive jurisdiction by the Supreme Government.

III.—Conditions of Federation.

The essential conditions precedent to the establishment of a successful federation are thus, as follows:—There must be a friendly association of a number of political communities, having the before-mentioned characteristics, such as the thirteen original colonies of New England, which afterwards became the United States of America; the Provinces of Canada, and the Cantons of Switzerland. These communities must have certain needs, aspirations, sentiments, and interests in common, such as the necessity for presenting one solid and united front to the outside world; the desire to resist foreign aggression; to consolidate their military strength; the desire to extend their foreign trade; the desire to remove all barriers that prevent free and unfettered commercial intercourse between themselves; the aspiration after a citizenship under more dignified, more comprehensive, and more generic than the citizenship of a small state; the sentiment of local patriotism must be largely developed in each state so that, although there may be a wish to erect a large national state for certain general purposes, there should be no disposition to surrender local autonomy. In the words of professor Dicey “the sentiment which creates a federal state is the prevalence throughout the citizens of more or less allied countries of two feelings, which are, to a certain extent, inconsistent, the desire for national unity, and the determination to maintain the independence of each main separate state. The aim of federation is to give effect, as far as possible, to both these sentiments.” The people must be fit for freedom; capable of engaging in the work of self-government; have respect for law and order; have respect for public opinion; must be accustomed to or prepared for habits of concession and compromise.

A political federation is founded on a supreme constitution, which is first framed by the people, or by representatives on behalf of the people of the associated countries, and afterwards clothed with the form of law, either by their own act of ratification, as was done by the United States of America, or by a paramount authority, as in the case of the British North America Act, which was drafted and approved by the Canadian provinces and afterwards passed by the Imperial Parliament. The federal constitution contains a full specification of powers legislative, executive and judicial, both those which are delegated to the federation and those which are retained by the states. In the federation there is established a legislature to make the federal law, an executive to maintain and administer that law, and a judiciary to interpret and pass judgment on that law, and restrain any encroachments on the constitution either by the federal authorities or by the states.

IV.—The Federal Legislature.

The Legislature of a Federation should consist of two houses. The Lower House, generally called the House of Representatives, is the popular chamber, composed of members elected directly by the people of the various states, which return members to it in proportion to their respective populations. This House is sometimes called the National Council, because it represents the whole people, grouped as citizens of the nation, not as citizens of the states. The Upper House, sometimes called the Senate or Council of States, performs the double function of a chamber of revision as well as the important duty of representing the states and guarding states' rights against aggression on the part of the Federation. The states should be equally represented in the Upper House without regard to size, wealth, or population. The members of this Chamber are generally elected by the legislatures of the states, but there would be nothing antagonistic to federal principles in providing for their election directly by the people of each state voting as citizens of the state in one or more large electorates.

V.—The Federal Executive.

The Executive functions of Government may be performed as in the United States, by a President elected by the people independently of Congress; or as in Canada, nominally, by and through the Governor-General, but in reality by and through a Ministry having the confidence of the Lower House; or as in Switzerland, by a Federal Council elected periodically by the National Assembly.

VI.—The Federal Judiciary.

The Judges of the Supreme Court of the Federation are appointed by the Federal Executive during their good behavior. The court acts not only as a court of appeal from inferior tribunals, but represents the majesty of the Supreme Federal Law, and acts as the sole expounder and guardian of the Federal Constitution.

VII.—General Federal Powers.

The principal legislative powers generally conferred on Federal Government may be thus briefly enumerated:—Peace and war, treaties with foreign nation, control and organisation of the army and navy, regulation of commerce foreign and internal, regulation of the currency, patents and copyrights, post offices and telegraphs, taxation, weights and

measures, bankruptcy, Federal Judicature, Federal Franchise. The powers proposed to be conferred on the Parliament and Government of the Commonwealth of Australasia are as follows:—*a. External*—(1) Aliens and colored races, restriction of influx of; (2) Borrowing money on the security of the Federal Government; (3) Sole power of imposing custom duties on imports from foreign countries; (4) Prevention of the influx of criminals; (5) Defence naval beyond territorial waters; (6) Fisheries, deep sea, regulation of; (7) Navigation, costal shipping, beacons, buoys, light-houses; (8) Pacific Islands, relations of Australia with; (9) Treaties of commerce with foreign powers. *b. Internal*—(1) Banks and banking laws; (2) Currency and coinage; (3) Abolition of custom duties between colonies; (4) Civil and criminal process service and execution; (5) Census; (6) Marriage and divorce; (7) Copyrights, patents and trade marks; (8) Defence, land, and munition of war; (9) Inter-communication, post, telegraphs and cables; (10) Quarantine; (11) River navigation; (12) Control of railways for federal purposes, transport, etc.; (13) Recognition of judgments and judicial proceedings.

VIII.—Exclusive and Non-Exclusive Federal Powers.

It is necessary to remember an important difference between the exclusive legislative powers of a federation and those powers which are exercisable concurrently by the federation and by the states, subject to the condition that state legislation is operative only in the absence of federal legislation. Of the foregoing list of powers generally conferred on the Federal Government, such as that of the United States of America, some, according to the words of the constitution, may belong exclusively to the federation, and the states cannot deal with them under any circumstances whatever, such as peace and war, foreign relations generally, foreign and inter-state commerce, currency, post and telegraphs. In reference to other matters, such as bankruptcy, pilot laws, harbor regulations, the time place and manner of election of representatives and senators, there is in the United States Constitution provision that until Congress shall make or pass uniform laws relating thereto the State laws therein shall prevail. Thus, in instances such as these the delegation of a power to, but non-exercise by the Federal Congress, does not prevent the states from legislating thereon. Judge Cooley in his “Principles” says “the mere grant of a power to Congress does not of itself in most cases imply a prohibition upon the states to exercise the like power. It is not the mere existence of the national power, but its exercise, which is incompatible with the exercise of the same power by the States.”

IX.—Prohibited Powers and Guaranteed Rights.

Most federal constitutions contain clauses of a peculiar and interesting character, intended to secure the liberty of the people on the one hand and to confine the central government within its restricted sphere and the several state governments within their respective spheres. These clauses may be generally described as embodying “guaranteed rights” or imposing “prohibitions” and “limitations.” The principal prohibitions and reservations imposed by the Federal Constitution of the United States of America, sometimes called “the Bill of Rights” are given in the digest.

X.—Powers Vested in the States.

In the American Constitution it is expressly enacted that all powers not delegated to the Federation by the Constitution nor prohibited by it to the states, are reserved to the states respectively, or to the people thereof. Under this provision the states retained all the general, original and inherent powers, authorities and jurisdictions which belonged to them before the union, and which were not expressly taken from them by the constitutional instrument. In addition to those powers which were taken from the states and given to the federation certain possible powers were declared not to be vested either in the states or in the federation. In the Constitution of Canada the provinces have power to make laws relating to certain defined and enumerated matters of a merely local or private nature. The non-enumerated powers belong to the Dominion. This is the converse of the method of distribution adopted in the American Constitution. In the Swiss Constitution it is enacted that the Cantons are sovereign so far as their sovereignty is not limited by the Federal Constitution, and as such they exercise all the rights which are not delegated to the Federal Government. In form, as well as in substance, this method of division of powers between the Federal Union and the States is similar to that of America.

XI.—Transcendant Advantages of Federation.

- (1) It will work for peace between the states.
- (2) It will provide the means of settling disputes, and will remove local antagonism, jealousy, danger of reprisals, and other causes likely to lead to war.
- (3) It will establish a common national citizenship in addition to state citizenship.
- (4) It will establish freedom of trade and commerce between the states, and create an unopened system of trade and commerce with the outside world.
- (5) It will provide inter-Australian as well as international communication—postal,

telegraphic, cable and railway.

(6) It will facilitate the unification of State debts under the Federal Government, and the establishment of a national system of finance.

(7) It will organise a national system of defence government, foreign attack and aggression.

(8) It will call into existence a Central Government for the personification and representation of the United States in their relation with the rest of the world.

(9) It will secure the advantages of the concentrated power of a large state as well as retain the advantages of the local interest found in small states.

(10) It will transform a number of small states into a great nation.

(11) Whilst it will provide for the maintenance of the public order and for the security of private right to every citizen, it would also present a great ideal central power capable of rallying and coalescing the scattered and centrifugal forces of the states, and of guiding and developing these forces in the moulding of national life, character and destiny.

This prosaic estimate and anticipation would not be complete without the patriotic and stirring appeal of Wm. Gay, the Bendigo poet:—

“From all division let our land be free,
For God has made her one: complete she lies
Within the unbroken circle of the skies.
And round her indivisible the sea
Breaks on her single shore; while only we,
Her foster children, bound with sacred ties
Of one dear blood, one storied enterprise,
Are negligent of her integrity.
Her seamless garment, at great Mammon's nod,
With hands unfilial we have basely rent,
With petty variance our souls are spent,
And ancient kinship under foot is trod:
O let us rise, united, penitent,
And be one people,—might, serving God!”

XII.—Australian Federal Problems.

In the preparation of a Federal Constitution for Australasia a number of questions of special importance and difficulty will arise, in the consideration of which the condensed information given in the annexed digest of other federal constitutions may be found useful. Among those problems the following may be mentioned:—(1.) Should the Federal Constitution and the Federal Parliament settle the Federal franchise, its qualification and exercise, or should it be left to the legislature of each state to settle? (2.) To what extent, and under what condition should the

Federation take over the public debts of the several states? (3.) To what extent and under what circumstances is the Federation to control the management and construction of railways? (4.) In what manner are the senators or members of the Federal Upper House to be elected—by the federal electors directly, or by the members of the State Legislatures? (5.) Shall the Senate have the power to amend money bills or to suggest amendments therein? (6.) In what way are deadlocks between the two Federal Chambers to be settled?

Chapter II. The Federal Constitution of the United States.

Division I.

The Executive Department.

The President.

QUALIFICATIONS.—The Executive power is vested in the President. No person except a natural born citizen, or a citizen of the United States at the time of the adoption of the Constitution, of the age of 35 years, is eligible to that office.

MODE OF ELECTION.—The President and the Vice-President are chosen by an electoral college created as follows:—Each state appoints, in such manner as the Legislature thereof may direct, a number of electors, equal to the number of senators and representatives to which the state may be entitled in Congress, but no person holding a political or civil office under the United States is eligible for selection as an elector. After the selection of electors they have to meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, must not be an inhabitant of the state with themselves. They must name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President. They then make distinct lists of all persons voted for as President and of all persons voted for as Vice-President, and of the number of votes for each, which lists they sign and certify and transmit, sealed, to the President of the Senate. The President of the Senate is authorised, in the presence of the Senate and the House of Representatives, to open all the certificates, “and the votes shall then be counted.” The persons having the greatest number of votes for President shall be President, and the person having the greatest number of votes for Vice-President shall be Vice-President. But if no candidate for the Presidency has a majority of the whole number of electors appointed throughout the states, then, from the persons having the highest number not exceeding three, on the list of those voted for as President, the House of Representatives is directed to choose immediately, by ballot, the President. But, in so choosing the President, the votes are to be taken by states, the representation from each state having one vote. Similarly, if no candidate for the Vice-President has a majority of the whole number of electors appointed, then the Senate chooses the Vice-President from the two highest numbers on the list.

POWERS OF THE PRESIDENT.—The President is authorised from time to time to recommend to Congress the consideration of such measures as he shall judge necessary and expedient. He may nominate, and by and with the advice of the Senate, appoint ambassadors, consuls and other public ministers, judges of the Supreme Court, and other officers of the United States not otherwise provided for; he is to take care that the laws are faithfully executed; must give Congress information as to the state of the union; may grant reprieves and pardons for offences against the United States, except in cases of impeachment; may veto bills passed by Congress, but such bills may be reconsidered, and if passed again by a two-thirds majority in both the Senate and House of Representatives, they become law without the President's consent; may by and with the advice and consent of the Senate make treaties with foreign powers. The President is the commander-in-chief of the army and navy of the United States, and of the militia of the several states when called into actual service.

Division II.

The Legislative Department.

Congress.

BOTH HOUSES.—All legislative powers are vested in Congress, consisting of a Senate and House of Representatives. No senator or representative is permitted to hold a civil office under the authority of the United States. Senators and representatives are entitled to compensation for services, to be ascertained by law, and paid out of the federal treasury. It is now fixed at 7,500 dollars per year each, and travelling expenses. Congress must assemble at least once every year, but the President may convene extraordinary sessions.

The House of Representatives.

APPORTIONMENT OF REPRESENTATIVES.—The House of Representatives is composed of members chosen by the people of the several states at a general election held every second year. Representatives are apportioned among the several states, according to their respective populations, comprising the whole number of persons in each state, excluding Indians not taxed. The ratio first fixed was one for every 30,000. The ratio has since been altered to one for every 130,000 of the population. Each state must have at least one representative.

QUALIFICATIONS OF REPRESENTATIVES.—No person can be a

representative who shall not have attained the age of twenty-five years; who shall not have been seven years a citizen of the United States, and who shall not have been, when elected, an inhabitant of the state in which he is chosen.

FEDERAL SUFFRAGE NOT TO BE ABRIDGED.—When the right of election belonging to any male inhabitants of any state, being 21 years of age and citizens of the United States, is denied or in any way abridged, except for participation in rebellion or crime, the basis of representation therein is reduced in the proportion which the number of such male citizens bears to the whole number of male citizens in such state. The right of citizens of the United States to vote may not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude. Congress may enforce this provision by appropriate legislation.

SPECIAL POWERS OF THE HOUSE.—All bills for raising revenue must originate in the House, but the Senate may propose or concur in amendments as in other bills. The House has also the power of impeaching federal officers in the Senate, which then sits as a judicial tribunal.

The Senate.

MODE OF ELECTION.—The senators from each state are chosen by the legislatures thereof. Each state is entitled to be represented by two senators, each senator having one vote.

QUALIFICATIONS OF SENATORS.—No person can be a senator who shall not have attained the age of 30 years, and been nine years a citizen of the United States and when elected an inhabitant of the state for which he is chosen.

TERM OF OFFICE.—The term of a senator's office is six years, one-third of the Senate retiring for re-election every second year.

PRESIDENT OF THE SENATE.—The Vice-President of the United States is President of the Senate.

SPECIAL POWERS OF THE SENATE.—The Senate has the sole power to try all impeachments. The Senate may not originate but may amend money bills. The Senate has the right of approving or vetoing all the superior appointments to federal offices, such as Supreme Court judges, ministers to foreign powers, heads of departments and other officials recommended by the President. The Senate has also the right of approving or vetoing treaties with foreign powers recommended by the President.

General Powers of Congress.

TAXATION.—To levy and collect taxes, duties, imposts and excise. But all duties, imposts and excise must be uniform. No capitation or other direct tax shall be laid unless in proportion to the latest census of population in each state. No tax or duty shall be laid on articles exported from any state.

BORROWING MONEY.—To borrow money on the credit of the United States.

FOREIGN COMMERCE.—To regulate commerce with foreign nations.

INTER-STATE COMMERCE.—To regulate commerce among the several states. No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another, nor shall vessels bound to or from one state be obliged to enter clear or pay duties to another.

BANKRUPTCY LAW.—To establish uniform laws on the subject of bankruptcy throughout the states.

COINAGE.—To coin money and regulate the value thereof and of foreign coin.

CRIMINAL LAW.—To pass laws for the punishment of treason, counter-feiting federal coin and securities, piracies and felonies committed on the high seas, offences against the law of nations, and all offences against federal laws.

POST OFFICES.—To establish post offices and post roads.

WEIGHTS AND MEASURES.—To fix the standard of weights and measures.

PATENT AND COPYRIGHT.—To promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and inventions.

MILITARY AND NAVAL.—To raise and support armies; to provide and maintain a navy; to make rules for the government of the land and naval forces; to declare war; to grant letters of mark and reprisal; to make rules concerning capture on land and water; to provide for organising, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of officers, and the authority of training the militia, according to discipline prescribed by Congress, the President to be commander-in-chief of the army and navy and of the militia of the several states when called into actual service.

MAINTENANCE OF ORDER.—To provide for calling forth the militia to execute the laws of the union; to suppress insurrection and repel invasion, and the United States—on the application of the legislature, or of the executive, when the legislature cannot be convened—shall protect each

state against domestic violence.

SLAVERY.—To enforce the prohibition of slavery under an amendment of the constitution, by appropriate legislation.

LEGAL TENDER.—To establish legal tender.

CENSUS.—To take a census of the people within every term of 10 years.

TERRITORY.—To dispose of and make all needful rules and regulations respecting the territories not created states; to exercise exclusive authority over the district within which is situated the federal capital, and over all places purchased by the consent of the legislature of the state in which the same is situated for the erection of forts, magazines, arsenals, dockyards and other needful buildings.

NEW STATES.—To admit new states into the union, but no new states can be formed by the junction of two or more existing states or parts of states without the consent of the legislatures of those states.

ALIENS.—To establish a uniform rule of naturalization.

CONTROL OF ELECTIONS.—To make or alter regulations as to the time, place and manner of holding elections for senators and representatives.

INFERIOR TRIBUNALS.—To constitute tribunals inferior to the Supreme Court.

AMENDMENT OF CONSTITUTION.—To propose amendments of the constitution, provided two thirds of both houses shall deem it necessary, but such amendments, before coming law, must be ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification be proposed by Congress.

GENERAL AUTHORITY OF CONGRESS.—To make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this constitution in the government of the United States or in any department or office thereof.

FEDERAL SUFFRAGE.—To enforce by appropriate legislation the article that the right of citizens of the United States to vote shall not be denied or abridged by any state on account of race, color, or previous condition of servitude.

SUPREMACY OF FEDERAL LAWS.—The constitution and the laws of the United States, made in pursuance thereof, and all treaties made under the authority of the same shall be the supreme law of the land, and the judges in every state shall be bound thereby.

Federal Prohibitions and Reservations.

PROHIBITIONS.—No bill of attainder or *ex post facto* laws; no title of nobility to be conferred; no law establishing any religion; no law prohibiting any religion; no law abridging freedom of speech; no law abridging the freedom of the press; no law abridging the right of public meeting; no law denying the right to bear arms; no religious test or qualification for public office; no preference to the ports of one state over those of another; no tax or duty on the exports of a state; trial by jury not to be taken away; no person to be placed in jeopardy a second time for same offence; no private property to be taken for public use without just compensation; right of citizens to vote not to be abridged or denied on account of race, color, or previous servitude.

RESERVED POWERS.—The powers not expressly delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states or to the people thereof.

SLAVERY PROHIBITED.—Neither slavery nor involuntary servitude, except as a punishment for a crime after conviction, shall exist within the United States or in any place subject to their jurisdiction.

STATUS OF CITIZENS.—All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the states wherein they reside. The citizens of each state are entitled to all the privileges and immunities of citizens in the several states.

PUBLIC DEBT.—The validity of the public debt of the United States, authorised by law, shall not be questioned. Debts contracted and engagements entered into before the adoption of the constitution shall be valid against the United States, as under the Confederation, but no debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for loss or emancipation of any slave shall be paid by any state or by the United States.

SALARIES.—(1) Of the judges not to be diminished during their term; (2) of the President not to be increased or diminished during his term.

HABEAS CORPUS.—Not to be suspended, unless when in cases of rebellion or invasion the public safety may require it.

MILITARY APPROPRIATIONS.—No appropriation of money to raise and support armies shall be for a longer term than two years.

Division III.

The Judicial Department.

FEDERAL COURTS.—The judicial power of the United States is vested in one supreme court, and in such inferior courts as Congress may from

time to time ordain and establish. The judges are appointed by the President, subject to the approval of the Senate, and they hold office during good behavior, but may be removed on impeachment. The judicial powers of the federal courts extend to the following:—

1. In all cases in law and equity arising under the constitution, the laws of the United States, and treaties made under their authority.
2. To controversies between two or more states.
3. To controversies to which the United States shall be a party.
4. To controversies between a state and citizen of another state.
5. To controversies between citizens of different states.
6. To controversies between citizens of the same state claiming lands under grants of different states.
7. To controversies between a state, or the citizen thereof, and foreign states, citizen and subject.
8. To all cases affecting ambassadors and other public ministers and consuls.
9. To cases of admiralty and maritime jurisdiction.

EXCLUSIVE JURISDICTION.—The Supreme Court of the United States, as distinguished from inferior federal courts, has exclusive jurisdiction in all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party.

APPELLATE JURISDICTION.—In all the other cases before mentioned the Supreme Court has appellate jurisdiction from the inferior federal courts, both as to law and fact, with such exceptions and under such regulations as Congress may make. The cases in which the Supreme Court has jurisdiction to entertain an appeal from a state court are defined by an Act passed in 1789, which provides that “a final judgment or decree, in any suit in the highest court of law or equity of a state, may be brought up on error in point of law, to the Supreme Court of the United States, provided—(1) the validity of a treaty, or statute of, or authority exercised under the United States, was drawn in question in the state court, and the decision was against that validity; or provided (2) the validity of any state authority was drawn in question, on the ground of its being repugnant to the constitution, treaties or laws of the United States, and the decision was in favor of its validity; or provided (3) the construction of any clause of the constitution or of a treaty, or statute of, or commission held under the United States, was drawn in question, and the decision was against the title, right and privilege, or exemption, specially claimed under the authority of the union.”

TRIAL BY JURY.—The trial of all crimes shall be by jury except in cases of impeachment. The jury shall be an impartial one in the state and

district wherein the crime shall have been committed. In suits at common law, where the value in controversy exceeds 20 dollars, the right of trial by jury shall be preserved. No fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

PENALTIES.—Excessive bail shall not be required nor excessive fines imposed, or cruel and unusual punishments inflicted.

Division IV.

Powers of the States.

SOURCES OF POWERS.—The states have distinct constitutions defining and limiting the powers of the local legislatures, and restricting their functions to purely local affairs. The states legislatures possess only such powers as are conferred upon them (1) by their local constitutions and (2) by the federal constitution.

AMENDMENTS.—The powers conferred by the local constitutions can only be enlarged or reduced by an amendment of those constitutions. Such an amendment could be made only by a state convention of the people, called together in the manner prescribed by the local constitutions. All powers not delegated to the United States, or prohibited to the states by the federal constitution, are presumed to be reserved to the states or the people thereof. The people can only make further grants by amendments made in the manner prescribed by law.

LIMITS ON STATE AMENDMENTS.—But the people of a state sitting in a state convention called for the purpose of amending a state constitution, could not amend that constitution in a manner, or with respect to a subject prohibited or limited by the federal constitution. Prohibitions and limitations in federal legislation, as well as in state legislation, can be removed only by amendment of the federal constitution, adopted in the mode and under the conditions prescribed by that constitution.

PRIVILEGES AND GUARANTEES OF STATES.—The federal constitution confers on the several states certain functions and privileges, and at the same time gives them certain guarantees.

CHOICE OF SENATORS.—The senators from each state must be chosen by the legislatures thereof. If vacancies occur during the recess of the legislature of a state the executive of the state is authorised to make a temporary appointment until the next meeting of the legislature. No state, without its consent, may be deprived of its equal suffrage in the senate.

CONTROL OF ELECTIONS.—The times, places and manner of holding

elections for senators and representatives must be prescribed in each state by the legislature thereof, subject to Congress passing uniform laws.

RESERVED POWERS.—The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively or to the people.

CHOICE OF PRESIDENTIAL ELECTORS.—In the election of President and Vice-President each state is authorised to appoint, in such manner as the legislature thereof may direct, a number of electors, who afterwards meet together in the state and vote by ballot. Congress determines the time of choosing the electors and the day on which they should give their votes, which day is the same throughout the states.

TERRITORIAL.—States may consent to cession of territory for national use.

FEDERAL FRANCHISE.—The federal electors in each state must have the qualification requisite for electors of the most numerous branch of the state legislature.

MILITIA.—A state has power to appoint the officers of its militia and to train its militia according to discipline prescribed by Congress.

Limits on the Powers of States.

GENERAL.—A republican form of government must be maintained and not abolished.

JUDICIAL RIGHTS.—No state can deprive any person of life, liberty or property without due process of law, nor shall private property be taken for public use without just compensation.

INTER-STATE TRADE.—No state may, without the consent of Congress, lay any duties on imports or exports, except what may be absolutely necessary for executing its inspection laws. No state may, without the consent of Congress, lay any duty of tonnage. No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another, nor shall vessels bound to or from one state be obliged to enter clear or pay duties to another. All such inspection laws shall be subject to the revision and control of Congress.

COINAGE.—No state shall coin money.

LEGAL TENDER.—No state shall make anything but gold and silver coin a tender in payment of debt.

PAPER MONEY.—No state shall emit bills of credit.

OBLIGATIONS OF CONTRACTS.—No state shall pass any law impairing the obligations of contracts.

INTER-STATE TREATIES.—No state shall, without the consent of

Congress, enter into any agreement or compact with another state.

FOREIGN TREATIES.—No state shall enter into any treaty, alliance, or confederacy with any foreign power.

ARMY AND NAVY.—No state shall, without the consent of Congress, keep troops or ships of war in time of peace.

FEDERAL AND STATE FRANCHISE.—The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any state on account of race, color, or previous condition of servitude.

TITLES.—No state shall grant any title of nobility.

PROTECTION OF THE LAW.—No state shall deny to any person within its jurisdiction the equal protection of the laws.

PRIVILEGES OF CITIZENSHIP.—No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States. Freedom of speech, freedom of the press, freedom from arbitrary arrests and imprisonment without trial by jury; the right to peaceably assemble; the right to petition for redress of grievances, are also guaranteed.

Division V.

The Working of the Constitution.

The Constitution is the charter of Federal Government in America. It creates a federal government of strictly delegated and limited powers. The states are said to be sovereign within their own sphere, and they are independent and beyond control in all matters not delegated to the Federal Government and not prohibited by the Federal Constitution. Constitutional law in the United States, therefore, deals with the following matters:—(1.) The powers delegated to the general Government. (2.) The reserved rights of the states under their respective constitutions. (3) The reserved rights of the people not delegated either to the states or to the general Government. The Supreme Court is the interpreter and guardian of constitutional law. If Congress pass a law contrary to the constitution it may be declared null and void in any action or suit brought to enforce or test it. If the states pass a law contrary to the constitution the Supreme Court would also declare it null and void in such an action or suit.

Alexander Hamilton described the Supreme Court as the “bulwark of a limited constitution against legislative encroachment.”

The President is the supreme executive. There is no such thing as responsible Government or Ministerial Government, as known to the

British Constitution. The Secretaries of State, who compose the so-called "Cabinet" in the United States, are merely temporary heads of departments, the servants and agents of the President, appointed and removed by him at his unfettered discretion. They do not sit in Congress. Neither they nor the President are responsible to Congress. They are answerable to the President alone, and he is answerable only to public opinion. There is only one process by which the President or any public officer may be removed by Congress, and that is by impeachment. This is a process of public trial for misconduct in office. It is instituted by the House of Representatives before the Senate, which then sits as a judicial tribunal. The only notable instance of an impeachment was that of President Andrew Johnson, who narrowly escaped conviction.

Chapter III. The Federal Constitution of Switzerland.

Division I.

The Executive Department.

The Federal Council.

ELECTION.—The supreme direction and executive authority of the Confederation is exercised by a Federal Council, composed of seven members, chosen from among all the Swiss citizens eligible to the National Council, but not more than one member of the Federal Council may be chosen from the same canton. They are chosen by the National Council, and the Council of States in joint session, their term of office being for three years. The Federal Council is chosen anew after each election of the National Council.

THE EXECUTIVE HEAD.—The Federal Council is presided over by a President, chosen for one year by the Federal Legislature from among the members of the Council. There is also a Vice-President similarly chosen.

FEDERAL CHANCERY.—A Federal Chancery, at the head of which is placed the Chancellor of the Confederation, conducts the secretary's business for the Federal Legislature and for the Federal Council. The Chancellor is elected by the Federal Legislature for a term of three years. The chancery is under the special supervision of the Federal Council.

DEPARTMENTS.—The business of the Federal Council is distributed by departments among its members. This distribution is for the purpose only of facilitating the examination and despatch of business. Decisions emanate from the Council as a single authority.

GENERAL EXECUTIVE POWERS.—The Federal Council is charged with the conduct of federal affairs conformatory to the law and the resolutions of the Confederation. It administers the military establishment and all other branches of administration committed to the Confederation. It makes all appointments not assigned to other federal authorities. It supervises the conduct of all the officials and employes of the federal administration. Official intercourse between cantons and foreign governments or their representatives must take place through the Federal Council. In case of urgency, whilst the Federal Parliament is not in session it may raise and employ the necessary troops.

ENFORCEMENT OF THE LAW.—The Federal Council is charged to take care that the constitution, federal law and ordinances, and the federal

concordat are observed. It executes the laws and resolutions of the Confederation and the judgments of the federal court. It watches over the guaranty of cantonal constitutions. It watches over the internal safety of the confederation; over the maintenance of peace and order. In cases of internal disturbances in a canton, or if danger is threatened by another canton, the Council may take the necessary measures to protect the canton threatened, or may summon the Federal Legislature.

REPORTS TO THE LEGISLATURE.—The Federal Council submits to the Federal Legislature at each regular session an account of its administration and of the condition of the Confederation. It makes special reports to either Council as required.

PRESENCE IN THE LEGISLATURE.—The members of the Federal Council cannot be members of the Legislature, but they have the right to speak and make motions on every subject under consideration without the right of voting.

EXECUTIVE INITIATIVE.—The Federal Council at each regular session calls attention to measures which it deems desirable for the promotion of the general welfare. It introduces bills or resolutions into the Legislature, and gives its opinions on proposals submitted to it by the Legislature or by the cantons.

FINANCE.—It administers the finances of the Confederation, introduces the budget, and submits accounts of receipts and expenditure.

Division II.

The Legislative Department.

The Two Councils.

With the reservation of the rights of the people and of the cantons the supreme legislative authority of the Confederation is exercised by the Federal Legislature, called the Federal Assembly, which consists of two sections or councils—(A) the National Council, and (B) the Council of States. Measures may originate in either Council, and may be introduced by any member.

The National Council.

VOTERS.—The National Council, or Lower House, is composed of representatives of the Swiss people, elected directly by the people in federal electoral districts, which in no case are formed out of parts of different cantons. Representatives are chosen at the ratio of one for every

20,000 of the whole population of the federation. Every Swiss who has completed 20 years of age, and who is not excluded from the rights of a voter by the legislature of the canton in which he is domiciled, has a right to vote in that canton at elections and popular votes.

UNIFORM FRANCHISE.—The Confederation may, by law, establish uniform regulations for the exercise of such right. The Confederation may, by law, fix the limits within which a Swiss citizen may be deprived of his political rights.

CITIZENSHIP.—Every citizen of a canton is a Swiss citizen. A Swiss settled as a citizen outside his native canton, enjoys in the place where he is domiciled all the rights of the citizens of the canton. All the cantons are bound to treat the citizens of the other confederated states like those of their own in legislation and in all judicial proceedings.

MEMBERS.—Every lay Swiss citizen who has the right to vote is eligible for membership of the National Council.

DURATION.—The National Council is chosen for three years, and is not liable to dissolution before the expiration of that term.

PAYMENT OF MEMBERS.—The members of the National Council receive a compensation out of the Federal Treasury.

The Council of States.

APPORTIONMENT.—The Council of States, or Upper House, consists of 44 representatives of the cantons. Each canton appoints two representatives; in the divided cantons each half canton chooses one.

MODE OF ELECTION.—In most of the cantons the members of the Council of States are elected by the Cantonal Legislatures, as in America. In a few cantons they are elected by popular vote, the whole canton being for that purpose one constituency.

PAYMENT OF MEMBERS.—Representatives on the Council of States receive a compensation from the cantons.

General Provisions.

CONCENSUS OF BOTH HOUSES.—Federal laws, enactments and resolutions are passed only by the agreement of the two Councils.

JOINT ACTION.—In the case of federal elections, pardons, or in deciding a conflict of jurisdiction, the two Councils meet in joint session, and a decision is made by the majority of both Councils present and voting.

POPULAR VOTES.—If a demand is made by 30,000 voters, or by eight cantons, within 90 days after the passing and publication of federal laws and resolutions of general application and not urgent, they must be

submitted for acceptance or rejection by the people. This is called the optional referendum, and is different from the referendum in amendments of the Constitution. (See Amendment).

POPULAR INITIATIVE.—By a recent amendment of the Federal Constitution provision is made by which 50,000 voters may submit a proposal for a new law and require that it be referred directly to the people and the cantons. The proposal must then be submitted to the referendum without the consent of the Federal Assembly, and if approved of by the majority of voters it becomes law. This is called the popular power of initiating legislation, or the Federal Initiative.

THE REFERENDUM.—There are thus three different occasions on which a referendum takes place:—(1) When it is demanded by 30,000 voters within 90 days after the passing and publication by the Federal Assembly of an ordinary federal law. (2) When it is demanded by the initiative of 50,000 voters with reference to any particular proposal for a new federal law. (3) When it is required under the Federal Constitution with reference to any proposed amendment of that Constitutions. (See Amendment).

Powers of the Federal Legislature.

The subjects within the competence of the Federal Legislature are particularly the following:—

CONTROL OF ELECTIONS.—Laws on the organisation and election of federal authorities.

OFFICERS.—The salary and compensation of members of the federal governing bodies and of the Federal Chancery; the creation of federal offices, and the determination of the salary thereof.

FEDERAL COUNCIL.—The election of the Federal Council.

FEDERAL TREATIES.—The sole right of concluding treaties and alliances with foreign powers, particularly treaties relating to tariffs and commerce.

CANTONAL TREATIES.—The approval of treaties made by cantons between themselves or with foreign powers, but the treaties made by cantons are only brought before the Federal Assembly in case the Federal Council or another canton protests.

DEFENCE.—Measures for external safety, and also for the maintenance of the independence and neutrality of Switzerland.

WAR.—Sole right of declaring war and making peace.

GUARANTY OF CANTONS.—The guaranty of the Federal constitution and of the territory and constitution of the cantons and for fulfilling federal

obligations.

ARMY.—The power of controlling the Federal Army.

FINANCE.—The determination of the annual budget and the audit of public accounts.

LOANS.—Federal ordinances authorising loans.

JUDICIAL.—Superintendence of the Federal Court. No extraordinary tribunal permitted.

ADMINISTRATION.—The settlement of conflicts of administrative jurisdiction; the determination of protests against the decision of the Federal Council upon administrative conflict.

TERRITORIAL.—All that relates to the location of the authorities of the Confederation. The right to acquire or use drill grounds and buildings intended for military purposes within the cantons, compensation to be settled by federal legislation.

ALIENS.—Conditions in which the foreigners may be naturalized. Dangerous foreigners may be expelled.

EDUCATION.—The cantons are charged with the duty of providing primary instruction free and compulsory, and exclusively under the direction of the secular authority. The Confederation will take the necessary measures against such cantons as do not fulfil these duties. The Confederation has the right to establish a Federal University and other institutions of higher instruction, or to subsidise institutions of such nature.

RELIGION.—Freedom of conscience and belief is inviolable. No person is bound to pay taxes, the proceeds of which are specifically appropriated to the actual expenses of the worship of a religious body to which he does not belong. The details of carrying out this principle are reserved for federal legislation. The cantons and the Confederation may take suitable measures for preserving order and peace between different religious bodies, and against the encroachment of ecclesiastical authorities on the right of the citizens and of the state. No bishopric may be created upon Swiss territory without the consent of the Confederation. Religious orders are prohibited.

CUSTOMS DUTIES.—The Confederation may levy export and import duties on the federal frontiers according to the following principles:—

A. Duties on Import.—Materials necessary for the manufactures and agriculture of the country must be taxed as low as possible.

B. Necessaries of life must be similarly taxed as low as possible.

C. Luxuries must be subjected to the highest duties.

MANUFACTURE AND SALE OF ALOCHOL.—The Confederation is,

by an amendment of the Constitution 1885, authorised to make regulations for the manufacture and sale of alcohol. In this legislation those products which are intended for exportation, or which have been subjected to a process excluding them from use as a beverage, shall be subjected to no tax. Distillation of wine, fruit and their products, of gentian root, juniper berries, and similar products is not subject to federal legislation as to manufacture or tax. After the cessation of the import duties on spirituous liquors, provided for in article 32 of the Constitution, the trade, in liquors not distilled, are not to be subjected by the cantons to any special taxes or to other limitations than those necessary for protection against adulterated or noxious beverages. Nevertheless, the powers of the cantons (defined in article 31) are retained over the keeping of drinking places and the sale at retail of quantities less than two liters. Article 32 (II.), Amendment 22, December, 1885.

STATE COLLECTION OF LIQUOR DUTIES.—The cantons were provisionally or temporarily authorised to collect the import duties on wines and other spirituous liquors provided in article 31 (see inter-state commerce) always under the following restrictions:—

A. The collection of these import duties should in no wise impede transportation; commerce to be obstructed as little as possible, and not burdened with any other dues.

B. If the articles imported for consumption were re-exported from the canton, the duties paid on importations to be refunded without further charges.

C. Products of Swiss origin to be less burdened than those of foreign countries.

D. The import duties on wines and other spirituous liquors of Swiss origin existing at the adoption of the constitution were not to be increased by the cantons which already levied them. Such duties were not to be established upon such articles by cantons which did not collect them at the adoption of the constitution.

E. The laws and ordinances of the cantons on the collection of import duties before their going into effect, had to be submitted to the the Federal Government for approval in order that it might, if necessary, cause the enforcement of the preceding provisions.

F. All the import duties levied by the cantons at the adoption of the constitution, as well as the similar duties levied by the communes, were directed to cease, without indemnity, at the end of the year 1890. (Article 32).

COINAGE.—The Confederation exercises all the exclusive rights pertaining to coinage, coining money, establishing the monetary system,

and enacting provisions, if necessary, for the rate of exchange for foreign coins.

BANKS.—The Confederation has power to make loans for the issue and redemption of bank notes, but it cannot create a monopoly for the issue of canton notes, nor make such notes a legal tender.

INSURANCE.—The transactions of organizations for insurance not instituted by the cantons are subject to federal supervision and legislation.

INTER-STATE COMMERCE.—The freedom of trade and of industry is guaranteed throughout the whole extent of the Confederation, except in the following cases:—

A. The salt and gunpowder monopoly, the federal customs, import duties on wines and other spirituous liquors, and other taxes on consumption, expressly permitted by the Confederation according to article 32. (See state collection of liquor duties).

B. The manufacture and sale of alcohol under article 32 (II.), Amendment of December 22, 1885.

C. Drinking places and the retail trade in spirituous liquors; but nevertheless the cantons may, by legislation, subject the business of keeping drinking places and the retail trade in spirituous liquors to such restrictions as are required for the public welfare.

D. Measures of sanitary police against epidemics and cattle diseases.

E. Provisions in regard to the exercise of trade and manufactures, in regard to taxes imposed thereon, and in regard to the police of the roads. These provisions must not contain anything contrary to the principle of freedom of trade and manufacture. (Article 31).

FOREIGN COMMERCE.—Unless there are imperative reasons to the contrary, these principles are to be observed on the conclusion of treaties of commerce with foreign powers:—

1. Duties on exports to be as low as possible.

2. Customs legislation to include suitable provisions for the continuance of commercial and market intercourse across the frontier.

INTERNAL IMPROVEMENT.—The Confederation may construct, at its own expense, or may aid, by subsidies, public works which concern Switzerland, or a considerable part of the country.

PUBLIC WORKS.—For this purpose it may expropriate property on payment of a reasonable indemnity. Further enactments upon this matter may be made by federal legislation. The Federal Assembly may forbid public works which endanger the military interests of the Confederation.

DIKES AND FORESTS.—The Confederation has the right of superintendence over dike and forest police in the upper mountain regions. It may co-operate in the straightening and embankment of torrents as well

as in the afforesting of the districts in which they rise. It may prescribe the regulations necessary to assure the maintenance of these works, and the preservation of existing forests.

ROADS AND BRIDGES.—The Confederation exercises general oversight over those roads and bridges in the maintenance of which it is interested. The sums due to the cantons mentioned in article 30, on account of their international Alpine roads, are retained by the Federal Government if such roads are not kept by them in suitable condition.

RAILWAYS.—Legislation upon the construction and operation of railroads is in the province of the Confederation.

EMIGRATION AGENTS.—The transactions of emigration agents are subject to federal supervision and legislation.

POST AND TELEGRAPH.—The post and telegraph are controlled by the Confederation, and the proceeds belong to the federal treasury.

WEIGHTS AND MEASURES.—The Confederation fixes the standard of weights and measures.

COLLECTION OF DEBTS AND BANKRUPTCY.—The Confederation has power to make law on the legal collection of debts and on bankruptcy. Suits for personal claims against a solvent debtor having a domicile in Switzerland must be brought before the judge of his domicile; his property outside the canton in which he is domiciled may not be attached in suits of personal claims.

PATENT AND COPYRIGHT.—The Confederation has power to make laws on literary and artistic copyright, and on the protection of patents and inventions.

GUNPOWDER MONOPLY.—The manufacture and sale of gunpowder throughout Switzerland belongs exclusively to the Confederation. Powders used for blasting, and not suitable for shooting, are not included in the monopoly.

MILITARY SERVICE.—Every Swiss must perform military service, subject to federal legislation as to an exemption tax.

ARMY.—The Confederation has no right to keep up a standing army. The federal army is composed of the cantonal military corps and of all Swiss who do not belong to such military corps but are nevertheless liable to military service. The cantons have authority over the military forces of their territory. To the Confederation pertains the arming of troops. The furnishing and maintenance of clothing and equipment is within the power of the cantons, but the cantons must be accredited with the expense therefor according to federal regulation. To the cantons belong the appointment and promotion of officers of these bodies of troops. The composition and maintenance in effective strength of these bodies of

troops belong to the cantons, subject to general provisions of federal legislation. The laws on the organization of the army are passed by the Confederation. The enforcement of military laws in the cantons is entrusted to the cantonal officers within the limit of federal legislation, and subject to federal supervision and control.

SANITARY LAWS.—Legislation concerning measures of sanitary police against epidemic and cattle disease causing common danger, is included in the powers of the Confederation.

PRACTICE OF PROFESSIONS.—The cantons may require proofs of competency from those who desire to practice a liberal profession. Provision must be made by federal legislation by which such persons may obtain certificates of competency which shall be valid throughout the Confederation. Those persons who practice a liberal profession, and who, before the publication of the federal law provided for in article 33, have obtained a certificate of competency from a canton, or a joint authority representing several cantons, may pursue that profession throughout the Confederation.

LOTTERIES.—The Confederation may legislate concerning lotteries. Gaming houses are forbidden.

PROTECTION OF LABORERS.—The Confederation has power to enact uniform provisions as to the labor of children in factories, and as to the duration of labor fixed for adults therein, and for the protection of workmen against the operation of unhealthy and dangerous manufactures.

GAME LAWS.—The Confederation has power to make legislative enactments for the regulation of the right of fishing and hunting, particularly with a view to the preservation of the large game in the mountains as well as for the protection of birds useful in agriculture and in forestry.

PROPOSED AMENDMENTS.—The Federal Assembly may pass a bill for the amendment of the Constitution, but it will not become law unless and until it is ratified by a referendum to the people, as described in the next succeeding paragraph. This is called a “compulsory referendum.” Either Council or the people directly may initiate a proposed amendment as follows:—(1) When either Council of the Federal Assembly passes a resolution for an amendment of the Constitution, and the other Council does not agree, or, (2) when 50,000 Swiss voters demand amendment, the question is submitted to a vote of the Swiss people, voting “yes” or “no.” If in either case the majority of the Swiss citizens who vote pronounce in the affirmative, there must be a new election of both Councils for the purpose of preparing amendments.

RATIFICATION.—The amended Federal Constitution shall be in force

when it has been adopted by the majority of the Swiss citizens who take part in the vote thereon, and by a majority of cantons.

Division III.

The Judicial Department.

CONSTITUTION.—There is a Federal Court for the administration of justice in federal concerns. The judges are elected by the Federal Assembly. Every Swiss eligible for the National Council is qualified to be elected a member of the Federal Court, but members of the Federal Assembly and Federal Council and the Federal officials may not at the same time belong to the Federal Court. The organization of the Federal Court, the number of judges, their tenure of office, and their salaries, is determined by federal legislation.

JURISDICTION.—The Federal Court has jurisdiction in the following suits:—

1. Between the Confederation and the cantons.
2. Between the Confederation on one part and corporations or individuals on the other part, when such corporations or individuals are plaintiffs, and when the amount involved is of a degree of importance to be determined by federal legislation.
3. Between cantons.
4. Between cantons on one part and corporations or individuals on the other part, when one of the parties demand it, and when the amount involved is of a degree of importance to be determined by federal legislation.
5. In conflicts of jurisdiction between federal authorities on the one part and cantonal authorities on the other part.
6. In suits concerning the status of persons not subjects of any government, and the conflicts which arise between communes of different cantons respecting the right of local citizenship.
7. In case of high treason against the Confederation, and of rebellion or violence against the federal authorities.
8. In crimes and misdemeanor against the law of nations.
9. In political crimes and misdemeanors which are the cause or result of disturbances which occasion armed federal intervention.
10. In cases against federal officials appointed by federal authority where such authority relegates them to the Federal Court.
11. In all cases placed under the jurisdiction of the Federal Court; in particular, powers intended to insure the uniform application of the

commercial laws.

12. In cases where both parties agree to abide by its decision, and when the amount involved is of a degree of importance to be determined by federal legislation.

WEAKNESS OF THE FEDERAL COURT.—The Federal Assembly is the final arbiter on all questions as to the respective jurisdiction of the Executive and the Federal Court. In many cases the Federal Court cannot question the constitutionality of laws or decrees passed by the Federal Assembly. This, Professor Dicey says, constitutes a serious flaw in the Swiss Constitution. But, he explains, the reason why most acts of the Federal Legislature are treated as constitutional by the Federal tribunal is that the Constitution itself has, in the Referendum, provided a safe-guard which precludes the possibility of encroachment upon its articles by the federal legislative body.

Division IV.

The Cantons.

MUTUAL EXECUTION OF JUDGMENTS.—Civil judgments definitely pronounced in any canton may be executed anywhere in Switzerland.

EXTRADITION.—The Confederation by law provides for the extradition of accused persons from one canton to another; nevertheless it may not be made obligatory for political offences and for offences of the press.

JUSTICE.—The administration of justice remains with the cantons, save as affected by the powers of the Federal Court.

FEDERAL FRANCHISE.—Every Swiss citizen 21 years of age, and not excluded from the right of vote by the legislature of the canton in which he is domiciled, may vote at elections and popular votes, subject to the right of the Confederation to establish uniform legislation for the exercise of such right.

CONTROL OF RELIGIOUS BODIES.—The cantons and the Confederation may take suitable measures for the preservation of public order and of peace between the members of different religious bodies, and also against encroachments of ecclesiastical authorities upon the rights of citizens and of the states.

EDUCATION.—The cantons provide for primary instruction, which must be sufficient, and shall be placed exclusively under the secular authority. The public schools must be such that they may be frequented by

the adherents of all religious sects without any offence to their freedom of conscience or belief.

PRACTICE OF PROFESSIONS.—The cantons may require proof of competency from those who desire to practice a liberal profession.

GRANTS TO STATES.—(1) By exception and on account of their international Alpine roads four cantons receive a fixed annual indemnity. (2) The cantons are credited with the expenses of furnishing and clothing and equipping federal troops. (3) The net proceeds resulting from taxation (excise) on the sale of alcohol belongs to the canton on which the tax is levied. (4) The net proceeds from the internal manufacture of alcohol, and the corresponding addition to the duty on imported alcohol, are divided among all the cantons in proportion to their population. (5) The import duties levied by the cantons, as well as similar duties levied by the communes, ceased without indemnity at the end of the year 1890.

WEIGHTS AND MEASURES.—The cantons enforce the law relating to weights and measures passed by the Confederation.

MILITARY.—The cantons have authority over the military forces of their territory so far as their right is not limited by the federal law. No canton may keep up a standing force of more than 300 men without the permission of the federal government. The appointment and promotion of officers of these troops belongs to the cantons. The cantons clothe, maintain and equip their troops, and are credited with, and reimbursed the expenses therefor.

FOREIGN TREATIES.—By exception, the cantons preserve the right of concluding treaties with foreign powers respecting only the administration of their public property and border and police intercourse. They may correspond directly with inferior officials and officers of the foreign states, but no such treaties or communications may contain anything contrary to the Confederation or to the rights of the other cantons.

INTER-STATE TREATIES.—Cantons are permitted to make conventions among themselves on legislative, administrative, or judicial subjects, but such conventions may be disallowed if contrary to the Confederation or to the rights of other cantons. Separate alliances and all treaties of a political character between cantons are forbidden.

AMENDMENTS.—Cantonal constitution must be amended wherever a majority of citizens desire it.

Division V.

Summary of the Swiss Constitution.

The present Constitution of Switzerland under which 22 cantons have been federally united “to maintain and promote the unity, strength and honor of the Swiss nation,” is the result of nearly 600 years' development. The legislative power of the Federal Republic belongs to the Federal Assembly, composed of two Houses—the Council of States, and the National Council. The executive power is vested in the Federal Council. The National Council, or popular Chamber, is elected directly by Swiss citizens in their cantons; one member being returned for every 20,000 of the entire population of the Federation. The Council of States or Senate is composed of 44 members—two for each canton—elected by the cantons according to the cantonal law. The members of the Federal Council, or Executive Government, are elected for a period of three years by the Council of States and National Council sitting in joint session. No member of one of these three Councils can be at one and the same time a member of any of the others. No member of the Executive can be engaged in any other employment, either in the service of the Confederation or in that of any of the cantons, or in any trade, profession or calling during the term of his office. The Federal Legislature can deal with those national subjects enumerated in the Digest. The powers of the Executive are strictly defined.

The Swiss Federal Constitution more nearly resembles that of the United States than that of Canada. The only material difference in its structure from that of the United States is in the form and composition of the Executive Government. Instead of a President elected for four years by the people, there is an Executive Board elected by the joint Houses of the Federal Assembly for a period of three years. It is thus more dependent upon the Legislature than the Executive of the United States, being the creature of the Legislature; but it is not a responsible government like that of Canada—at all times amenable to and removable by a parliamentary majority. A special feature in the Constitution of Switzerland is the “Referendum,” under which resolutions and proposals not urgent must, under certain conditions, be submitted to the vote of the people before they can become law. The cantons exercise powers much larger than those of the provinces of Canada.

Another remarkable characteristic of the Swiss Constitution is the minute, refined, and complicated partition of sovereign powers between the cantons and the Federation. This is illustrated in the unique division of authority over the army, and in the qualified powers granted to the cantons to enter into treaties. Some powers exclusively belong to the Federation; some may be exercised by the cantons, subject to being superseded by federal legislation. It is sometimes difficult to distinguish between these two classes of powers. The federal law, however, will in all cases be

supreme, subject to review by the Referendum. The Federal Court is not so strong as the Supreme Court of the United States.

Chapter IV. The Federal Constitution of Canada.

Division I.

The Executive Department.

The Queen.

THE GOVERNOR-GENERAL.—The executive government and authority of and over Canada is declared to continue and be vested in the Queen. The provisions of the Constitution referring to the Governor-General extend and apply to the Governor-General for the time being of Canada, or other administrator for the time being carrying on the government of Canada on behalf of, and in the name of the Queen. The Governor-General receives a salary of £10,000 per year.

THE PRIVY COUNCIL.—There is a Council to aid and advise in the government of Canada styled “The Queen's Privy Council for Canada,” and the persons who are to be members of the Council must be from time to time chosen and summoned by the Governor-General, and sworn in as Privy Councillors and members thereof, and may be from time to time removed by the Governor-General. The provisions of the Constitution referring to the Governor-General-in-Council are construed as referring to the Governor-General-in-Council, acting by and with the advice of the Queen's Privy Council in Canada.

Powers of the Executive.

GENERAL AUTHORITY.—The powers, authorities and functions which were at the time of the Union vested in the Governors of the Province of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, with the advice, or with the advice and consent of the respective executive councils thereof, or by their Governors individually, are—so far as the same continue in existence and capable of being exercised after the union in relation to the government of Canada—vested in and exercised by the Governor-General, with the advice, or with the advice and consent of the Privy Council of Canada, or by the Governor-General individually as the case requires, subject nevertheless to be abolished or altered by the Parliament of Canada, except with respect to such as exist under Imperial statutes. Until the Parliament of Canada otherwise provides, the Governor-General-in-Council may appoint officers necessary for the effectual execution of the Act. Officers of the several

provinces having duties to discharge other than provincial duties relating to subjects assigned exclusively to the Legislature of the provinces, are officers of Canada, and continue to discharge the duties of their respective offices under the same liabilities, responsibilities and penalties as if the Union had not been made.

ADMISSION OF OTHER COLONIES.—The Queen, by and with the advice and consent of her Imperial Privy Council, on addresses from both Houses of the Parliament of Canada, may admit into the Union other colonies or provinces seeking admission on such terms and conditions in each case as are in such addresses expressed.

SEAT OF GOVERNMENT.—Until the Queen otherwise directs, the seat of Government shall be Ottawa.

THE ARMY AND NAVY.—The command-in-chief of the land and naval militia and of all naval and military forces of and in Canada continues vested in the Queen.

ASSENT TO BILLS.—Where a bill passed by both Houses is presented to the Governor-General for the Queen's assent, he is to declare according to his discretion, but subject to the Constitution and to Her Majesty's instructions either that he assents thereto in the Queen's name, or withholds the Queen's consent, or reserves it for the Queen's pleasure. Bills assented to must be transmitted to the Queen's Secretary of State.

RESERVATION AND DISALLOWANCE OF BILLS.—A Bill reserved for the signification of the Queen's pleasure has no force or effect unless and until within two years of the date of presentation to the Governor-General for the Queen's assent, the Governor-General signifies it has received the assent of the Queen in Council. If the Queen in Council within two years after receipt thereof by the Secretary of State of any bill thinks fit to disallow it, such disallowance must be notified to and by the Governor-General.

The practice of reserving bills for the Queen's assent has, since the amendment of the Governor-General's instructions in the year 1878, been practically discontinued in Canada.

INITIATION OF MONEY BILLS.—The Canadian House of Commons cannot adopt or pass any vote, resolution, address, or bill for the appropriation of any part of the revenue, or of any tax or impost, to any purpose that has not been first recommended to that House by a message of the Governor-General.

SUMMONING AND DISSOLVING PARLIAMENT.—The Governor-General is authorised to summon, prorogue, and dissolve Parliament.

Division II.

The Legislative Department.

Both Houses.

There is one Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons. There is a session held once at least in every year. Each member of Parliament receives an allowance of 10 dollars per day for attendance up to the end of 30 days, and for a session lasting longer than that period the sum of 1000 dollars, with in each case 10 cents per mile for travelling expenses. If a member is absent from any sitting except through illness the sum of 8 dollars per day is deducted for every day's absence.

The Lower House.

APPORTIONMENT OF MEMBERS.—The House of Commons originally consisted of 181 members, of whom 82 were elected by and for Ontario; 65 by and for Quebec; 19 by and for Nova Scotia; and 15 by and for New Brunswick. This was the preliminary apportionment. Provision was made for re-adjustment by the Parliament of Canada after each decennial census, subject to the rules—(1) That Quebec shall have a fixed number of 65 members. (2) That there shall be assigned to each of the other provinces such a number of members as will leave the same proportion to the number of its population as the number 64 leaves to the number of the population of Quebec, so ascertained by census. The number of members of the House of Commons may be increased by the Parliament of Canada, provided the proportionate representation prescribed by the Act is not thereby disturbed. Since the original constitution of the Dominion in 1867, the region known as the North-West Territories was added by purchase from the Hobson's Bay Company, out of which the province of Manitoba was constituted, and admitted into the Union in 1870. In 1871 the province of British Columbia was added, and in 1873 the province of Prince Edward Island was added to the Union. The House of Commons, under a recent re-distribution bill, consists of 213 members, apportioned as follows:—Ontario 92, Quebec 65, Nova Scotia 20, New Brunswick 14, British Columbia 6, Manitoba 7, Prince Edward Island 5, North-West Territories 4. The ratio of members to population is now 1 in 22,688.

QUALIFICATION OF MEMBERS AND ELECTORS.—These may be defined by the Parliament of Canada, but pending federal legislation the laws in force in the several provinces relative to the qualification and disqualification of persons to be elected members of the Lower House in the several provinces, and the voters at elections of such members, were

made to apply respectively to the election of members to serve in the House of Commons for the same several provinces. By federal legislation members of the House of Commons are now elected by constituencies on a uniform franchise throughout the whole Dominion, except in the North-West Territories. In those Territories every male resident for 12 months, of the age of 21 years—not an alien or Indian—is entitled to vote. In the other parts of the Dominion a vote is given to every male person of the age of 21 years having certain residential and property qualifications.

DURATION.—Every House of Commons continues for five years from the return of the writs, subject to be sooner dissolved by the Governor-General.

INITIATIVE IN MONEY BILLS.—Bills for appropriating any part of the public revenue, or for imposing any tax or impost, must originate in the House of Commons.

The Senate.

APPORTIONMENT.—The Senate originally consisted of not more than 72 members, nominated and appointed by the Crown for life. In relation to the constitution of the Senate, Canada was deemed to consist of three divisions:—(1) Ontario, (2) Quebec, (3) the maritime provinces; which three divisions were required to be equally represented in the Senate—24 senators each. In the case of Quebec, each of its 24 senators have to be appointed for one of the 24 electoral districts of Lower Canada. In case of the admission of New Foundland, it will be entitled to representation in the Senate by four members. Since the addition of new provinces, the number of senators has been increased to 81; viz., Ontario 24, Quebec 24, Nova Scotia 10, New Brunswick 10, Manitoba 4, British Columbia 3, Prince Edward Island 4, Territories 2.

INCREASE OF SENATORS.—The Queen may at any time on the recommendation of the Governor-General direct that three or six members be added to the Senate.

QUALIFICATION OF SENATORS.—They must be:—(1) 30 years of age; (2) natural born or naturalized subjects of the Queen; (3) owners of freehold property of the value of 4,000 dollars over and above all encumbrances; (4) resident in the province for which appointed; (5) in the case of Quebec, possessed of freehold qualification in the electoral division for which he is appointed, or resident of the division.

MONEY BILLS.—The Senate is not entitled to amend a money bill. (Todd, p. 479).

Powers of the Parliament.

GENERAL AUTHORITY.—To make laws for the peace, order and good government of Canada in relation to all matters not coming within the classes of subjects assigned exclusively to the provinces.

SPECIFIC POWERS.—For greater certainty, but not so as to restrict the generality of the foregoing terms, it is declared that the exclusive legislative authority of the Parliament of Canada extends to the matters coming within the classes of subjects following:—

1. The public debt and property.
2. The regulation of trade and commerce.
3. The raising of money by any mode or system of taxation.
4. The borrowing of money on the public credit.
5. The postal service.
6. Census and statistics.
7. Militia, military and naval service and defence.
8. The fixing of and providing for the salaries and allowances of civil and other officers of the Government of Canada.
9. Beacons, buoys, lighthouses, and Sable Island.
10. Navigation and shipping.
11. Quarantine and the establishment and maintenance of marine hospitals.
12. Sea coast and inland fisheries.
13. Ferries between a province and any British or foreign country, or between two provinces.
14. Currency and coinage.
15. Banking, incorporation of banks, and the issue of paper money.
16. Savings banks.
17. Weights and measures.
18. Bills of exchange and promissory notes.
19. Interest.
20. Legal tender.
21. Bankruptcy and insolvency.
22. Patent of invention and discovery.
23. Copyright.
24. Indians and lands reserved for Indians.
25. Naturalization of aliens.
26. Marriage and divorce.
27. Criminal law, except the constitution of courts of criminal jurisdiction, but including the procedure in criminal matters.
28. Establishment, maintenance, and management of penitentiaries.
29. Classes of subjects expressly excepted in the enumeration of the classes of subjects assigned exclusively to the provinces.
30. Any matter coming within any of the classes of subjects above enumerated are not to be deemed within the class of matter of a local or private nature comprised in the enumeration of the classes of subjects assigned exclusively to the province.

CONTROL OF FEDERAL ELECTIONS.—The provincial laws relating

to the qualifications of members and voters of the Lower House, the proceedings at elections, the trial of contested elections, &c., &c. remain in force until the Parliament of Canada otherwise provides. (See qualifications of members and voters.)

NEW STATES.—They may be admitted by the Queen on addresses from the Senate and House of Commons of Canada.

CITIZENSHIP.—No express provisions as to a common citizenship.

CONTROL OVER PROVINCIAL EDUCATION.—The legislature of each province may exclusively make laws in relation to education, subject to certain conditions—(1) preserving the established rights and privileges of denominational schools; (2) extending to dissentient schools the powers, privileges, and duties conferred and imposed by law in Upper Canada on Roman Catholic separate schools; (3) giving the right of appeal to the Governor-General-in-Council from any act or decision of a provincial authority, affecting the rights or privileges of separate schools or dissentient schools established by local law. In case any such provincial law as from time to time seems to the Governor-General-in-Council requisite for the due execution of this provision is not made, or in case any decision of the Governor General-in-Council or any appeal is not duly executed by the proper provincial authority, then and in every such case as far as circumstances may require the Parliament of Canada may make remedial laws.

AGRICULTURE AND IMMIGRATION.—The Parliament of Canada may make laws in relation to agriculture in all or any of the provinces, and to immigration into all or any of the provinces. Provincial laws on these subjects have effect on and for the provinces as long as and as far as they are not repugnant to any Act of the Parliament of Canada.

TREATIES.—The Parliament and Government of Canada have all powers necessary or proper for performing the obligations of Canada or of any province, as part of the British Empire, towards foreign countries arising under treaties between the Empire and such foreign countries. But the Queen may veto any acts passed relating to treaties.

INTERNAL IMPROVEMENT.—The Parliament of Canada may make laws in relation to (*a*) lines of steam or other ships, railways, canals, telegraphs, and other works, and undertakings connecting one province with any other province, or extending beyond the limit of a province; (*b*) lines of steamships between a province and any British or foreign country; works which, although wholly within a province, are before or after execution declared by Parliament to be for the general advantage of Canada, or for the advantage of two or more provinces.

NATIONAL BUILDINGS AND WORKS.—Certain public works and

property, originally belonging to provinces and enumerated in a schedule to the statute are taken over by Canada, and the right is reserved to Canada to assume any land or public property required for fortifications or for the defence of the country.

INTER-STATE COMMERCE.—All articles of the growth, produce or manufacture of any one of the provinces were from and after the Union admitted free into each of the other provinces, subject to the following provision:—The customs and excise laws of each province were preserved in full force until altered by the Parliament of Canada. The right was reserved to New Brunswick to levy the lumber dues provided in Chap. XV., title III. of the revised statutes of New Brunswick, or in any Act amending the Act before or after the Union, and not increasing the amount of such dues. The lumber of any other province may not be subject to any dues. Pending the adoption of a federal tariff law, it was provided that where customs duties were at the Union leviable on the like goods of any two provinces, those goods might after the Union be imported from one of those provinces into the other of them on proof of payment of the custom duty leviable thereon in the province of exportation, and on payment of such further amount (if any) of custom duty as was leviable thereon in the province of importation.

AMENDMENT.—The Parliament of Canada has no power to amend the Constitution, except in small matters of detail expressly enumerated; organic amendments could be made only by an Imperial statute. Such a statute would no doubt be passed at any time upon an address from both Houses of the Canadian Parliament.

Division III.

Federal Finances.

CONSOLIDATED REVENUE.—The duties and revenues formerly belonging to the provinces, and by the Act of Union vested in the Federation, and all duties and revenues raised under the powers conferred by the Act of Union, form one consolidated revenue to be appropriated for the public service of Canada in the manner and subject to the charges provided by the Act.

ASSUMPTION OF PROVINCIAL DEBTS.—Canada has by the Constitution assumed liability for the debts and obligations of each province existing at the Union. Ontario and Quebec conjointly are liable to Canada for the amount, if any, by which the debt of the province of Canada exceeds at the Union 62,500,000 dollars, and they are charged with interest

at the rate of 5 per cent. per annum thereon. Nova Scotia is liable to Canada for the amount, if any, by which its public debt exceeds at the Union 8,000,000 dollars, and is charged with like interest thereon. New Brunswick is liable to Canada for the amount, if any, by which its public debt at the Union exceeds 7,000,000 dollars, and is charged with a like interest. If the public debts of Nova Scotia and New Brunswick did not at the Union amount to 8,000,000 and 7,000,000 dollars respectively, they are entitled to receive by half-yearly payments, in advance, from Canada, interest at 5 per cent. on the difference between the actual amount of their respective debts and such stipulated amount. All assets connected with such portions of the public debt of each province as are assumed by the province belong to that province. All stocks, cash, bankers' balances and securities for money belonging to each province at the time of Union, except as in the Act mentioned, became the property of Canada, and were taken in reduction of the amount of the respective debts of the provinces of the Union.

GRANTS TO PROVINCES.—The following sums have to be paid yearly by Canada to the several provinces for the support of their governments and legislatures:—

Ontario	80,000 dollars.
Quebec	70,000 dollars.
Nova Scotia... ..	60,000 dollars.
New Brunswick ...	50,000 dollars.
	260,000 dollars.

An annual grant-in-aid of each province is also made to each province equal to 80 cents per head of the population as ascertained by the census of 1861, and in the case of Nova Scotia and New Brunswick by each subsequent decennial census, until the population of each of these provinces amount to 400,000 souls, at which rate such grant shall thereafter remain. Such grant shall be in full settlement of all future demands on Canada, and shall be paid half-yearly in advance to each province. But the Government of Canada shall deduct from such grant as against any province all sums chargeable as interest on the public debt of the province in excess of the several amounts stipulated in the Act. New Brunswick is entitled to receive by half-yearly payment in advance from Canada for 10 years from the Union an additional allowance of 63,000 dollars per annum. “The Americans, when their Confederation was framed, wisely closed all pecuniary accounts between the Federal Government and the states, and absolutely separated the Federal Treasury from those of the states. The Canadians—not so wisely—left the account open, and permitted

subventions to be granted by the central Government to the provinces. The consequences are, as might have been expected, continual demands for increased subventions under the too-familiar name of 'better terms,' the opening of a sluice of federal corruption, and the weakening of provincial independence. Each province, especially Quebec and the poor provinces, instead of practising economy and helping itself, is always looking for government doles. Mr. George Brown, one of the chief framers, foresaw this, and was for defraying the whole of the local expenditures of the local governments by means of direct taxation, but the sons of Zeruah were too strong for him."—"Canada and the Canadian question,' p. 185.

ORDER OF NATIONAL CHARGES.—The consolidated revenue of Canada is permanently charged with the cost and expenses incident to the collection, management and receipt thereof, and the same forms a first charge thereon. The annual interest of the public debts of the several provinces forms the second charge on the revenue. The salary of the Governor-General (£10,000 per annum) forms the third charge. Subject to these charges the revenue may be appropriated by the Parliament of Canada for the public service.

Division IV.

The Judicial Department.

The Parliament of Canada may provide for the constitution, maintenance, and organization of a general Court of Appeal for Canada. It may also provide for the establishment of any additional courts for the better administration of the laws of Canada, The Governor-General may appoint the judges of the superior district and county courts in each province, except those of the Court of Probate in Nova Scotia and New Brunswick. Until the laws relating to property and civil right in Ontario, Nova Scotia, and New Brunswick, and the procedure of the courts in those provinces, are made uniform (by federal legislation, adopted by the provincial legislatures), the judges of the courts of those provinces, appointed by the Governor-general, have to be selected from the respective bars of those provinces. The judges of the courts of Quebec have to be selected from the bar of that province. The judges of the superior courts hold office during good behavior, but may be removable by the Governor-General on an address of the Senate and House of Commons. The salaries, allowances and pensions of the judges are to be fixed and provided by the Parliament of Canada.

Division V.

The Provinces.

STRUCTURE.—The Canadian Federal Constitution, unlike that of the United States, contains full provisions relating to the constitution of the provinces, defining the organization of the legislative executive and judicial department of each province. The provinces of Ontario, Quebec, Nova Scotia, and New Brunswick were included in the original federal scheme adopted in 1867. The province of Manitoba entered into the Union in 1870; British Columbia in 1871, and Prince Edward Island in 1873. The form of the Provincial Governments with their Legislatures and responsible Cabinets is similar to that of the Federal Government, except that in Ontario, New Brunswick, Manitoba, and British Columbia there are no Upper Houses. In each of these provinces the Legislature consists of one chamber only. The provincial Legislature of Prince Edward Island has passed an Act abolishing the Upper House, but it has not yet come into force. The North-West Territories are administered by a Lieutenant-Governor and a Legislative Assembly consisting of 26 elected members.

PROVINCIAL GOVERNORS.—For each province there is an officer styled the Lieutenant-Governor, appointed by the Governor-General-in-Council under the great seal of Canada, holding office during the pleasure of the Governor-General. But any Lieutenant-Governor appointed after the commencement of the first session of the Parliament of Canada is not removable within five years from his appointment, except for cause, assigned to be communicated to him in writing within one month after the order for his removal.

PROVINCIAL FRANCHISE.—The qualifications for voting at provincial elections vary in the several provinces.

TERRITORIAL RESERVATIONS.—All lands, mines, minerals and royalties belong to the several provinces, and all sums due or payable thereon belong to the provinces in which the same are situate or arise, subject to the right of Canada to assume any lands or public property required for fortifications or for the defence of the country.

PUBLIC BUILDINGS AND WORKS.—Canada took over from the provinces certain public works and property belonging to the provinces, as enumerated in a schedule to the Federal Act.

POWERS OF THE PROVINCES.—In each province the Legislature may exclusively make laws in relation to matters coming within the following classes of subjects:—

1. The amendment of the constitution of the province, except as regards the office of Lieut.-Governor.
2. Direct taxation within the province in order to the raising of a revenue for provincial purposes.
3. The borrowing of money on the sole credit of the province.
4. The establishment and tenure of provincial officers, and the appointment and payment of provincial officers.
5. The management and sale of the public lands belonging to the province and of the timber and wood thereon.
6. The establishment, maintenance and management of public and reformatory prisons in and for the province.
7. The establishment, maintenance and management of hospitals, asylums, charities, and (Unclear:)aleemosynary institutions in and for the province other than marine hospitals.
8. Municipal institutions in the province.
9. Shops, saloons, taverns, auctioneers, and other licenses, in order to the raising of a revenue for provincial purposes.
10. Local works and undertakings, except those specially delegated to the Union.
11. Incorporation of companies with provincial objects.
12. Solemnization of marriage within the province.
13. Property and civil rights in the province, subject to section 94, containing a provision for securing by federal legislation uniformity of laws relating to property and civil right in Ontario, Nova Scotia, and New Brunswick.
14. The administration of justice in the province, including the constitution, maintenance, and organization of provincial courts, both of civil and criminal jurisdiction and including civil procedure.
15. Laws in relation to agriculture in, and immigration into a province, subject to being superseded by federal legislation.
16. The imposition of punishment by fine, penalty, or imprisonment for enforcing any law in the province made in relation to any matter coming within any of the classes of subjects above enumerated.
17. Generally all matters of merely a local or private nature in the province.

PROVINCIAL JUDICIARY.—See Division IV., from which it will be seen that Provincial Judges are appointed and removed by the federal authorities, and receive their salaries and emoluments from the federal treasury.

PROVINCIAL EDUCATION.—See Division II.

THE FEDERAL VETO.—The power of disallowing Acts passed by provincial Legislatures is vested in the Governor-General of Canada acting under the advice of his constitutional ministers. This veto is exercised in all cases in which the Provincial Act is illegal or unconstitutional altogether or in part only, also in cases in which the Provincial Act clashes with the legislation of the Dominion Parliament, or affects the interests of the Dominion generally.

JUDICIAL REVIEW.—Acts passed by a Provincial Legislature and assented to by the Lieutenant-Governor, may be declared null and void by the Superior Courts of Appeal on the ground of being illegal or unconstitutional.

Division VI.

Features of the Canadian Constitution.

The preamble declares that the provinces had expressed their desire to be federally united into one Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a constitution similar in principle to that of the United Kingdom. The resemblance to the constitution of the United Kingdom consists in a Governor-General, representing the Queen, a Senate, representing the House of Lords, and a Lower House, exercising powers and functions similar to those enjoyed by the House of Commons. A further point of similarity is, that along with the written constitution the unwritten institution known as “responsible government” was introduced. Responsible government was not established by the Constitution; it came in along with the Constitution by virtue of the Queen's instructions and commission to the Governor-General requiring him in certain matters to act on the advice of his ministers, who were presumed to have the confidence of Parliament. The Canadian Constitution has been described by Mr. Goldwin Smith as “a federal republic” after the American model, though with certain modifications, derived partly from the British source. There are several points of analogy between the two models, but it may be doubted whether the Dominion can be correctly described as a “federal republic.” It is true that the Dominion legislature answers to Congress, and that the provinces answer to the states; but it is hardly true as suggested by this eminent writer that the Dominion Prime Minister and his Cabinet answer to the American President and his Cabinet. There is indeed a great difference between the Prime Minister and the President. The President, in the American executive system, occupies a position similar to that of the King during the reign of George III., with certain defined conditions and reservations, such as that his period of office is only four years; that the Senate can veto his appointments and treaties made with foreign powers. The Prime Minister is a Minister and servant of the Crown, holding his office subject to his possessing the confidence of Parliament. The President is the head of an absolutist and irresponsible form of government. The Prime Minister is the representative of the most popular and most successful form of executive administration that the

world has yet seen, known as “responsible government.”

Again, the Canadian Constitution confers on the Federal Government greater executive authority and wider legislative functions than are conferred on the President and Congress of the United States. To the Federal Government of Canada belong the following powers, not granted to the corresponding authorities of the United States:—(1) The right of the Canadian Government to veto provincial legislation on political grounds, in addition to its liability to be declared *ultra vires* on legal grounds by the Supreme Court; (2) the right of the Canadian Legislature to deal with general criminal law and criminal procedure; (3) the right of the same Legislature to regulate the marriage and divorce laws; (4) the right of the Canadian Executive to command the militia under all circumstances, whereas in the United States the President can only command the militia of the several states when called into the actual service of the United States; (5) the right of the Executive to appoint and recall the Lieutenant-Governors of the Provinces; (6) the right of the Executive to appoint all the superior judges of the provinces. One organic point of contrast between the two Constitutions is that whilst in the American Constitution all powers not expressly granted to the Federal Executive, Legislature and Judicature, are reserved either to the states or to the people, by the Dominion Constitution it is provided that all powers not expressly given to the Canadian provinces are vested in and reserved to the Federation. The Canadian Dominion is therefore a more highly centralized and nationalized type of government than that of the American Republic, which is more federal in its structure, and is restricted to a smaller number of subjects.

Chapter V. Constitution of the German Empire.

Division I.

The Executive Department.

The Emperor.

To the King of Prussia belongs the Presidency of the Confederation, and he has the title of German Emperor. The decrees and ordinances of the Emperor are made in the name of the Empire, and require for their validity the signature of the Imperial Chancellor, who thereby takes upon himself the responsibility of the same.

Powers of the Executive.

APPOINTMENT.—The Emperor appoints imperial officials, requiring them to take the oath of allegiance to the Empire, and he may dismiss them when necessary. Officials of any one of the states may be appointed to imperial offices. Members of the Diet upon accepting a salaried office of the Empire, or of a state involving higher rank or salary, forfeit their seats and votes in the Diet, but are eligible for re-election.

EXECUTION OF THE LAWS.—It is the duty of the Emperor to supervise the execution of the laws of the Empire. In taking action upon the rules and regulations for the execution of the laws of the Empire, the vote of the Presidium must decide whenever it shall pronounce for upholding the existing rule or regulation.

POST AND TELEGRAPH.—The Emperor has the supreme supervision of the administration of post and telegraph. The Emperor has the appointment of all superior officers required for the administration of the post and telegraph in the various districts, such as directors, counsellors, superintendents, supervisors, inspectors, and controllers. The Governments of the several states receive timely notice of the aforementioned appointments as far as they relate to their territories, so that they may confirm and publish them. Other officials required in the administration of the post and telegraph are appointed by the respective Governments of the states. (See “Legislative Department, Post Office.”)

FOREIGN RELATIONS.—The Emperor represents the Empire among nations; accredits ambassadors and receives them; supervises all consular affairs; appoints consuls after hearing the Committee of the Federal Council on trade and commerce; enters into alliances and conventions with

foreign countries.

ARMY.—The total land force of the Empire forms one army, which in war and in peace is under the command of the Emperor. The commander-in-chief of a contingent, as well as all officers commanding troops of more than one contingent, and all commanders of fortresses, are appointed by the Emperor. The appointment of generals in a contingent is subject to the approval of the Emperor.

NAVY.—The navy of the Empire is a united one, under the supreme command of the Emperor, who is charged with its constitution and organization; he has the appointment of the officers and officials of the navy.

WAR.—The Emperor may declare war and conclude peace in the name of the Empire. For a declaration of war in the name of the Empire the consent of the Federal Council is required, except in the case of an attack on the territory of the Confederation or its coasts.

ENFORCING FEDERAL LAWS.—If the states of the Confederation do not fulfil their constitutional duties they may be compelled to do so by “execution,” to be ordered by the Federal Council, and carried out by the Emperor.

NO VETO.—The Emperor has no veto in ordinary legislation.

Division II.

The Legislative Department.

The legislative power of the Empire is exercised by the Federal Council (Upper House, or “Bundesrath,”) and the Diet (Lower House, or “Reichstag,”) The convocation of the Federal Council and Diet takes place annually. The Emperor has the right to convene the Federal Council and the Diet, and to open, adjourn, and close them. The Federal Council may be called together for the preparation of business without the Diet. The latter cannot be convoked without the Federal Council.

The Federal Council.

REPRESENTATION OF STATES.—Each member of the Confederation may appoint as many delegates to the Federal Council as it has votes.

VOTES OF STATES.—The Federal Council consists of the representatives of the members of the Confederation among which the votes are divided in such a manner that Prussia, including the former votes of Hanover, the electorate of Hesse, Holstein, Nassau, and Frankfort, shall have 17 votes, Bavaria 6, Saxony 4, Wurtemberg 4, Baden 3, Hesse 3,

Mecklenberg-Schwerin 2, the other states 1—total 58 votes. The votes of each state must be cast as a unit.

PRESENCE IN LOWER HOUSE.—Each member of the Federal Council has the right to appear in the Diet and be heard there at any time he may so require to represent the views of his Government, even when the same shall not have been adopted by the majority of the Council.

PRESIDENT OF THE COUNCIL.—The Chancellor of the Empire presides in the Federal Council and supervises the conduct of its business.

CONVOCAATION OF THE COUNCIL.—A convocation of the Council must take place whenever demanded by one-third of the total number of votes.

INITIATION OF BUSINESS.—Each member of the Confederation has the right to make propositions and introduce motions, and it is the duty of the Presidium to submit them to the Legislature for deliberation.

SHARE IN LEGISLATION.—The majority of the votes of both Houses is necessary and sufficient for the passage of a law.

EXECUTIVE FUNCTIONS.—The Federal Council is charged with the general provisions and arrangements necessary for the execution of the laws of the Empire. The necessary bills may be laid before the Diet in the name of the Emperor in accordance with the resolution of the Federal Council, and these may be advocated in the Diet by the members of the Federal Council, or by special Commissioners appointed by the Council.

EXECUTIVE DISAPPROVAL.—When a law is proposed in relation to the army, navy, or the imposts specified in Article 35, the vote of the Presidium shall decide in case of a difference of opinion in the Federal Council if said vote be in favor of retention of existing arrangements.

The Diet or Reichstag.

ELECTION AND DISSOLUTION.—The members of the Diet are chosen in a general election and by direct secret ballot. It is elected for three years. It may be dissolved during that time by a resolution of the Federal Council with the consent of the Emperor.

APPORTIONMENT.—Until regulated by law, which, according to section 5 of the Election Laws of 31st March, 1869, is to be promulgated, 48 deputies are to be elected in Bavaria, 17 in Wurtemberg, 14 in Baden, 6 in Hesse South of the Main, and the total number, including those representing the states of the Confederation previous to the creation of the Empire are consequently 382. According to the law of 31st May, 1869, every German over 21 years of age has a right to vote in the state in which he resides. Members of the army and navy cannot exercise the franchise

during their term of service. Anyone having the right to vote is qualified to be elected a member of the Diet, provided he has resided for at least one year in one of the states. The proportion of members to population is one for every 100,000 of the inhabitants of a state.

COMPENSATION.—The members of the Diet are not allowed to draw any salary or be compensated as such.

NO INSTRUCTIONS.—The members of the Diet are representatives of the people as a whole, and are not bound by orders or instructions from their constituents.

INITIATIVE.—The Diet has the right to refer petitions addressed to it to the Federal Council or to the Chancellor of the Empire.

Powers of the Federal Legislature.

1. Over matters relating to colonization and emigration to foreign countries, and to the surveillance of foreigners, and over trade and industry, including insurance.
2. Legislation concerning customs duties and commerce, and such taxes as are to be applied to the use of the Empire.
3. Regulation of the coinage and of weights and measures.
4. General banking regulations.
5. Patents for inventions.
6. Protection of intellectual property.
7. The organization of a general system of protection for German trade in foreign countries, of German navigation, and of the German flag on the high seas; likewise the organization of a general consular representation to be maintained by the Empire; the levying of other or higher duties upon foreign vessels or their freights than those which are paid by the vessels of the federal states or their freights does not belong to the states, but to the Empire.
8. The construction of land and waterways for the purpose of public defence and of general commerce, and the control and supervision of railway matters, subject to the special provision in the case of Bavaria.
9. Rafting and navigation upon those waterways which are common to several states, and the condition of such waters, also the river and other water dues.
10. The supervision and control of the post and telegraph, but in Bavaria and Wurtemberg these regulations are subject to the provision of Article 52.
11. Regulations concerning the reciprocal execution of judicial sentences in civil matters and the fulfilment of requisitions in general.
12. The authentication of public documents.
13. Uniform legislation as to the whole domain of civil and criminal law, including legal procedure.
14. The organization of the army and navy.
15. Police regulations as to medical and veterinary matters.
16. Laws relating to the press and to the right of association.

General Provisions.

CITIZENSHIP.—There is common citizenship for all Germany. The right of citizenship is under the supervision and control of the Empire.

FINANCIAL POWERS.—The receipts and expenditure of the Empire may be estimated yearly and included in the budget. The latter has to be fixed by law before the beginning of the financial year. An annual report of the expenditure of all receipts of the Empire must be rendered through the Imperial Chancellor to the Federal Council and the Diet.

CUSTOM DUTIES.—The Empire has the exclusive power to legislate concerning everything that relates to the Customs, as well as concerning the measures which are required in the territory outside the Customs lines for the security of the common Customs frontier. The terms of the Customs Union Treaty of 8th July, 1867, remain in force so far as they have not been altered by the Constitution.

INTER-STATE COMMERCE.—It is lawful to introduce all articles of commerce of any state of the Confederation into any other state of the Confederation without paying any import thereon except as far as similar articles are subject to internal taxation therein. The merchant vessels of all the states of the Union must be admitted on equal footing into the harbors and to all natural and artificial watercourses of the several states, and all are entitled to similar treatment.

EXCISE.—The Empire has the exclusive power to legislate concerning the taxation of salt and tobacco manufactured or raised in the territory of the Confederation, also concerning the taxation of domestic brandy and beer, and of sugar and syrup prepared from beet or other domestic products. It may legislate exclusively concerning the mutual protection (against fraud) of all taxes upon articles of consumption levied in the several states.

REBATE ON EXCISE DUTIES.—In Bavaria, Wurtemberg, and Baden the matter of imposing duties on domestic brandy and beer is reserved for the legislation of each state. The states of the Empire, however, are bound to endeavor to bring about uniform legislation regarding the taxation of those articles also. Bavaria, Wurtemberg, and Baden do not share in the revenues from duties on brandy and beer, which go into the treasury of the Empire.

CONSOLIDATED FUND.—The surplus of the previous year, the common revenue derived from custom duties, from the common excise duties, and from the post and telegraph service are applied to the defrayal of all general expenditure.

REQUISITIONS.—In so far as the annual expenditure of the Empire is not covered by the receipts they are provided for (so long as no taxes of the Empire shall have been established) by assessing the several states

according to their population; the territories outside of the common custom frontier—such as the Hanscatic cities, Bremen and Hamburg, which remain free ports outside the common boundary of the Customs Union—have to contribute to the expenses of the Empire by paying an aversum or lump sum or sum of acquittance.

BORROWING POWERS.—Under the supervision and legislative control of the Empire is the regulation of the emission of “funded” and “unfunded” paper money. In case of extraordinary requirements a loan may be contracted by imperial law, or a guarantee assumed in the name of the Empire.

INTER-STATE MIGRATION.—Under the supervision and legislative control of the Empire are all regulations relating to migration within the Empire; matters of domicile and settlement; the issuing and examination of passports.

INTERNAL IMPROVEMENTS.—The duties collected in the harbors on sea-going vessels, or levied on their freights as fees for the use of marine institutions, must not exceed the amount required for the ordinary construction and maintenance of these institutions. On all natural watercourses duties may only be levied for the use of special establishments which serve for facilitating commercial intercourse. These duties as well as the duties for navigating such artificial channels as are the property of the state must not exceed the amount required for the ordinary construction and maintenance of the institutions and establishments. These rules apply to rafting so far as it is carried on along navigable watercourses.

COLLECTION OF TAXES.—The administration and collection of customs duties and the excise on articles of consumption, liable to imperial taxation, is left to each state of the Confederation within its own territory so far as this has been done by each state heretofore. To ensure observance of imperial law by the state administration, the Emperor, after consulting the Committee of the Federal Council on customs and revenues, appoints certain imperial officers in the customs or excise offices of the several states. Reports made by these officers as to defects in the execution of the laws of the Empire are submitted to the Federal Council for action.

SETTLEMENT OF ACCOUNTS WITH STATES.—The quarterly summaries to be regularly made by the revenue officers of the Federal States at the end of every quarter, and the final statement (to be made at the end of the year, and after the closing of the account book) of the receipts which have become due in the course of the quarter, or during the fiscal year, from customs and from the other revenues which belong to the Treasury of the Empire, have to be arranged by the administrative officers

of the various states, after a preliminary audit, in general summaries in which the result of every import is to be shown separately; the summaries are then transmitted to the Committee of Audit of the Federal Council. The latter, taking as a basis these summaries, fixes provisionally every three months the amount due to the treasury of the Empire from the treasury of each state, and it informs the Federal Council and the Federal States of the amount so fixed; furthermore, it submits to the Federal Council annually the final statements of these amounts with its remarks. The Federal Council takes action on the work of the Committee.

DEDUCTION OF EXPENSES.—The amount accruing from customs and from the other revenues belonging to the Empire, and collected in the states, goes to the Treasury of the Empire. This amount is made up of the total receipts after deducting therefrom—

1. Tax rebates and reductions in conformity with existing laws or general administration.
2. Reimbursements for taxes unlawfully collected.
3. The costs of collection and administration, viz., (*a*) in the department of customs the costs which are required for the protection and collection of customs on the frontier and in the frontier districts; (*b*) in the department of the duty on salt the costs which are used for the pay of the officers charged with the collecting and controlling this duty in the salt work; (*c*) in the department of taxes on beet sugar and tobacco, the compensation which is to be allowed according to the rules of the Federal Council to the several state governments for the cost of managing these duties and taxes; (*d*) fifteen per cent. of the total receipts from other taxes.

Division III.

Commercial, Military, and Naval Affairs.

Railways

CONTROL.—Under the supervision and legislative control of the Empire are the railways.

CONSTRUCTION.—Railways which are considered necessary for the defence of Germany, or in the interests of general commerce may, by imperial law, be constructed at the cost of the Empire, even in opposition to the will of those members of the union through whose territory the railways run, without prejudice, however, to the sovereign rights of the country; or private persons may be charged with the construction and receive rights of expropriation. Every existing railway company is bound to permit new railway lines to be connected with it, at the expense of the latter. All laws granting existing railway companies the right of injunction

against the building of parallel or competitive lines are abolished throughout the Empire without detriment to rights already acquired. Such rights of injunction cannot be granted in concessions to be hereafter given.

UNIFORM MANAGEMENT.—The governments of the Federal States bind themselves in the interest of general commerce to have the German railways managed as one system, and, for this purpose to have, all lines constructed and equipped according to a uniform plan. Accordingly as soon as possible uniform arrangements as to management must be made, and especially such uniform regulations must be adopted for the police of the railways.

PROVISION FOR TRAFFIC.—The Empire is charged to take care that the various railway administrations keep the roads always in such condition as is required for public security, and that they be equipped with such rolling stock as the wants of trade demand. Railway companies are bound to run as many passenger trains of suitable velocity as may be required for through traffic and for the establishment of harmony between the time-tables, also to make provision for such freight trains as may be necessary for the wants of trade, and to organize a system of through booking both in passengers and freight traffic; permitting the waggons to go from one road to the other for the usual remuneration.

TRAFFIC RATES.—The Empire has control over the tariff of charges. It will endeavor to cause—

1. Uniform regulation to be speedily introduced on all German railway lines.
2. The tariff to be reduced and made uniform as far as possible, and particularly to secure low long-distance rates for the transport of coal, coke, wood, mineral, stone, salt, iron, and manure, and similar articles as demanded by the interests of agriculture and industry. It will endeavor to introduce a one pfennig tariff as soon as practicable. In cases of public distress, especially in case of an extraordinary rise in the price of provisions, it is the duty of the railway companies to adopt temporarily a low special tariff suited to the circumstances, which shall be fixed by the Emperor on the motion of the competent committee of the Federal Council, for the forwarding of grain, flour, vegetables, and potatoes. The tariff must not, however, be less than the lowest rate for raw produce existing on the said line.

MILITARY USE.—The managers of all railways are required to obey, without hesitation, requisitions made by the authorities of the Empire for the use of their roads for the defence of Germany. In particular shall troops and all materials of war be forwarded at uniform reduced rates.

BAVARIA.—The foregoing railway laws do not apply to Bavaria. With regard to Bavaria the Imperial Government has power to prescribe by means of regulations uniform rules for the construction and equipment of

such railways as may be of importance for the defence of the country.

Post and Telegraphs.

CONTROL.—Under the supervision and legislative control of the Empire are postal and telegraphic affairs. The post and telegraph system is organized on a uniform plan, and managed as state institutions throughout the Empire, except in Bavaria and Wurtemberg, which are subject to special provisions.

BAVARIA AND WURTEMBERG.—In these states the Empire alone is authorized to legislate (1) upon the privileges of the post office and telegraph departments; (2) on the legal relations of both institutions towards the public; (3) upon the franking privilege, and (4) rates of postage and telegraphic charges, excepting, however, the adoption of administrative regulations and of postal and telegraphic tariffs for domestic communication within Bavaria and Wurtemberg respectively. In the same manner the Empire can regulate postal and telegraphic communication with foreign countries excepting the immediate intercourse of Bavaria and Wurtemberg with their adjacent foreign states, the regulation of which is subject to the postal treaty of 23rd November, 1867. Bavaria and Wurtemberg do not share in the postal and telegraphic receipts which belong to the Empire.

MANAGEMENT.—The legislation of the Empire in regard to post and telegraphic affairs does not extend to those matters whose control is left to governmental ordinance or administrative regulations according to the principles which have prevailed in the North German administration of post and telegraph. The officials appointed by the Emperor are in duty bound and authorized to see that uniformity be established and maintained in the organization of the administration and in the transaction of business, as also in regard to the qualifications of employes. The Emperor has the power to issue governmental ordinances and general administrative regulations, to issue general instructions, and also the exclusive right to regulate the relations which are to exist between the post and telegraph offices of Germany and those of other countries. It is the duty of all officers of the post and telegraph departments to obey the orders of the Emperor. This obligation is included in their oaths of office.

APPOINTMENTS.—All superior appointments in the post and telegraph departments are made by the Emperor (see “The Emperor.”) All subordinate officials required are appointed by the respective governments of the states.

APPROPRIATION OF REVENUE.—The receipts from post and

telegraphs throughout the Empire belongs to a common fund. The expense is paid from the general receipts. The surplus goes into the Imperial Treasury.

THE CREDIT OF SURPLUSES.—In consideration of the differences which have heretofore existed in the net receipts of the post office departments of the several districts, and for the purpose of securing a suitable equalization during the period of transition (*i.e.*, pending the adoption of a system of imperial taxation), the following procedure is observed in assigning the surplus of the post office department to the treasury of the Empire for general purposes. From the postal surpluses which accumulated in the several postal districts during the five years from 1861 to 1865 a yearly average shall be computed, and the share which every separate postal district has had in the surplus resulting therefrom for the whole territory of the Empire shall be expressed in a percentage. In accordance with the ratio thus ascertained the several states shall be accredited on the account of their other contributions (see “Requisitions”) to the expenses of the Empire with their quota accruing from the postal surplus of the Empire for a period of 8 years subsequent to their entrance into the post office department of the Empire. At the end of the said eight years the distinction shall cease, and any surplus in the post office department shall go without division into the treasury of the Empire. Of the quota of the post office department surplus resulting during the aforementioned period of 8 years in favor of the Hanseatic towns, one-half shall every year be placed at the disposal of the Emperor for the purpose of providing for the establishment of necessary post offices in the Hanseatic towns.

Army and Navy.

IN TIME OF PEACE.—The number of the German army in time of peace was fixed until the 31st December, 1871, at 1 per cent. of the population of 1867, and was furnished by the several states in proportion to their populations. After that date the strength of the army in time of peace was to be fixed by imperial legislation.

ADMINISTRATION.—It is the right and duty of the Emperor to take care that throughout the German army all divisions be kept full and ready to take the field, and that uniformity be established and maintained in regard to organization and formation, equipment and command, in the training of the men, and in the qualification of the officers.

COMMAND.—The army is under the command of the Emperor. The princes and senates of the states are the titular chiefs of all the troops

belonging to their respective territories, and are entitled to the honors connected therewith. They have the right to hold inspections at any time and receive besides the regular reports and announcements of changes, timely information of all promotions and appointments concerning their respective contingents, in order to provide for their publication by state authority as required. (See "The Emperor.")

MILITARY SERVICE.—Every German is subject to military service, and in the discharge of this duty no substitute can be accepted. With regard to the performance of military service in the various states, the laws are passed by the Empire.

PERIOD OF SERVICE.—Every German capable of bearing arms shall belong for seven years to the standing army (ordinarily from the end of his twentieth to the beginning of his twenty-eighth year); the first three years in active service; the last four years in the reserve; and during the next five years he shall belong to the Landwehr (national guard). In those states of the union in which heretofore a longer term of service than twelve years was required by law the gradual reduction of the required time of service shall take place only as far as is compatible with a due regard to the war-footing of the army of the Empire. As regards the emigration of men belonging to the reserve, only those provisions shall be in force which apply to the emigration of the members of the Landwehr.

MARTIAL LAWS.—The Emperor has power, if public security within the federal territory demands it, to declare martial law in any part of the Empire.

DISCIPLINE.—After the publication of the Constitution, the complete Prussian system of military legislation shall be introduced without delay throughout the Empire. When a uniform organization of the German army for war purposes shall have been established, a comprehensive military code for the Empire shall be submitted to the Diet and the Federal Council for their action.

NAVY.—The navy of the Empire is a united one under the supreme command of the Emperor. The Emperor is charged with its constitution and organization; he appoints the officers and officials of the navy, and in his name these and the seamen are sworn in. The expenditure for the establishment and maintenance of the navy and the institutions connected therewith are defrayed from the treasury of the Empire. All sea-faring men of the Empire, including machinists and hands employed in ship building, are exempt from serving in the army, but are all obliged to serve in the imperial navy. The distribution of requisitions to supply the ranks of the navy are made in accordance with the actual sea-faring population, and the number furnished in accordance therewith by each state is deducted from

the number otherwise required for the army.

MILITARY EXPENSES.—The costs and the burden of all the military system of the Empire are borne equally by all the federal states and their subjects, and no special privileges or burdens upon the several states or classes are admissible. Where an equal distribution of the burdens cannot be effected in natura without prejudice to the public welfare, the equalization shall be effected by legislation, in accordance with the principles of justice. For the purpose of defraying the expense of the whole German army and the institutions connected therewith, the sum of 225 thalers shall be placed yearly at the disposal of the Emperor until the 31st of December, 1871, for each man in the army on the peace-footing, according to Article 60. After 31st December, 1871, the payment of these contributions by the several states to the imperial treasury must be continued. The strength of the army in time of peace, which has been temporarily fixed in Article 60, shall be taken as a basis for calculating the amounts due until it shall be altered by a law of the Empire. The expenditure of this sum for the imperial army and its establishment shall be determined by a budget law. In determining the budget of military expenditure, the lawfully-established organization of the imperial army, in accordance with this Constitution, shall be taken as a basis. The unexpended portion of the military appropriation shall under no circumstances fall to the share of a single government, but at all times to the treasury of the Empire.

NAVY EXPENSES.—These are charged to the treasury of the Empire.

Division IV.

The Judicial Department.

TEMPORARY PROVISION.—Until the passage of a law of the Empire the existing competency of the Courts in the respective states of the Empire and the provisions relative to the procedure of those Courts remain in force.

TREASON LAWS.—For those offences specified in Article 74 against the German Empire, which, if committed against one of the states of the Empire, would be deemed high treason. The Superior Court of Appeals of the three free Hanseatic towns at Lubeck is the competent tribunal in the first and last resort. More definite provision as to the competency and the procedure of the Superior Court of Appeals has to be made by imperial law. The treason laws defined by Article 74 are as follows:—Every attempt against the existence, the integrity, the security, or the Constitution of the

German Empire; finally, any offence against the Federal Council, the Diet, a member of the Federal Council or of the Diet, a magistrate, or a public official of the Empire while in the execution of their duty or in reference to their official position, by word, writing, printing, drawing, or other representation, shall be judged and punished in the several states of the Empire according to the laws therein, or which shall hereafter exist in the same by which provision is made for the judgment of similar offences against any one of the states of the Empire, its constitution, legislature, or estates, members of its legislature or its estates, authorities or officials.

CONSTITUTIONAL DISPUTES.—In private disputes between states, and in disputes relating to constitutional matters in those states of the Empire whose constitution does not designate an authority for the settlement of such differences, the Federal Council shall, at the request of one of the parties, attempt to bring about an adjustment, and if this cannot be done, the matter shall be settled by imperial law.

DENIAL OF JUSTICE BY STATES.—If in one of the states of the Union justice shall be denied, and no sufficient relief can be obtained by legal measures, it shall be the duty of the Federal Council to receive substantial complaints concerning denial or restriction of justice, which are to be judged according to the Constitution and the existing laws of the respective states of the Union, and thereupon to obtain judicial relief from the state government which shall have given occasion to the complaint.

Division V

The States.

INTER-STATE CITIZENSHIP.—The members of each state shall in every other state have the right of filling public offices, of obtaining citizenship, and of enjoying all other civil rights on the same condition as those born in the state, and shall also have the same usage as regards civil and criminal prosecution and the protection of the laws. The members of each state shall be treated in every other state as natives, and shall consequently have the right of becoming permanent residents, of carrying on business, and of acquiring real estate. No German may be limited in the exercise of his privilege by the authorities of his native state or by the authorities of any other state of the Confederation.

EXCISE DUTIES.—Bavaria, Wurtemberg, and Baden alone are empowered to impose excise duties on domestic brandy and beer.

RAILWAYS.—Special powers over railways are reserved to Bavaria.

POST AND TELEGRAPHS.—Special powers are reserved to Bavaria

and Wurtemberg in postal and telegraphic affairs. Subordinate officials required in these departments are appointed by the state governments.

ARMY.—The princes of the Empire and the senates have the nominal command over their respective contingents, and have power to appoint certain officers subject to certain restrictions.

Division VI.

Structure of the German Empire.

Most of the German states now composing the Federated Empire were, previously to the Franco-German War, associated in a Zollverein or Customs Union. This was a commercial league formed by Prussia in 1818. The object was to establish freedom of trade between the states and a uniform tariff on exports to and imports from outside countries. The revenue derived from these customs duties so collected was divided among the states in proportion to their respective populations. Alterations in the tariff could be made only by general consent. After the war with Austria in 1866, the North German Confederation was formed, and the Zollverein was continued on a larger scale. Provision was made for the admission of the South German States (Bavaria, Wurtemberg, Baden, and Hesse) as soon as they so desired. During the Franco-Prussian War the German Empire was formed by the conclusion of “an eternal alliance” between the King of Prussia in the name of the North German Confederation, and the King of Bavaria, the King of Wurtemberg, the Grand Duke of Baden, and the Grand Duke of Hesse.

The Presidency of the Empire is vested in the King of Prussia, and his principal prerogatives are to represent the Empire in its relation to other nations; to command the army and navy; to declare war, with the assent of the Federal Council; to conclude peace; enter into treaties with foreign countries; to accredit and receive ambassadors; to summon and prorogue the Reichstag; to appoint and dismiss imperial officials. He has also a vague but elastic power of issuing governmental decrees and ordinances. In general the assent of the Emperor is not necessary to imperial legislation, but he has a veto in the following special case:—When a law is proposed in relation to the army, navy, and customs duties, and there is difference of opinion in the Federal Council, the vote of the presidium decides if the vote be in favor of the retention of existing arrangement.

The Federal Council (“Bundesrath”) is the Upper House and Council of States, in which the states have proportional voting power, so many votes being assigned to each state, and each state being entitled to send as many

plenipotentiares as it has votes. The votes of a state cannot be divided, as in the case of the American Senate, but must be cast as a unit. The Federal Council has, in addition to being a branch of the Imperial Legislature, important executive and supervising function. Every year it appoints standing committees to watch and report on imperial business. Its assent is necessary to the declaration of war. The Imperial Chancellor presides at its sitting.

The Reichstag (Diet) is the Lower House elected directly by the people of the German states. Each House lasts for three years, but may be dissolved by the Emperor. Any law for the Empire may be initiated in the Reichstag, but generally proposals of law are placed before that House by members of the Federal Council, who have the right to attend and speak, but not to vote.

The Empire has the exclusive right of legislating on matters relating to (1) the army and navy; (2) commercial relations, export and import duties; (3) excise duties on salt, tobacco, beetroot, sugar and spirits, and malt liquor produced in all the states, except Bavaria, Wurtemberg and Baden; (4) finances of the Empire; (5) post and telegraphs, except Bavaria and Wurtemberg, in which imperial control is limited; (6) railways for defence purposes—subject to limitation in Bavaria; (7) amendment of the Constitution. The Empire has concurrent power with the states to deal with other important matters, including domicile, citizenship, weights and measures, banking, patents, copyright, and railway administration, &c., subject, however, to the proviso that if there is any conflict between the imperial law and the law of state, the former prevails. This distinction between exclusive and concurrent powers is similar to that which has already been pointed out as existing in the case of the Constitution of the United States.
