

ORGANIZATION OF THE GOVERNMENT OF THE
REPUBLIC OF PANAMA.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING,

IN RESPONSE TO A RESOLUTION OF THE SENATE OF FEBRUARY 18, 1904, A REPORT OF THE SECRETARY OF STATE TOGETHER WITH A TRANSLATION OF THE DRAFT OF THE CONSTITUTION OF THE REPUBLIC OF PANAMA, AS SUBSTANTIALLY ADOPTED FEBRUARY 14, 1904.

FEBRUARY 24, 1904.—Read; referred to the Committee on Foreign Relations and ordered to be printed.

To the Senate:

In response to the resolution of the Senate of February 18, 1904, as follows:

Resolved, That the President is requested, if not incompatible with the public interests, to send to the Senate such information as is in possession of the Government of the United States as to the present state of organization of the government of the Republic of Panama.

And a copy of the constitution of said Republic, or such information as to the provisions thereof as may have been received by him.

And that he will inform the Senate as to any ordinance or other proceeding of the constitutional convention, recently in session at Panama, relating to the Hay-Varilla treaty now pending in the Senate.

I transmit herewith a report from the Secretary of State on the subject.

THEODORE ROOSEVELT.

WHITE HOUSE, *February 24, 1904.*

The PRESIDENT:

The undersigned, Secretary of State, to whom was referred the resolution of the Senate of the United States adopted February 18, 1904, in the following words:

Resolved, That the President is requested, if not incompatible with the public interests, to send to the Senate such information as is in possession of the Government of

the United States as to the present state of organization of the Government of the Republic of Panama.

And a copy of the constitution of said Republic, or such information as to the provisions thereof as may have been received by him.

And that he will inform the Senate as to any ordinance, or other proceeding of the Constitutional Convention, recently in session at Panama, relating to the Hay-Varilla treaty now pending in the Senate,

has the honor to report to the President:

The accompany translation of the draft of the constitution of the Republic of Panama, as substantially adopted February 14 instant, serves to show the permanent form to be given to the Government of the Republic of Panama.

The present state of organization of the Government of the Republic of Panama is republican in form, consisting of a President, Amador; a first vice-president, Arosemena; a second vice-president, Obaldia; and a third vice-president, Carlos Mendoza—elected in conformity with article 132 of the constitution, by a majority of the convention.

By article 134 of the constitution all the acts of the board of provisional government done since the 3d of November, 1903, until January 15, 1904, are expressly ratified.

No ordinance or other proceeding of the constitutional convention has been made in relation to the treaty for the construction of an interoceanic canal which was signed November 18, 1903. The constitutional convention of Panama did not exercise any legislative functions pending the formation and adoption of the constitution. The constitution itself, however, contains the following provisions:

ART. 3. The territory of the Republic is composed of all the territory from which the State of Panama was formed by the amendment to the Granada constitution of 1853, on February 27, 1855, and which was transformed in 1886 into the Department of Panama, together with its islands, and of the continental and insular territory which was adjudged to the Republic of Colombia in the award made by the President of the French Republic, with the jurisdictional limitations stipulated or which in the future may be stipulated in treaties or conventions concluded or which in the future may be concluded with the United States of America concerning the construction, maintenance, protection, or sanitation of any means of interoceanic transit.

ART. 131. The Government of the United States of America may intervene in any part of the Republic of Panama to reestablish public peace and constitutional order in the event of their being disturbed, provided that that nation should, by treaty or convention, assume or have assumed the obligation of guaranteeing the independence and sovereignty of this Republic.

Respectfully submitted.

JOHN HAY.

DEPARTMENT OF STATE,
Washington, February 23, 1904.

LEGATION OF THE UNITED STATES,
Panama, February 11, 1904.

SIR: I have the honor to inclose herewith for the Department files a copy of the project of the constitution of the Republic of Panama as it stood at the close of the second reading in the constitutional convention on February 1.

I have the honor to be, very respectfully, your obedient servant,

WM. I. BUCHANAN.

Hon. JOHN HAY,
Secretary of State, Washington, D. C.

DRAFT OF A CONSTITUTION.

We, the representatives of the people of Panama, assembled in national convention for the purpose of constituting the nation, maintaining order, guaranteeing justice, promoting the general welfare, and securing the benefits of liberty for ourselves, our posterity, and all men who may inhabit Panama soil, invoking the protection of God, do ordain, decree, and establish for the Panama nation the following constitution:

TITLE.

ART. 1. The people of the Isthmus of Panama hereby constitute themselves an independent and sovereign nation, ruled by a republican and democratic government, and which shall be called the Republic of Panama.

ART. 2. The sovereignty resides in the nation, which shall exercise it through its representatives in the manner established by this constitution and under the conditions therein expressed.

ART. 3. The territory of the Republic is composed of all the territory from which the State of Panama was formed by the amendment to the Granada constitution of 1853, on February 27, 1855, and which was transformed in 1886 into the Department of Panama, together with its islands, and of the continental and insular territory which was adjudged to the Republic of Colombia in the award made by the President of the French Republic, with the jurisdictional limitation stipulated or which in the future may be stipulated in treaties or conventions concluded or which in the future may be concluded with the United States of America, concerning the construction, maintenance, protection, or sanitation of any means of interoceanic transit.

§ The boundaries with the Republic of Colombia shall be determined by public treaties.

ART. 4. The territory of the Republic of Panama is divided into provinces, and the latter into townships. The National Assembly may increase or decrease the number of the former and of those now existing, going through the formalities fixed by law.

TITLE.—*Natives and denizens.*

ART. 5. The following are Panamans:

1. All those who were born or who may be born in the territory of Panama, whatever be the nationality of their parents.

2. Children of Panaman mother or father who were born in another territory, provided they take up their domicile in the Republic and express their willingness to become Panamans.

3. Foreigners who, professing some science, art, or industry, or owing to some real estate or capital in circulation, declare, before the municipal government of the territory in which they reside, their intention of becoming citizens of Panama and who have completed ten years of residence in the territory of the Republic. Six years of residence will suffice if they are married and have a family in Panama, and three years if they are married to a Panaman woman.

4. Colombians who, having participated in the achievement of the independence of the Republic of Panama, have declared their willingness to become Panamans or so declare.

ART. 6. Foreigners shall enjoy the same rights in Panama as are granted to Panamans by the laws of the nation to which foreigners belong, except as to what may be stipulated in public treaties.

ART. 7. Panaman nationality is lost—

1. By taking out naturalization papers in a foreign country and establishing domicile there.

2. By accepting employment or honors from another Government without the permission of the President of the Republic.

3. Being born a Panaman, by refusing to indorse the movement for the independence of the nation.

4. For having pledged one's self to the service of a hostile nation. Nationality can only be restored by act of the national assembly.

ART. 8. It is the duty of all Panamans to serve the nation as prescribed by law, and it is both their duty and that of foreigners to live in subjection to the constitution and the laws, and to respect and obey the authorities.

ART. 9. Foreigners who become naturalized or domiciled in Panama will not be obliged to take up arms against the land of their birth.

ART. 10. All Panamans over twenty-one years of age are citizens of the Republic.

ART. 11. Citizenship consists in the right of electing to public positions filled by popular vote and in the capacity to hold public office with authority and jurisdiction.

ART. 12. Citizenship once acquired is only lost:

1. As a penalty in accordance with the law, but rehabilitation can be obtained through the National Assembly.

2. By having lost Panaman nationality according to the national constitution.

ART. 13. The rights of citizenship are suspended:

1. When a citizen is lawfully imprisoned.

2. When he does not lawfully enjoy the free management of his property.

3. For habitual drunkenness.

ART. 14. Ministers of the various religious denominations shall not hold any office, employment, or public trust in the Republic, whether personal, civil, or military, excepting such positions as are connected with charity or public instruction.

TITLE.—*Civil rights and social guarantees.*

ART. 15. The authorities of the Republic are constituted for the purpose of protecting all persons in their lives, their honor, and their property, and of insuring the mutual respect of natural, constitutional, and legal rights.

ART. 16. Private persons are not amenable before the authorities except for violation of the constitution and of the laws. Public officials are amenable for the same cause, for exceeding their authority, or for dereliction in the performance of their duties.

ART. 17. In case of flagrant violation of a constitutional precept to the detriment of any person, an order from a superior will not exempt from responsibility the agent executing it.

ART. 18. Privates of the army, while on duty, are excepted from this provision, the responsibility falling solely upon the hierarchic superior who gives the order.

ART. 19. All Panamans and resident foreigners are equal before the law. There will be neither public nor private privileges.

ART. 20. No law shall have a retroactive effect, except penal laws when they are favorable to the offender or the accused.

ART. 21. No one shall be tried or sentenced except by competent judges or courts, in accordance with laws existing prior to the crime committed, and in the form established by these laws.

ART. 22. No one shall be molested in his person or family, or be placed in prison or under arrest, or detained, or have his home searched, except by virtue of a warrant issued by a competent authority, with the legal formalities and a cause previously defined in the laws.

In no case shall there be detention, imprisonment, or arrest for debts or purely civil obligations, except that a party may be restrained by judicial order from leaving the country until he has answered the charge against him.

ART. 23. Any person who is detained or imprisoned without the legal formalities, or except in the cases prescribed in this constitution or in the laws, shall be set at liberty upon his own request or that of any other person. The law shall determine the form of this summary proceeding.

ART. 24. No one is obliged to testify against himself or against his consort, or against any member of his family within the fourth degree of consanguinity or the second of affinity.

ART. 25. The law may impose the death penalty only for the crime of murder when it is of an atrocious character. This, while there are no good penal establishments or real penitentiaries in the Republic.

ART. 26. Rights acquired in accordance with the laws shall not be encroached upon or disregarded by subsequent laws.

When the application of a law enacted for reasons of public utility interferes with the rights of private persons, the private interests shall yield to the public interests. If, however, it becomes necessary to make expropriations, full indemnification must be first granted.

ART. 27. Obligations of a civil character arising from contracts or other acts, deeds, or omissions which produce them can not be altered or annulled by either the executive or the legislative power.

ART. 28. No one shall be deprived of his property, either in whole or in part, except as a penalty or by general taxation according to the laws.

For grave reasons of public utility, defined by the legislator, there may take place a forcible alienation of property or of rights by judicial order, but the payment of the declared value should be made before the owner is dispossessed of them.

ART. 29. The penalty of confiscation of property shall not be imposed in any case.

ART. 30. No one is obliged to pay a tax or duty which has not been legally established and which is not collected in the manner prescribed by the laws.

ART. 31. There shall be no official monopolies. Those now existing shall continue until the expiration of their respective contracts, unless it is possible to reach equitable agreements with the concessionaries for their immediate termination.

ART. 32. Every author or inventor shall enjoy the exclusive ownership of his work or invention during the time and in the manner prescribed by law.

ART. 33. The destination of gifts made *inter vivos* or by testament, in conformity with the laws, for objects of charity or public instruction, shall not be changed or modified by the legislator.

ART. 34. There shall be no real estate which is incapable of being freely alienated, nor any irredeemable obligations.

ART. 35. The profession of all religions is free, as is also the practice of all forms of worship, without any other restriction than respect for Christian morality and public order. It is recognized, however, that the Catholic religion is that of the majority of the inhabitants of the Republic, and the law provides that it shall be aided in founding a theological seminary in the capital and in sending missions to the savage tribes.

ART. 36. Every person may freely express his opinion without being first subject to censorship, either orally or in writing, by means of the press or by any other process, provided always that he refers to the official acts of public functionaries.

Legal responsibility will, however, be incurred when the honor of persons is assailed by any of these means.

ART. 37. Correspondence and other private documents are inviolable, and neither the former nor the latter shall be seized or examined except by direction of a competent judicial authority, and with the formalities prescribed by law. In all cases secrecy shall be maintained with regard to matters having no bearing on the object of the seizure or examination.

ART. 38. All the inhabitants of the Republic have the right to assemble peacefully and unarmed, and to form associations for all the legitimate purposes of life.

ART. 39. Every person may travel within the boundaries of the Republic and change residence without the necessity of a permit, passport, or other similar requisite, except as to what the laws prescribe with regard to the judicial orders of restraint and concerning immigration.

ART. 40. Every person may exercise any honorable trade or occupation without the necessity of belonging to a trades union or professional association.

The authorities shall exercise supervision over the industries and professions as regards public morality, safety, and health. It is necessary to possess a diploma of fitness in order to practice the medical professions and their auxiliary branches.

ART. 41. Primary instruction shall be both gratuitous and compulsory. There shall also be schools of arts and trades and institutions of secondary and professional instruction under Government control.

The law may decentralize public instruction and shall assign to it special revenues.

ART. 42. The National Government alone may import and manufacture arms and munitions of war.

ART. 43. Every person has the right to present respectful petitions to the authorities, for motives of either public or private interest, and to receive a prompt reply.

ART. 44. There shall be no slaves in Panama. He who is a slave, and sets foot on the territory of the Republic, shall be free.

ART. 45. Games of fortune and chance shall not be permitted in the territory of the Republic. The law shall enumerate them.

ART. 46. Prisons are places of security and expiation, and not of cruel punishment; consequently all severity which is not necessary for the custody and correction of the prisoners is forbidden.

ART. 47. Legitimate public corporations are entitled to be recognized as legal personalities, and, as such, to perform civil acts and enjoy the guarantees insured under this head, with the general limitations established by the laws for the sake of the general welfare.

ART. 48. The laws shall determine everything relating to the civil (social) status of persons, together with the rights and duties connected therewith.

ART. 49. The laws shall fix the degree of responsibility which officials of any class incur by encroaching on the rights guaranteed under this title.

ART. 50. In case a proposed law is objected to as unconstitutional by the Executive, and the National Assembly insists on its adoption, it shall be referred to the supreme court of justice, which shall decide finally as to its feasibility. If this court decides in the affirmative the Executive shall be obliged to sanction the law.

TITLE.—*Suffrage.*

ART. 51. The individual rights recognized and guaranteed in Arts. 22, 23, 28, 36, 37, and 39 may be temporarily suspended in all or in part of the Republic, when the safety of the State requires it, in case of foreign war or internal commotion which threatens the public peace.

This suspension shall be decreed by the National Assembly if it is in session; if, however, it is not in session and the danger is imminent, the President of the Republic may order the suspension by means of a decree signed by all his secretaries or ministers. In this case the President will immediately convoke the National Assembly in extraordinary session, in the same decree of suspension, in order to explain to it the reasons which led to the suspension.

ART. 52. All citizens over 21 years of age are entitled to exercise the right of suffrage, except those who may be under a judicial interdiction and those who are judicially disfranchised on account of crime.

The law may provide that certain elections be held in two grades, and, in this case, it shall determine the qualifications of the electors of the second grade.

ART. 53. The laws shall fix the degree of responsibility incurred by public officials who, by their acts, encroach on the rights recognized in this title.

TITLE.

ART. 54. The Government of the Republic is divided into three powers (branches) to wit, the legislative, the executive, and the judicial power.

ART. 55. The legislative power is exercised by a body called the National Assembly, composed of as many Deputies as correspond to the electoral districts, at the rate of one for every ten thousand inhabitants and one in addition for a remainder of not less than five thousand. The Deputies are elected for a period of four years, half of their number being renewed at a time, in the manner prescribed by law.

There shall be substitutes to take the place of the regular incumbents in case they fail to appear absolutely or temporarily.

ART. 56. The Deputies to the National Assembly must be citizens who have attained the age of 25 years and are in the full enjoyment of their civil and political rights.

ART. 57. The National Assembly shall meet, without the necessity of a call, in the capital of the Republic, every two years, on the first day of September.

TITLE.

ART. 58. The following are legislative functions of the National Assembly:

1. To establish the imposts, taxes, and revenues necessary to carry on the public service.
2. To make appropriations for the expenses of the administration, on the basis of the estimates presented by the Executive, conforming or not to said estimates.
3. To decree the alienation of property, or its devotion to public uses.
4. To determine the standard, weight, value, form, stamp, and denominations of the national money and regulate the system of weights and measures.
5. To determine the flag and the escutcheon of the Republic.
6. To examine, in every ordinary session, the account of the estimates and the treasure which the Executive presents to it.
7. To declare war, and to authorize the Executive to make peace.
8. To designate the place where the supreme branches of the Government are to be located.
9. To issue national codes and the laws necessary for the regulation of all the administrative branches of the Government, to revise them, and to repeal them.
10. To enact such laws as shall be necessary for taking the census of the population and gathering national statistics.
11. To organize the national police.
12. To fix the regular numerical strength in time of peace.
13. To create or abolish positions, and to specify the functions, duties, and powers connected therewith; to fix the terms of the employees, and to designate their salaries, and to increase, diminish, or suppress the latter.
14. To promote and foster public education, as well as the progress of sciences and arts.
15. To acknowledge the national debt and regulate the service connected with it.
16. To organize the public credit.
17. To grant (amnesties), but when they are granted, without civil liability with respect to private persons, the Republic shall be obliged to pay such indemnities as may arise.
18. To grant or refuse its approval to public treaties and agreements which the Executive may negotiate; without such approval they can neither be ratified nor exchanged.
19. To establish and vary the division of the Republic into electoral districts.
20. To grant authority to the Executive to conclude treaties, negotiate loans, alienate national property, and exercise other functions within the limits of the constitution.

21. To approve or disapprove contracts or agreements made by the President of the Republic with private persons, companies, or political entities in which the nation may be interested; if they should not have been previously authorized, or if the formalities prescribed by the National Assembly should not have been observed, or if any of the clauses therein should not be consistent with the appropriate empowering law.

22. To order by decree the execution of public works that may have to be undertaken or continued and the construction of buildings that may have to be erected at national expense.

23. To define and regulate the setting aside or granting of public lands.

24. To promote useful or beneficent enterprises worthy of furtherance and support.

ART. 59. The judicial functions of the National Assembly are:

1. To take cognizance of charges and complaints lodged against the President or the "designado" in charge of the executive power in cases involving their responsibility, the ministers or secretaries of state, the justices of the supreme court, and the attorney of the Republic.

2. To try the President of the Republic, or person in charge of the executive power, in accordance with this constitution, the ministers or secretaries of a department, the justices of the supreme court of justice, and the attorney-general of the nation, when charged with acts performed against the safety of the State, against the free operation of the public powers, or in violation of the national constitution.

The procedure to be followed in such cases and the penalty applicable thereto shall be determined by law.

ART. 60. The executive functions of the National Assembly are—

1. To examine and finally close at each ordinary session the accounts of estimates and of the treasury that may be submitted to it by the executive power.

2. To appoint the members of the court of accounts.

3. To reinstate in their citizenship those who may have lost it.

4. To appoint commissions for the demarkation of boundaries with neighboring nations.

5. To inspect the credentials of its own members and decide whether the said credentials are in the form presented by law or not.

6. To call upon the secretaries of states for such oral or written reports as it may need.

7. To permit or refuse the sojourning of foreign war vessels in the ports of the Republic when the stay is longer than two months.

8. To elect at ordinary sittings and for a term of two years two "designados," who, in the absence of the President of the Republic, will exercise the executive power in the cases and order provided by law.

9. To accept or decline the resignations of their offices that may be tendered by the President of the Republic or the "designados."

10. To appoint a fiscal inspector of all the treasury offices of the Republic.

ART. 61. If for any reason whatever the appropriations act should not be passed by the National Assembly the former financial act will continue in force.

ART. 62. The National Assembly is inhibited—

1. From allowing by decree gratuities, indemnities, pensions, or

other expenditures that shall not be intended for the settlement of debts or rights recognized in accordance with the existing law.

2. From passing acts of proscription or persecution against any persons or corporations.

3. From passing resolutions of approval or censure regarding official acts; and

4. From offering to direct public officers.

TITLE.—*The enactment, sanction, and promulgation of the laws.*

ART. 63. Laws may originate in the National Assembly on the proposition of its members or of the secretaries of state.

ART. 64. No legislative act shall become law until it shall have received the approval of the National Assembly in three debates on separate days, a majority of the votes, and the sanction of the President of the Republic.

ART. 65. After its approval by the assembly a bill shall go over to the Government, and if the latter likewise approve it it will take steps to cause it to be promulgated as a law. If it should not approve the bill it shall return it to the assembly with a statement of its objections.

ART. 66. The President of the Republic may avail himself of a term of six days in which to return any bill with his objections when the said bill shall consist of not more than fifty articles; of ten days, when the bill contains from fifty-one to two hundred articles, and of fifteen days when there are more than two hundred articles.

ART. 67. If the President should, at the expiration of those terms, have failed to return the legislative act with his objections, he shall be held to sanction and promulgate it; but if the assembly should take a recess before the expiration of the said terms, it shall be the duty of the President to publish the bill whether approved or objected to within ten days after that on which the National Assembly may have closed its sessions.

ART. 68. Every law shall be promulgated within six days after it shall have been sanctioned.

ART. 69. Bills that remain pending in the sessions of one year shall not be again taken up except as new bills in another legislature.

ART. 70. All bills objected to in their entirety shall be returned to the Assembly for a third discussion; those objected to in part only will be reconsidered in second discussion for the sole purpose of taking the observations of the executive power into account.

ART. 71. Any bill objected to shall not become law unless it should upon its reconsideration receive two-thirds of the votes of the Deputies present at the debate.

ART. 72. If the executive power should fail in his duty of sanctioning the laws in the manner and under the conditions stipulated in this title they shall be sanctioned and published by the President of the Assembly.

ART. 73. The text of the laws shall begin with the following preamble: "The National Assembly of Panama decrees."

TITLE.

ART. 74. The executive power is exercised by a magistrate who shall be styled President of the Republic and have for the discharge of his office the number of secretaries that may be fixed by law. The

President shall enter upon the discharge of his constitutional functions on the first day of October following that of his election, and will remain in office for a term of four years.

The same law shall likewise determine the denomination and order of precedence of the secretaries of departments.

ART. 75. The requirements for the office of President of the Republic are—

1. To be a citizen of Panama by birth or naturalization, with a residence of more than twenty years in the Isthmus.
2. To be at least thirty-five years old.

ART. 76. The President-elect, or the person who may have to take his place, shall take possession of his office before the President of the Assembly and take the following oath: "I swear to God and to the country that I shall faithfully observe the constitution and the laws of the Republic."

ART. 77. If the President should be unable to take possession before the National Assembly he shall do so before the president of the supreme court of justice, and this failing before two witnesses.

ART. 78. The duties of the President of the Republic are—

1. To see to the maintenance of public order.
2. To see to it that the National Assembly shall meet on the day appointed by the constitution or by the resolution or decree by which extraordinary sessions may be called, and to take in good time the necessary measures for the payment to the Deputies of the mileage allowed them by law.
3. To submit at the beginning of each legislature and on the first day of its ordinary sessions a message relative to the affairs of the administration.
4. To submit within the first ten days of the session a general account of the appropriations and treasury expenditures for the preceding year and the financial bill of estimates of revenues and expenditures for the following year.
5. To furnish the assembly with such special reports as the latter may call for.
6. Freely to appoint and remove the ministers or secretaries of departments, the governors of provinces, and all persons that are to fill any public office whatever, the appointment to which does not belong to other officials or corporations.
7. To sanction and promulgate the laws, seeing and attending to their exact execution.
8. To direct the diplomatic or consular relations with other nations, to appoint and receive the respective agents, and to conclude treaties and conventions which shall be submitted to the national assembly for its approval.
9. To supervise the collection and administration of the revenues of the Republic and to order their expenditure in accordance with the laws.
10. To regulate, control, and supervise national public instruction.
11. To see that the public institutions of the nation are properly conducted.
12. To conclude administrative contracts for the performance of services and the execution of public works in accordance with the fiscal laws, with the obligation of furnishing an account thereof to the assembly in its ordinary sessions.
13. To grant charters for useful privileges in conformity with the laws.

14. To sanction, promulgate, and have executed all sanitary regulations prepared by the national board of health.

15. To grant to natives who request it, permission to accept positions or distinctions from foreign governments.

16. To issue naturalization papers in conformity with the laws.

17. To appoint the solicitor (attorney) general of the Republic, the public prosecutors, and deputies, in accordance with the conditions required by law.

ART. 79. All acts of the President of the Republic, except the appointments or removals of his ministers or secretaries, shall be without any validity or force whatever until they are countersigned or acted upon by the minister or secretary of the branch (department) to which they pertain, who by this very act renders himself responsible (for them).

ART. 80. The President of the Republic exercises the supreme right of pardon from certain penalties and for certain crimes, as determined by law.

ART. 81. The President, in the exercise of his functions and in the public interest, may visit, for such a time as he may deem proper, any province or part of the Republic.

ART. 82. The President of the Republic or whoever acts in his place is responsible in the following cases:

1. For the usurpation of powers which have not been expressly granted to him by this constitution or by express law.

2. For acts of violence or coercion in elections, or which prevent the meeting of the National Assembly, or impede the latter and the other public bodies or authorities established by the constitution, in the exercise of their functions.

3. For crimes of high treason.

ART. 83. In the first two cases the penalty can be none other than removal from office, and, if the President should have ceased in the exercise of his functions, that of disqualification from holding any other public office. In the latter case common law shall be applied.

ART. 84. The Assembly shall grant the President temporary leave to discontinue the exercise of the Executive power, and while the assembly is not in session the supreme court shall grant it.

ART. 85. In case of illness the President may refrain from exercising the Executive power for the necessary length of time by previously notifying the National Assembly, or if the latter is not in session, the supreme court.

ART. 86. In the accidental absence of the President of the Republic the Executive power shall be exercised by the "designados" in the order in which they have been elected.

ART. 87. In order to be a "designado" the same conditions must be fulfilled as for President of the Republic.

ART. 88. In the permanent absence of the President his place shall be taken by the "designado."

The cases of permanent absence of the President are his death, his accepted resignation, or his removal.

ART. 89. When the absence of the President can not, for any reason, be supplied by the "designados," the duties of President shall be performed by the minister or secretary who may be designated at a cabinet meeting.

ART. 90. When, for any reason, the National Assembly shall have failed to elect the "designado," those who were previously elected shall retain their character as such.

ART. 91. A citizen who has been elected President of the Republic shall not be reelected to the following term, if he should have filled the office of President within the eighteen months immediately preceding the new election.

ART. 92. Any citizen who may have been called upon to fill the office of President and have so filled it within the six months preceding the day set for the election of the new President shall likewise be barred from election to the office.

ART. 93. No relative of the head of the Executive, however, down to the fourth degree of consanguinity or the second of affinity, shall be elected President of the Republic.

ART. 94. The salary allowed by law to the President shall not be changed, except for the term following that during which it has been allowed.

TITLE.—*The judiciary.*

ART. 95. The judicial power shall be exercised by a supreme court of justice, and by such other tribunals or special commissions as it may become necessary to create in accordance with public treaties.

ART. 96. The supreme court of justice shall consist of five justices, appointed as herein stated, who shall hold their office for a term of four years. There shall be five substitutes, also appointed for four years, who shall fill any accidental vacancy on the bench. In the event of permanent vacancy a new appointment shall be made. The office of justice shall be vacated through the acceptance of other offices.

ART. 97. In order to be justice of the supreme court, one must be a citizen of Panama by birth or by choice, have resided on the Isthmus for over 15 years, be fully 30 years of age and in the full enjoyment of civil and political rights, be a law graduate of a university, have had at least 10 years' practice as a lawyer of good standing, or discharged, during an equal period, the duties of judge or prosecuting attorney, and have received no sentence whatever for any common-law offence.

ART. 98. The same qualifications shall be required of judges of the tribunals that may be established by law.

SECTION.

ART. 99. Justice shall be administered gratuitously throughout the territory of the Republic.

ART. 100. No officer of the judiciary shall be suspended or removed from his office except for some offence or other grave cause duly substantiated, and a hearing shall always be given him.

ART. 101. The law shall determine the salaries of officers of the judiciary, and such salaries shall be neither increased nor decreased during the term for which they shall have been appointed.

ART. 102. The law shall determine what cases of a criminal character shall be tried by the jury system.

TITLE.—*Public prosecution.*

ART. 103. Public prosecution shall be conducted by an attorney-general of the nation, by an attorney (fiscal) of the supreme court, by circuit attorneys, and by municipal deputies.

ART. 104. It shall be [the] duty of the officers of public prosecution to defend the interests of the nation; to see to the enforcement of the

laws, execution of judicial sentences, and administrative orders; to watch the official acts of public officials and to prosecute offenses and misdemeanors that disturb social order.

ART. 105. The term of the office of attorney-general of the nation shall be for four years.

ART. 106. The attorney-general of the nation's special duties shall be:

1. To see to it that all the public officials in the service of the nation properly discharge their duties.

2. To arraign before the supreme court such officials as must be tried by that body.

3. To see to it that the other officers of public prosecution faithfully discharge their duties and to take appropriate action to hold them responsible for all derelictions committed by them.

4. Freely to appoint and remove all his immediate subordinates.

And such other duties as the law may ascribe to him.

ART. 107. The same qualifications as have been specified for justices of the supreme court shall be required for the office of attorney-general.

TITLE.—*Public forces.*

ART. 108. All citizens of Panama are bound to take up arms whenever demanded by public necessity for the defence of national independence and the institutions of the country.

The law will determine the conditions for exemption from military service.

ART. 109. The law will regulate the manner in which military service shall be performed in accordance with general rules, so that all shall render such service in accordance therewith, and not at the will of the authorities.

ART. 110. Recruiting is and shall be prohibited.

ART. 111. The nation may maintain a permanent army for its defence. The system of service shall be established by law.

TITLE.—*Provinces.*

ART. 112. There shall be in each province a governor, whose appointment and removal shall be at the pleasure of the President, and whose powers and duties shall be defined by law.

ART. 113. The provinces shall consist of municipal districts in such number as the law may provide. The present division shall continue until legislative action is taken in the matter.

ART. 114. There shall be in each municipal district a corporation that will be styled municipal council and consist of the number of members determined by law and elected by suffrage of the first degree.

ART. 115. Municipal districts are autonomous as to their internal affairs.

ART. 116. It shall be within the province of municipal councils to take, by means of their own resolutions or of regulations issued by technical boards of commissions, such dispositions as may be expedient for the government of the district; to vote local taxes and expenditures within the bounds established by the fiscal system of the nation, and to exercise such other functions as may be ascribed to them by law.

ART. 117. There shall be in each municipal district a mayor (alcalde) named in the manner to be provided for by law; who shall exert administrative powers in the capacity of agent of the Government and mandatory of the people.

TITLE.—*The National Treasury.*

ART. 118. The Republic of Panama holds in ownership—

1. All property within the territory that belonged, by whatsoever title, to the Republic of Colombia.

2. The rights and stock that the Republic of Colombia owned within or without the country by reason of the sovereignty it exercised over the territory of the Isthmus of Panama.

3. The property, rights, and stock that belonged to the former Department of Panama.

4. The vacant lands, salt deposits, lode and placer mines, or mines of any other character, and those of precious stones, without prejudice to lawfully acquired rights.

ART. 119. No indirect tax or increase of such taxes shall be collected until three months after the date of the promulgation of the law establishing such a tax or increase.

ART. 120. No expenditure of public money shall be made without authority of law.

Likewise no appropriation shall be applied by transfer to any item not provided for in the estimates.

ART. 121. Should the necessity arise to make an expenditure which in the judgment of the Government can not be avoided, during a recess of the National Assembly and for which no fund or an insufficient fund should have been appropriated, an additional or extraordinary allowance may be granted to the department concerned. Such allowances shall be granted by the cabinet council, under the joint responsibility of the whole cabinet, and an instrument shall be drawn up by which the allowance granted is to be fully justified.

The legalization of such allowances appertains to the National Assembly.

TITLE.—*Revision of the constitution.*

ART. 122. This constitution may be amended through a legislative act drawn up in the usual form, submitted by the Government to the following National Assembly for its final consideration, discussed anew by the latter and approved by two-thirds of the members constituting the Assembly.

TITLE.—*General provisions.*

ART. 123. For twenty days before the opening of the sessions, during the said sessions, and for twenty days thereafter, no members of the National Assembly shall be subject to criminal trial; members can only be so tried with the assent of the Assembly. In cases of *flagrantis delicti*, a member may be arrested and immediately placed at the disposal of the said body. Members shall likewise be free from civil actions during the same period.

ART. 124. The deputies of the Assembly shall not enter, directly or indirectly, into any contract with the administration, nor shall they

accept from anyone powers of attorney to transact business connected with the Government.

ART. 125. No increase of per diem or mileage allowances shall become effective until after the term of the members of the Assembly which voted the said increase shall have expired.

ART. 126. In cases of temporary or permanent absence of a deputy his place shall be taken by his substitute. When the substitution takes place after the principal member shall have attended the session the mileage to the capital will belong to the latter and that from the capital to the substitute.

ART. 127. The President of the Republic shall confer upon the deputies of the Assembly no other office than those of secretary of state or of diplomatic or consular officer.

The acceptance of any one of those offices shall vacate that of deputy.

ART. 128. The President of the Republic, the secretaries of state, the justices of the supreme court, and the attorney-general of the nation shall not be eligible to membership in the Assembly unless they shall have ceased to exercise their functions for a period of six months. The "designados" shall lie under the same disability when they shall have exercised the executive power.

ART. 129. In like manner no other officer vested with jurisdiction or command in the electoral district shall be eligible therein, except ninety days before election day.

ART. 130. The members of the National Assembly shall not be responsible for their opinions or votes, given orally or in writing, in the discharge of their duties, and at no time or by any authority shall they be prosecuted.

ART. 131. The Government of the United States of America may intervene in any part of the Republic of Panama to reestablish public peace and constitutional order in the event of their being disturbed, provided that that nation should, by treaty or convention, assume or have assumed the obligation of guaranteeing the independence and sovereignty of this Republic.

TITLE.—*Temporary provisions.*

ART. 132. The first president of the Republic shall be elected by the national convention by a majority of the votes on the day of the promulgation of this constitution. He shall enter upon his office at once and discharge its duties until the 30th of September, 1908.

The "designados" shall be elected on the same day as the president.

ART. 133. As soon as this constitution shall have been sanctioned by the board of provisional government, the convention shall assume all the functions assigned to the national assembly.

ART. 134. All the acts of the board of provisional government executed since the third (3rd) of November, 1903, until the fifteenth (15th) of January of this year are hereby expressly ratified.

ART. 135. All the laws, decrees, regulations, orders, and other provisions in force at the time of the promulgation of this Constitution shall continue to be observed, if not inconsistent therewith.

ART. 136. The power of issuing legal-tender money, of whatever description, is vested in the nation and can not be transferred. There shall be no private bank of issue.

ART. 137. In order to secure for posterity a part of the pecuniary advantages derived from the negotiations for the construction of the inter-oceanic canal, the sum of eight million of "dollars" is hereby set aside for investment in securities bearing a fixed annual interest. The said investment shall be regulated by law.

ART. 138. Should the Executive power object to a bill on the ground of unconstitutionality, and the National Assembly insist upon pressing it, the bill should be referred to the supreme court of justice for the final decision of the latter body as to the validity of the law. If the decision should be in the affirmative, the Executive power shall be bound to sanction the law.

ART. 139. There shall be in Panama no office whose powers and duties shall not be particularized by law or regulations, and no public officer shall receive two salaries from the public treasury except [under] the provisions that may be made by law in special cases.

ART. 140. The "designado" in charge of the Executive power will hold the same preeminence and exercise the same rights as the President, whose powers he is exerting.

ART. 141. Buildings destined for any worship, councils, seminaries, and the residences of bishops and pastors shall not be subject to taxation and shall only be occupied in cases of urgent public necessity.

Mr. Russell to Mr. Hay.

[Telegram.]

UNITED STATES LEGATION,
Panama, February 14, 1904.

Arrived to-day. Constitution passed, substantially same as when Buchanan here; article 131 included.

RUSSELL.

Mr. Russell to Mr. Hay.

[Telegram.]

UNITED STATES LEGATION,
Panama, February 17, 1904.

Election to-day. President, Amador; First Vice-(President), Arosemena; Second Vice-(President), Obaldia; Third Vice-(President), Carlos Mendoza.

RUSSELL.

○

