

# Constitution of the Year VIII

## *December 13, 1799*

This constitution although nominally framed by the two legislative commissions appointed by the Brumaire Decree of November 10, 1799 was actually imposed upon them by Napoleon Bonaparte. It was submitted to the people and accepted by over three million votes against about fifteen hundred.

### **Constitution of the French Republic**

#### **Title I. Of the Exercise of the Rights of Citizenship.**

The French Republic is one and indivisible. Its European territory is divided into departments and communal districts.

Every man born and residing in France fully twenty-one years of age, who has caused his name to be inscribed upon the civic register of his communal district and has since lived for one year upon the soil of the Republic, is a French citizen.

A foreigner becomes a French citizen when, after having reached the full age of twenty-one years and having declared his intention to settle in France, he has resided there for ten consecutive years.

The title to French citizenship is lost:

- By naturalization in a foreign country;
- By the acceptance of appointments or pensions tendered by a foreign government;
- By affiliation with any foreign corporation which may imply distinctions of birth;
- By condemnation to afflictive or infamous punishments.

The exercise of the rights of French citizenship is suspended by the state of bankruptcy or of direct inheritance, with gratuitous title, to the succession, in whole or in part, of a bankrupt;

- By the condition of domestic service for wages, either for a person or a household;
- By the condition of judicial interdiction, of accusation, or of contempt of court.

In order to exercise the rights of citizenship in a communal district, it is necessary to have acquired domicile there by one year of residence and not to have lost it by one year of absence.

The citizens of each communal district designate by their votes those among them whom they believe the most fit to conduct public affairs. Thus the result is a list of the trustworthy, containing a number of names equal to one-tenth of the number of citizens having the right to co-

operate there. It is from this first communal list that the public functionaries of the district must be taken.

The citizens included in the communal lists of a department designate likewise a tenth of themselves. Thus there results a second list, known as the departmental list, from which the public functionaries of the department must be taken.

The citizens comprised in the departmental list designate in like manner a tenth of themselves: thus there results a third list which comprises the citizens of that department eligible to the national public functions.

The citizens who have the right to co-operate in the formation of one of the lists mentioned in the three preceding articles, are called upon every three years to provide for replacing those of the enrolled who have died or are absent for any other cause than the exercise of a public function.

They can, at the same time, remove from the lists the enrolled whom they judge unfit to remain there, and replace them by other citizens in whom they have greater confidence.

No one is removed from a list except by the votes of the majority of the citizens who have the right to co-operate in its formation.

No one is removed from a list of eligibles by the mere fact that he is not kept upon another list of higher or superior degree.

Inscription upon a list of eligibles is necessary only with reference to those of the public officers for which that condition is expressly required by the constitution or the law. The list of eligibles shall be formed for the first time during the course of the Year IX.

Citizens who shall be selected for the first formation of the constituted authorities, shall form a necessary part of the first lists of eligibles.

## **Title II. Of the Conservative Senate.**

The Conservative Senate is composed of eighty members, irremovable and for life, of at least forty years of age. For the formation of the Senate, there shall at first be chosen sixty members: that number shall be increased to sixty-two in the course of the Year VIII, to sixty-four in the Year IX, and it shall thus be gradually increased to eighty, by the addition of two members in each of the first ten years.

Appointment to the place of senator is made by the Senate, which chooses among three candidates presented, the first by the Legislative Body, the second by the Tribunate, the third by the First Consul.

It chooses between only two candidates if one of them is proposed by two of the three presenting authorities: it is required to admit that one who may be proposed at the same time by the three authorities.

The First Consul, upon leaving his place, either by expiration of his office or by resignation, becomes a senator *ipso facto* and necessarily.

The other two consuls, during the month following the expiration of their duties, can take seats in the Senate, but they are not required to make use of this right.

They do not have it if they leave their consular duties by resignation.

A senator is forever ineligible to any other public office.

All the lists made in the departments, in virtue of article 9, are despatched to the Senate: they constitute the national list.

It chooses from this list the legislators, the tribunes, the consuls, the judges of cassation, and the commissioners of accounts.

It sustains or annuls all the acts which are referred to it as unconstitutional by the Tribunal or the government: the lists of eligibles are included among these acts.

Fixed revenues from the national domains are set apart for the expenses of the Senate. The annual stipend of each of its members is taken from these revenues, and is equal to a twentieth of that of the First Consul.

The sittings of the Senate are not public.

Citizens Siéyès and Roger-Ducos, retiring consuls, are appointed members of the Conservative Senate: they shall join to themselves the second and third consuls appointed by the present constitution. These four citizens appoint the majority of the Senate, which then completes itself and proceeds to the elections that are entrusted to it.

### **Title III. Of the Legislative Power.**

New laws shall be promulgated only when the project for them shall have been proposed by the government, communicated to the Tribunal, and decreed by the Legislative Body.

The projects that the government proposes are drawn up in articles. In any stage of the discussion of these proposals, the government can withdraw them; it can reproduce them in modified form.

The Tribunal is composed of one hundred members at least twenty-five years of age; they are renewed by a fifth each year and are indefinitely re-eligible as long as they remain upon the national list.

Tribunate discusses the projects for laws: it votes for their adoption or their rejection. It sends three orators taken from its own body, by whom the grounds for the view that it has taken upon each of these proposals are set forth and defended before the Legislative Body. It refers to the Senate, on account of unconstitutionality only, the lists of eligibles, the acts of the Legislative Body and those of the government.

It expresses its opinion upon the laws made and to be made, the abuses to be corrected, and the improvements to be undertaken in all parts of the public administration, but never upon civil or criminal matters pending before the tribunals.

The opinions that it expresses by virtue of the present article have no necessary consequence and do not compel any constituted authority to a deliberation.

When the Tribunate adjourns, it can appoint a commission of from ten to fifteen of its members, charged to convoke it if it deems expedient.

The Legislative Body is composed of three hundred members of at least thirty years of age; they are renewed each year by a fifth.

It must always contain at least one member from each department of the Republic.

A member retiring from the Legislative Body cannot re-enter it until after an interval of one year; but he can be immediately elected to any other public office, including that of tribune, if he is otherwise eligible to it.

The session of the Legislative Body commences each year upon 1 Frimaire, and continues only four months; it can be convoked in extraordinary session during the other eight months by the government.

The Legislative Body makes a law by deciding through secret ballot, and without any discussion on the part of its members, upon the projects of law discussed before it by the orators of the Tribunate and the government.

The sittings of the Tribunate and those of the Legislative Body are public; the number of spectators at either of them cannot exceed two hundred.

The annual stipend of a tribune is fifteen thousand francs; that of a legislator, ten thousand francs.

Every decree of the Legislative Body is promulgated by the First Consul the tenth day after its passage unless within that period it has been referred to the senate upon the ground of unconstitutionality. This recourse cannot be taken against promulgated laws.

The first renewal of the Legislative Body and of the Tribunate shall take place only in the course of the Year X.

#### **Title IV. Of the Government.**

The government is confided to three Consuls appointed for ten years and indefinitely re-eligible. Each of them is elected individually with the distinguishing title of First, Second or Third Consul.

The constitution appoints as First Consul, Citizen Bonaparte, former provisional consul; as Second Consul, Citizen Cambacérès, former minister of justice: and as Third Consul, Citizen Lebrun, former member of the commission of the Council of Ancients.

For this time the Third Consul is appointed only for five years.

The First Consul has special duties and prerogative in which he is temporarily replaced by one of his colleagues, when there is need.

The First Consul promulgates the laws; he appoints and dismisses at will the members of the Council of State, the ministers, the ambassadors and other foreign agents of high rank, the officers of the army and navy, the members of the local administrations, and the commissioners of the government before the tribunals. He appoints all criminal and civil judges other than the justices of the peace and the judges of cassation, without power to remove them.

In the other acts of the government, the Second and Third Consuls have a consultative voice: they sign the register of these acts in order to attest their presence; and if they wish, they there record their opinions; after that the decision of the First Consul suffices.

The stipend of First Consul shall be five hundred thousand francs in the Year VIII. The stipend of each of the other two consuls is equal to three-tenths of that of the First Consul.

The government proposes the laws and makes the regulations necessary to secure their execution.

The government controls the receipts and expenses of the state in conformity with the annual law which fixes the amount of both of them; it superintends the coinage of money, of which the law alone orders the emission and fixes the denomination, weight, and stamp.

If the government is informed that some conspiracy is laid against the state, it can issue decrees of apprehension and arrest against the persons who are supposed to be the authors or accomplices of it; but if, within a period of ten days after their arrest, they are not set at liberty or put upon trial, the minister who signed the decree has committed the crime of arbitrary imprisonment.

The government provides for the internal security and the external defence of the state; it distributes the land and sea forces and controls their direction.

The active national guard is subject to the rules of the public administration: the reserve national guard is subject only to the law.

The government has charge of the foreign political relations, conducts negotiations, makes preliminary stipulations, signs and causes to be signed and concluded all treaties of peace and alliance, truce, neutrality, commerce, and other conventions.

Declarations of war and treaties of peace, alliance, and commerce are proposed, discussed, decreed, and promulgated as are the laws. But the discussions and deliberations upon these matters, in the Tribunate as well as in the Legislative Body, take place in secret committee when the government demands it.

The secret articles of a treaty cannot be destructive of the open articles.

Under the direction of the consuls, a council of state is charged with drawing up projects of law and regulations of public administration, and with the settlement of difficulties which arise in administrative matters.

The orators charged to take the word, in the name of the government, before the Legislative Body, are always taken from among the members of the Council of State. These orators are never sent to the number of more than three for the defence of a single project of law.

The ministers procure the execution of the laws and regulations of public administration.

No edict of the government can have effect unless it is signed by a minister.

One of the ministers is especially charged with the administration of the public treasury: he provides for the security of the receipts, and orders the transfer of funds and the payments authorised by law. He cannot make any payment except in virtue of: 1st, a law, and to the amount of the funds which it has fixed for that kind of expenses; 2d, an order of the government; 3d, a warrant signed by a minister.

The detailed accounts of the expenses of each minister, signed and certified by him, are made public.

The government can select or retain as councillors of state and as ministers, only the citizens whose names are enrolled upon the national list.

The local administrations established either for each communal district or for more extended portions of territory are subordinate to the ministers. No one can become or remain a member of these administrations unless he is placed or kept upon one of the lists mentioned in articles 7 and 8.

## **Title V. Of the Tribunals.**

Each communal district has one or more justices of the peace, elected directly by the citizens for three years.

Their principal duty consists in conciliating the parties, whom they urge, in case of non-conciliation, to get judgment by arbitrators.

In civil matters there are tribunals of first instance and tribunals of appeal. The law determines the organization of each of them, their competency, and the territory forming the jurisdiction of each.

In criminal matters involving afflictive or ignominious punishments, a first jury accepts or rejects the accusation: if it is accepted, a second jury passes upon the facts, and the judges forming a criminal tribunal impose the penalty. Their judgment is without appeal.

The duty of public prosecution before a criminal tribunal is performed by the commissioner of the government.

Crimes that do not involve afflictive or ignominious punishments are tried by tribunals of correctional police, subject to appeal to the criminal tribunals.

There is for the whole Republic a tribunal of cassation, which passes upon the appeals in cassation against the judgments rendered in the last resort by the tribunals, upon applications for the removal from one tribunal to another on account of legitimate suspicion or public security, and upon complaints of prejudice against a whole tribunal.

The tribunal of cassation does not take cognizance of the facts of actions; but it quashes the judgments rendered upon proceedings in which the forms have been violated, or which contain some express contravention of the law; and it sends back the facts of the action of the tribunal which ought to have jurisdiction thereon.

The judges composing the tribunals of first instance and the commissioners of the government assigned to these tribunals, are taken from the communal list or the departmental list.

The judges constituting the tribunals of appeal and the commissioners placed with them are taken from the departmental list.

The judges composing the tribunal of cassation and the commissioners assigned to that tribunal, are taken from the national list.

The judges, other than the justices of the peace, keep their offices for life unless they should be condemned to forfeiture or should not be kept upon the lists of eligibles.

## **Title VI. Of the Responsibility of the Public Functionaries.**

The positions of members of the Senate, Legislative Body, Tribunal, and those of the consuls and the councillors of state do not give occasion for any responsibility.

Personal crimes involving afflictive or ignominious punishments, committed by a member of the Senate, Tribunal, Legislative Body, or Council of State, are prosecuted before the ordinary tribunals only after a decision of the body to which the accused belongs has authorised that prosecution.

Ministers accused of private crimes involving afflictive or ignominious punishment are considered as members of the Council of State.

The ministers are responsible: 1st, for every act of the government signed by them and declared unconstitutional by the Senate; 2d, for the non-execution of the laws and regulation is of the public administration; 3d, for the special orders which they have given, if these orders are contrary to the constitution, the laws, or the regulations.

In the case of the preceding article, the Tribunal accuses the minister by an act upon which the Legislative Body deliberates in the usual forms, after having heard or summoned the accused. The minister placed on trial by a decree of the Legislative Body is tried by a high court, without appeal and without recourse in cassation.

The high court is composed of judges and jurors. The judges are chosen by the tribunal of cassation and from its own body; the jurors are taken from the national list : the whole following the forms which the law determines.

Civil and criminal judges are prosecuted for crimes connected with their duties before the tribunals to which that of cassation sends them, after having annulled their acts.

The agents of the government, other than the ministers, cannot be prosecuted for acts relating to their duties except by virtue of a decision of the Council of State; in that case the prosecution takes place before the ordinary tribunals.

## **Title VII. General Provisions.**

The house of every person dwelling upon French soil is an inviolable asylum.

During the night no one has the right to enter it except in case of fire, inundation, or a call coming from the interior of the house.

During the day it can be entered for a special purpose, determined either by law or by an order issued by a public authority.

In order that the instrument which orders the arrest of a person may be executed, it is necessary:

1st, that it set forth explicitly the ground for the arrest and the law in execution of which it is ordered;



- 2d, that it be issued by an official to whom the law has explicitly given that power;
- 3d, that it be made known to the person arrested and that he be provided with a copy of it.

A warden or jailer cannot receive or detain any person except after having copied upon his register the document which orders the arrest: this document must be a warrant given in the forms prescribed by the preceding article, or an order of arrest, or a decree of accusation, or a judgment.

Every warden or jailer is required, without any order being able to dispense therewith, to present the arrested person to the civil officer having in charge the police of the prison, whenever he shall be required to do so by that officer.

The production of the arrested person cannot be refused to his kinsmen and friends bearing the order of the civil officer, who shall always be required to grant it, unless the warden or jailer presents an order of the judge to keep the person in secret.

All those who, not having received from the law the power to make arrests, shall cause, sign or execute the arrest of any person; all those who, even in cases of arrests authorised by law, shall receive or retain the arrested person in a place of confinement not publicly and legally designated as such ; and all the wardens or jailers who shall contravene the provisions of the three preceding articles, shall be guilty of the crime of arbitrary imprisonment.

All severities employed in arrests, imprisonments or executions, other than those authorised by the laws, are crimes.

Any person has the right to present individual petitions to any constituted authority, and especially to the Tribunal.

The public force is essentially obedient; no armed body can deliberate.

Military offences are subject to special tribunals and to special forms of trial.

The French nation declares that pensions shall be granted to all soldiers wounded in the defence of the fatherland, as well as to the widows and children of soldiers dying upon the battlefield or from the effects of their wounds.

National rewards shall be conferred upon the warriors who shall have rendered distinguished services in fighting for the Republic.

A national institute is charged with the collection of the discoveries and the improvement of the sciences and the arts.

A commission of national bookkeeping regulates and verifies the accounts of the receipts and expenditures of the Republic. This commission is composed of seven members chosen by the Senate from the national list.

A constituted body can deliberate only in a sitting when at least two-thirds of the members are present.

The form of government of the French colonies is determined by special laws.

In case of rebellion by armed force or of disturbances that threaten the security of the state, the law can suspend in time places and for the time which it determines, the authority of the constitution.

This suspension can be declared provisionally, in the same cases, by an order of the government, the Legislative Body being on vacation, provided that this body be convoked within the shortest possible time by an article of the same order.

The French nation declares that in any case it will not permit the return of the French, who, having abandoned their fatherland since July 14, 1789, are not included in the exceptions allowed by the laws made against the émigrés; it forbids any new exception upon this matter.

The goods of the émigrés are irrevocably acquired for the profit of the Republic.

The French nation declares that after a legally consummated sale of national lands, whatever be the cause thereof, the lawful purchaser cannot be dispossessed thereof, reserving to their claimants, if there is need, indemnification by the public treasury.

The present constitution shall be offered immediately for the acceptance of the French people.