

THE CONSTITUTION OF CÁDIX
AND THE FILIPINO OF MALOLOS:
SIMILARITIES AND DIFFERENCES*

*La Constitución de Cádiz y la filipina de Malolos:
Similitudes y diferencias*

Miguel Revenga Sánchez
Catedrático de Derecho Constitucional
Universidad de Cádiz
miguel.revenga@uca.es

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Resumen

El principal objetivo de este trabajo es realizar un análisis comparativo de la Constitución de Cádiz de 1812 y la Constitución de Malolos de 1899. Comenzaremos exponiendo el contexto histórico-político en que cada una de ellas fue aprobada para posteriormente pasar a estudiar varios aspectos fundamentales: sus estructuras, su definición de la soberanía, la forma de gobierno que implantan, la separación de poderes y los derechos fundamentales reconocidos.

Palabras clave

Constitución de Cádiz; Constitución de Malolos; estructura; soberanía; forma de gobierno; separación de poderes; derechos fundamentales.

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Abstract

The main purpose of this paper is to provide a comparative analysis of the Constitutions of Cadix of 1812 and Malolos of 1899. We will begin by explaining the historical and political context in which each of them was approved, to then continue studying some essential aspects: their structures, their definition of sovereignty, the forms of government implanted, the separation of powers and the fundamental rights recognized by them.

Keywords

Constitution of Cadix; Constitution of Malolos; structure; forms of government; separation of powers; fundamental rights.

SUMARIO: I. COMPARING CONSTITUTIONS; COMPARING CADIX AND MALOLOS. II. THE STYLE AND THE STRUCTURE OF THE TEXTS. III. THE DEFINITION OF SOVEREIGNTY, THE FORM OF GOVERNMENT AND THE SEPARATION OF POWERS. IV. PROCLAMATION AND GUARANTEE OF RIGHTS. V. FINAL REMARK THE VIRTUE OF THE CONSTITUTIONAL COMMITMENT. *BIBLIOGRAPHY. APPENDIX: CONSTITUTION OF THE REPUBLIC OF PHILIPPINES OF 1899 (MALOLOS CONVENTION).*

I. COMPARING CONSTITUTIONS; COMPARING CADIX AND MALOLOS

In Constitutional Law, the comparison has always been a very good tool to capture the features of the Constitutions. These obey to historical contexts that give each of them their reason d'être. But the repertoire of techniques used to try to answer the questions that arise during the process of the drafting is quite limited, and comes from a laboratory, the constitutional experimentation, which doesn't invite to be very imaginative. The history of constitutionalism is as old as the human attempt to subject the exercise of political power to certain conditions in order to establish a suitable government. But the history of written constitutions is much shorter and does not go back beyond the era of the Revolutions of the late eighteenth century. It is the moment at which the belief in the value of a written document consolidates, a document to which intrinsic qualities are attributed: first at all to put the basis of the political power in the consent of the governed, and at the same time to orient the power towards the fulfilment of determined worthy objectives of the social life. At the very starting point, the more condensed formulation of what is intended with the production of a written constitution is perhaps the famous article 16 of the French Declaration of the Rights of the Man and the Citizen. There the existence itself of the Constitution is tied up to the presence to a couple of conditions, without whose effective accomplishment the above mentioned social life is not worth to be called constitutional life. Such conditions, the separation of powers, and the recognition and guarantee of certain rights, represent, as we say, a minimal substratum of conditions from which can be understood in what consisted the transformations sought by drafting constitutions. They serve also to give us the measure of the triumphs and failures that has accumulated modern constitutionalism along its trajectory. And at the same time, and in a not less important way, to capture the variations that result in time and space, of the ways in which both elements have been designed, combined and implemented during the last two hundred years.

To speak about original Constitutions is therefore something very relative and somewhat banal. There are, of course, more or less influential contributions

and combinations of things that turn out to be different understandings of the Constitution. From the same common trunk of the history of written constitutions, soon break off the contrast between a European concept, and an American one. But both are inspired in the same ideological sources and both can be explained by reference to the commitment to the two basic requirements of the above mentioned article of the Declaration of 1789. To speak about European conceptions demands, furthermore, the plural, because the sequence represented by the first three European written Constitutions – the French Constitutions of 1791, 1793 and 1795, all of them reflecting the vicissitudes of the revolutionary period – are by themselves the best example of different ways to combine the essential elements enshrined in the idea of Constitution.

Any exercise of comparison requires an equilibrate combination of dose of abstraction with dose of concretion. Abstraction to identify the underlying categories and to catch the conductive threads of the texts submitted to contrast. And concretion to be aware of the variations and details, since it is to these what it is necessary to attend in order to capture the spirit of the text. This and that are particularly relevant when it comes to compare texts, rather than constitutional experiences. And it is important to emphasize that, speaking in general terms, such it is the case of the Constitutions of Cadix of 1812 and Malolos of 1899. Cadix and Malolos are basically two experiments of constituent debate with a text as a result, but without sufficient application as to speak of the text as a living, established and enforced Constitution. Cadix scarcely was in force 6 years and in a discontinuous way: the two years that elapsed since its approval in March 1812, until the return to Spain of Fernando VII in 1814, the triennium (called constitutional) 1820-1823, and a few months during 1837. The Constitution of Malolos, barely a couple of months, and in warlike circumstances. Yet either are influential texts, which have attracted considerable attention. Possibly his character somewhat frustrated fed the myth of Constitutions which represent in both cases the very beginning of a constitutional journey abruptly interrupted and, for that reason, glorified and cherished. Malolos and Cadix, Cadix and Malolos remain in the memory as seminal and decisive texts for the affirmation of the Nation as a political subject, full and independent. In Cadix the impulse for it came from the invasion of the Spanish territory for the Napoleonic troops and the attempt to impose to the Spanish people a king and a Constitution. In Malolos, it will be the anxieties of independence of the Philippine people that act as a fuse of the constitutional operation... Despite the diversity of circumstances and despite the temporal distance that separates the two texts – which also explains some of the factors that clearly differentiate them – the two Constitutions share the features of the same historical destination.

It has been much discussion about the sources of the Malolos Constitution and on the major or minor influence that could have had on it the text of

Cádiz. It is out of doubts that the authors of the *katipunera* Constitution knew the Cádiz text. Cádiz had remained in the collective imagination of nineteenth-century liberalism as a radical text of advanced character, especially for contrast with the commitments (and waivers) that had become set in the Spanish Constitutions of 1845 and 1876. The memory of the participation of Ventura de los Reyes in the Cádiz Assembly as delegated for the Philippines, surely was in the minds of Emilio Aguinaldo, Felipe Calderon, Jose Rizal, Marcelo del Pilar, Apolinario Mabini and the other “Founding Fathers” of the Philippine text, who mentioned it in glowing terms. However, the Malolos Constitution, on its face, has a much clearer impact of the Spanish Constitution of 1869, which was the result of the Spanish “Glorious” Revolution that ended the Elizabethan monarchy and the old system implemented by the Constitution of 1845. The influence of the 1869 Constitution has a logic that is due not only to the temporary sequence, ie the closer proximity of this “revolutionary” Constitution, but also to the fact that the text of 1869 has, in turn, received a great impact of the U.S. Constitution, the other great vein of constitutional experience, which up to that time had been “reconstructed” following the trauma of the Civil War.

II. THE STYLE AND THE STRUCTURE OF THE TEXTS

An interesting first contrast between the Constitutions of Cádiz and Malolos has to do with issues related to the style and structure of the texts. With its 384 articles, Cádiz is considered the largest and most exuberant of all Spanish Constitutions. Cádiz is very original for many reasons. First, it is assumed that the constituents that gathered in Cádiz assumed an almost impossible challenge: to refuse the French constitutional heritage, presenting the Constitution as a product fully in tune with the Spanish legal tradition. As it is known, this is the leit motif of the famous Preliminary Discourse whose authorship is attributed to Agustín de Argüelles. Such a claim seems just a strategy to avoid accusations of “francesismo”. But it is true that the debate about how to make a transition from the Old Regime to the constitutional one left its mark on many provisions of the Constitution. The originality of Cádiz also lies in its determination for using the Constitution as an instrument of political integration of a real sum of territories dispersed in three continents and, among them, the Philippines. Cádiz appears as a text of universal projection, which repudiates the colonial logic enshrined in the French Constitution of 1791. Without coming to the point of abolishing slavery, Cádiz extends citizenship rights to indigenous peoples, and recognizes and encourages the role of “constitutional” municipalities everywhere. This makes of the problems related with the political representation and the territorial distribution of power something very much complex and tortuous. In fact, Title III of the

Constitution, succinctly called “the Parliament” (*Las Cortes*), devoted to regulate the election and powers of the Parliament, occupies no less than 140 articles (from Article 27 to Article 167). And the Constitution has in addition a Title VI, in which there is a regulation of the internal government of the provinces and municipalities. As a whole, the Constitution has ten Titles, which are dealing with the foundations of sovereignty and the definition of the Nation (Title I), the territory of the *Españas* (in the plural), their religion and citizenship status (Title II), the Parliament (Title III), the King (Title IV), the Administration of Justice (Title V), the government of municipalities and provinces (Title VI), the contributions (Title VII), the Military Force (Title VIII), the Public Instruction (Title IX) and the Observance of the Constitution (Title X).

In contrast, the Malolos Constitution, with its 93 articles, plus eight Transitional Provisions and one Additional is a model of concision and sober style. Already in the Preamble, the baroque of Cadix, with its extensive Preliminary Discourse and enactment formula, is completely opposite to the simplicity with which Malolos enunciates its aims, in scarcely six lines in which the resounds the eco of the U.S. Constitution: “We, the Representatives of the Filipino People, legally convened to Establish justice, Provide for the common defense, Promote the General Welfare and Ensure the blessings of liberty, imploring the aid of the Sovereign Lawgiver of the Universe in order to Obtain These Objectives, have voted, decreed and approved the following Political Constitution “. The Constitution of the Spanish Monarchy in Cadiz proclaiming “in the name of almighty God, Father, Son and Holy Spirit, author and supreme legislator of society” is in Malolos, only a Constitution imploring aid (but does not speak on behalf of) the Supreme legislator of the Universe. And with a decidedly dry and devoid of rhetoric, the Malolos Constitution develops its arguments in fourteen titles, some of which consists of only one or two Articles. Titles are devoted to the definition of the Republic (Title I), the Government (Title II), Religion (Title III), the rights of Filipinos (Title IV), the Legislative Power (Title V), the Permanent Commission of the Assembly (Title VI), the Executive (Title VII), the President of the Republic (Title VIII), the Secretaries of Government (Title IX), the Judicial Power (Title X), the Provincial and Popular Assemblies (Title XI), the Administration of the State (Title XII), the Amendment of the Constitution (Title XIII) and Constitutional Observance, oath and language (Title XIV).

III. THE DEFINITION OF SOVEREIGNTY, THE FORM OF GOVERNMENT AND THE SEPARATION OF POWERS

The Cadix Constitution was written thinking in the return to Spain of the King Fernando VII, who was captive in France. Once he came back from

France, in 1814, this ill-fated Monarch disregarded the will of the Nation and proclaimed void and without effect the entire Constitution. But that is another story. What matters in Cadix is that the definition of the National Government as a “moderate and hereditary monarchy” (Article 14) takes for granted the emphatic declaration of national sovereignty that appears in the first three articles of the text: the first for defining the Spanish Nation (“the meeting of all Spaniards in both hemispheres”), the second to repudiate old conceptions related to the concept (“the Spanish Nation is free and independent, and is not, nor can it be, the patrimony of any family or person”), and the third, to affirm where it resides and which are its attributes (“resides essentially in the Nation and, therefore, the right of establishing its fundamental laws belongs to it exclusively) it belongs exclusively to the right to establish its fundamental laws themselves, but not its form of government, which was coming, as we say, predetermined. It can be said without exaggeration that the main issue in Cadix was how to make compatible the proclamation of the sovereignty of the Nation with the commitment with a monarchical form of government. The answer lies in the design of the separation of powers. As was customary at that time the Constitution grants to the King the Executive (“The power to enforce laws resides in the King”, says Article 16), and to the Parliament with the King the Legislative power (“The power of making laws resides in the *Cortes* with the King”, says Article 15). Outside stays the Judicial power for applying the law in civil and criminal, as proclaimed in Article 17, and develops Title V of the Constitution. On similar constitutional foundations as those we have just reproduced, was developed in Europe that paradigm of a flexible separation of powers that is the parliamentary form of government. It did so to diverse speeds and with notable variables of country to country, beginning with the pioneering example in the matter that is, of course, England. But the problem of Cadix was to establish those bases in a way, so to say, blindly, in complete absence of precedents and reflecting prejudices against a balanced formula of distribution of power between King and Parliament. What today seems to us to be quite simple, because we have removed the King of the circuits of the political decision (Parliamentary Monarchy), at that time was extremely complicated. And what came to demonstrate the experience of constitutional triennium (1820-1823) is that Cadix had established a system that was inviting to the conflict between both powers. It was also a system clearly unbalanced to the detriment of the King and in favour of Parliament. The Constitution provided, in effect, the automatic summons of the Parliament and the renovation of the deputies to a fixed cadence, without considering the possibility of a right to dissolve Parliament in the hands of the King, and in disposition to act as a counterweight of the political pressure on the executive branch. It was limiting, in addition,

the access to the parliamentary sessions of the King's Secretaries and prevented them from being present in the voting (Article 125). Furthermore, the King's right to veto laws, which was then an essential function to effectively participate in the exercise of legislative power, was only recognized with a temporal character. All this, along with the long list of restrictions on the authority of the King, which are read in Article 172, is enough to have an idea of the conceptions that prevailed in the Constituent Assembly, in which, for some commentators, was established a kind of *impossible Monarchy*.

The eighty-seven years between the adoption of the Constitution of Cadix and the proclamation of that of Malolos, in the City of Barasoain, on January 20, 1899, explains many things. The elapse of time explains, for instance, the evolution of the conceptions and theories, from a tentative constitutionalism of the first hour, up to another version of it, much more informed and with clearer provisions. It is curious that the first three articles of the Constitution of Malolos are also devoted, as in Cadix, to the sovereignty, but here the wording of the articles sounds fully contemporary. "The political association of all Filipinos constitutes a nation, whose state shall be known as the Philippine Republic" (Article 1). The Republic is free and independent (Article 2), and her "sovereignty resides in the people alone" (Article 3). Very remarkable and original is certainly what follows immediately afterwards, in the Article 4, which is already part of the Title on the Government. We find there a concatenation of adjectives describing the form of government of the Republic as "popular, representative, alternative (sic) and responsible". There is also a division of power into different branches, which are the three traditional: the legislative, the executive and the judiciary, with a prohibition to assemble them in a single person or corporation. In short: Malolos establishes a form of government not only responsible, but with an adherence to the necessity to have political alternatives, something that today we would call a form of government with opposition guaranteed. This being so, something truly striking in Malolos text is the absence of provisions relating to the electoral system for the appointment of members of Parliament. Article 33 simply says that that the Assembly of Representatives will be organized in the form and conditions determined by the law. And Article 34 reminds that the members of Parliament represent the entire nation and not just to the voters who elected them. But beyond these general provisions there is nothing in the Constitution that allow to guess what would have been the basis of the electoral system, that is, the determination of the constituencies, the distribution of seats among them, the formula of scrutiny and the aptitude to hold voting rights. The right to vote neither appears in the declaration of rights of the Constitution.

For what refers to the form of government, the Malolos Constitution is presidential, but with some features of semi-presidential regime. The Constitution provides a President of the Republic chosen for a period of four years

(with the possibility of re-election) by an ad hoc Assembly formed by the members, so to speak, ordinary of the Parliament and a number of special Representatives (Article 58). The President shares with the Assembly the legislative initiative, has a temporal veto over the laws approved by the Parliament, and is the owner of the Executive power, with an authority that spreads to everything leads to the preservation of public order in the interior and state security abroad (Article 60) The President is supported, in the executive tasks by a set of seven Secretaries of Government (Title IX of the Constitution). These Secretaries countersign the acts of the President, and are collectively responsible before the Parliament of the general politics of the Government and individually of their personal acts, as well (Article 75) The President, whose powers are listed in Article 67, is responsible only in cases of high treason (Article 71).

IV. PROCLAMATION AND GUARANTEE OF RIGHTS

Had we to enhance a peculiarity of the Cadix text compared with the normal uses of constitutionalism until then, this would be the absence of a Bill of Rights clearly established in the Constitution. It is no question of not having rights. There are rights and they appear at the very beginning of the text, exactly after proclaiming the “locus” of the sovereignty in the hands of the nation. Then rights appear as one of the targets of those wise and just laws whose approval is a duty for the Nation. It is a question of preserving and protect (not of setting) the benefits of civil freedom and property, a couple of values to which Article 4 adds the “other legitimate rights of all individuals” who compose the nation. What is rejected is to follow the style and technique of the French constitutionalism through a body of rights enclosed in a formal Declaration. This was pointed out during the constituent debates, and thus rights passed to the Constitution, in a way somewhat hidden and shameful: by dispersing and renaming them (formalities, for instance in Title V). Then there is the problem of the foundations of the ownership of rights, which is an approach that no proclamation worthy of the name can escape. Who benefits from the rights cause? Who is concerned about them? In France, the rights had been joined the world of the constitutionalism with a double face: there are rights of man, but there are rights of citizen as well. And the reach of both categories of rights was not equivalent. In this matter Cadix is very much tortuous: first it refers to the Spaniards as all free men born and resident in the Spanish dominions, as well as their children (Article 5); But then comes the citizens, the only ones that have rights related with the representation and participation in public life. This is a category of which woman is excluded, in absolute terms and even without need of express stipulation. But they are also excluded, among others, the natives of Africa (says the

Constitution to refer to slaves), the domestic servants, the debtors in situation of bankruptcy, as well as those lacking an employment or known means of living. The Constitution is also very aggressive in defining the Catholicism as State's religion: "The religion of the Spanish nation is, and shall be perpetually, Apostolic, Roman Catholic, the only true religion. The nation protects by wise and just laws, and prohibits the exercise of any other, whatsoever", reads Article 12 of the Constitution. This manifestation of intolerance was a way of affirming identity, but at the same time it could also have been just a strategy to take to the constitutional consensus the most reactionary spirits. Anyway, the overall result is a text in which constitutional procedures – especially in electoral matters – and religious ceremonials (oaths, Masses and Te Deums) are interlaced far beyond of what would have demanded the autonomy of the constitutional realm. One example: the complex machinery representative, with a three-degree indirect suffrage for the election of the Parliament, starts with the parish registration, which is a requirement without which nothing is possible. Certainly Cadix has also an express proclamation of the freedom of the press, which appears as "freedom of writing, printing and publishing" in Article 371. But it is a freedom which refers only to political ideas, and does not reach the discussion or questioning of religious dogma. In Cadix the most valuable rights are, without doubt, in the provisions that condition the Administration of Justice to the respect of certain requirements and guaranties which continue today forming the legal heritage of any civilized nation: the prohibition of torture, the right to the judge predetermined, the right to be informed about the accusation, the right to be defended, and the the inviolability of the home and *habeas corpus*, for mentioning only some of them.

The contrast with the Malolos Constitution is spectacular. It splits of a Title with an alone Article on religion (Article 5), which is the opposite of Cadix Article 12: the State recognizes the freedom and equality of all religions, and the separation of Church and State Here we have the freedom of conscience and the free exercise of religion as a pre-condition of everything else. The Declaration holds 26 of the 101 articles of the Constitution. It plays constantly with the distinction between rights belong to the Filipinos and rights pertaining to Filipinos and foreigners. Previously (Article 6) states in the traditional way, who is Filipino, combining *ius sanguinis* and *ius soli* criteria. It is a declaration of rights that could easily pass for a current one. It includes the right of association (Article 20.2) and guaranties amazing for its time as the inviolability of telegraphic or telephone correspondence, unless express judicial authorization (Article 12). It has also a clause that follows the example of the Implied Rights of the Ninth Amendment of the U.S. Constitution: The enumeration of the Rights guaranteed under this title does not imply the prohibition of any other right not Expressly Stated herein.

Curiously, the Malolos Constitution prohibits the government grant honorary titles and nobility to any Filipino, but allows the Nation, by law passed in the Assembly, to reward eminent services rendered to the country citizens (Article 32). A republican concept that also applies to the establishment of the basic duties incumbent on every Filipino: defend the country with arms when called by the law and contribute to the expenses of the state in proportion to its assets (Article 27). Out of the Title of rights, also include an Article 93, devoted to the establishment of what might be called a system of linguistic freedom with a mention to the use of Spanish language in acts of public authority, but only temporarily.

V. FINAL REMARK THE VIRTUE OF THE CONSTITUTIONAL COMMITMENT

In the bicentennial year, the Constitution of Cadix has been remembered as the one who first established the sovereignty of the Spanish nation and initiated a constitutional path, with interruptions and losses, until our own day. The Malolos Constitution is not only remembered as the one that opened the same path to the Filipino people, but also has the merit of having been the first, in absolute terms, that implanted in East Asia a constitutional Republic. Neither of them could meet the goals dreamed of by those who contributed to the drafting. But the example of what both accounted for the history of his respective peoples is still alive and encloses a lesson that seems to us to be fully in force. The lesson is that writing a Constitution often coincides with historic moments for a nation's future of a unique character. These are occasions for testing the generosity and high-mindedness of those who participate in constituent debates. From different visions of the objectives, and the best ways to reach them, the participants have to make an effort to give up seeing reflected in the Constitution the totality of their ideas. Doing so, there grow the chances of getting a text widely accepted and available to serve in the future, as a reference and as a tool for effective political concord. The Spanish of both hemispheres who gathered at the Church of San Felipe Neri, and Filipino patriots who did it in San Miguel de Barasoain gave the best of themselves to achieve their goals. In both cases, the texts that they produced contain an express commitment to the supremacy of the Constitution. In this respect it is very interesting to note the presence, both in Cadix and in Malolos, of separate Titles on the observance of the Constitution. In the case of Cadix, as we have seen, this is Title X, in which we find a couple of provisions recognizing all Spaniards "the right to represent the Parliament or the King to demand compliance with the Constitution" (Article 373). And it is the responsibility of Parliament to take account of the violations of the Constitution and "to put

the consequent remedy (Article 372). In Article 91 of the Constitution of Malolos we see a similar technique to protect the Constitution, with a wording that remembers exactly what was stated in Cadix. Of course, both Constitutions also recognize the instrument of constitutional reform as a way to ‘protect the supremacy of the Constitution with respect to the ordinary law, and as a means of adapting it to social changes

Cadix and Malolos turned out to be two major efforts that did not see his aims fulfilled in his respective historical moments. But the impossibility of applying the provisions normally, and the frustration produced by this, do not prove the lack of success of those who at that time believed in the virtues of the Constitution, but the pioneering and enduring objectives that, in both geographical areas, would finally break through.

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APPENDIX: CONSTITUTION OF THE REPUBLIC OF PHILIPPINES OF 1899 (MALOLOS CONVENTION)

PREAMBLE

We, the Representatives of the Filipino people, lawfully convened, in order to establish justice, provide for common defense, promote the general welfare, and insure the benefits of liberty, imploring the aid of the Sovereign Legislator of the Universe for the attainment of these ends, have voted, decreed, and sanctioned the following:

POLITICAL CONSTITUTION

TITLE I THE REPUBLIC

Article 1. The political association of all Filipinos constitutes a nation, whose state shall be known as the Philippine Republic

Article 2. The Philippine Republic is free and independent

Article 3. Sovereignty resides exclusively in the people.

TITLE II THE GOVERNMENT

Article 4. The Government of the Republic is popular, representative, alternative, and responsible, and shall exercise three distinct powers: namely, the legislative, the executive, and the judicial. Any two or more of these three powers shall never be united in one person or cooperation, nor the legislative power vested in one single individual.

TITLE III RELIGION

Article 5. The State recognizes the freedom and equality of all religions, as well as the separation of the Church and the State.

TITLE IV THE FILIPINOS AND THEIR NATIONAL AND INDIVIDUAL RIGHTS

Article 6. The following are Filipinos:

1. All persons born in the Philippine territory. A vessel of Philippine registry is considered, for this purpose, as part of Philippine territory.

2. Children of a Filipino father or mother, although born outside of the Philippines.

3. Foreigners who have obtained certification of naturalization.

4. Those who, without such certificate, have acquired a domicile in any town within Philippine territory.

It is understood that domicile is acquired by uninterrupted residence for two years in any locality within Philippine territory, with an open abode and known occupation, and contributing to all the taxes imposed by the Nation. The condition of being a Filipino is lost in accordance with law.

Article 7. No Filipino or foreigner shall be detained nor imprisoned except for the commission of a crime and in accordance with law.

Article 8. All persons detained shall be discharged or delivered to the judicial authority within 24 hours following the act of detention. All detentions shall be without legal effect, unless the arrested person is duly prosecuted within 72 hours after delivery to a competent court. The accused shall be duly notified of such proceeding within the same period.

Article 9. No Filipino shall be imprisoned except by virtue of an order by a competent court. The order of imprisonment shall be ratified or confirmed within 72 hours following the said order, after the accused has been heard.

Article 10. No one shall enter the dwelling house of any Filipino or a foreigner residing in the Philippines without his consent except in urgent cases of fire, inundation, earthquake or similar dangers, or by reason of unlawful aggression from within, or in order to assist a person therein who cries for help. Outside of these cases, the entry into the dwelling house of any Filipino or foreign resident in the Philippines or the search of his papers and effects can only be decreed by a competent court and executed only in the daytime. The search of papers and effects shall be made always in the presence of the person searched or of a member of his family and, in their absence, of two witnesses resident of the same place. However, when a criminal caught in fraganti should take refuge in his dwelling house, the authorities in pursuit may enter into it, only for the purpose of making an arrest. If a criminal should take refuge in the dwelling house of a foreigner, the consent of a latter must first be obtained.

Article 11. No Filipino shall be compelled to change his residence or domicile except by virtue of a final judgment.

Article 12. In no case may correspondence confided to the post office be detained or opened by government authorities, nor any telegraphic or telephonic message detained. However, by virtue of a competent court, correspondence may be detained and opened in the presence of the sender.

Article 13. All orders of imprisonment, of search of a dwelling house, or detention of written correspondence, telegraph or telephone, must be justified. When an order lacks this requisite, or when the grounds on which the act was founded is proven in court to be unlawful or manifestly insufficient, the person to be detained or whose imprisonment has not been ratified within the period prescribed in Art. 9, or whose correspondence has been detained, shall have the right to recover damages.

Article 14. No Filipino shall be prosecuted or sentenced, except by a judge or court of proper jurisdiction and according to the procedure prescribed by law.

Article 15. Except in the cases provided by the Constitution, all persons detained or imprisoned not in accordance with legal formalities shall be released upon his own petition or upon petition of another person. The law shall determine the manner of proceeding summarily in this instance, as

well as the personal and pecuniary penalties which shall be imposed upon the person who ordered, executed or to be executed the illegal detention or imprisonment.

Article 16. No one shall be temporarily or permanently deprived of rights or dstitured in his enjoyment thereof, except by virtue of judicial sentence. The officials who, under any pretext whatsoever, should violate this provision, shall be personally liable for the damages caused.

Article 17. No one shall be deprived of his property by expropriation except on grounds of public necessity and benefit, previously declared and justified by proper authorities, and indemnifying the owner thereof prior to expropriation.

Article 18. No one shall be obliged to pay any public tax which had not been approved by the National Assembly or by local popular governments legally so authorized, and which is not in the manner prescribed by the law.

Article 19. No Filipino who is in full enjoyment of his civil or political rights, shall be impeded in the free exercise of said rights.

Article 20. Neither shall any Filipino be deprived:

1. Of the right to freely express his ideas or opinions, orally or in writing, through the use of the press or other similar means.

2. Of the right of association for purposes of human life and which are not contrary to public morals; and lastly

3. Of the right to send petitions to the authorities, individually or collectively.

The right of petition shall not be exercised through any kind of armed force.

Article 21. The exercise of the rights provided for in the preceding article shall be subject to general provisions regulating the same.

Article 22. Crimes committed on the occasion of the exercise of rights provided for in this title, shall be punished by the courts in accordance with the laws.

Article 23. Any Filipino may establish and maintain institutions of learning, in accordance with the laws authorizing them. Public education shall be free and obligatory in all schools of the nation.

Article 24. Foreigners may freely reside in Philippine territory, subject to legal dispositions regulating the matter; may engage in any occupation or profession for the exercise of which no special license is required by law to be issued by the national authorities.

Article 25. No Filipino who is in full enjoyment of his political and civil rights shall be impeded in his right to travel freely abroad or in his right to transfer his residence or possessions to another country, except as to his obligations to contribute to military service or the maintenance of public taxes.

Article 26. No foreigner who has not been naturalized may exercise in the Philippines any office which carries with it any authority or jurisdictional powers.

Article 27. All Filipinos are obliged to defend his country with arms when called upon by law, and to contribute to the expenses of the State in proportion to his means.

Article 28. The enumeration of the rights provided for in this title does not imply the denial of other rights not mentioned.

Article 29. The prior authorization to prosecute a public official in the ordinary courts is not necessary, whatever may be the crime committed.

A superior order shall not exempt a public official from liability in the cases which constitute apparent and clear violations of constitutional precepts. In others, the agents of the law shall only be exempted if they did not exercise the authority.

Article 30. The guarantees provided for in Articles 7, 8, 9, 10, and 11 and paragraphs 1 and 2 of Article 20 shall not be suspended, partially or wholly, in any part of the Republic, except temporarily and by authority of law, when the security of the State in extraordinary circumstances so demands.

When promulgated in any territory where the suspension applies, there shall be a special law which shall govern during the period of the suspension, according to the circumstances prevailing.

The law of suspension as well as the special law to govern shall be approved by the National Assembly, and in case the latter is in recess, the Government shall have the power to decree the same jointly with the Permanent Commission, without prejudice to convoking the Assembly without the least delay and report to it what had been done.

However, any suspension made shall not affect more rights than those mentioned in the first paragraph of this Article nor authorize the Government to banish or deport from the Philippines any Filipino.

Article 31. In the Republic of the Philippines, no one shall be judged by a special law nor by special tribunals. No person or corporation may enjoy privileges or emoluments which are not in compensation for public service rendered and authorized by law. War and marine laws shall apply only for crimes and delicts which have intimate relation to military or naval discipline.

Article 32. No Filipino shall establish laws on primogeniture, nor institutions restrictive of property rights, nor accept honors, decorations, or honorific titles or nobility from foreign nations without the consent of the Government. Neither shall the Government establish in the Republic institutions mentioned in the preceding paragraph, nor confer honors, decorations, or honorific titles of nobility to any Filipino.

The Nation, however, may reward by special law approved by the Assembly, conspicuous services rendered by citizens of the country.

TITLE V THE LEGISLATIVE POWER

Article 33. Legislative power shall be exercised by an Assembly of Representatives of the Nation.

This Assembly shall be organized in the form and manner determined by law.

Article 34. The Members of the Assembly shall represent the who nation and not exclusively the electors who elected them.

Article 35. No representative shall receive from his electors any imperative mandate whatsoever.

Article 36. The Assembly shall meet every year. The President of the Republic has the right to convoke it, suspend and close its sessions, and dissolve the same, within the periods prescribed by law enacted by the Assembly or by the Permanent Commission.

Article 37. The Assembly shall be open at least three months each year, without including in this period the time spent in its organization.

The President of the Republic shall convoke the Assembly, not later than the 15th day of April.

Article 38. In extraordinary cases, he may convoke the Assembly outside of the period fixed by law, as determined by the Permanent Commission, and prolong its law-making, provided the extended period does not exceed one month and provided further that such extensions do not take place more than twice during the same legislative term.

Article 39. The National Assembly, jointly with the special Representatives, shall organize committees for the organization of the Assembly and for the election of the new President of the Republic, which shall be formed at least one month before the expiration of the term of office of the Representatives.

In case of death or resignation of the President of the Republic, the Assembly shall meet in session by its own right or by initiative of the President or of the Permanent Commission.

Article 40. In the meantime that the new President has not been chosen, his functions shall be exercised by the Chief Justice of the Supreme Court whose office shall be taken over by one of the Justices of the Court, in accordance with law.

Article 41. Any session of the Assembly held outside the period of ordinary legislature shall be unlawful and void. The case provided in Article 30 and in which the Assembly has constituted itself into a Tribunal of Justice shall be excepted, but in the latter case no other functions shall be exercised except that pertaining to judicial functions.

Article 42. The sessions of the Assembly shall be public. However, sessions may be held in secret upon petition of a certain number of its members

fixed by the Rules, deciding afterwards by an absolute majority of votes of the members present if the discussion on the same subject has to continue in public.

Article 43. The President of the Republic shall communicate with the Assembly by means of messages, which shall be read by a Department Secretary.

The Department Secretaries shall have the right to be heard in the Assembly, upon their request, and they may be represented in the discussion of certain bills by Commissioners appointed by decrees of the President of the Republic.

Article 44. The Assembly may constitute itself into a Tribunal of Justice to hear and determine crimes committed against the security of the State by the President of the Republic and members of the Council of Government, by the Chief Justice of the Supreme Court, and by the Solicitor General of the Nation, by means of a decree promulgating it, or by the Permanent Commission, or by the President of the Republic upon petition of the Solicitor General or Council of Government.

The law shall determine the mode and manner of the accusation, instruction, and disposition of the proceedings.

Article 45. No member of the Assembly shall be prosecuted nor held accountable for the opinions expressed by him, nor by the vote taken by him in the discharge of his office.

Article 46. No member of the Assembly shall be prosecuted criminally without authority of the Assembly or of the Permanent Commission to which an immediate report of the facts shall be made, for its proper action.

The imprisonment, detention, or apprehension of a member of the Assembly shall not be carried out without the prior authority of the same or by the Permanent Commission. The moment the Assembly is notified of the order of imprisonment, it shall incur liability if, within two days following the notification, it does not authorize the imprisonment or give sufficient reason upon which the refusal is based.

Article 47. The National Assembly shall have the following additional powers:

1. To approve Rules for its internal government.
2. To examine the legality of the elections and the legal qualifications of the elected members.
3. To elect its President, Vice-Presidents, and Secretaries.

Until the Assembly has been dissolved, the President, Vice-Presidents, and Secretaries shall continue to exercise their office for the period of four legislative terms; and

4. To accept the resignations of its members and grant privileges in accordance with the Rules.

Article 48. No bill shall become law without having been voted on by the Assembly. To approve a bill, the presence in the Assembly of at least one-fourth of the total number of the members whose elections have been duly approved and taken the oath of office shall be necessary.

Article 49. No bill shall be approved by the Assembly until after it has been voted upon as a whole and subsequently article by article.

Article 50. The Assembly shall have the right of censure, and each of the members the right of interpellation.

Article 51. The initiative in the presentation of bills belongs to the President of the Republic and to the Assembly.

Article 52. Any member of the Assembly who accepts from the Government any pension, employment, or office with salary, is understood to have renounced his membership. From this shall be excepted the employment as Secretary of the Government of the Republic and other offices provided for by special laws.

Article 53. The office of Representatives shall be for a term of four years, and shall be compensated by a sum fixed by law, according to the circumstances.

Those who absent themselves during the entire period of the legislative sessions shall not be entitled to any compensation; but they may be allowed to recover the right to compensation should they attend subsequently.

TITLE VI THE PERMANENT COMMISSION

Article 54. The Assembly, before adjournment, shall elect seven of its members to form the Permanent Commission during the period of adjournment, which shall designate at its first session, the President and the Secretary.

Article 55. The Permanent Commission, during the adjournment of the Assembly, shall have the following attributes:

1. Declare if there is sufficient cause to proceed against the President of the Republic, the Representatives, Department secretaries, the Chief Justice of the Supreme Court, and the Solicitor-General in the cases provided by this Constitution.
2. Convoke the Assembly to a special session in the cases where the latter should constitute itself into a Tribunal of Justice.
3. To act upon pending matters which require proper action.
4. Convoke the Assembly in special sessions when the exigencies of the situation so demand.
5. Supplement the powers of the Assembly in accordance with the Constitution, excepting the act of voting and approving laws.

The Permanent Commission shall meet in session whenever convoked by the presiding officer, in accordance with this Constitution.

TITLE VII THE EXECUTIVE POWER

Article 56. The Executive Power shall be vested in the President of the Republic, who shall exercise it through his Department Secretaries.

Article 57. The administration of the particular interests of towns, provinces, and of the State shall correspond, respectively, to the Popular Assemblies, the Provincial Assemblies, and to the Administration in power, in accordance with the laws, and observing the most liberal policy of decentralization and administrative autonomy.

TITLE VIII THE PRESIDENT OF THE REPUBLIC

Article 58. The President of the Republic shall be elected by absolute majority of votes by the Assembly and by the special Representatives, convened in chamber assemblies. His term of office shall be four years, and may be reelected.

Article 59. The President of the Republic shall have the right to initiate the introduction of bills equally with the members of the Assembly, and promulgate the laws when duly voted and approved by the latter, and shall see to it that the same are duly executed.

Article 60. The power to execute the laws shall extend to all cases conducive to the preservation of internal public order and to the external security of the State.

Article 61. The President shall promulgate the laws duly approved by him within 20 days following their transmittal to him by the Assembly.

Article 62. If within this period, the President should fail to promulgate them, he shall return them to the Assembly with his reasons for the return, in which case the Assembly may reconsider same, and it shall be presumed by a vote of at least two-thirds of the members of the Assembly present in a quorum. If repassed in the manner indicated, the Government shall promulgate same within ten days, with a manifestation of its non-conformity. The obligation is imposed upon the Government if it allows twenty days to elapse without returning the bill to the Assembly.

Article 63. When the promulgation of a law has been declared urgent by express will of an absolute majority of votes of the Assembly, the President of the Republic may require the Assembly to re-approve same which cannot be refused, and if the same bill is repassed, the President shall promulgate it

within the legal period, without prejudice to his making of record his non-conformity with the bill.

Article 64. The promulgation of laws shall be made by publishing them in the official gazette of the Republic, and shall have the force of law thirty days following such publication.

Article 65. The President of the Republic shall have at his disposal the army and the navy, and may declare war and make and ratify treaties with the prior consent of the Assembly.

Article 66. Treaties of peace shall not take effect until voted upon by the Assembly.

Article 67. The President of the Republic, in addition to his duty to execute the laws, shall:

1. Supervise civil and military employees in accordance with the laws.
2. Appoint the Secretaries of the Government.
3. Direct the diplomatic and commercial relations with foreign powers.
4. See to it that justice is duly and promptly administered throughout the Philippines.

5. Grant pardon to convicted criminals in accordance with the laws, except any special provision relating to the Secretaries of the Government.

6. Preside over all national functions and receive ambassadors and accredited representatives of foreign powers.

Article 68. The President of the Republic may be authorized by special law:

1. To alienate, transfer or exchange any portion of Philippine territory.
2. To incorporate any other territory to the Philippine territory.
3. To admit the stationing of foreign troops in Philippine territory.
4. To ratify of alliance, defensive as well as offensive, special treaties of commerce, those which stipulate to grant subsidies to a foreign power, and those which may compel Filipinos to render personal service.

Secret treaties in no case may prevail over the provisions of open treaties or treaties made publicly.

5. To grant general amnesties and pardons.

6. To coin money.

Article 69. To the President belongs the power to issue regulations for the compliance and application of the laws in accordance with the requisites prescribed in said laws.

Article 70. The President of the Philippines, with the prior approval by majority vote of the Representatives, may dissolve the Assembly before the expiration of its legislation term. In this case, new elections shall be called within three months.

Article 71. The President of the Republic may be held liable only for cases of high treason.

Article 72. The salary of the President of the Republic shall be fixed by special law which may not be changed except after the presidential term has expired.

TITLE IX THE SECRETARIES OF GOVERNMENT

Article 73. The Council of Government is composed of one President and seven secretaries, each of whom shall have under his charge the portfolios of Foreign Relations, Interior, Finance, War and Marine, Public Education, Communications and Public Works, and Agriculture, Industry, and Commerce.

Article 74. All the acts done by the President of the Republic in the discharge of his duties shall be signed by the corresponding Secretary. No public official shall give official recognition to any act unless this requisite is complied with.

Article 75. The Secretaries of Government are jointly responsible to the Assembly for the general administration of the Government, and individually for their respective personal acts.

Article 76. In order to exempt them from responsibility, when held guilty by the Assembly, a petition to this effect approved by absolute majority of the Representatives is necessary.

TITLE X THE JUDICIAL POWER

Article 77. To the Court corresponds exclusively the power to apply the laws, in the name of the Nation, in all civil and criminal trials. The same codes of laws shall be applied throughout the Republic, without prejudice to certain variations according to circumstances as determined by law. In all trials, civil, criminal, and administrative, all citizens shall be governed by one code of laws and procedure.

Article 78. The courts of justice shall not apply general local regulations, except when they conform to the laws.

Article 79. The exercise of judicial power shall be vested in one Supreme Court and in other courts established by law. Their composition, organization, and other attributes shall be determined by the laws creating them.

Article 80. The Chief Justice of the Supreme Court and the Solicitor-General shall be chosen by the National Assembly in concurrence with the President of the Republic and the Secretaries of the Government, and shall be absolutely independent of the Legislative and Executive Powers.

Article 81. Any citizen may file suit against any member exercising the Judicial Power for any crime committed by them in the discharge of their office.

TITLE XI PROVINCIAL AND POPULAR ASSEMBLIES

Article 82. The organization and attributes of provincial and popular assemblies shall be governed by their respective laws. These laws shall conform to the following principles:

1. The government and management of the particular interests of the province or town shall be discharged by their respective corporations, the principle of direct and popular elections being the basis underlying each of them.
2. Publicity of their sessions, within the limits provided by law.
3. Publication of all appropriations, accounts, and agreements affecting same.
4. Government interference and, in the absence thereof, by the National Assembly, to prevent provinces and municipalities exceeding their powers and attributes to the prejudice of the interest of individuals and of the Nation at large.
5. Power of taxation shall be exercised to the end that provincial and municipal taxation do not come into conflict with the power of taxation of the State.

TITLE XII ADMINISTRATION OF THE STATE

Article 83. The Government shall submit every year to the Assembly a budget of expenditures and income, indicating the changes made from those of the preceding year, accompanying the same with a balance sheet as of the end of the year, in accordance with law. This budget shall be submitted to the Assembly within ten days following the commencement of its session.

Article 85. The Government, in order to dispose of the property and effects of the State, and to borrow money secured by mortgage or credit of the Nation, must be authorized by special law.

Article 86. Public debts contracted by the Government of the Republic, in accordance with the provisions of this Constitution, shall be under the special guarantee of the Nation.

No debt shall be contracted unless the means of paying the same are voted upon.

Article 87. All laws relating to income, public expenses, or public credits shall be considered as part of the appropriation and shall be published as such.

Article 88. The Assembly shall determine every year, upon the recommendation of the President of the Republic, the military forces by land and sea.

TITLE XIII AMENDMENT OF THE CONSTITUTION

Article 89. The Assembly, on its own initiative or that of the President of the Republic, may propose amendments to the Constitution, indicating what Article or Articles are to be amended.

Article 90. This proposal having been made, the President of the Republic shall dissolve the Assembly, and shall convoke a Constituent Assembly which shall meet within three months. In the decree convoking the Constituent Assembly, the resolution mentioned in the preceding Article shall be inserted.

TITLE XIV CONSTITUTIONAL OBSERVANCE, OATH, AND LANGUAGE

Article 91. The President of the Republic, the Government, the Assembly, and all Filipino citizens shall faithfully observe the provisions of the Constitution; and the Legislative Power, upon approval of the Appropriations Act, shall examine if the Constitution has been strictly complied with and whether violations, if any, have been duly corrected and those responsible for the violations held liable.

Article 92. The President of the Republic and all other officials of the Nation shall not enter into the discharge of their office without having taken the prescribed oath. The oath of the President of the Republic shall be taken before the National Assembly. The other officials of the Nation shall take their oath before the authorities determined by law.

Article 93. The use of languages spoken in the Philippines shall be optional. Their use cannot be regulated except by virtue of law, and solely for acts of public authority and in the courts. For these acts the Spanish language may be used in the meantime.

TRANSITORY PROVISIONS

Article 94. Meanwhile and without prejudice to the provisions of Article 48 and to the acts of the commissions designated by the Assembly to translate and submit to the same the organic laws in the development and application of the rights granted to Filipino citizens and for the government of public powers therein mentioned, the laws of the Republic shall be considered those found existing in these islands before the emancipation of the same.

The provisions of the Civil Code relating to marriage and civil registry, suspended by the Governor General of these islands; the Instructions of April 26, 1888 to carry into effect Articles 77, 78, 79, and 82 of said Code; the law on civil registry of June 17, 1870 which refers to Article 332 of the same, and the Regulation of December 13 following for the enforcement of this law, without prejudice to the Chiefs of towns continuing to be in charge of inscriptions in the civil registry and intervening in the celebration of marriage between Catholics, shall also be deemed in force and effect.

Article 95. In the meantime that the laws referred to in the preceding Article have not been approved or enforced, the Spanish laws which said article allows to be enforced provisionally may be amended by special law.

Article 96. Once the laws approved by the Assembly have been promulgated in accordance with Article 94, the Article 94, the Government of the Republic shall have the power to issue decrees and regulations necessary for the immediate organization of the various organs of the State.

Article 97. The present President of the Revolutionary Government shall assume later the title of President of the Republic and shall discharge the duties of this office until the Assembly when convoked proceeds to the election of one who shall definitely exercise the duties of the office.

Article 98. The present Congress, composed of members by suffrage or by decree, shall last for four years, or for the duration of the present legislative term commencing on the 15th of April of next year.

Article 99. Notwithstanding the general rule established in part 2 of Article 4, in the meantime that the country is fighting for its independence, the Government is empowered to resolve during the closure of the Congress all questions and difficulties not provided for in the laws, which give rise to unforeseen events, of which the Permanent Commission shall be duly apprised as well as the Assembly when it meets in accordance with this Constitution.

Article 100. The execution of Article 5, Title III shall be suspended until the constituent Assembly meets in session. In the meantime, municipalities which require spiritual ministry of a Filipino priest may provide for his necessary maintenance.

Article 101. Notwithstanding the provisions of Articles 62 and 63, bills returned by the President of the Republic to the Congress may not be repassed except in the legislature of the following year, this suspension being under the responsibility of the President and his Council of Government. When these conditions have been fulfilled, the promulgation of said laws shall be obligatory within ten days, without prejudice to the President making of record his non-conformity. If the reapproval is made in subsequent legislative terms, it shall be deemed law approved for the first time.

ADDITIONAL ARTICLE

All the estates, edifices, and other property possessed by the religious corporations in these islands shall be deemed restored to the Philippine State as of May 24, 1898 when the Dictatorial Government has been constituted in Cavite.

BARASOAIN, the twentieth of January, 1899.