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Fundamental Law Concerning the Structure of the Congo

Baudouin, King of the Belgians,

To all present and to come, greetings.

The Chambers have accepted and we sanction the following:

Title I. Preliminary provisions:

Article 1. In the present law, the terms "State", "Parliament", "Chambers", "Chamber of Representatives", "Senate", "Government", "Constitution", "law" and "decree" shall designate, unless otherwise specified, the Congolese institutions and the constitutional, statutory and regulatory acts accomplished by them.

Article 2. The laws, decrees and legal ordinances, the measures implementing them, as well as all the regulatory provisions existing on June 30, 1960, shall remain in effect as long as they have not been expressly abrogated.

Article 3. The provisions to be found hereunder shall remain in effect until the public institutions organized by the Constitution have been established.

The Chambers may not modify the present law except by the majority provided for in Article 99.

Article 4. The Chief of State and the two Chambers shall constitute the constituent power.

Article 5. No provision of the present law may be interpreted in a sense contrary to the principles set forth in the fundamental law relating to public liberties.

Title II. The formation of the State

Article 6. The Congo constitutes, within its present boundaries, an indivisible and democratic State.

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Article 7. The State is composed of six provinces, each one of them endowed with juridical personality. Their borders are those existing at the time when the present law comes into effect.

Article 8. The Congolese State comprises central, provincial and local institutions.

The central institutions are:

- (a) The Chief of State;
- (b) The Government, directed by a Prime Minister;
- (c) The Chamber of Representatives;
- (d) The Senate.

The Chamber of Representatives and the Senate constitute Parliament.

The provincial institutions are:

- (a) The Provincial Government, directed by a President;
- (d) The Provincial Assembly.

The local institutions are organized by the legislation in existence at the moment when the present law enters into force, without prejudice to the application of Article 160.

In addition, the Congolese State comprises:

- economic and social councils;
- a constitutional Court.

Article 9. As soon as possible after the official proclamation of the results of the election, the King of the Belgians shall convoke each of the Chambers. The Chambers shall convene separately.

They shall be presided over by a provisional president designated by lot.

Article 10. In each Chamber, the provisional president shall arrange without delay for the designation of the president, the two vice-presidents and the officers, according to the procedure established by the King of the Belgians.

The administrative organization of the services of Parliament shall be determined by the King of the Belgians, until the Chambers have been able to provide for it in their rules of procedures.

Article 11. Within forty-eight hours after the designation of the president of the Senate and the final constitution of the "bureau", the Chambers shall convene in joint session, under the presidency of the older of the

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presidents of the Chambers. This assembly shall take a decision on the selection of the Chief of State, after having determined, if necessary, the modalities of that selection.

Article 12. The designation of the Chief of State requires a majority of two-thirds of all the members who constitute the two Chambers in joint session.

Article 13. If, within a week after the meeting of the Chambers in joint session, the majority required by Article 12 cannot be reached, the functions of the Chief of State shall be temporarily discharged by the president of the Senate.

At all times, the Chambers may convene to designate the Chief of State, according to the procedure laid down in Articles 11 and 12, at the request of:

- the President of the Senate;
- the President of the Chamber of Representatives;
- the Prime Minister;
- or one-third of the members of either of the two Chambers.

### Title III. The Powers

Article 14. The powers shall be exercised in the manner determined by the present law.

Article 15. The legislative power shall be exercised, within the limits set by the present law, collectively by the Chief of State, the Chamber of Representatives and the Senate on the one hand, and by each of the provincial assemblies, on the other hand.

Article 16. The three branches of the central legislative power each have the right of initiative.

In each province, the right of initiative belongs to the assembly and to the provincial government.

Article 17. The executive power, as regulated by the present law, belongs to the Chief of State, the counter-signature of the responsible Minister being required.

The provincial executive power is exercised in each province by the provincial government.

Article 18. The judicial power is exercised by the courts and tribunals. Judgements and sentences are executed in the name of the Chief of State.

Chapter I. The Chief of State

Article 19. The person of the Chief of State is inviolable; the Prime Minister and the Ministers are responsible.

Article 20. No act of the Chief of State can have any effect unless it is countersigned by a Minister, who by this very action assumes responsibility for such act.

In no case can a verbal or written order of the Chief of State relieve a minister from responsibility.

Article 21. The Chief of State shall have no other powers than those which are formally conferred upon him by the present law. He exercises those powers, inter alia those quoted in Articles 16 and 22 to 32 only under the conditions laid down in Articles 17, 19 and 20.

Article 22. The Chief of State appoints and revokes the Prime Minister and the Ministers.

Article 23. The Chief of State confers ranks in the Armed Forces and in the gendarmerie.

He appoints the office-holders in the central administration, except in the cases set forth by the laws. He may make no other appointment except according to the express provisions of a law.

He confers civilian as well as military national orders in conformity with the law.

Article 24. The Chief of State has the right to mint currency, in implementation of the law.

Article 25. The Chief of State has the power to make treaties.

The treaties shall be effective only after they have been approved by the Chambers, in the form of a law.

Article 26. The Chief of State is in command of the Armed Forces of the State.

Article 27. The Chief of State makes the regulations and ordinances necessary for the implementation of the laws. He can never suspend the laws nor dispense any person from executing them.

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Article 28. The Chief of State sanctions and promulgates the laws.

Article 29. The Chief of State has the right to remit, reduce, or commute sentences, without prejudice to the application of Article 41.

Article 30. The Chief of State has the right to convoke the Chambers in extraordinary session.

Article 31. The Chief of State may adjourn the Chambers, in accordance with Article 70.

Article 32. The Chief of State has the right to dissolve the Chambers, in accordance with Articles 71 and 72.

Article 33. If the office of Chief of State becomes vacant or if he is in the impossibility of discharging his functions, the Prime Minister, after deliberation in the Council of Ministers, shall convene the Chambers as soon as feasible and, at the latest, within thirty days.

As soon as the Chambers have been convoked, the Council of Ministers shall assume the functions of the Chief of State, until such time as the Chambers have reached a decision.

The Chambers in joint session shall take note of the vacancy or of the impossibility and shall elect a new Chief of State by a two-thirds majority of the members composing the Chambers.

If the required majority has not been reached within thirty days after the meeting of the Chambers in joint session, the functions of Chief of State shall be temporarily assumed by the president of the Senate, without prejudice to the application of Article 13, par. 2.

Article 34. Until the law has made due provision, the Chief of State, or the president of the Senate called upon to discharge those functions in conformity with Articles 12 and 13, shall assume his office only after having taken the following oath in the presence of the two Chambers and of the Government: "I swear to observe the laws of the Congolese nation, to maintain its national independence and its territorial integrity."

## Chapter II - The Executive Power

### Section I - The Government

Article 35. The Government is composed of the Prime Minister and the Ministers. It comprises at least one member from each province. The

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Prime Minister and the Ministers are responsible to the two Chambers according to the provisions of Articles 42 and 46.

Article 36. The Prime Minister conducts the policy of the State in agreement with the Council of Ministers over which he presides.

He directs the action of the Government.

He submits to the Chief of State proposals concerning the exercise of the regulatory power and the implementation of the laws.

Article 37. The Government may, with a view to the urgent implementation of its programme, ask the Chambers to authorize the Chief of State to adopt by legislative ordinance and for a specified matter measures which normally fall within the purview of the law.

The legislative ordinances are elaborated in the Council of Ministers and are submitted to the Chamber of Constitutionality prior to being promulgated. They lapse if they are not approved by the Chambers within six months after they have been put into effect.

Article 38. The Ministers are entitled to speak and to vote only in the Chamber of which they are members. They have a right to enter each of the Chambers and must be heard when they so require. The Chambers may request the presence of the Ministers.

Article 39. A Minister may not deal with a matter nor may he take part in a deliberation in which he or one of his family or relatives to the fourth degree, inclusive, have a direct personal interest. This prohibition does not apply to family and relatives beyond the second degree when the matter concerns nominations of candidates, appointments to positions, revocations or suspensions.

Article 40. Ministers may not be prosecuted under penal law unless they have been formally impeached by one of the two Chambers.

In that case, they are brought before a Court of Justice in the Congo. This Court shall be composed of three councillors of the Cour de Cassation of Belgium designated by its first president, of a member of the Parquet Général of the Cour de Cassation designated by the Procureur Général, and of a registrar designated by the first president.

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Article 41. The Chief of State may not grant a pardon to a Minister sentenced by the Court of Justice, unless a request to that effect is made by one of the Chambers.

Section 2. Relations between the Government  
and Parliament

Article 42. After its constitution, the Government presents itself before each of the Chambers in order to obtain a vote of confidence.

Such vote requires the absolute majority of the votes of all the members composing the Chambers.

Article 43. The joint responsibility of the Government may be challenged by the submission of a motion of no-confidence. Such a motion is admissible only if it is signed by at least one fifth of the members of one of the Chambers. The vote can only be taken forty-eight hours after the submission of the motion.

Without prejudice to the application of Article 56, par. 3, the motion of no-confidence shall be adopted only if it is carried either by two thirds of the votes of the members present in one of the two Chambers, or in each of the Chambers by the absolute majority of the votes of all the members which compose it.

Article 44. If a motion of no-confidence is adopted, in conformity with the conditions laid down in article 43, the Ministers hand in their resignation to the Prime Minister, who transmits it along with his own to the Chief of State.

Until the new Government is formed, the current affairs are dealt with by the resigning Government.

Article 45. The individual responsibility of a member of the Government may be challenged by the submission of a motion of censure.

The admissibility of the motion of censure and the required majority for its adoption as well as the procedure to follow are those stipulated in article 43 for a motion of no-confidence.

Article 46. The censure of a member of the Government entails his resignation. It does not necessarily entail the resignation of the Government.

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### Section 3. Special Provisions

Article 47. Before 30 June 1960, and after the official proclamation of the results of the elections for the Chamber and the Senate, the first Government of the Congo shall be constituted as follows:

Taking into account the results of the elections and after consultation with the principal groups and political personalities, the King of the Belgians designates a "formateur" whose task it shall be to form a cabinet likely to obtain the confidence of Parliament. On the proposal of the "formateur", the King of the Belgians shall appoint the Prime Minister and the Ministers.

Article 48. Within three days of the appointment of its members, this first Government shall present itself before the Chambers in order to obtain their confidence. The vote of confidence shall be obtained in conformity with article 42, par. 2.

Article 49. Article 25, par. 1 notwithstanding, this first government shall have as its task, even before the designation of the Chief of State, the conclusion with the Belgian Government of a general treaty of friendship, assistance and co-operation.

Within the framework of that treaty, it shall negotiate such specific agreements as are to be concluded between the Congo and Belgium with a view to determining the modalities of the co-operation which shall exist from 30 June 1960 between the two States.

Furthermore, the first Congolese Government shall be entitled to conclude with the Belgian Government agreements on unions to be established between the Congo and the Territory of Ruanda-Urundi, especially in the fiscal, monetary, customs, postal, telecommunications and radio fields.

### Chapter III. Legislative Power

#### Section I. General

Article 50. The Legislative competence of the two Chambers is identical.

Article 51. The authoritative interpretation of the law shall be the exclusive privilege of the Chambers.

For the interpretation of the present law, the Chambers may request the Belgian Parliament to provide its own interpretation thereof.

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Article 52. The meetings of both Chambers shall be public, but each Chamber may decide to deliberate behind closed doors. It shall decide thereafter whether the meeting on the same subject is to be resumed in public.

Article 53. There shall be kept a record of the meetings. Its publicity shall be ensured under the conditions determined by the rules of procedure adopted by each Chamber.

Article 54. Each Chamber verifies the credentials of its members and adjudicates any disputes arising in connexion therewith.

Article 55. At each session, each Chamber appoints its president and its two vice-presidents and arranges the composition of its bureau.

Article 56. Resolutions shall be adopted by an absolute majority of the votes, save as shall be provided by the rules of procedure of the Chambers concerning elections and nominations.

In cases where the votes are evenly divided, the proposal under deliberation shall be rejected.

Neither of the two Chambers may adopt a resolution unless the majority of its members is present.

Article 57. Imperative mandates are null and void.

The right to vote of the members of the Chambers is individual.

Article 58. par. 1. Voting takes place either by word of mouth, or by sitting or standing.

Votes on a law as a whole are taken by roll-call.

Votes may also be cast by a technical device which offers identical guarantees.

Par. 2. Each Chamber may, however, decide to vote on a specific resolution by secret ballot.

Such a decision may in no case apply to a vote of confidence, to a motion of no-confidence or censure, or to the approval of the budget.

Nominations and elections of candidates take place by secret ballot.

Article 59. A bill may be put to the vote by either of the Chambers only after it has been adopted article by article.

Article 60. The Chambers have the right to amend the proposed articles and amendments and to vote on them in parts.

Article 61. Any amendment to the budgetary provisions entailing an increase of expenditure must provide for necessary ways and means; any amendment entailing a decrease in the revenue which results in disrupting the balance of the budget must provide for a corresponding decrease of expenditure or for new revenue.

Article 62. The presentation of petitions in person to the Chambers is prohibited.

Each Chamber has the right to refer to the Ministers the petitions addressed to it. The Ministers must give explanations on the content of such petitions whenever the Chamber so requires.

Article 63. Each Chamber may require the advice of the economic and social councils mentioned in Chapter IV of the present law with regard to any question or bill.

Article 64. Each Chamber has the right of inquiry. The exercise of this right shall be regulated by a special law.

Article 65. No member of either of the two Chambers may be prosecuted, sought, arrested, detained or sentenced in respect of any opinion or vote expressed or cast by him in the exercise of his functions.

Article 66. No member of either of the two Chambers may be prosecuted or arrested for penal offences, as long as the session goes on unless the Chamber to which he belongs has given its authorization or he has been surprised in flagrante delicto.

When the session is over, a member of either of the Chambers may be arrested only with the authorization of the "bureau" of the Chamber of which he was a member, except in cases of flagrante delicto, authorized prosecution or irrevocable condemnation.

The detention or prosecution of a member of either of the two Chambers shall be suspended if the Chamber of which he is a member so requires, but the suspension may not continue beyond the end of the session.

Article 67. The duration of the first legislature of the Chambers may not be less than three years and may not exceed four years, except in case of dissolution.

Article 68. The sessions of both Chambers are simultaneous; any meeting of one of them held outside the session period is ipso jure invalid.

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Article 69. Without prejudice to the provisions of Article 102, the Chambers shall meet as of right every year on the first Monday of March and September, unless they have been convoked earlier by the Chief of State.

The Chamber must sit each year for a period of no less than forty days. This period is extended to one hundred days until the final draft of the Constitution is completed.

The Chief of State declares the closure of the session.

Article 70. An adjournment of the Chambers, ordered by the Chief of State while the session is in progress, may not exceed a period of one month, nor may it be renewed during the same session without the consent of the Chambers.

Article 71. Prior to the final adoption of the Constitution, the dissolution of either or both of the Chambers may only be ordered by the Chief of State after the Council of Ministers has deliberated and after at least one of the two Chambers has approved it by a two-thirds majority of the members present.

Article 72. In case of dissolution of both Chambers, or of the Chamber of Representatives only, the act of dissolution must provide that the electors shall be called to the polls within three months and the Chambers convened within four months.

In case the Senate is dissolved, the act of dissolution must provide that the new Chamber shall be convened within one month.

If, within a period of six months starting from the first meeting of this new Chamber, the Chief of State is led to dissolve it again, he may also dissolve the provincial assemblies.

The latter act of dissolution must provide that the electors shall be called to the polls within a period of three months, and that the provincial assemblies and the Senate shall be convened within four months.

Article 73. In case both Chambers have been dissolved, the bills which have not been adopted by any one of the two dissolved Chambers are regarded as null and void; each one of the new Chambers is seized of the bills adopted by the other Chamber prior to dissolution but which the new Chamber had neither adopted nor rejected, without any need for these bills to be referred to it again.

Article 74. In case one of the Chambers has been dissolved, the bills submitted to the dissolved Chamber and not adopted by it are regarded as null and void; the new Chamber is seized of the bills adopted by the other Chamber prior to dissolution, without any need for these to be referred to it again; the other Chamber remains seized of the bills adopted by the dissolved Chamber.

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Article 75. In case of dissolution of either one or both of the Chambers, the new assembly or assemblies must reach a decision on the articles of the Constitution previously adopted.

Article 76. The date of the first elections for the legislative Chambers which shall replace the ones established by the present law shall be fixed by the Constitution, account being taken of what is provided for in article 67.

Article 77. The Chambers, convened in joint assembly pursuant to Article 11, shall determine at their first meeting their working language and the language to be used for the drafting of official documents and legislative texts.

Each Chamber shall determine in its rules of procedure the manner in which speeches made in any of the languages accepted by it shall be translated into the working language.

Until such time as the Chambers shall have reached a decision thereon, French shall be temporarily used and a translation shall be made into French of speeches delivered in Swahili, Lingala, Kikongo and Tshiluba.

Article 78. Each member of the two Chambers shall receive an annual allowance of 100,000 francs.

Furthermore, he shall be entitled to free transportation on all the means of conveyance run by the State or operated under franchise from the State, to travel to and from the Chambers.

The other means of transportation which he may also use free of charge for this purpose shall be determined by law.

He shall also be entitled to free postage of mail addressed to the authorities and public administrations determined by law.

Each Chamber shall determine the amount of the sums which may be withheld from the allowance as a contribution to the retirement or pension funds which it shall deem fit to establish, as well as the amount of family allowances for those who do not already benefit from them.

Article 79. The presidents and vice-presidents of the two Chambers shall enjoy a special additional allowance of 50,000 frs. and 25,000 frs., respectively.

Article 80. Each member of either Chamber shall receive an attendance allowance of 200 frs. a day for the meetings of the Chamber or of its Committees, provided he has fully participated in the debates.

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In addition, he shall be entitled to obtain reimbursement for his overnight expenses when he stays in the city where the Chambers convene, for the duration of their activities, whenever it is impossible for him to return to his residence during that period.

Overnight expenses incurred during travel to and from the Chambers shall also be reimbursed.

Article 81. Representatives and Senators are not allowed to take part in discussions in which they have a direct personal interest.

Article 82. The president is in charge of maintaining order in the assembly.

He is entitled, after having given due warning, to expel instantly any member of the public who disturbs order or who shows signs of approval or disapproval.

Any person who refuses to obey an expulsion order is punishable by imprisonment for a period not exceeding one month or by a fine not exceeding one thousand francs, or both.

A report shall be established by the president and sent to the competent judicial authorities.

Article 83. Each Chamber shall determine, in its rules of procedure, the way in which its functions shall be exercised.

## Section II. The Chamber of Representatives

Article 84. The members of the Chamber of Representatives are elected by direct universal suffrage, in conformity with the provisions of the electoral law of 23 March 1960.

A constituency has one representative for 100,000 inhabitants, without distinction of age, sex, or nationality; each fraction of population exceeding 50,000 gives the right to an additional representative.

The population figures to be taken into consideration are those published in the official statistics of 31 December 1959.

Each elector is entitled to only one vote.

Article 85. The members of the Chamber of Representatives represent the Nation and not the constituency having elected them.

Article 86. The mandate of the members of the Chamber of Representatives ends on the eve of the meeting of the assembly which is to replace it.

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### Section III. The Senate

Article 87, par. 1. The Senate is composed of Senators elected by the provincial assemblies on the basis of fourteen per province including at least three customary chiefs or notables.

Par. 2. In addition, the elected Senators may increase their number by co-opting members. An equal number of these co-opted members shall be elected for each province but their total number may not exceed twelve.

Article 88. The Senators to be elected by each provincial assembly mentioned in par. 1 of Article 87, with the exception of the customary chiefs and notables appointed as such, are elected on the basis of the proportional representation of the number of votes cast, in conformity with the provisions of Articles 116, 117 and 118.

The Senators to be elected by each provincial assembly in their capacity of customary chiefs and notables, also mentioned in par. 1 of Article 87, are elected according to the procedure provided for in Articles 119, 120 and 121.

The term "customary chiefs" means the heads of chiefdoms.

The term "notables" means the chiefs of population groups constituting administrative sectors.

Article 89. The co-opted Senators, mentioned in par. 2 of Article 87, are elected for each province by the Senators who represent it.

The election takes place in plenary meeting by secret ballot, which is completed in one operation simultaneously for all the Senators.

The vote is taken in one single ballot.

The candidate or candidates elected for each province are designated in the order of the numbers of votes obtained. If the vote is equally divided, the older candidate wins.

Each Senator is entitled to only one vote.

Article 90. The election of co-opted Senators is confirmed by the Senate by secret ballot and by a simple majority.

If such a majority is not reached in favour of one or more of them, one or more new elections are held as necessary.

The co-opted Senators are entitled to speak and to vote only after all the seats have been filled.

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Article 91. The election of co-opted Senators can take place only after the Senate has ended verifying the mandate of all the Senators elected by the provincial assemblies.

If, as a result of invalidation, option, death or any other cause, one or several seats allocated to a province remain provisionally vacant, the ballot for the election of co-opted Senators shall be postponed, if at least one third of the Senators representing a province so request.

Article 92. The lists of candidates for the seats of co-opted Senators must be submitted in respect of each province at least ten full working days before the ballot is taken.

The lists must bear the signatures of at least a tenth of the members of the provincial assembly.

If the number of candidates for a province does not exceed that of the seats allocated to that province, the candidates shall be declared elected subject to the reservation that they be confirmed by the Senate.

Article 93. When a Senator elected by the provincial assembly ceases to be a member of the Senate, he is replaced by a candidate from the same province who has not obtained a seat.

This candidate shall be the one who has obtained the largest number of votes in the ballots mentioned in Articles 118 and 121.

If there is no such alternate candidate, the provincial assembly elects a new Senator, in conformity with the procedure provided for the election of either customary chiefs and notables or other Senators, subject to the reservation that the latter shall be elected by a simple majority.

The candidates who fail to be elected are classified in the order of the number of votes obtained and shall be called upon in that same order from the same list in case of a new vacancy.

Article 94. When a co-opted Senator ceases to be a member of the Senate before the expiration of his mandate, his alternate for the province concerned shall be elected according to the procedure provided for in Articles 89 and 92.

Such election must take place at the first meeting after the expiration of the month following the vacancy; or if the Senate is not in session, at the first meeting following the vacancy.

Article 95. The president of the Senate is not entitled to take part in the debates or to vote.



He is elected for a period of one year at the opening of the first session. His mandate may be ~~renewed~~ only once and with the consent of two-thirds of the votes and of the ~~members~~ present.

The presidency is allocated to each province in succession.

The member elected to the presidency is replaced in the Senate by his alternate. The latter sits in the Senate as of right; he is entitled to take part in the debates and to vote as long as the member whom he replaces fulfils the functions of president.

Article 96. Each member of the Senate represents his province. He defends its interests within the framework of the general and paramount interests of the Nation.

Article 97. The mandate of the members of the Senate shall end on the eve of the meeting of the assembly which is to replace the Senate.

#### Section IV. The Drafting of the Constitution

Article 98. The Constitution shall be drafted by the constituent power according to the procedure laid down in the following provisions.

Article 99. No Chamber may deliberate save when at least two-thirds of its members are present.

No constitutional provision shall be regarded as adopted if it has not obtained at least two-thirds of the votes.

Article 100. The Constitution shall be final only after it has been approved by the provincial assemblies, at least two-thirds of their members being present.

The provincial assemblies must vote on the Constitution as a whole, which they approve or reject by ayes or noes.

If it rejects the Constitution as a whole, the provincial assembly must vote again on the Constitution, but this time article by article. If it rejects an article, the provincial assembly must propose the amendment or amendments which condition its approval of the article which it has rejected.

Article 101. When only one or a few articles have been rejected by one or more provincial assemblies, the Chambers may limit themselves to discussing the amendments proposed by the assemblies.

When the draft Constitution is referred to them the second time, the provincial assemblies vote only on the articles which they rejected the first time.

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If one or more articles are again rejected by one or more of the same provincial assemblies, the procedure is repeated.

When the draft Constitution is referred a third time to the provincial assemblies, it is regarded as definitively adopted after a majority thereof have approved it.

Article 102. The Chambers, convened by the King of the Belgians, as provided for in Article 9, shall meet for the first time and prior to 30 June 1960 at a place to be selected by the King.

The Chambers meeting jointly shall select by a majority of two-thirds of their entire membership, the locality which is to become the seat of the national institutions.

In the same manner, they shall select the locality or localities where the Constituent Assembly shall meet.

Article 103. The locality where the Chambers or the Constituent Assembly are to convene shall have the status of a neutral zone.

Article 104. The zone shall be under the authority of a special commissioner representing the State, appointed and removable from office by the Chief of State.

A law shall define before 30 June 1960 the organizational structure of the neutral zone, as well as the respective competence of the special commissioners and the legally established local authorities.

Article 105. The Chambers may request the presence of the special commissioner.

On his request, the special commissioner must be heard by the assembly of the province in which the neutral zone is constituted.

He must also be heard, on his request, by the local councils which meet within the confines of the neutral zones.

#### Chapter IV - The Provincial Institutions

##### Section I - The provincial legislature

##### Subsection 1 - The Constitution of the Assembly and its Functions

Article 106. Each province has a provincial assembly.

Article 107. The assembly comprises:

- (1) Elected members, designated by universal direct suffrage or by a two-stage vote, according to the election rules agreed upon by each province and in conformity with the provisions of the electoral law of 23 March 1960.
- (2) Co-opted members, elected by the provincial councillors mentioned in sub-paragraph (1) from among the customary chiefs and notables in conformity with Articles 110, 111 and 112 of the present law.

The terms "customary chiefs" and "notables" must be understood in the sense defined in Article 88.

Article 108. The councillors mentioned in sub-paragraph (2) of Article 107 shall number:

- Sixty in provinces of less than 2 million inhabitants;
- Seventy in provinces of more than 2 million and less than 2.5 million inhabitants;
- Eighty in provinces of 2.5 million to 3 million inhabitants;
- Ninety in provinces of 3 million or more inhabitants.

The population figures to be taken as a basis are the ones shown in the official statistics of 31 December 1959.

By decision of the executive provincial college, the number of co-opted councillors shall be set for every assembly at 10 or 15 per cent of the number of councillors mentioned in the first paragraph of this article, before the constitution of such assembly. Any fraction shall be rounded off to the higher figure.

Article 109. The assemblies shall convene for the first time before 30 June 1960, on the summons of the provincial executive college, at the capital of the province.

The college may, exceptionally, designate another locality.

Article 110. The assemblies composed of the members specified in sub-paragraph (1) of Article 107 shall convene, under the presidency of a provisional president designated by lot, to proceed with the election of the co-opted councillors.

The election shall take place by secret ballot in a single operation, the presence of at least two-thirds of the members of the assembly being required.

Each councillor shall have only one vote.

Article 111. The customary chiefs and notables who are candidates for a mandate as co-opted provincial councillors shall present their candidacy, first, to the provincial executive college and, subsequently, to the bureau of the assembly, not later than the fourth day before the vote.

Their candidature shall bear the signature of at least five customary chiefs or notables of the province.

The list of candidates shall be notified to the assembly at least three clear days before the vote.

The candidates shall be placed in the order of the votes obtained.

If the number of candidates does not exceed the number of mandates to be filled, the candidates shall be proclaimed elected without further formality.

Candidates who have not obtained a mandate shall be called in the order specified in the fourth paragraph of the present article to replace the sitting members whose seat becomes vacant or who are elected as members of the provincial government.

Article 112. The elections mentioned in Article 110 may not be held until the verification of the credentials of all the councillors mentioned in sub-paragraph (1) of Article 107 has been completed.

The elections mentioned in Articles 113 and 114 may not be held until the verification of the credentials of all the provincial councillors has been completed.

Article 113. As soon as they are fully constituted, the assemblies, under the presidency of their provisional president, shall proceed to designate their president, two vice-presidents and the bureau, according to the procedure decided upon by the King of the Belgians.

The administrative organization of the assembly shall be determined by the King of the Belgians until the assembly adopts the relevant rules of procedure.

Article 114. After having completed the operation prescribed in Article 113, the assembly shall elect the senators who shall represent the provinces in the Senate, as well as the members of the provincial government.

The election shall take place by secret ballot in a single operation, the presence of at least two-thirds of the members being required.

Each councillor shall have only one vote.

Article 115. The electoral operations take place under the direction of the bureau of the assembly. The two youngest councillors of the assembly assist the bureau during the operations.

The president of the assembly shall announce in succession the results of each of the elections mentioned in Article 114.

Article 116. Candidates for the Senate, except those who may be designated as customary chiefs or as notables, must be nominated not later than the fourth day before the date of the vote by at least one-twentieth of the provincial councillors.

Article 117. No candidate may be put on more than one list for the same election, whether in the same province or in different provinces.

A candidate who knowingly violates this prohibition shall be automatically struck off every list on which he appears.

Article 118. Three full days before the day of the vote, the list of candidates shall be approved, first, by the provincial executive college and, subsequently, by the provincial government and brought to the attention of the assembly.

If the number of candidates does not exceed the number of seats to be filled, the candidates shall be declared elected by the authority which approves the list of candidates, without further formality.

If the number of candidates exceeds the number of seats to be filled, the electoral operations based on the system of proportional representation established by Articles 47 to 50 of the electoral law of 23 March 1960 shall be put into effect.

Article 119. Candidates for the Senate as customary chiefs or notables must be nominated, subject to Article 121, paragraph 4 on a double list submitted by the customary chiefs or notables of the province, not later than the fourth day before the date of the vote.

All the customary chiefs or notables shall be called together by the provincial executive college and, later by the provincial government, at the capital of the province or at any other place that the provincial government may decide upon.

Customary chiefs or notables who are unable to be present may appoint a representative by executing a written power of attorney, countersigned by two members of their district council, which such representative must produce.

The nomination list shall be dated and signed by at least one-half of the customary chiefs or notables of the province or by persons duly authorized by them.

The nomination list shall state the name, given name and qualifications of each candidate as well as the district from which he comes.

This list shall be presented, first, to the provincial executive council and, subsequently, to the provincial government.

Article 120. In the forty-eight hours before the meeting of the customary chiefs and notables stipulated in Article 119, the assembly shall determine the number of seats which shall be reserved for the Senators designated in their capacity of customary chiefs and notables, in accordance with Article 87.

If no decision is taken within that period, the assembly shall be deemed to have set the number at three.

Article 121. Three full days before the date of the vote, the list of candidates for the seats to be filled shall be communicated to the assembly.

There shall be only one ballot.

The candidate or candidates shall be placed in the order of votes received. In the event of an equal division of votes between a customary chief and a notable, the customary chief shall be chosen. In the event of an equal division of votes between two customary chiefs or two notables, the older one shall be chosen.

If the customary chiefs and notables were unable to present a double list for the total of the seats to be filled, the assembly may:

Rule on the incomplete nominations list or accept the proposed candidacies, if their number corresponds to the number of seats to be filled; or

Reject the nominations, in order that a complete double list may be established.

In the latter case, the customary chiefs and notables must present the list within forty-eight hours after the original list has been rejected.

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Article 122. The records of the elections envisaged in Articles 118 and 121, drawn up and signed immediately by the members of the bureau officiating according to the first paragraph of Article 115, shall be sent without delay to the Secretariat of the Senate with the nomination papers.

Article 123. The procedure for designating the members of the provincial government, whose composition is specified in Article 163, shall also apply to the nomination of candidates therefor before the assembly and their election by that body.

The nomination of candidates is done before the bureau of the assembly, according to Article 116. The candidates, however, nominate themselves individually, all lists being excluded.

The assembly, first of all, elects the president of the provincial government, whose election requires an absolute majority.

The assembly then proceeds to elect the other members of the provincial government.

Only one vote is taken.

The candidates are placed in the order of votes obtained.

In the case of a split vote with regard to the last seat, another vote is taken in order to decide between the two candidates concerned.

If again the vote is split, the older candidate is chosen.

Article 124. The members of the provincial government must have the same qualifications to be elected as the provincial councillors.

Article 125. The provincial councillors represent the province and not the constituency that has elected them, nor the chiefdom, nor the sector or group from which they hail.

Article 126. The authoritative interpretation of edicts is within the exclusive competence of the assembly.

Article 127. Articles 52 to 60 and Articles 62 and 63 shall apply mutatis mutandis, to the assembly.

The assembly determines by its internal regulations the manner in which it shall exercise its functions.

Article 128. No member of the assembly may be prosecuted, sought, arrested, detained, or judged as a result of opinions or votes expressed or cast by him in the exercise of his functions.

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Article 129. During the session, no member of the assembly may be prosecuted or arrested in a penal matter save with the authorization of the assembly or if surprised in flagrante delicto.

When the assembly is not in session, no member thereof may be arrested without the authorization of the bureau of the assembly, except in case of flagrante delicto, of authorized prosecution or irrevocable sentence.

The detention or prosecution of a member of the assembly may be suspended, if the assembly so requests, but such suspension shall not exceed the duration of the session in progress.

Article 130. The life of the first legislature of the assemblies may not be less than three years, nor more than four, except in case of dissolution.

Article 131. The mandate of the provincial councillors ends on the eve of the meeting of the assembly which is to replace the one organized by the present law.

Except in the case of dissolution, the new assembly shall be convened in consequence of elections organized under the provincial constitution drafted within the framework of the provisions of the Constitution of the State.

Article 132. The assembly convenes as of right twice a year in ordinary session, subject to the provisions of Article 109, on the first Monday of April and October, unless it has been convened at an earlier date, if necessary at the request of the State Commissioner, by the provincial government.

The assembly must remain in session at least a fortnight during each ordinary session. This period is extended to one month until the drafting of the provincial constitution is completed.

Under no circumstances may the ordinary session exceed two months. However, with regard to the sessions devoted to the drafting of the provincial constitution, the State Commissioner may extend that period and fix the limits himself.

Article 133. Without prejudice to the application of Article 109, second paragraph, the provincial assembly convenes in the capital of the province, unless, by reason of some extraordinary event, the Chief of State authorizes it to meet in another city of the province.

The choice of any such locality is proposed to the Chief of State by the president of the assembly or, in case of a special session, by the president of the provincial government.



Article 134. The provincial government, if necessary at the request of the State Commissioner, may call a special session of the assembly.

The duration of any such session may not exceed one month.

Article 135. Subject to the condition that at least two months have passed since the closure of the last session, the State Commissioner, at the request of one-third of the provincial councillors in office, must call an immediate special session of the assembly to enable it to hear the provincial government offer explanations on a particular point of its management.

Such session may not include other points on its agenda and may in no case exceed eight days.

Article 136. Any meeting of the assembly outside the period of the ordinary or special session is null and void de jure.

Article 137. The closure of an ordinary session is announced, upon a proposal of the president of the assembly, by the provincial government, without prejudice to the application of paragraphs 2 and 3 of Article 132.

The closure of a special session is announced by the provincial government.

Article 138. The adjournment of the assembly may be announced in the course of the session by the State Commissioner. The adjournment may not exceed a period of one month and may not be renewed in the course of the same session.

Article 139. Exceptionally, and if the assembly is no longer able to perform its function effectively, the provincial government, after giving due warning to the assembly, may ask the State Commissioner to dissolve it.

The act of dissolution provides that the electorate must be called to the polls within three months and the assembly must convene within four months.

Article 140. When the assembly is not dissolved following the dissolution of the Senate, it is convened by the provincial government, at the request of the State Commissioner within the one-month period fixed by Article 72, second paragraph, with a view to the election of Senators.

Article 141. The Chambers, convened in joint session in conformity with Article 11, shall decide at their first meeting on the working language to be used in the course of their proceedings and for the drafting of the official documents and legislative texts of the provincial assemblies.

Each provincial assembly determines by its internal rules the manner whereby speeches made in other accepted languages shall be translated into the chosen working language.

Until the time when the Chambers have taken the necessary decision, the French language shall be temporarily used and a translation shall be provided of speeches made in Swahili, Lingala, Kikongo or Tshilube.

Article 142. Each member of the assembly receives an annual allowance. The amount is fixed by the provincial assembly and may not be higher than 100,000 frs.

He is entitled to the benefits described in paragraphs 2, 3, and 4 of Article 78, it being understood that "government", in this context, means the provincial government.

Furthermore, he is entitled to the benefits specified in paragraphs 2 and 3 of Article 80.

The assembly shall determine the amount of the sums which may be deducted from the allowance as a contribution to the retirement or pension funds which it may deem fit to create, as well as the amount of family allowances for those who do not already benefit from them.

Article 143. The president and the vice-presidents of the assembly receive a special supplementary allowance, respectively fixed at 50 per cent and 25 per cent of the allowance defined in Article 142.

Article 144. The provincial councillors may not take part in debates in which they have a direct personal interest.

Article 145. The president is in charge of maintaining order in the assembly.

He is entitled, after having given due warning, to expel instantly any member of the public who disturbs order or signifies his approval or disapproval.

Any person who refuses to comply with an expulsion order is punishable by imprisonment for a maximum period of fifteen days and by a fine not exceeding 500 frs., or by one of those penalties only.

An official report shall be drawn up by the president and sent to the competent judicial authorities.

Article 146. The president of the assembly may, in exceptional circumstances, call to a meeting for consultation such officials and representatives of the provincial administration and public services established in the province as the assembly or he himself may designate.

Article 147. The assembly may set up subsidiary committees to consider the budget and other questions on the agenda.

The meetings of the committees are not public. The chairman may call for consultation such of the persons mentioned in Article 146 as the committee or he himself may designate.

#### Subsection II - Of Competence and Powers

Article 148. The assembly examines all questions of provincial interest. It legislates by edict and makes regulatory edicts to implement the law.

Its acts may not conflict with the legal or regulatory provisions decreed by the Chambers or by the Government.

Article 149. Edicts bearing on matters which are within the exclusive jurisdiction of the province, in conformity with the provisions of Title V, may not conflict with the present fundamental law, nor with the fundamental law relating to the public liberties, nor with the provincial constitution.

Article 150. In other matters, with the exception of those which are within the sole competence of the central authority, the assembly may issue edicts on all points which are not completely regulated by the law.

Article 151. The penalties which the assembly may prescribe to enforce its regulatory edicts may not exceed six months of imprisonment and a fine of 6,000 francs or one of those penalties only, except where the law provides otherwise.

Article 152. The assembly draws up programmes of provincial interest.

Article 153. The assembly votes annually, at a public meeting, on a budget bill showing the estimated expenses of the province for the next fiscal year and the means to meet the same.

Article 154. Any amendment to the budget bill proposed by a provincial councillor entailing an increase in expenditure must provide for the necessary ways and means, and any amendment entailing a decrease in revenue which would

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have the effect of upsetting the equilibrium of the budget must allow for a corresponding reduction in expenditure or for new revenue.

Article 155. The budget edict may be carried into effect forty days after its publication, unless the Prime Minister asks the assembly to revise it during that period.

Revision can only be requested:

If the equilibrium of the budget is not effectively secured, so that its execution might threaten the financial security of the State;

If the appropriation of State subsidies for specific purposes is not respected.

In the latter case, the request for revision has bearing only on the provisions relating to the appropriation of those subsidies.

Article 156. If the budget edict is not adopted or made enforceable before the opening of the fiscal year, the assembly authorizes the necessary provisional appropriations for use by the provincial government.

Article 157. The assembly may, in the name of the province, contract loans under conditions which shall be determined by special provisions.

Article 158. The assembly gives its opinion on all questions which are submitted to it by the central government organs.

The records of the relevant debates are transmitted to the central authorities which have consulted the assembly.

Article 159. The name, the creation, the frontiers and the suppression of the administrative districts of the provinces, as well as the selection of their capitals, are determined by the assembly.

Article 160. A provincial constitution, organizing the administrative and political structure of each province within the framework of the general measures established by the present law, shall be elaborated by each assembly within the shortest period of time.

The assembly shall not discuss the provincial constitution unless at least two-thirds of its members are present. No provision or amendment shall be adopted unless it is supported by at least two-thirds of the votes.

Article 161. The president of the assembly ensures the authenticity of the acts of the assembly by signing the same.

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Section II - The Provincial Government

Article 162. A provincial government shall be constituted in each province before 30 June 1960.

Article 163. This government shall be elected by the assembly within or outside its normal framework.

It shall be composed of a president and five to ten members, depending on the decision of the assembly.

Article 164. The election of the provincial government shall take place in conformity with the procedure established by Articles 123 and 124 of the present law.

Article 165. The president of the government thereafter co-ordinates and controls the activities of the government team.

He determines the competence and authority of each member of the government.

He gives a final ruling on all conflicts of authority arising among the members of the government.

He issues and publishes the provincial edicts and regulatory edicts.

He ensures liaison with the assembly on the one side and with the State Commissioner on the other.

Article 166. The members of the government are elected for a period corresponding to the life of the provincial legislature.

Article 167. The government is renewed after each renewal of the assembly.

Article 168. When for any of the reasons described in article 169, one or more members of the provincial government cease to exercise their function during the validity of their mandate, a new election is conducted by the assembly in conformity with the provisions of Articles 123 and 124 of the present law.

Article 169. The mandate of a provincial government member ends on resignation or death, or for any of the causes listed in article 170.

Article 170. Any member of the provincial government may be relieved of his functions in case of:

Loss of one of the qualifications required for election;

A vote of censure passed by the assembly by a two-thirds majority of all the members that compose it, and at the request of at least twenty councillors.

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Article 171. A resignation is tendered in writing to the president of the government, which transmits it to the president of the assembly.

The president of the government tenders his resignation directly to the president of the assembly.

The mandate comes to an end on the date of the notice of receipt of the resignation by the president of the assembly.

Article 172. A member of the government who is resigning or who is the subject of a motion of censure remains in charge of current affairs until his successor is appointed.

Article 173. In case of resignation, death or cessation of the functions of the president of the government, the assembly takes steps to replace him.

It may appoint to the presidency another member of the government, in which case it proceeds with the election of his successor.

Article 174. The members of the provincial government receive an allowance the amount of which is fixed by the assembly.

Article 175. The members of the provincial government may speak in the assembly in a consultative capacity; they have the right to submit to the assembly proposals on the subject under discussion.

Article 176. The provincial government directs the affairs of the province in conformity with the legal provisions and regulations.

It deliberates in closed meetings. Each member of the provincial government is personally and individually responsible, except if the provincial government decides otherwise, for the execution of decisions taken by that body, after mutual consultation, within its authority.

The provincial government issues orders to ensure, inter alia, the implementation of:

Edicts, regulatory edicts and programmes adopted by the assembly;

Laws, legislative ordinances and ordinances for which it is responsible to the central government.

It directs the whole administration of the province under the paramount control of the assembly.

It exercises guardianship functions over towns, communes, territories and administrative subdivisions within the framework of the recognized autonomy of those entities.

It prepares the assembly's agenda and places before it draft edicts and programmes.

Every year, it elaborates a budget bill which it submits to the assembly.

Article 177. The Courts of Appeal have direct and final jurisdiction with regard to offences committed by the members of the provincial government. The prosecutions in such cases are conducted by the procureur général who designates a magistrate of the parquet to take charge of the inquiry.

Article 178. No member of the government may deal with a business matter or take part in a discussion in which he or one of his relatives by blood or marriage, to the fourth degree inclusive, has a direct personal interest.

This restriction is not applicable to relatives by blood or marriage beyond the second degree in matters involving the nomination of candidates, appointments to positions, dismissals or suspensions.

Article 179. The provincial government may defend in court any action brought against the province. It may, without prior consultation with the assembly, institute proceedings which concern personal property and all possessory actions, and may take any interim measure necessary.

The president of the provincial government selects the attorneys of the province and the agents to represent him in the courts.

The actions of the province, as plaintiff or as defendant, are conducted in the name of the provincial government; prosecutions and other such proceedings are conducted in the name of the president of the provincial government.

### Section III - The State Commissioner

Article 180. In each province, a State Commissioner acts as the representative of the central government.

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Article 181. The State Commissioner for each province is appointed by the Chief of State, with the agreement of the Senate and after consultation of the president of the provincial government or, in his absence, of the president of the assembly.

He is removable from office by the Chief of State.

Article 182. The State Commissioners are appointed for a period of three years.

Article 183. The State Commissioner has the right to attend the debates of the assembly; he is heard when he so requests.

Article 184. Besides the rights and prerogatives extended to him by the other provisions of the present law, the State Commissioner:

Directs the State services existing in the province;

Maintains the necessary relations to ensure co-ordination between the provincial and central institutions;

Takes, in case of duly substantiated urgency and in the form of regulations, the measures of enforcement which a law, a legislative ordinance or an ordinance imposes on the province, if two successive reminders addressed, as the case may be, to the president of the assembly or the president of the provincial government have remained without effect.

#### Chapter V - The Judicial Power

Article 185. Disputes regarding civil rights are within the exclusive jurisdiction of the courts.

All other disputes come within the jurisdiction of the courts, excepting the cases provided for by law.

Article 186. The hearings of the court are public, unless such publicity threatens order or morality; the court formally decides when such a case arises.

Article 187. The executive power may not prevent, stop or suspend the activity of the courts and tribunals.

The Chief of State may, however, for serious reasons of public security, and after consultation with the procureur général, suspend in a region and for a time to be determined by him, the penal jurisdiction of the courts and tribunals and replace it by that of military tribunals. The right of appeal to a higher court may not be abolished.



In case of urgency, the State Commissioner has the same authority. He may only exercise it after consultation with the State procureur or the prosecuting officer delegated by said procureur.

Article 188. All judgements shall state the reasons on which they are based; they shall be pronounced at public hearings.

Court decisions and judgements are executed in the name of the Chief of State.

Article 189. Until such time as a Supreme Court of the land (Cassation) is legally constituted, the Supreme Court of Belgium shall act as the Supreme Court of the Congo.

It entertains applications for review made against:

- (a) last resort judgements pronounced by the Courts of Appeal and the courts of first instance in civil and commercial matters;
- (b) judgements rendered by the Courts of Appeal putting an end to suits concerning individual taxes and income taxes.

It does not take cognizance of the substance of the cases.

The legislation now in force relating to applications against decisions pronounced by the Court of Appeal and the Courts of first instance of the Congo remains applicable.

Such cases shall be remanded, however, to a court or tribunal in the Congo.

The Supreme Court of Belgium shall remain seized of applications made against the decisions of the courts and tribunals of the Congo before 30 June 1960.

Article 190. A law may specify, within the limits of the jurisdiction of the Supreme Court of Belgium, the appeals against last resort decisions rendered in other matters by the Courts of Appeal and the Courts of first instance of the Congo, whereof the Supreme Court of Belgium may take cognizance.

Article 191. In the Congo, there are Courts of Appeal, Courts of first instance, district courts, police courts and traditional tribal courts. Their organization and jurisdiction shall be determined by the law.

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The organization of military tribunals, their competence, the rights and duties of the members of those tribunals and the duration of their functions shall be determined by law.

Article 192. The status of judges shall be determined by law.

Judges ("magistrats du siège") shall be irremovable within the framework of their status.

They may be removed only as a result of a new appointment and with their consent; they may neither be deprived of their post, nor suspended, except by a Court decision.

Article 193. The police court judges, who are career magistrates, shall be appointed by the Chief of State from a double list of candidates proposed by the provincial assembly.

Article 194. The counsellors of the Courts of Appeal, the presidents of the courts of first instance, the judges of the courts of first instance, the judges-presidents and the judges of district-courts shall be appointed by the Chief of State from a double list of candidates presented by the Courts of appeal sitting in joint session.

Each Court shall elect its first president and presidents from among its members.

Article 195. The Chief of State appoints, suspends and dismisses the prosecuting officers.

Article 196. The Courts and tribunals shall apply ordinances, regulatory edicts, orders and other regulatory acts only if they are in conformity with the laws and edicts.

Article 197. No judge may accept from the central government or from the provincial government functions involving compensation, unless he performs them free of charge and they are not deemed incompatible with his judicial office by the law.

#### Chapter VI - Cases of Incompatibility

Article 198. No person may be a member of the two Chambers at the same time.

Article 199. A member of either of the two Chambers or of a provincial assembly who is appointed by the central government or by the provincial government to any functions involving compensation other than those of Minister and who accepts them, immediately loses his mandate and can resume it only as a result of a new election.

Article 200. The following are deemed incompatible:

- (a) The functions of a member of the central government and those of a member of the provincial government or of the provincial assembly;
- (b) the functions of a senator or representative and those of a member of the provincial government or of the provincial assembly;
- (c) the functions of a member of the provincial government and of a member of the provincial assembly.

Article 201. The functions of State Commissioner are incompatible with any other functions, whether public or private, compensated or honorary.

Article 202. The functions of a first mayor or of a mayor or of a member of the communal council or of a member of the city council, on the one hand, and those of a member of the central or provincial government on the other, shall be incompatible.

Likewise, the functions of first-mayor or mayor on the one hand, and those of members of a provincial assembly on the other, shall be incompatible.

Article 203. par. 1. The functions of a member of the central government or of the provincial government shall be incompatible with a mandate of director or auditor (commissaire) of a corporation enjoying a concession from the Congolese Government or in which the latter owns a share.

Par. 2. Without prejudice to the provisions of specific laws organizing judicial or consultative organs, career magistrates, public servants and members of the Armed Forces, the gendarmerie, and the police may not exercise any functions within the framework of the institutions organized by chapters I, II, III, IV of Title III of the present law, except those of Minister, member of the provincial government or State Commissioner. In those cases, they may no longer continue to fulfil their former functions.

#### Title IV - The Economic and Social Councils

Article 204. The Councils mentioned in the present Title are the general and provincial economic councils, the higher labour council and the higher council of education, as they are organized by the legislation in force.

Article 205. Without prejudice to the application of Article 63, and except in case of urgency, bills which the Government submits to the Chambers and which have a bearing on matters within the competence of these councils, must be submitted to the councils on the national level.

The councils also give their opinion on the drafts of regulatory acts which the Government submits to them.

The councils may appoint one of their members to set forth before the Chambers with the latter's agreement, the opinion of the councils on the bills submitted to them.

Article 206. The councils may also be consulted by the Government on any problem concerning matters within their competence.

Any programme of interest to the whole country, which would fall within their competence, shall be submitted to the council for advice.

Article 207. The provisions laid down in Articles 204, 205, and 206 shall be applicable, mutatis mutandis, at the provincial level, inasmuch as provisional economic and social councils have been organized.

#### Title V - Determination of the Respective Competences of the Central and the Provincial Institutions

##### Section I - General Provisions

Article 208. As regards the distribution of matters exclusively assigned to central institutions, on the one hand, and to the provincial institutions on the other hand, as determined in the present Title, Parliament legislates for the whole or for part of the Congolese territory and the provincial assembly for the whole or part of the province.

Article 209. Without prejudice to the application of article 150, the Chambers and the provincial assembly may legislate, each of them within the limits of its competence, on any matters not included in the list of those which have been exclusively assigned.

The provisions of edicts which are contrary to the law are abrogated ipso jure.

The law may, however, provide that it shall not be applicable in one or more provinces, where the matter shall continue to be ruled by the edicts locally in force.

Article 210. The Chambers may decide, under the conditions mentioned in Article 99, that a matter exclusively allocated to the central institutions either shall be allocated exclusively to the provincial institutions or shall remain under the concurrent jurisdiction of the central and provincial institutions.

The present law may only take effect after it has been approved by the provincial assemblies, with at least two-thirds of the members present.

When a matter is exclusively allocated to the provincial institutions, the current law shall cease to be effective in the province as soon as it has adopted an edict bearing on the matter in question.

Article 211. The provincial assemblies may decide by a majority of two-thirds of the members that a matter exclusively allocated to the provincial institutions must be either exclusively allocated to the central institutions, or remain under the concurrent jurisdiction of the central and provincial institutions.

Such a decision shall become effective only if all the provincial assemblies so decide and if the Chambers concur by way of a law adopted under the conditions laid down in article 99.

The edicts governing a matter shall remain in force until a law provides therefor.

Article 212. The matters mentioned in article 221 may be removed from the concurrent jurisdiction of the State or provinces and transferred to the exclusive jurisdiction of either the State or the province only if the conditions set forth Articles 210 and 211 have been respected.

The exercise of concurrent jurisdictions is determined in conformity with the provisions laid down in Article 209.

Article 213. On the proposal of the president of the provincial government or of the State Commissioner, the Senate may decide, by a majority of two-thirds of its membership and only in case of emergency or necessity, that a matter exclusively allocated to the provincial institutions shall be temporarily ruled by the law.

When such a decision is taken, the Chambers may legislate on the matter during a period not exceeding one year.

At the end of that period, or as soon as the necessary measures shall have been taken by law, such matter shall again fall within the exclusive jurisdiction of the province.

Article 214. The effects of the laws enacted in application of Article 213 shall be those provided for in Article 209.

Article 215. When as a result of the application of the provisions of Article 213, a matter need no longer be regulated, the provisions of the laws promulgated regarding such a matter shall remain applicable in each province concerned until the matter has been regulated by edict.

Article 216. For a period which it determines, the provincial assembly may decide, by a majority of two-thirds of its membership, that a matter which has been placed within its exclusive jurisdiction shall be regulated by the law.

The law promulgated in application of the preceding paragraph takes effect only in the province concerned.

Article 217. The effects of the laws enacted in application of Article 216 are, mutatis mutandi, the same as those mentioned in Articles 209 and 215.

Article 218. The negotiation of treaties relating to matters expressly allocated to provincial institutions shall be within the exclusive jurisdiction of the central institutions.

The Government shall consult the provincial governments concerned, except in case of emergency or if the secrecy of the negotiations makes such consultation undesirable.

The Senate, by a majority of two-thirds of its membership, may decide that the Chambers shall consult the provincial assemblies before acting in conformity with Article 25.

Section II - Enumeration of the exclusive fields of Jurisdiction

Article 219. Without prejudice to specific provisions granting jurisdiction either to the central or to the provincial institutions, provided that such provisions do not run counter to the present article, the matters listed below shall be exclusively allocated to the central institutions:

1. Foreign relations and treaties;
2. Armed forces;
3. The gendarmerie, without prejudice to special provisions which shall organize the assistance to be given by this corps to provincial institutions;
4. The security of the State;
5. The legislation on nationality;
6. Immigration and emigration;
7. Penal law;
8. The adoption of provisions relating to the judicial organization and to procedure;
9. The appointment and the status of judges and prosecutors;
10. The finances of the State, in conformity with the provisions of the special law which shall organize the distribution of the respective financial fields of the State and the provinces;
11. The currency;
12. The foreign exchange policy;
13. The service of weights and measures;
14. Customs;
15. University and higher education;
16. The adoption of regulations organizing the equivalence of the degrees delivered by primary, secondary, technical and teacher-training schools;
17. The adoption of regulations aiming at ensuring the quality of the teaching personnel;
18. The certification of provincial inspectors in charge of the pedagogical control of primary, secondary, technical, and teacher-training education;
19. Legislation on the practice of medicine;
20. Scientific policy;

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21. General economic policy;
22. The Commercial Code;
23. Provisions of a general character concerning real property;
24. Provisions of a general character concerning the granting of concessions with regard to agriculture and forestry on State-owned land;
25. Provisions of a general character concerning the exploration and exploitation of the subsoil;
26. Provisions of a general character concerning the granting of mining concessions decided by the provinces;
27. The co-ordination of the sources of power presenting a national interest, including hydroelectric equipment and resources;
28. The geological, geodesic, cartographic and hydrographic services;
29. Sea and river waterways, including ports and the marking out of channels;
30. Airways, including airports and aerial protection;
31. Railroads of national interest;
32. Highways of national interest;
33. The general organization of postal services, including the issuing of postage stamps;
34. Telecommunications and broadcasting;
35. Public works of national interest;
36. Control over local institutions in so far as they are performing duties of general interest directly entrusted to them by and on behalf of the central institutions; particularly, in matters pertaining to vital statistics (état civil).

Article 220. Without prejudice to specific provisions granting jurisdiction either to the central or to the provincial institutions, provided that such provisions do not run counter to the present article, the matters listed below shall be exclusively allocated to the provincial institutions:

1. The organization of the political structures of the province within the framework of the general principles laid down in the present fundamental law;
2. The provincial police;

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3. The criminal police attached to the office of the province's Public Prosecutor;
4. Proposals for the appointment of judges at the lower levels of the judicial organization, under the conditions determined under Title III, chapter V;
5. Proposals concerning the delimitation of the administrative entities corresponding to the present territories, with the exception of the cities, in which police courts shall be presided over by a career judge;
6. The finances of the province, in conformity with the provisions of the special law which shall organize the division of the respective financial fields of the State and of the provinces;
7. Primary, secondary, technical and teacher-training education;
8. The appointment of provincial inspectors in charge of the pedagogical control of primary, secondary, technical and teacher-training education, without prejudice to the application of Article 219, paragraph 18;
9. The granting of and control over concessions on province-owned land and forests;
10. The granting of mining concessions, within the framework of the general provisions mentioned in Article 219, paragraph 26;
11. The exploitation of sources of water-power reserved for the needs of the province;
12. Railroads of provincial or local interest;
13. Roads of provincial or local interest;
14. Public works of provincial interest;
15. The control of local institutions, without prejudice to the application of Article 219, paragraph 36;
16. The determination of penalties in connexion with the enforcement of edicts.

Article 221. Without prejudice to the specific provisions granting jurisdiction both to the central and the provincial institutions, the matters mentioned below shall be expressly within the competence of both:

1. Social legislation and regulations concerning social security;
2. The determination of minimum wages.

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Article 222. The enumeration contained in Articles 219, 220 and 221 may be supplemented by law under the conditions laid down in Article 99 and with the approval of a majority of the provincial assemblies.

### Section III - Special Measures

Article 223. Until the land system is organized by law, transfers of and concessions over land, forests, mines, waters and railroads shall be granted within the framework of the existing legislation by the provincial assembly, in so far as they fall under the jurisdiction of the legislative power, and by the provincial government, to the extent that they fall under the jurisdiction of the executive power.

Concessions of hydroelectric resources with nation-wide potentialities, however, shall be granted by law.

Article 224. The legislation mentioned in Article 219, paragraph 25, concerning the exploration and exploitation of the subsoil, shall provide for a direct and fair participation of the provinces in which such exploitation takes place in the revenue collected.

Article 225. Legislation concerning the granting of mining concessions shall provide for a just and prior indemnification of the persons or groups that own the land.

### Title VI - The Constitutional Court

Article 226. The Constitutional Court shall consist of a Chamber of Constitutionality, a Chamber of Conflict and a Chamber of Administration.

Article 227. The Constitutional Court shall exercise the powers vested in it by the present law.

Article 228. The decisions and judgements of the Constitutional Court shall be subject to no appeal.

Article 229. The procedure and organization of that Court shall be regulated by law.

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## Section I - The Chamber of Constitutionality

Article 230. (1) The Chamber of Constitutionality delivers motivated opinions or renders judgements on the conformity of central or provincial legislative measures with the provisions of the present law and of the fundamental law concerning public liberties.

The present provision shall be not applicable to budgeting laws and edicts.

(2) The Prime Minister, the president of the Chamber or the president of the Senate may ask the Court for its opinion on bills and legislative proposals.

The president of a provincial government, the State Commissioner or the president of the provincial assembly may ask the Court for its opinion on a provincial draft constitution and on drafts or proposals of provincial edicts.

(3) The Chamber of Constitutionality may be called upon to give such an opinion at any stage of the procedure, until a vote is taken on the law, on the provincial constitution or on the edict, as a whole.

(4) The Chamber of Constitutionality must deliver motivated opinions on bills before they are promulgated as laws, as well as on legislative ordinances before they are signed by the Chief of State unless, in the latter case, there is a special emergency, which has been duly established.

Article 231. (1) The Chamber of Constitutionality must give a ruling on each provincial constitution as soon as it is adopted by the assembly. A provincial constitution or any of its provisions which are declared not to be in conformity may not be promulgated.

(2) The president of a provincial government or the president of an assembly may ask the Chamber of Constitutionality for its ruling on any law or legislative ordinance.

Any law or legislative ordinance which is declared unconstitutional is abrogated ipso jure.

(3) The Chamber of Constitutionality may give rulings on provincial edicts.

It may also ascertain whether they are not contrary to the provincial constitutions or to the laws, legislative ordinances, regulations and ordinances

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in matters falling within the jurisdiction of both the central and the provincial institutions, without prejudice to the application of article 232.

The Court is seized of such questions by the president of the provincial government or by the State Commissioner.

It may decide to suspend the execution of an edict submitted for its consideration for a maximum period of three months.

Any edict declared not to be in conformity with or contrary to the constitution shall be abrogated ipso jure.

The Chamber of Constitutionality may be seized of the question of the constitutionality of an edict before the latter is promulgated. In such a case, the edict may not be promulgated if it is found not to be in conformity with, or contrary to, the constitution.

(4) When the Chamber of Constitutionality is seized of such a matter, it shall as a matter of routine examine, whether the act submitted to it is in conformity with, or is not contrary, as the case may be, to the constitutions, laws, regulations or ordinances.

## Section II - The Chamber of Conflicts

Article 232. The function of the Chamber of Conflicts is to decide on conflicts of jurisdiction arising between the central and the provincial institutions.

It shall give its ruling, in particular, on disputes arising as a result of the application of Articles 209, 210, paragraph 3; 211, paragraph 3; 212, 214, 215 and 217.

It is also competent to take cognizance of a conflict of jurisdiction relating to the act of the executive power.

Article 233. For the application of Article 232, the Chamber of Conflicts may be seized of a dispute by:

The Chief of State;

The presidents of the Chambers;

The Prime Minister;

The presidents of the provincial assemblies;

The presidents of the provincial government;

The State Commissioners.

Article 234. A matter may be brought before the Chamber of Conflicts only if the interested parties have been unable to settle their conflict themselves.

Article 235. Legislative or regulatory provisions declared by the Chamber of Conflicts to be contrary to the provisions of Title V, respecting the determination of the respective jurisdictions of the central and the provincial institutes, shall be deemed of no effect.

### Section III - The Chamber of Administration

Article 236. (1) In cases where no other competent jurisdiction exists, the Chamber of Administration of the Court of Constitutionality shall examine the requests for indemnification to compensate for exceptional damage suffered as a result of a measure taken or ordered by the State, or by provincial or local authorities, whether the execution of such measure has been normal or whether it has been defective or delayed. The Chamber of Administration, judging in equity, delivers a motivated opinion, taking account of all the circumstances of private and public interest.

(2) The Chamber of Administration adjudicates by way of judgement on applications requesting annulment for violation of formalities, when such formalities are essential or their observance is an express condition of validity; and on applications based in the contention that an act is ultravires (excès de pouvoir) or that there has been misuse of power (détournement de pouvoir). Such applications are made against the acts and regulations made by various administrative authorities or against contentious administrative decisions.

### Chapter VII - Finances

Article 237. The franc is the monetary unit of the Congo. Its weight in gold is determined by law.

On this basis, the Chief of State has the right to mint metallic specie of gold whereof he determines the type, diameter, imprint and other characteristics.

He may also mint smaller coin whereof he determines all the characteristics.

Article 238. Taxes for the benefit of the State may be established only by a law.

Provincial taxes may be established only by edict.

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Article 239. Taxes for the benefit of the State and the provinces are voted annually. The laws and edicts establishing such taxes remain in force for one year only, unless renewed.

Article 240. In matters of taxation, no privilege may be established.

No exemption from or reduction in taxes may be established except by a law or an edict. In cases of emergency, the Chief of State or the president of the provincial government may grant temporary tax exemptions or reductions, but he must, within a period of three months, submit a bill or a draft edict of approval.

Article 241. The budget of receipts and expenditures of the State is determined every year by a law. That law determines the share of revenue collected by the State which shall be allocated to each province.

If the Chambers are unable to vote on the budget before the opening of the fiscal year, provisional appropriations, as required, shall be granted to the Government by law.

The State may not resort to special resources in order to borrow, guarantee the capital or the interest payable on a loan or execute works, unless it is authorized to do so by a law.

Within the limits of an authorized loan, and if the Treasury so requires, the Chief of State may create or renew interest bearing treasury bonds maturing at the end of a period not exceeding five years.

Article 242. The Chief of State orders the transfers of funds and, in case of urgent need, the necessary additional expenditures. The competent Minister immediately transmits the Chief of State's ordinance to the Court of Audit (Cour des Comptes) mentioned in article 243, and within a period of four months submits a bill of approval.

Article 243. The accounts of the State budget are kept as determined by law.

A Court of Audit (Cour des Comptes) is hereby created; its organization shall be regulated by law.

The Court's function is to control and clear the accounts of the general administration and of all persons accountable to the Public Treasury. It verifies whether any of the items of expenditure in the budget has been exceeded and whether transfers and additional expenditures have been approved by law. It determines the budgets of the various State administrations and to that end, it

obtains from the competent Ministers any information and any accounting document which it requires.

The general accounts of the State are communicated to the Chambers with the observations of the Court.

Article 244. The Chambers determine the annual amount of the civil list of the Chief of State, until such time as the Constitution is put into force.

Article 245. The budget year begins on the first of January; it ends on the 31st of March of the following year.

Article 246. Without prejudice to Articles 156 and 157, the provisions of Articles 241, 242, and 243 concerning the budgets, loans and accounts of the State are applicable to the budgets, loans, and accounts of the provinces, on the understanding that, in that case, the powers conferred on the Chief of State and the Chambers are exercised, respectively, by the president of the provincial government and of the provincial assembly.

#### Chapter VIII - General Provisions

##### I. Civil Servants

Article 247. Civil servants of the State, province and other public entities are governed by regulations which can not be derogated from by way of individual measures.

Article 248. The said regulations deal, in particular, with the duties of the civil servants, their careers, leaves of absence, and the manner in which their functions may be interrupted or come to an end.

The regulations also set forth the principles of compensation and promotion.

Article 249. All civil servants or agents of public administrations are entitled to a pension under conditions laid down by legislative provisions.

Article 250. Belgian civil servants and agents, Belgian officers and non-commissioned officers and career judges on duty in the Congo on 30 June 1960 are placed at the disposal of the Government.

The specific regulations applicable to personnel, the respect of which is hereby guaranteed, the manner in which they shall be put at the disposal of the Government and the guarantees which they shall enjoy while they are carrying

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out the functions entrusted to them, shall be determined by a convention to be concluded between the Congo and Belgium.

## II. The Armed Forces

Article 251. The composition of the Armed Forces shall be fixed each year.

The law which determines the said composition shall remain in force for one year only, unless renewed.

## III. The Publication of Official Acts

Article 252. No legislative or regulatory act shall be binding until its publication in the form prescribed by law.

## IV. Transitional Provisions

Article 253. Until such time as a Constitutional Court is legally organized in conformity with Articles 229, 230, 232 and 236, the Council of State of Belgium exercises, according to the procedure which it shall determine, the jurisdiction of the Constitutional Court as set forth in Articles 229 to 235.

Article 254. Until such time as the Court of Audit is legally organized in conformity with Article 243 and in any case for the fiscal year 1960, the Court of Audit of Belgium shall perform the following operations:

It shall verify whether no item of expenditure in the budget has been exceeded and whether the transfers and additional expenditures have been approved by law;

It shall determine the accounts of the various State administrations and, to that end, obtain from the competent Ministers all the information and accounting documents, which it shall require;

It shall formulate its observations on the general accounts of the State, which are communicated to the Chambers.

Article 255. Unless otherwise provided, the electoral law of 23 March 1960 shall govern all legislative and provincial elections prior to the entry into force of the Constitution.

Article 256. (1) If the central Government is not constituted on 30 June 1960 the current affairs of the State shall be dealt with until the day of its

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constitution, by a college consisting of the president and the members of the general executive college on the one hand and of six senators on the other.

Those senators shall be selected on the basis of one for each province by the senators representing the same.

The procedure for the selection of more senators shall be that laid down in Article 89.

(2) If a provincial government is not constituted on 30 June 1960, the current affairs of the province shall be dealt with, until the day of its constitution, by a college consisting of the president and the members of the provincial executive council on the one hand and of three provincial councillors on the other.

The provincial councillors shall be selected by the provincial assembly.

The selection shall take place at a plenary meeting by a single ballot. The councillors shall be placed in order, according to the number of votes received.

(3) These colleges shall be presided over, respectively, by the president of the general executive college and by the president of the provincial executive college.

#### V. Final Provisions

Article 257. With the exception of the provisions of the present subdivision, which shall enter into force on the day of the publication of the present law, the King shall determine the date on which the other provisions of the present law shall come into force.

Article 258. As the provisions of the present law become operative, the existing legal and regulatory provisions which are contrary, identical or similar thereto, shall be abrogated.

Article 259. The following shall be abrogated on 30 June 1960:

The law of 18 October 1908, with all its amendments, concerning the Government of the Belgian Congo, inasmuch as it applies to the Belgian Congo;

The law of 21 March 1959, abolishing the Legislative Council of the Belgian Congo.

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We promulgate the present law, order that it bear the seal of the State and be published by the "Moniteur Belge".

Brussels, 19th of May 1960.

BAUDOUIN

By the King:

The Minister of the Belgian Congo and Ruanda-Urundi,

A.E. De Schryver

Seen and sealed with the seal of State:

The Minister of Justice,

L. Merchiers

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