

THE CUBAN CONSTITUTION

As Submitted by the Central Committee to the Convention.

No Mention of the United States—Native Congress Can Declare War and President Arrange Treaties.

HAVANA, Jan. 22.—The text of the Cuban Constitution, as submitted by the Central Committee to the convention, at public meeting yesterday, has the following preamble:

We, the delegates of the Cuban people, having met in assembly for the purpose of agreeing upon the adoption of a fundamental law, which, at the same time that it provides for the Constitution of a sovereign and independent nation of the people of Cuba, establishes a solid and permanent form of government, capable of complying with its international obligations, insuring domestic tranquility, establishing justice, promoting the general welfare, and securing the blessings of liberty to its inhabitants, we do agree upon and adopt the following Constitution in pursuance of the said purpose, invoking the protection of the Almighty and prompted by the dictates of our own conscience.

The first section, which relates to the form of government and national territory, is as follows:

1. The People of Cuba shall be constituted into a sovereign and independent State, under a republican form of government.

2. The territory of the republic comprises the Island of Cuba and the islands and keys adjacent thereto which were under the jurisdiction and control of the General Government of the Island of Cuba while it was a Spanish possession.

3. The territory of the republic shall be divided into six provinces, the boundaries and names of which shall be those of the present provinces as long as not modified by the laws.

The second section relates to requirements for citizenship, methods of losing and regaining it, and the duties of citizens. It is as follows:

The following are Cuban citizens:

1. All persons born within or outside Cuban territory of Cuban parents.

2. The children of foreign parents born in the territory of the republic, who, after arriving at their majority, inscribe themselves as Cubans in the proper registry.

3. Those persons who were born outside of Cuban territory of Cuban parents who had lost Cuban citizenship, provided that on attaining their majority they inscribe in the proper registry.

4. Those foreigners who have belonged to the liberating army, and who, residing in Cuba, claim Cuban citizenship within six months following the promulgation of the Constitution.

5. Those foreigners who may have been slaves in Cuba, and also those who were emancipated and referred to in Article 13 of the treaty between Spain and England, June 25, 1855.

6. The Spaniards residing in Cuban territory on April 11, 1899, who shall not have inscribed themselves as Spaniards up to April 11, 1900.

7. Foreigners who have been named in Cuban citizenship within six months following the promulgation of the Constitution, or, in case of minors, within six months after attaining majority.

8. Foreigners after five years' residence in the territory of the republic who obtain naturalization papers in accordance with the laws.

9. Grounds for forfeiting Cuban citizenship:

1. By securing naturalization papers in a foreign country.

2. By accepting a position under another Government without the consent of Congress.

3. By entering into the military or naval service of any foreign power without the aforesaid consent.

Cuban citizenship may be regained in accordance with the provisions which the law may establish.

Duties of all Cuban Citizens:

1. To service in arms according to the requirements of the law.

2. To contribute to public expenses in the manner established by the laws.

CONSTITUTIONAL RIGHTS.

The third section deals with rights guaranteed by the constitution and is as follows:

1. All Cubans shall have equal rights under the law.

2. No law can have a retroactive effect, except in penal matters, when the new law is favorable to the delinquent.

3. Obligations of a civil character which spring from contracts or from the acts or omissions which produce them cannot be altered or annulled by any posterior act, neither by the Legislature nor the Executive.

4. No person shall be arrested, except in the cases and manner prescribed by law.

5. All persons arrested shall be either placed at liberty or delivered to the judicial authorities within twenty-four hours after their arrest.

6. All persons arrested shall either be placed at liberty or committed to prison within seventy-two hours after having been delivered to the competent authority or court. The party interested shall be notified of the order for discharge or commitment within the same period.

7. No person shall be arrested, except by virtue of a warrant from a competent judge; the writ directing the issuance of the warrant of arrest shall be ratified or amended after the accused shall have been given a hearing, within seventy-two hours following his imprisonment.

8. All persons arrested or in prison without due legal formalities, or in cases not provided for in the Constitution and the laws, shall be placed at liberty at their own request, or at that of any citizen. The law shall determine the method of prompt action in such cases.

9. No person shall be tried or sentenced, except by a competent judge or tribunal, in consequence of laws existing prior to the commission of the crime, and in the manner that the latter prescribe.

10. No person shall be required to testify against a wife or husband or against relatives within the fourth degree of consanguinity or second degree of affinity.

11. The privacy of correspondence and of other private documents shall not be violated; and the same shall not be seized, except by orders of a competent authority and with the formalities prescribed by the laws, and in this case all points therein not relating to the matter under investigation shall be kept secret.

12. The expression of thought shall be free, be it either by word of mouth, by writing, by means of the public press, or by any other method whatsoever, without being subject to any prior censorship, and under the responsibility determined or specified by the laws.

13. No person shall be molested by reason of his religious opinion nor for engaging in his special method of worship. The Church and State shall be separate.

14. Every individual or association will have the right of petition.

15. The inhabitants of the republic shall have the right to meet and combine peacefully without arms for all legitimate purposes.

16. All persons shall have the right to enter and leave the republic, travel throughout its territory, and change their residence without requiring a safeguard, passport, or any other like equivalent, except what may be required in the laws governing immigration and by the rights of the administrative or judicial authorities in cases of criminal responsibility.

17. The penalty of confiscating of properties shall not be inflicted, and no person shall be deprived of his property except by the competent authority for the justified reason of public benefit and after being paid the proper indemnity therefor. Should this latter requirement not have been complied with, the judges shall give due protection, and should the case so demand, they shall restore possession of the property to the person who may have been deprived thereof.

18. Private dwellings shall be held inviolate, and no person may enter therein at night without the consent of the occupants, excepting for the purpose of taking aid to victims of crime or disaster, nor in the day time, excepting in the cases and manner prescribed by law.

19. No person shall be obliged to change his place of dwelling except by orders of competent authority.

20. No person shall be obliged to pay any tax or contribution of any kind whatsoever, the collection of which has not previously been legally decided upon.

21. Every author or inventor shall possess the ownership of his work or invention for the time and in the manner as may be determined by the laws.

22. Every man shall be free to learn or teach whatever science, profession, industry, or work that he may deem fit. The law will determine what professions need proper degrees or qualifications and how such degrees and qualifications shall be granted.

23. The guarantees mentioned in Paragraphs 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 19 of this section cannot be suspended in any part of the Republic except when the safety of the State requires this suspension, in case of the invasion of the State, territory or grave perturbations of order so as to threaten the public peace.

24. The territory in which the said guarantees may be suspended will be ruled, during the suspension, by the laws relating to public order, dictated in former times. But neither in the law relating to public order, nor in any other law, can other guarantees but those mentioned be suspended. Only those acts characterized as crimes by the formerly existing penal laws can be considered crimes during said suspension, neither can new punishments be inflicted save those provided by said laws, nor can the executive power be authorized to banish or transport citizens, nor to remove them more than twenty kilometers from their place of dwelling, nor to arrest citizens except for the purpose of delivering them to the judicial authority; but no citizen can remain so arrested for more than fifteen days, nor can they be arrested more than once during the suspension of the said guarantees, nor shall citizens be confined elsewhere than in special departments of public establishments designed for the detention of those accused of common misdemeanors.

25. The suspension of said guarantees can only be ordered by means of a law; or by means of a decree of the President of the republic if Congress is not sitting. The President cannot decree such suspension for more than thirty days or for an indefinite space of time without convoking Congress in the same decree, and in every case he must give an account to Congress of the suspensions ordered, in order that Congress may resolve what it thinks of it.

RIGHTS OF FOREIGNERS.

The fourth section deals with the rights of foreigners. It is as follows:

1. Foreigners residing in the territory of the republic have equal rights with Cubans in regard to the following matters: Protection of their persons and property; enjoyment of all

rights mentioned in the preceding section, with the exception of those referring exclusively to native Cubans; exercise of civil rights; observance of laws and decrees; being bound by decisions of the courts and other authorities; obligations contributing to public expenses.

The fifth section declares that the national sovereignty shall be vested in the people of Cuba, from whom shall emanate the public powers.

THE LEGISLATIVE POWER.

The sixth section declares that the legislative power shall be exercised by two elective bodies, to be named "House of Representatives" and "Senate," and conjointly known as "Congress."

The seventh section relates to the Senate, its members, and inherent powers. It is as follows:

1. The Senate shall be composed of six Senators from each of the six departments of the republic, elected for a period of six years by Electors, whom the Ayuntamientos shall name in the manner prescribed by law.

2. One-third of the Senators shall be elected every two years.

3. To become a Senator the following qualifications are required: To be a native-born or naturalized Cuban citizen, the naturalized citizen to have been such for a period of at least ten years, to have attained the age of thirty years, and to be in the full enjoyment of civil and political rights.

4. The inherent powers of the Senate shall be as follows:

First—To try, after they have been accused by the House of Representatives, the President of the republic and the Governors of the departments, for which purpose it shall constitute itself into a court of law, to be presided over by the President of the Supreme Court, without the right in this case of imposing any other penalty than that of removal from or disqualification to hold office. After the charges have been filed with the Senate the latter shall order forthwith the suspension of the President from office. Should the President be proved criminally responsible, he shall at once be placed at the disposal of the Supreme Court. In any case whatsoever, except infraction of the Constitution, to impeach him the consent of the Senate shall be necessary.

Second—To confirm or not the appointments that the President of the republic may make, of Associate Justices of the Supreme Court, of diplomatic representatives and Consular agents, and of such other functionaries required by law.

Third—To authorize Cubans to accept employment or honors from another Government.

Fourth—To judge the Governors of the provinces, when accused by the Provincial Assemblies or by the President of the republic. When the accusation is made before the Senate, the Senate can order the suspension of the Governor, but cannot impose any other penalty but dismissal from office.

The eighth section, "The House of Representatives and Its Inherent Powers," is as follows:

1. The House of Representatives shall be composed of one Representative for every 25,000 inhabitants or fraction of more than 12,500, elected for a period of four years by direct vote and in the manner prescribed by law.

2. One-half of the House of Representatives shall be elected every two years.

3. To be a Representative the following qualifications are required: To be a native-born or a naturalized Cuban citizen, the naturalized citizen to have been such for a period of not less than eight years, to have obtained the age of twenty-five years, and to be in the full enjoyment of all civil and political rights.

4. The inherent powers of the House of Representatives shall be as follows:

First—To file an accusation before the Senate against the President of the republic for violation of the Constitution or for neglect of his duties, provided that two-thirds of the Representatives so resolve in secret session.

The ninth section, dealing with regulations common to both co-legislative bodies, is as follows:

1. The positions of Representatives and Senators shall be incompatible with the holding of any paid position and appointment of the Government.

2. The Representatives and Senators shall receive from the nation a pecuniary remuneration, alike for all, which shall not be increased nor diminished during the period of their representation.

3. The Representatives and Senators shall not be held responsible for the opinions that they may express in the exercise of their duties.

4. Representatives and Senators shall not be arrested nor tried without the consent of the body to which they belong, except in the case of being discovered in the act of committing some crime, in which case and in that of their being arrested or tried when Congress is not in session, report thereof shall be made there as quickly as possible to the body to which they belong for its information and proper action.

5. Congress shall meet and organize at their own option; both houses shall open and close their sessions on the same day; they shall be established at the same place, and neither of them shall move to any other place nor suspend its sessions for more than three days without the consent of the other; neither shall they commence their sessions with less than two-thirds of the total number of their members being present, nor shall they be allowed to continue their sessions without an absolute majority of the members being present.

6. Congress shall decide as to the validity of elections and as to the resignation of its members; and none of the latter shall be expelled except by vote of two-thirds of the members of the respective legislative bodies, in which case it shall be decided in a like manner whether the expulsion is temporary or final, and if therefore the position should be declared vacant or not.

7. The houses of Congress shall adopt their respective rules and regulations and elect their Presidents. In the absence of the President, the position of the President of the Vice President of the republic or when the latter is discharging the duties of President of the same.

THE POWERS OF CONGRESS.

The tenth section is headed "Congress and Its Powers." It reads:

1. Congress shall meet in regular session every year on the first Monday in November and shall remain in session for the minutes and consecutive days excepting holidays and Sundays. And it shall meet in special session whenever the President may issue a call therefor in accordance with this Constitution, in which case it shall solely treat of the express object or objects of the call.

2. Congress shall meet in joint session to proclaim and certify and counting the electoral vote, the President and Vice President of the Republic, at which act the President and Vice President of Congress, respectively, shall be the President of the Senate and the President of the House of Representatives.

3. The powers of Congress shall be as follows:

First—To examine into and approve annually or less the annual budget of the Nation. Should a vote not be taken prior to the first day of the fiscal year, the preceding budget shall continue in force.

Second—To decide as to the issue of loans, at the same time voting the necessary permanent incomes for the payment of interest thereon and for the redemption of the same.

Third—To regulate domestic and foreign commerce, postal and telegraphic services, and railroads.

Fourth—To declare war and to make treaties of peace.

Fifth—To coin money, specifying the weight, value, and denomination of the same, and to regulate the system of weights and measures.

Sixth—To establish rules or procedures for naturalization of citizens.

Seventh—To grant amnesties.

Eighth—To organize naval and military forces.

Ninth—To establish taxes, duties, and contributions of National character.

Tenth—To regulate the establishment and service of roads, canals, and other public works.

Eleventh—To decide who shall be President in case the President and Vice President should be removed, dead, resigned, or incapacitated.

Twelfth—To prepare the National codes, to establish the electoral for the election of Congress, Governors, Governors of provinces, and the provincial and municipal corporations; to dictate laws for the guidance of the general administration.

The eleventh section, "The Preparation, the Sanction, and Promulgation of the Law," is as follows:

1. The initiative action of all laws pertains to either of the two co-legislative bodies, except in the cases specified in the Constitution.

2. Every project of law that may have received the approval of the Senate and the House of Representatives shall be, before it becomes a law, presented to the President of the republic. Should the latter approve the same he will sign it; if not, he shall return it with his objections to the co-legislative body that recommended it, which body shall, in turn, spread the same objections in full upon the minutes and will again discuss the project. If, after this second discussion, two-thirds of the members of the co-legislative body should vote in favor of the project, it shall be sent, together with the objections of the President, to the other body, which shall discuss it in a like manner, and if the latter should approve it by a like majority it shall become a law. In every case the law shall be taken by recording the names of members. If within ten days (excluding holidays), the President shall not have returned the project of the law presented to him, the same shall become a law, in a like manner as if the President had signed it. Whenever Congress should take a vote upon any law within the last ten days of its sessions and the President should have objections to sanction the same, he shall be under obligation to immediately notify Congress thereof, in order that the latter may remain in session until the aforesaid period has expired, and should he not do so, the law shall be considered as sanctioned.

3. No project of law after being wholly rejected by one of the co-legislative bodies may be again presented at the sessions of that year.

4. Every law shall be promulgated within five days immediately following its approval.

THE PRESIDENT.

Section 12 is entitled "The Executive Power. The President of the Republic. His Powers and Duties." It follows:

1. The executive power shall be exercised by the President of the Republic.

2. To become President of the Republic the following qualifications are required: To be a Cuban citizen by birth or naturalization, and, in this latter case, to have served with the Cuban army in its wars for independence, ten years at least; to have attained the age of forty years, and to be in the full enjoyment of all civil and political rights.

3. The President shall be elected to serve a term of four years. No one can be elected President for three consecutive terms.

4. The President shall be elected by direct votes, and an absolute majority thereof cast on one single day in accordance with the provisions of the law.

5. The President, on taking possession of office, shall swear or affirm before the Supreme Court to faithfully discharge the duties thereof, complying with and causing to be enforced the Constitution and laws.

6. The President shall receive from the public a pecuniary remuneration which will be fixed by law, and which shall not be increased or diminished during the Presidential term.

7. The powers and the duties of the President shall be as follows:

First—To promulgate the laws and execute the same.

Second—To issue calls for special sessions of Congress.

Third—To suspend the sessions of Congress when, in the matter relating to their suspension, no agreement is possible between the co-legislative bodies.

Fourth—To present to Congress all the necessary data of all kinds for the preparation of the budget and furnish the information that said Congress might ask for concerning matters or business that do not require secrecy.

Sixth—To direct diplomatic negotiations and make treaties with foreign powers, submitting them for confirmation to the approval of Congress.

Seventh—To appoint, with the approval of the Senate, the Associate Justices of the Supreme Court of Justice, diplomatic representatives, and Consular agents of the Republic, he having the right to make provisional appointments of said representatives and agents when the Senate is not in session and vacancies occur.

Eighth—To freely appoint and remove his consulting secretaries that the law may provide him with, reporting actions in the premises to Congress.

Ninth—To appoint to positions established by law all other functionaries whose appointment does not specially pertain to other functionaries and corporations.

Tenth—To command and direct, as Commander in Chief, the naval and military forces of the Republic, under obligations in case of invasion of the territory, or sudden attack thereon, to forthwith adopt the necessary means of defense and call Congress to session without delay to inform it of the facts.

Eleventh—To receive diplomatic representatives and admit Consular agents.

Twelfth—To pardon convicts in accordance with the laws.

Thirteenth—To suspend the action of Departmental Assemblies and of Ayuntamientos, in the cases specified by the Constitution.

8. The President shall not be allowed to leave the territory of the Republic without the express consent of Congress.

THE VICE PRESIDENT.

The thirteenth section deals with the Vice President and is as follows:

1. There shall be one Vice President of the republic, who shall be elected in the same manner as the President, conjointly with the latter, and for a like term.

2. To become Vice President the same qualifications as those established by the Constitution for President are necessary.

3. The Vice President shall be President of the Senate, but shall not vote except in cases of a tie.

4. Through accidental absence of the President of the republic, the executive power shall be exercised by the Vice President. In case of an absolute vacancy in the office of the President, the Vice President shall assume charge thereof until the termination of the current term.

5. The Vice President shall receive from the republic a pecuniary remuneration which shall be decided by law, and which shall not be increased nor diminished during the period of his administration.

THE JUDICIARY.

The fourteenth section deals with judicial power and provides that it shall be exercised by the Supreme Court of Justice and such other courts as may be established by law, which shall regulate their respective organization, their rights, methods of exercising the same, and qualifications that the individuals composing them shall possess.

The fifteenth section, dealing with the Supreme Court of Justice, details the qualifications for the associate Justices and provides that it shall be the inherent right of the Supreme Court of Justice:

First—To have cognizance of appeals in conformity with the laws.

Second—To decide questions that may arise between the courts of law immediately inferior to it as to their relative rights and jurisdiction.

Third—To have cognizance of interadministrative suits concerning the nation or which are litigation between the departments or the municipalities.

Fourth—To decide as to the constitutionality of legislative acts that may have been objected to as unconstitutional.

Fifth—To decide as to the validity or nullity of decisions of Departmental Assemblies or Ayuntamientos that may have been suspended by the Government or complained of by private individuals in such cases as the Constitution laws establish.

The sixteenth section is devoted to "General Dispositions Concerning the Administration of Justice." It provides that:

1. Justice shall be administered gratuitously.

2. The courts shall have cognizance of all civil and criminal and inter-administrative suits. They shall also have cognizance in cases, specified by the laws, of the questions relating to the exercise and possession of political rights.

3. No judicial commissions nor extraordinary courts of justice of whatever kind shall be created.

4. All hearings shall be public, unless in the opinion of the Court and for special reasons they should be private.

5. No judicial functionary shall be suspended from or deprived of his position except for crime or other serious cause duly proved after his defense shall have been heard.

6. Judicial functionaries shall be personally responsible for all violations of the law that they may commit.

7. The remuneration of judicial functionaries shall not be changed within a period of less than five years, a general law being necessary for the purpose.

8. Courts having cognizance of maritime and land matters shall be governed by their special organic law.

The seventeenth, eighteenth, nineteenth, twentieth, twenty-first, and twenty-second sections refer respectively to the departmental régime, the departmental assemblies, the Governors, the municipal régime, the Ayuntamientos, and the Mayors.

REVOLUTIONARY DEBTS.

The twenty-third section is headed "The National Treasury, Its Properties and Duties." It reads:

1. The Republic of Cuba does not recognize nor will not recognize any debts or compromises contracted prior to the promulgation of the Constitution. From the said prohibition are excepted the debts and compromises legitimately contracted for in behalf of the revolution, from and after the 24th day of February, 1895, by the commanders of the Liberating Army, until the day on which the Constitution of Jimaguayú was promulgated, and those which the revolutionary Governments contracted, either by themselves or by their legitimate representatives in foreign countries, which debts and compromises shall be classified by Congress, and which body shall decide as to the payment of those which in its judgment are legitimate.

The twenty-fourth section, dealing with constitutional amendments, reads:

The Constitution cannot be changed in whole or part except by two-thirds vote of both legislative bodies. Six months after deciding on the reform a Constitutional Assembly shall be elected, which shall confine itself to the approval or disapproval of the reform voted by the legislative bodies. These will continue in their functions independently of the Constitutional Assembly. The members in this Assembly shall be equal to the number of the members in the two legislative bodies together.

The twenty-fifth and last section is entitled "Concerning Transitory Dispositions." It is as follows:

1. The Senate on being organized for the first time, the Senators shall be divided into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year. Lots shall decide which Senators shall belong to each class for each one of the departments.

2. Ninety days after the promulgation of the electoral law that may be prepared and adopted by the convention the election of the functionaries provided for in the Constitution shall be proceeded with for the transfer of the Government of Cuba to those who may be elected, in conformity with Order No. 401 from the headquarters of the Division of Cuba of July 25, 1900.

3. All laws, regulations, orders, and decrees which may be in force at the time of the promulgation of the Constitution shall continue to be observed until they are replaced by others.