DRAFT OF THE CONSTITUTION OF THE
REPUBLIC OF CHINA

The Opium War demonstrated to the Chinese people, or the more enlightened of them, the overwhelming power of modern instruments of warfare. The Sino-Japanese War half a century later showed that such power could be acquired even by an Oriental country and that one of the conditions attending the acquisition of military power was the reorganization of the government. The Russo-Japanese War a decade later was said to have given conclusive proof that the success of Japan was due not so much to her modern armaments as to her success in constitutional government. Chang Chien (張謇) wrote to Li Hung-chang (李鴻章) that the issue between the Russian Empire and Japan was the issue between absolutism and constitutionalism. A vigorous movement to give China a constitution was set on foot almost simultaneously with the Treaty of Portsmouth. Leaders differed as to their ultimate aim. Monarchy or Republic divided them sharply. Constitutional monarchy along the lines of Japan or one along the lines of Great Britain also divided those who did not want to upset the Tsing Dynasty.

The demand for a constitution was, however, widespread and definite. The Peking government yielded reluctantly and apparently too late. First, constitutional monarchy modelled after Japan was attempted. That proved insufficient. Then, Great Britain was copied. It came too late. Within two months of the promulgation of "Nineteenth Articles of Faith", which was an imitation of the British system, the monarchy was abolished, a provisional government of the republicans was established, and a provisional organic law was put in force. The Tsing Emperor and his associates failed completely to realize the tremendous force of the republican movement. Their piecemeal abdications could not satisfy the revolutionaries.
Since the establishment of the Republic, many attempts had been made to give the country a constitution. Provisional organic laws were promulgated pending the completion of the permanent supreme law. These were shamelessly violated. When finally the permanent constitution, after many vissicitudes, was proclaimed, on October 10, 1923, the situation of the country was entirely unfit to start on its constitutional career. The permanent constitution never had the chance to prove its worth.

One of the main reasons for the dismal failure of constitutional development in China was that the drafts, provisional laws, and constitutions were too ambitious and idealistic. Their authors had tried to give China the best that western constitutional theories and practice had to offer. But they failed to take note of local conditions. Foreign political theories were liberally incorporated; foreign political institutions were transplanted en masse. Sometimes, these theories and institutions were grafted one upon the other with scant regard to their compatibility. They were often totally misunderstood. The veto power of the American President was incorporated into a constitution which was largely modelled after the French cabinet system. And in copying the French document, the constitution-mongers failed to appreciate the difference between "the vote of confidence" and impeachment. One of the authors of the Provisional Constitution of the first year of the Republic even went so far as to identify the presidential system obtained in the United States with its federalism and the French cabinet system with her unitary form of government. Examples of similar nature may be almost indefinitely multiplied. Thus, on top of the adoption of foreign theories and institutions which may not be cultivatable on Chinese soil, we have been making very poor and indigested imitations. Little wonder that these fundamental laws failed completely to work.

The development of constitutionalism in the West seems to have a close relation with the economic development of the country. Demo-
cracy and parliamentary government usually flourish in countries which have attained a relatively high degree of industrial development. Agricultural economy, especially in a large country, does not appear to be a suitable environment for political systems obtained in Great Britain and the United States. Industrial development offers many things which in an agricultural country are unobtainable. No country predominantly agricultural can boast of a highly developed system of popular education. Tasks undertaken by a government with a large taxable industrial population cannot be undertaken by one with only the meager resources an agricultural country can offer. Modern scientific inventions which in all respects revolutionize the governmental process are not to be found abundantly in a country where they are not produced. These are but some of the many things which an industrial system can benefit constitutional development. M. Cambo, in his Les Dictatures, attempts to prove that dictatorships, which he considers as the negation of constitutional government, flourish in countries where industrial development is slow. Such may be one of the many reasons why China fails to establish a stable and healthy constitutional regime.

A third reason may perhaps be given. Since the establishment of the Republic China has always been in a state of acute emergency. Internal and external disturbances have never ceased to disturb the constitutional equilibrium. Political institutions like democracy and parliamentary government do not provide for crisis government. Even in the lands of their origin they had to be seriously modified or discarded in times of crisis. The wartime governments of England, France, America did not conform to the classical type. The National Government under Mr. MacDonald and the Roosevelt "dictatorship" in America violate constitutional provisions. They are justified because they are better fitted to cope with an extraordinary situation. They are more efficient, more expert, less dilatory and less cumbersome. They discard constitutional niceties to enable the governments to handle unforeseen contingencies with despatch. China lives in a state of emergency no less
acute. For her to attempt a smooth constitutional regime is to attempt the impossible. Her failure to do the impossible can therefore be explained.

The new constitutions which sprang from the ashes of the Great War failed to achieve in most instances precisely for these reasons. They are as a rule drafted by constitutional lawyers like Dr. Hugo Preusz and Professor Hans Kelson who insisted upon theoretical perfection rather than practical demands. The fathers of the recent Spanish constitution did exactly the same thing. They are on the whole better constitutional lawyers than the Chinese constitution-makers. Their products are therefore free from indigestion and mistakes. But their disregard for local conditions produced the same effect. How many of these highly idealized constitutions which dazzled us in 1919 and 1920 still remain in force? The price paid for constitutional theories has been too high both in China and in Europe.

On the ruins of post-war constitutions have sprung dictatorships. They generally appear in those countries with a relatively low degree of industrial development. M. Cambo, in his work above cited, has supplied us with abundant statistics to show the point. The case of Germany is a significant exception but the exception is due to other conditions, and does not seem to defeat the rule. In other countries where dictatorships have not appeared, the original constitutions have been seriously mutilated or discarded. As Mr. Laski has recently remarked, among the new countries only Czechoslovakia has attained a reasonably successful constitutional career.

Of course, much of this abnormality can be explained by the fact that these new countries have, since the conclusion of the Great War, been living under the extraordinary circumstances created by the storm and stress of war and the ravage of a world-wide economic depression. Ours is the age of emergencies and crises. Traditional types of government may be strained in countries with a healthy constitutional back-
The failures of these new constitutions can be explained almost exactly by the reasons for which Chinese constitutional experiments have suffered. Yet the demand for a constitution in China has again come up with renewed vigor. In the midst of the present Sino-Japanese conflict, the National Government was instructed by the Central Executive Committee of the Kuomintang to proceed immediately with the work of constitution-making. The Legislative Yuan was ordered to prepare a draft constitution to be submitted to the People’s Congress for ratification in the twenty-fourth year of the Republic (1935). Basing upon the principles laid down by Dr. Sun Yat-sen, a preliminary draft was made public on March 1, 1934, by the Committee on Constitution-drafting of the Legislative Yuan. The Committee invited public criticism. The consensus of opinion seemed to be that the draft left much to be desired. Digesting these criticisms and various proposals for change, a revised draft was prepared and announced on July 9, 1934. It was a great improvement upon the preliminary draft and was generally well received.

The Legislative Yuan began deliberations on the revised draft early in October, 1934. After two weeks of heated debate, the revised draft was amended and adopted as the official draft of the future constitution.* It will be discussed by the plenary session of the Central Executive Committee of the Kuomintang to be convened on December 10, 1934. After being ratified by the National People’s Congress, it shall become the constitution of the Chinese Republic.

Much in the constitution is left to be filled by subsequent legislation. As a matter of fact, most articles, except those enunciating general

* An English translation prepared by the present writer is annexed. An excellent translation of the revised draft appeared in the *People’s Tribute*, September 1934.
principles and policies, call for supplementary legislation. The exact nature of the system of government provided therein is therefore difficult to ascertain. The latitude given to supplementary legislation is so wide that the constitution is expected to meet future contingencies with comparative ease. It is, to use Bryce’s classification, a “flexible” constitution though the amending process is sufficiently cumbersome and dilatory. The advisability of such a method is open to question. Many people would like to see a shorter and more definite document.

Besides providing for the separate existence of five powers each distinctly organized and mutually independent, the central organs of government and their relationships resemble the constitution of the United States. A “presidential” system is provided, with many “checks and balances” incorporated. Whether a cabinet system will serve China better is a subject of disagreement.

Several years ago, an ex-Governor of New York and a friend of Dr. Sun Yat-sen in the early days of the revolution, told the present writer that China will prosper under a presidential system modelled after the United States. We have taken his advice. We wait for the prosperity it promises to bring.

陳之邁 C. M. Chen

National Tsing Hua University
TEXT OF THE DRAFT OF THE CONSTITUTION OF
THE CHINESE REPUBLIC

PREAMBLE

The National People's Congress (Kuo Min Ta Hui) of the Chinese Republic, by virtue of the mandate given by the entire body of citizens and in obedience to the bequeathed teachings of the founder of the Chinese Republic, Mr. Sun, do ordain this Constitution and promulgate it throughout the land to be solemnly observed forever and by all.

CHAPTER 1. GENERAL PROVISIONS

Art. 1. The Chinese Republic is a Republic of the three Principles of the People (San Min Chu I Kung Ho Kuo).

Art. 2. The sovereignty of the Chinese Republic resides in the entire body of citizens.

Art. 3. Those who possess the nationality of the Chinese Republic are citizens (Kuo Min) of the Chinese Republic.

Art. 4. The territory of the Chinese Republic consists of Kiangsu, Chekiang, Anhwei, Kiangsi, Hupeh, Hunan, Szechuan, Hsiikang, Hopeh, Shantung, Shansi, Honan, Shensi, Kansu, Chinghai, Fukien, Kwangtung, Kwangsi, Yunnan, Kweichow, Liaoning, Kirin, Heilungkiang, Jehol, Charhar, Suiyuan, Ninghsia, Sinkiang, Mongolia, Tibet and other territories originally belong to China. The territory of the Chinese Republic shall not be altered unless by resolution of the National People's Congress (Kuo Min Ta Hui).

Art. 5. The various nationalities within the Chinese Republic are all component parts of the Chinese nation, and shall, all of them, be equal.

Art. 6. The National Flag of the Chinese Republic shall be a red background with the "blue sky and white sun" at the upper left corner.
Art. 7. The National Capital of the Chinese Republic shall be at Nanking.

CHAPTER II. RIGHTS AND DUTIES OF THE PEOPLE

Art. 8. The people of the Chinese Republic shall all be equal before the law.

Art. 9. The people shall have liberty of the person; they shall not be arrested, detained, tried or punished unless in accordance with the law.

When a person is arrested and detained on suspicion of criminal offense, the authorities executing such shall immediately communicate to him and his family and relatives the reason for his arrest and detention, and shall, within 24 hours, hand him over to the competent court for trial. The said person or any other person may also petition the said court to bring the said person to trial from the said authorities within 24 hours.

No court may reject such petitions as above provided, nor may the authorities reject a writ of the court to bring the said person thereto for trial.

Art. 10. The people, with the exception of military men on active service, shall not be subject to trial by court-martial.

Art. 11. The people shall have freedom of domicile; their dwelling places shall not be entered, searched or sealed unless in accordance with the law.

Art. 12. The people shall have freedom of movement; such freedom shall not be restricted unless in accordance with the law.

Art. 13. The people shall have freedom of speech, writing and publication; such freedom shall not be restricted unless in accordance with the law.

Art. 14. The people shall have freedom of private correspondence; such freedom shall not be restricted unless in accordance with the law.
Art. 15. The people shall have freedom of religious belief; such freedom shall not be restricted unless in accordance with the law.

Art. 16. The people shall have freedom of assembly and association; such freedom shall not be restricted unless in accordance with the law.

Art. 17. The property of the people shall not be requisitioned, expropriated, sealed or confiscated unless in accordance with the law.

Art. 18. The people shall have the right to petition, to appeal (against the orders of administrative authorities) or institute legal proceedings in accordance with the law.

Art. 19. The people shall have the right to exercise the powers of election, recall, initiative and referendum in accordance with the law.

Art. 20. The people shall have the right to participate in (public) examinations in accordance with the law.

Art. 21. The people shall have the duty to pay taxes in accordance with the law.

Art. 22. The people shall have the duty of military service in accordance with the law.

Art. 23. The people shall have the duty to serve in public works in accordance with the law.

Art. 24. All other liberties and rights of the people not detrimental to social order and public welfare shall be under the protection of the Constitution.

Art. 25. Laws restricting the liberties and rights of the people shall be limited to what are absolutely necessary for the protection of the security of the State, the averting of imminent national danger, or the promotion of public welfare.

Art. 26. Public officials unlawfully infringing upon the liberties and rights of the people shall, besides subjecting to disciplinary punishment in accordance with the law, be held responsible to the criminal
The aggrieved person may also, in accordance with the law, claim compensation against the State for damages sustained.

CHAPTER III. THE NATIONAL PEOPLE'S CONGRESS

Art. 27. The National People's Congress (Kuo Min Ta Hai) shall be composed of the Representatives of the People (Kuo Min Tai Pieo) (elected) as follows:

(1) Every district (hsien), municipality (shih) or areas equivalent thereto shall elect one Representative, but when the population therein exceeds 300,000, one additional Representative shall be elected for every additional 500,000 of the population. Areas equivalent to the district or municipality shall be determined by the law.

(2) Representatives elected from Mongolia and Tibet: their numbers shall be determined by the law.

Art. 28. The elections of the Representatives of the People shall be by the method of universal, equal, direct suffrage, and the ballot shall be secret.

Art. 29. Citizens of the Chinese Republic who have attained their twentieth year shall have the right to elect Representatives in accordance with the law. Citizens who have attained their twenty-fifth year shall have the right to be elected Representatives in accordance with the law.

Art. 30. The tenure of the Representatives of the People shall be four years.

When a Representative of the People is guilty of violating the law or dereliction of official duty, his election district shall recall him in accordance with the law.

Art. 31. The National People's Congress shall be convened once every two years, the duration of its sessions shall be one month, and, when necessary, its session may be prolonged for an additional month.
With the consent of one-fourth or above of the Representatives, the National People’s Congress may convene on its own initiative for an extraordinary session.

Art. 32. The functions and powers of the National People’s Congress shall be as follows:

(1) To elect the President, the Vice-President, the President of the Legislative Yuan, the President of the Control Yuan, the members of the Legislative Yuan (Li Fa Wei Yuan), and the members of the Control Yuan (Chien Cha Wei Yuan);

(2) To recall the President, the Vice-President, the Presidents of the Legislative, Judicial, Examination and Control Yuan, the members of the Legislative Yuan and the members of the Control Yuan;

(3) To initiate legislation;

(4) To hold a referendum on legislation;

(5) To amend the Constitution;

(6) To exercise other functions and powers conferred by the Constitution.

Art. 33. Representatives of the People shall not be held responsible outside of the Congress for statements made or votes taken during the sessions of the Congress.

Art. 34. Unless permitted by the National People’s Congress, and unless apprehended in flagrante delicto, the Representatives of the People shall not be arrested or detained during the sessions of the Congress.

Art. 35. The organization of the National People’s Congress and the election and recall of the Representatives of the People shall be determined by the law.

CHAPTER IV. THE CENTRAL GOVERNMENT

Section 1. The President

Art. 36. The President is the head of the State, and shall represent the Chinese Republic in external relations.
Art. 37. The President shall, in accordance with the law, promulgate laws and issue orders with the counter-signature of the President of the Yuan concerned.

Art. 38. The President shall, in accordance with the law, command the army, navy and air forces of the entire nation.

Art. 39. The President shall, in accordance with the law, exercise the power to declare war, negotiate peace and conclude treaties.

Art. 40. The President shall, in accordance with the law, declare and terminate a state of siege.

Art. 41. The President shall, in accordance with the law, exercise the power of granting amnesties, pardons, remission of sentences, and restoration of civic rights.

Art. 42. The President shall, in accordance with the law, appoint and dismiss military and civil officials.

Art. 43. The President shall, in accordance with the law, confer honors and award decorations.

Art. 44. The President shall have complete executive authority.

Art. 45. The President shall be responsible to the National People's Congress.

Art. 46. A citizen of the Chinese Republic who has attained his fortieth year may be elected President or Vice-President.

Art. 47. Military men, unless retired from active service, may not be elected President or Vice-President.

Art. 48. The election of the President and the Vice-President shall be determined by the law.

Art. 49. The tenure of the President and the Vice-President shall be four years; when re-elected they may serve for one additional term.

Art. 50. The President shall, on the day of his assumption of office, take an oath, the language of the oath is as follows:
"I do uprightly and sincerely swear before the people that I will obey the Constitution, loyally perform my duties, promote the welfare of the people, defend the country, so as not to betray the trust of the people. Should I violate my oath, I will be willing to submit to the severe sanction of the national law. So I solemnly swear!"

Art. 51. In case the President should be unable to perform his functions for any reason, the functions and powers of his office shall be discharged by the Vice-President. In case both the President and the Vice-President should be unable to perform their functions, the functions and powers of the said office shall be discharged by the President of the Executive Yuan.

Art. 52. The President shall be relieved of his office at the expiration of his term. If by that time, a new President has not been elected, or both the President-elect and the Vice-President-elect have not assumed office, the functions and powers of the President shall be discharged on behalf of the President by the President of the Executive Yuan.

Art. 53. The President of the Executive Yuan shall not discharge the functions and the powers of the President on the behalf of the President for a period exceeding six months.

Art. 54. Except in regard to internal or external offenses against the security of the State, the President shall not be liable to criminal prosecution, unless he has been recalled or relieved of office.

Section 2. The Executive Yuan

Art. 55. The Executive Yuan is the highest organ in the Central Government for the exercise of the executive power.

Art. 56. The Executive Yuan shall have a President and twenty State Councillors to be appointed and removable by the President of the Republic.
Art. 57. The Executive Yuan shall establish various ministries and commissions separately to exercise executive functions and powers.

Art. 58. The Ministers and the Chairmen of the Commissions shall be appointed by the President of the Republic from among the State Councillors.

Art. 59. The President of the Executive Yuan, the State Councillors, the Ministers of the various Ministries, and the Chairmen of the various Commissions shall be separately responsible to the President of the Republic.

Art. 60. The Executive Yuan shall establish an Executive Council (Hsing Cheng Hui Yi) to be composed of the President of the Republic, the President of the Executive Yuan, and the State Councillors, with the President of the Republic as the chairman. In the absence of the President of the Republic, the President of the Executive Yuan shall be the chairman.

Art. 61. The following matters shall be decided upon by the Executive Council:

(1) Legislative measures and the budget to be proposed to the Legislative Yuan;

(2) Measures for instituting a state of siege and amnesty to be proposed to the Legislative Yuan;

(3) Measures for the declaration of war, the negotiation of peace, treaties, and other measures relating to important international affairs to be proposed to the Legislative Yuan;

(4) Matters of common concern to the various Ministries and Commissions;

(5) Matters submitted for consideration by the President of the Republic;

(6) Matters proposed by the President of the Executive Yuan and the several State Councillors.
Art. 62. The organization of the Executive Yuan shall be determined by the law.

Section 3. The Legislative Yuan

Art. 63. The Legislative Yuan is the highest organ in the Central Government for the exercise of the legislative power. It shall be responsible to the National People's Congress.

Art. 64. The Legislative Yuan shall have the power to enact legislation, the budget, declaration of a state of siege, amnesty, declaration of war, negotiation of peace, treaties and other matters of important international affairs.

Art. 65. The Legislative Yuan may address interpellations and questions to the various Yuan, Ministries and Commissions on matters of legislation.

Art. 66. The Legislative Yuan shall have a President who shall hold office for four years and who shall be eligible for re-election.

Art. 67. When the National People's Congress not in session, if the President of the Legislative Yuan leaves his office for any reason, the Members of the Legislative Yuan may elect an acting President from among themselves.

Art. 68. Members of the Legislative Yuan shall be elected in accordance with the following provisions:

(1) The National People's Congress shall elect from among the candidates separately nominated in accordance with the following quota by the Representatives of the People elected by the citizens of the several Provinces, Mongolia, Tibet and citizens residing without the country, the candidates not being restricted to the Representatives of the People:

(a) Provinces the population of which are below five million shall each elect three persons; those above five million and below ten million shall each elect four persons; those above ten million and below
fifteen million shall each elect five persons; those above fifteen million and below twenty million shall each elect six persons; those above twenty million and below twenty-five million shall each elect seven persons, those above twenty-five million and below thirty million shall each elect eight persons; those above thirty million and below thirty-five million shall each elect nine persons; those above thirty-five million shall each elect ten persons;

(b) Mongolia and Tibet shall each elect six persons;

c) Citizens residing without the country shall elect six persons;

(2) The National People's Congress shall elect from among candidates nominated by the President of the Legislative Yuan for special knowledge and experience; their quota shall not exceed one-third of the total number of Members elected in accordance with the preceding paragraph.

Art. 69. The Members of the Legislative Yuan shall hold office for four years and shall be eligible for re-election.

Art. 70. The Executive, the Judicial, the Examination and the Control Yuan may propose measures relative to their jurisdiction to the Legislative Yuan.

Art. 71. The President of the Republic may, before the promulgation or execution of a measure passed by the Legislative Yuan, refer the said measure to the Legislative Yuan for reconsideration.

If the Legislative Yuan, by two-thirds or above of its members present, decides to confirm the original measure referred to it for reconsideration in accordance with the preceding paragraph, the President of the Republic shall immediately promulgate or execute the said measure.

Art. 72. Measures passed by the Legislative Yuan and submitted to the President of the Republic for promulgation shall be promulgated by the President of the Republic after thirty days of their submission.
Art. 73. Members of the Legislative Yuan shall not be responsible outside the Yuan for statements made or votes taken within the Yuan.

Art. 74. Members of the Legislative Yuan, unless apprehended in *flagrante delicto*, shall not be arrested or detained, without the permission of the Legislative Yuan.

Art. 75. Members of the Legislative Yuan shall not concurrently hold any public office or engage in business or profession.

Art. 76. The election of the Members of the Legislative Yuan and the organization of the Yuan shall be determined by law.

Section 4. The Judicial Yuan

Art. 77. The Judicial Yuan is the highest organ of the Central Government for the exercise of judicial powers, adjudicating civil, criminal and administrative cases, and in charge of the disciplinary punishment of public officials and the administration of justice.

Art. 78. The Judicial Yuan shall have a President who shall hold office for four years and who shall be appointed by the President of the Republic with the consent of the Legislative Yuan. The President of the Judicial Yuan shall be responsible to the National People's Congress.

Art. 79. The Judicial Yuan shall establish a Commission for the Disciplinary Punishment of Public Officials and a Ministry of the Administration of Justice.

Art. 80 The Chairman of the Commission for the Disciplinary Punishment of Public Officials, its Members, and the Minister of the Ministry of the Administration of Justice shall all be appointed by the President of the Republic on the nomination of the President of the Judicial Yuan in accordance with the law.

Art. 81. Matters relating to special pardons, remissions of sentences, and restorations of civil rights shall be carried out by the President
of the Republic upon the recommendation of the President of the Judicial Yuan in accordance with the law.

Art. 82. The Judicial Yuan shall have the right to unify the interpretation of laws and orders.

Art. 83. Judicial officials adjudicate cases independently in accordance with the law.

Art. 84. Judicial officials shall not be removed from office unless they are subjected to criminal punishment, disciplinary punishment or a declaration of interdiction; nor may they be suspended from office, transferred or have their salaries reduced unless in accordance with the law.

Art. 85. The organization of the Judicial Yuan and of the various grades of Courts of Justice shall be determined by the law.

Section 5. The Examination Yuan

Art. 86. The Examination Yuan is the highest Organ of the Central Government exercising the examination power, in charge of examinations and official ranking.

Art. 87. The Examination Yuan shall have a President who shall hold office for four years and who shall be appointed by the President of the Republic with the consent of the Legislative Yuan. The President of the Examination Yuan is responsible to the National People's Congress.

Art. 88. The Examination Yuan shall establish a Ministry of Official Ranking (Chuan Shü Pu) and shall, when examinations are held, establish a Commission on Examinations (Dien Shih Wei Yuan Hui).

Art. 89. The Minister of Official Ranking shall be appointed by the President of the Republic upon the recommendation of the President of the Examination Yuan in accordance with the law. The Chairman of the Commission on Examinations and its members shall be designated by the President of the Republic upon the recommendation of the President of the Examination Yuan in accordance with the law.
Art. 90. The following qualifications shall be determined by the Examination Yuan through examinations in accordance with the law:

1. Qualifications of Public Officials for appointments;
2. Qualifications of candidates for Public Offices;
3. Qualifications for practice for professional and technical callings.

Art. 91. The organization of the Examination Yuan shall be determined by the law.

Section 6. The Control Yuan

Art. 92. The Control Yuan is the highest organ of the Central Government for the exercise of control powers, in charge of impeachment and audits, and shall be responsible to the National People’s Congress.

Art. 93. The Control Yuan, for the purpose of exercising the control power, may, in accordance with the law, address interpellations and questions to the several Yuan, Ministries and Commissions.

Art. 94. The Control Yuan shall have a President who shall hold office for four years and who shall be eligible for re-election.

Art. 95. When the National People’s Congress is not in session, if the President of the Control Yuan leaves his office for any reason, the Members of the Control Yuan may elect an acting President from among themselves.

Art. 96. The National People’s Congress shall elect the Members of the Control Yuan from among the two candidates nominated by the Representatives of the People elected by the citizens of the several Provinces, Mongolia, Tibet and citizens residing without the country, the candidates not being restricted to the Representatives of the People.

Art. 97. The Members of the Control Yuan shall hold office for four years and shall be eligible for re-election.

Art. 98. The Control Yuan, on the motion of one of its Members and considered and decided upon by five of its Members, may
institute impeachment proceedings against public officials of the Central and Local Governments for violation of the law or dereliction of duty. But impeachment proceedings against the President of the Republic, the Vice-President, and the Presidents of the Executive, Legislative, Judicial, Examination and Control Yuan can be instituted only when moved by ten Members of the Control Yuan and when considered and decided upon by one-half or more of the total number of Members of the Control Yuan.

Art. 99. Except where other organs are provided by the Constitution to deal with them, all impeachment proceedings shall be brought before the Commission for the Disciplinary Punishment of Public Officials. When the Commission for the Disciplinary Punishment of Public Officials decides on receiving an impeachment proceeding that the person impeached should be removed from office or visited with other (form of) disciplinary punishment, the President of the Republic or the official in charge shall carry the decision into effect.

Art. 100. Impeachment proceedings against the President of the Republic, the Vice-President, the Presidents of the Legislative, Judicial, Examination and Control Yuan, after having been instituted in accordance with the provision of Article 98, shall be brought before the National People's Congress. When the National People's Congress is not in session, the Representatives of the People should be requested to convene in accordance with the law an extraordinary session of the National People's Congress to decide on removal or not.

Art. 101. The Control Yuan establishes an Audit Commission in charge of auditing and investigation of accounts.

Art. 102. The Chairman of the Audit Commission and its Members shall be appointed and removed by the President of the Republic upon the recommendation of the President of Control Yuan in accordance with the law.
Art. 103. The Report on statement of accounts of the Audit Commission shall, after being considered at a meeting of the Control Yuan, be made public in accordance with the law.

Art. 104. Members of the Control Yuan shall not be responsible outside the Yuan for statements made and votes taken in the Yuan.

Art. 105. Members of the Control Yuan, unless apprehended in flagran te delicto, shall not be arrested or detained, without the permission of the Control Yuan.

Art. 106. Members of the Control Yuan shall not concurrently hold any public office or engage in business or profession.

Art. 107. The election of the Members of the Control Yuan and the organization of the Control Yuan shall be determined by the law.

CHAPTER V. THE PROVINCES

Art. 108. The Provinces shall establish Provincial Governments to execute laws and orders of the Central Government and to exercise supervision of local self-government.

Art. 109. The Provincial Government shall have a Governor (Sheng Chang) who shall hold office for three years and who shall be appointed and removed by the Central Government. No military man can be appointed Governor until after having retired from military service for three years.

Art. 110. The Provinces shall establish Provincial Consultative Assemblies (Sheng Tsan I-Hui) which shall be composed of members elected by the several Assemblies of the Districts (Hsien) or Municipalities (Shih) on the basis of one member from each District or Municipality. The tenure of office shall be three years. They shall be eligible for re-election.
Art. 111. The Provincial Consultative Assemblies shall convene once every year, their sessions being limited to one month. When necessary, extraordinary sessions may be called.

Art. 112. The Functions and powers of the Provincial Consultative Assemblies are as follows:

(1) Discuss and decide upon the budget to be submitted to the Central Government by the Provincial Government;

(2) Submit to the Legislative Yuan measures concerning legislative matters in the Province;

(3) Discuss and decide upon matters relating to special regulations delegated by the law;

(4) Submit to the Executive Yuan measures for the reform of Provincial Administration;

(5) Submit to the Control Yuan measures concerning impeachment proceedings against Public Officials in the Provincial Government;

(6) Discuss and decide upon matters submitted for consideration by the Governor;

(7) Submit suggestions to the Governor.

Art. 113. The organization of the Provincial Governments and of the Provincial Consultative Assemblies, the election or recall of the members of the Provincial Consultative Assemblies shall be determined by the law.

Art. 114. In areas not yet established as Provinces, the political system shall be determined by the law.

CHAPTER VI. THE DISTRICTS (HSIEN)

Art. 115. The District is the unit of local self-government.

Art. 116. District Self-government shall consist of the following matters:
(1) Taking the census and registration of the population of the District;

(2) Land administration of the District;

(3) Financial administration of the District;

(4) Communication, water conservancy and other engineering and constructive works of the District;

(5) Public and co-operative enterprises of the District;

(6) Police administration of the District;

(7) Educational and cultural activities of the District;

(8) Public health of the District;

(9) Development and relief work of the District;

(10) Custody and administration of public properties of the District;

(11) Preservation of famous sites and historic relics of the District;

(12) Other matters relating to District administration.

Art. 117. The people of the District shall, in matters relating to District self-government, exercise in accordance with the law the rights of initiative and referendum, and shall exercise in accordance with the law the rights of election and recall of the District Magistrate (Hsien Chang) and other officials of District self-government.

Art. 118. The District shall establish a District Council (Hsien I-Hui) the members of which shall be elected by the general assembly of the people of the District. Their tenure of office shall be three years and shall be eligible for re-election.

Art. 119. The District Council shall be convened semi-annually, and its sessions shall be limited to one month. When necessary, extraordinary sessions may be called.

Art. 120. The functions and powers of the District Councils are as follows:
(1) Discuss and decide upon the budget of the District and examine the final accounts of the District;

(2) Discuss and decide upon taxation in the District and contracts increasing the burdens of the District treasury;

(3) Discuss and decide upon the management and disposal of public properties of the District;

(4) Matters relating to the auditing of District finance;

(5) Discuss and decide upon special regulations of the District;

(6) Submit proposals to the District Government concerning reform of District administration;

(7) Discuss and decide upon matters submitted by the District Magistrate;

(8) Address interpellations and questions to the District Magistrate.

Art. 121. District special regulations which are in conflict with the laws of the Central Government or the regulations of the Provincial Government shall be null and void.

Art. 122. The District shall establish a District Government and install a District Magistrate to be elected by the general assembly of the District. The tenure of office shall be three years and eligible for reelection. Candidates for District Magistrate are limited to those who have been qualified by the Central Government through examination or official ranking.

Art. 123. The District Magistrate shall be in charge of District self-government and shall, under the direction of the Provincial Governor, execute matters delegated by the Central and Provincial Governments.

Art. 124. The organization of the District Council, the election and recall of Members of the District Council, the organization of the District Government, and the election and recall of the District Magistrate shall be determined by the law.
CHAPTER VII. THE MUNICIPALITIES (SHIH)

Art. 125. Unless otherwise provided by the law, the self-government and administration of the Municipalities shall be governed by the regulations relating to Districts.

Art. 126. The Municipality shall establish a Municipal Council (Shih I-Hui) the members of which shall be elected by the general assembly of the people of the Municipality. Their tenure of office shall be three years and shall be eligible for re-election.

Art. 127. The Municipality shall establish a Municipal Government and shall install a Mayor (Shih Chang) elected by the general assembly of the people of the Municipality. The tenure of office shall be three years and shall be eligible for re-election. Candidates for Mayor are limited to those who have been qualified by the Central Government through examination or official ranking.

Art. 128. The Mayor shall manage the municipal self-government, and shall, under the direction of the supervising authorities, execute the matters delegated by the Central and Provincial Governments.

Art. 129. The organization of the Municipal Council, the election and recall of the members of the Municipal Council, the organization of the Municipal Government, and the election and recall of the Mayor shall be determined by the law.

CHAPTER VIII. ECONOMIC WELFARE OF CITIZENS

Art. 130. The economic system of the Chinese Republic shall be based upon the Principle of People’s Livelihood (Min Sheng Chu-I), in order to strive for equality and sufficiency of livelihood among citizens.

Art. 131. The land within the territory of the Chinese Republic belongs to the entire body of citizens. Individual ownership of land which has been legally acquired shall be protected by the law but shall also be restricted by the law.
The State may, on the basis of the value reported by the owner or assessed by the Government, tax or expropriate the land over which the people have acquired ownership in accordance with the law.

Landowners shall have the duty to utilize their land to the fullest extent.

Art. 132. Mineral deposits and natural sources of power economically applicable to public utilization annexed to the land belong to the State and shall not be affected by the fact that the people have acquired ownership over the land.

Art. 133. Increase of land value not due to application of labor and capital shall, by means of a tax on increased land value, be claimed for public enjoyment.

Art. 134. In the distribution and adjustment of land, the State shall be guided by the principle of aiding self-cultivating farmers and those who use their land themselves.

Art. 135. The State may, in accordance with the law, regulate private property and private enterprises when they are considered to hamper the balanced development of the livelihood of the citizens.

Art. 136. The State should encourage, guide and protect the productive enterprises of the citizens and foreign trade.

Art. 137. Public utilities and other enterprises of a monopolistic nature shall in principle be operated by the State; but, when necessary, they may be operated by citizens by special permission.

The State may, on account of urgent necessity in national defense, temporarily administer the private enterprises under special permission provided in the preceding paragraph, and may, with due compensation, take them over for public operation.

Art. 138. The State, in order to improve the living conditions of the workers, to increase their ability for production and to relieve unemployment among workers, should carry out a policy of labor protection.
Women and children engaged in labor should be accorded special protection according to their age and their physical conditions.

Art. 139. Labor and capital should develop productive enterprises on the principle of harmony and cooperation.

Art. 140. The State, in order to promote the development of agriculture and to promote the welfare of the farmers, should make rural economy abundant, improve rural life, and with the aid of scientific method increase the efficiency of cultivation among the farmers.

The State may regulate the variety, volume and distribution of agricultural produce.

Art. 141. People who are disabled or killed in military or public service should be duly relieved or compensated by the State.

Art. 142. Persons who are aged, feeble, disabled, and unable to make a living should be given due relief by the State.

CHAPTER IX. EDUCATION

Art. 143. The educational aim of the Chinese Republic lies in the propagation of the national spirit, the cultivation of morality among citizens, the training for self-government, and the increase of the knowledge and ability to livelihood, so as to build up healthy citizens.

Art. 144. The people of the Chinese Republic shall have equal opportunity to receive education.

Art. 145. Private educational institutions throughout the country shall all be under the supervision of the State and shall be under duty to carry out the educational policy laid down by the State.

Art. 146. Children of school age between 6 and 12 years old shall all receive elementary education, tuition free. The details shall be determined by the law.
Art. 147. People who have passed their school age but who have not received elementary education shall all receive make-up education, tuition free. The details shall be determined by the law.

Art. 148. In the establishment of national universities and national technical colleges, attention should be paid to the needs of the localities so as to maintain an equal opportunity for the people of different localities to receive higher education and to promote the balanced development of culture over the whole country.

Art. 149. The minimum amount of educational expenses shall be fifteen per cent. of the total sum in the budget of the Central Government and thirty per cent. of the total sum in the budget of the Provinces Areas, Districts and Municipalities.

Educational endowments legally independent shall be given protection.

Educational expenses in poorer Provinces and Areas shall receive aid from the Central Treasury.

Art. 150. Private schools with good record shall be encouraged or aided.

Art. 151. Education of the citizens residing without the country shall be encouraged or aided.

Art. 152. Public and private educational institutions throughout the country should establish free scholarships and prizes in order to encourage students who show high scholastic standing and good conduct but who are unable to pursue higher studies.

Art. 153. Teachers and administrators in schools who have shown good record and who have served long in their positions shall be encouraged and protected. Their annual increases in salary for merits and old-age pensions shall be determined by the law.

Art. 154. Discoveries and inventions in scholarship and technology shall be encouraged and protected.
Art. 155. Historic sites and relics of concern to history and culture shall be protected and preserved by the State.

CHAPTER X. FINANCE

Art. 156. The system of allocation of financial receipts and expenditures and the grants of subsidies or mutual financial assistance of the several grades of Government shall be determined by the law.

Art. 157. The several grades of Government shall prepare once each fiscal year a general budget and a general statement of accounts in respect to their annual receipts and expenditures. The scope and procedure of their preparation shall be determined by the law.

The preparation of the budget and statement of accounts of public enterprises of the several grades of Government may be determined by special regulations; but the net profits and losses of such enterprises should still be entered in the general budget and the general statement of account in accordance with the law.

The several grades of Government, in respect to long-term constructive works, may establish continuing expenditure in accordance with the law; but the budget should still be entered in the general budget annually.

The general budget of the several grades of Government shall not be valid unless it has complied with the procedure prescribed by the law.

Art. 158. The amount stated in the budget shall be the maximum limit of expenditure. It cannot be altered or exceeded unless a supplementary budget is made in accordance with the law.

Extraordinary budget of the several grades of Government may be presented in accordance with one of the following conditions:

1. Emergent undertakings for national defense or national protection;
2. Great calamities;
3. Emergent and important constructional works.
Art. 159. The following matters should, in the case of the Central Government, be passed upon by the Legislative Yuan; in case the law permits them to be effected by special regulations of Provinces, Areas, Districts and Municipalities, they should be passed upon by the authorities designated by the law:

(1) The imposition and change in rate of taxes, levies, fines, penalties, and other receipts of a compulsory nature.

(2) The raising of public loans, the disposition of public property, or the conclusion of contracts which increase the burden of the public treasury.

(3) The establishment or cancellation of public enterprises, monopolies, fanchises, or other enterprises of profit-making nature.

(4) The grant or cancellation of monopolies, fanchises, or any other special privileges.

Unless specially authorized by the law, the Governments of Provinces, special areas, districts or municipalities may not raise foreign loans or make direct use of foreign capital.

Art. 160. Within the territory of the Chinese Republic, all goods shall circulate freely and shall not be prohibited unless in accordance with the law.

Customs duty is the revenue of the Central Government, and shall be collected when goods enter or leave the national boundaries. Such duty shall be collected only once.

The various grades of Government shall not collect any dues on goods in transit within the country; but this shall not apply to tolls levied upon vessels and vehicles passing through waterways and roads for the purpose of improving the same.

The right of imposing all taxes and levies on goods shall belong to the Central Government, and shall not be exercised unless in accordance with the law.
Art. 161. In the financial organization of all Government organs, the independence of the cashier, accounting and auditing departments shall be separately maintained. The details shall be regulated by the law.

CHAPTER XI. MILITARY AFFAIRS

Art. 162. The armed forces of the Chinese Republic, maintained for the purpose of national defense, shall belong to the Central Government; their function and duty shall be to safeguard and protect national interests, defend and protect national territory, resist foreign invasions, and obey law and orders.

Art. 163. The armed forces shall be established on the principle of conscription. The duty of the citizens to participate in national defense shall be determined by the law.

Art. 164. The organization of the army, navy and air forces shall be determined by the law.

Art. 165. The supreme command of the President of the Republic over the army, navy and air forces shall be exercised, in respect to the issuance of orders, in ordinary times, through the competent Ministry; and in time of national defense and war shall be exercised by the Commander-in-Chief appointed by the President of the Republic with the consent of the Legislative Yuan. The Commander-in-Chief shall vacate office as soon as the state of war is concluded.

Art. 166. In the event of a foreign nation declaring war against our nation, or attacking our nation with force without the declaration of war, the President of the Republic may first issue orders of mobilization and defense and the declaration of martial law, and shall request ratification in accordance with the law.

Art. 167. The whole nation shall be demarcated into garrison areas in accordance with the needs of national defense. Details shall be determined by the law.
Military commanders of the military areas may not be stationed permanently in Provincial capitals.

Art. 168. The armed forces shall be stationed separately in the different areas of national defense. They shall not be transferred or made use of unless by order of the Central Government or at the request of the Governments of the Provinces, special areas, Districts or Municipalities on account of emergent disturbances.

Emergent disturbances aforesaid shall be immediately reported to the Central Government by the Governments of the Provinces, special areas, Districts, Municipalities, and the military commanders of the garrison areas.

Art. 169. Military expenditures shall be paid out of the National Treasury. The amount, and the number of officers and soldiers shall be determined in the budget.

Military supplies shall be independent, and shall be administered by the National Treasury in accordance with the law.

Art. 170. The Governments of the Provinces, special areas, Districts and Municipalities shall not be permitted to maintain armed forces, establish organs for military education and arsenals.

The protection and defense of the Governments of Provinces, special areas, Districts and Municipalities shall be determined by the law.

Art. 171. Military men on active service shall not be permitted to interfere in politics nor express political opinions.

Art. 172. Military men on active service shall not concurrently serve as administrative officials.

Art. 173. The exercise of military jurisdiction and the organization of organs exercising military jurisdiction shall be determined by the law.
Art. 174. The term "law" as used in this Constitution means the laws which have been passed by the Legislative Yuan and promulgated by the President of the Republic.

Art. 175. Laws in conflict with the Constitution shall be null and void; Orders in conflict with the Constitution or the law shall be null and void.

Art. 176. The interpretation of the Constitution shall be exercised by the Judicial Yuan.

Art. 177. The Constitution shall not be amended unless proposed by one-fourth or above of the total number of Representatives of the National People's Congress, and passed by two-thirds of the Representatives present, with a quorum of three-fourths or more of the total number of Representatives.

The proposed amendment to the Constitution shall be publicly announced by the proposer one year before the National People's Congress convenes.

Art. 178. The present Constitution shall be in force from the date of its promulgation.*

* The Fifth Plenary Session of the Central Executive Committee of the Fourth Party Congress of the Kuominthrang, which convened in Nanking on December 10, 1934, considered at length the draft constitution prepared by the Legislative Yuan and herein translated and passed several important resolutions to the effect (1) that a committee shall be organized by the Presidium of the Central Executive Committee to reconsider the draft constitution; (2) that the said committee shall be guided by the principle of "balanced powers" between central and local governmental agencies as enunciated by Dr. Sun Yat-sen in his Outline of National Development; (3) that the said committee shall likewise pay due attention to the conditions and dangers now confronting the Chinese nation so that a political system which shall work with efficiency and which shall enable a concentration of national power shall be provided; (4) that the draft constitution, though remedying all the defects as revealed in previous laws, still needs to be filled with a full amount of spirit; (5) and that the National People's Congress shall be convened on December 24, 1935, to pass upon the constitution.—Translator.