

MONTENEGRO.

The Principality of Montenegro was not established in its present form until 1/13 January 1852. Three years later a general Code in 95 articles was promulgated. This Code was a sort of compendium of all the national institutions, political as well as civil, penal and financial, and it proclaimed the equality of all citizens before the law, the inviolability of their rights, as well as regulated the succession to the throne. In 1868 a beginning in constitutional reform was inaugurated, when certain financial powers and the direction of administrative affairs were conferred upon a Senate. Eleven years later the Prince abolished the Senate and created a Council of State, composed of eight members, half elected by the Prince, half by all the male inhabitants bearing or having borne arms. The legislative and executive powers were exercised, in accord with the sovereign, by this Council of State and by a Council of Ministers. The independence of Montenegro had just been recognized by Article 26 of the Treaty of Berlin of 13 July 1878.¹ Two articles of this treaty imposed upon Montenegro equality of religious confessions (Article 27) and inviolability of property (Article 20). The present Constitution was granted by a Proclamation of 18/31 October 1905. A Chamber of 62 deputies was elected on 14 November, and the Prince took oath before it to the new Constitution in the meeting of 6 December.²

CONSTITUTION OF 6/19 DECEMBER 1905.³

[PREAMBLE.]

We, Nicholas I, by the grace of God Prince and Hospodar of Montenegro, grant and publish this Constitution for the Principality of Montenegro.

¹ French text in the *British and Foreign State Papers*, 69: pp. 749-767; English translation in EDWARD HERTSLET, *Map of Europe by Treaty*, vol. IV (London, 1891), pp. 2759-2799.

² This introductory paragraph is based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, pp. 294-295.

³ Translated by OTIS G. STANTON from the French text in the *British and Foreign State Papers*, 98: pp. 419-440. German translation in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 685-705.

PART I.—THE FORM OF GOVERNMENT; THE PRINCE HOSPODAR; THE TERRITORY AND RELIGION OF THE STATE.

ARTICLE 1. The Principality of Montenegro is an hereditary and constitutional monarchy with national representation.

ART. 2. The Prince Hospodar is head of the State and, as such, possesses all the rights of the supreme power and exercises them according to the provisions of the present Constitution. His person is inviolable and irresponsible. He can not in any case be impeached.

ART. 3. The Prince Hospodar exercises the legislative power in concert with the national representation.

ART. 4. The Prince Hospodar sanctions and promulgates the laws. No law can come into force unless the Prince Hospodar sanctions and promulgates it.

ART. 5. The Prince Hospodar is the supreme head of the army.

ART. 6. The Prince Hospodar is the protector of all the religions recognized in Montenegro.

ART. 7. The Prince Hospodar represents the country in all its relations with foreign States. He declares war, concludes treaties of peace and alliance and communicates them to the national representation in so far as and when the interests and security of the country permit it. For treaties of commerce, for those whose execution exacts outlays of money from the treasury, necessitates a modification of the laws of the country, or limits the private and public rights of Montenegrin subjects, the approval of the Skupshtina¹ is necessary.

ART. 8. The Prince Hospodar appoints all the functionaries of the State. All the authorities of the country exercise their functions in his name and under his supreme surveillance.

ART. 9. The Prince Hospodar confers the military grades conformably to the provisions of the laws.

ART. 10. The Prince Hospodar has the right to coin money.

ART. 11. The Prince Hospodar confers decorations, titles and other distinctions.

ART. 12. The Prince Hospodar has the right of amnesty.

ART. 13. The Prince Hospodar has the pardoning power in criminal cases; he can mitigate, diminish, or completely remit penalties. There can be no suspension of examination and trial in progress, for non-political criminals.

ART. 14. The Prince Hospodar and his family must belong to the Eastern Orthodox religion.

ART. 15. The heir apparent and the other members of the reigning family can not marry without the permission of the Prince Hospodar.

ART. 16. The Prince Hospodar resides in the country, and if, in case of necessity, he leaves Montenegro, for some time, he is repre-

¹ The name of the National Assembly.

mented by the Crown Prince. In case the latter should be prevented from representing the Prince Hospodar, the constitutional authority of the Principality shall be exercised by the Council of Ministers, conformably to the instructions which the Prince Hospodar shall have given them within the limits of the Constitution. The Prince Hospodar announces to the people by a proclamation his departure from the country and the nomination of his representative.

ART. 17. The Prince Hospodar convokes the National Skupshtina in ordinary or extraordinary session. He opens and closes the meetings of the National Skupshtina personally by a discourse from the throne, and through the medium of the Council of Ministers by means of a message or ukase. The Prince Hospodar has the right to adjourn the National Skupshtina and to dissolve it. The ukase of adjournment and of dissolution of the Skupshtina must be countersigned by all the ministers.

ART. 18. In Montenegro Prince Nicholas I Petrovitch Niégosch¹ reigns.

Under the name of reigning house is included: the Sovereign Prince, the Sovereign Princess, the Crown Prince, the Crown Princess.

Members of the reigning house are: the father and the grandfather of the Sovereign Prince, the ascendants in direct line, then the sons, the brothers, the wives of the brothers, the daughters, the sisters, the nephews (sons of the brothers), the grandsons and the granddaughters.

No other relative, either by blood or by marriage, is considered a member of the reigning family and can not, by consequence, enjoy any prerogative or any right of preference over the other Montenegrin subjects.

ART. 19. The male descendants are called to the succession by order of primogeniture as it is prescribed by the special statute of family on the succession to the throne.

ART. 20. The Prince Hospodar and the heir to the throne attain their majority at 18 years of age.

ART. 21. In case of death of the Prince Hospodar, the heir to the throne immediately takes the power as Prince Hospodar of Montenegro and notifies the people of his accession to the throne by a proclamation.

He convokes the National Skupshtina within the thirty days following the death of the late Prince Hospodar in order to take before it the oath prescribed by the Constitution. In case the Skupshtina should be dissolved without the new one having been yet elected, it is the old one which should be assembled for this purpose.

¹See the Law of 28 August 1910 (p. 429, below), which proclaimed Prince Nicholas King.

It would be the same if the Prince Hospodar abdicated during his lifetime in favor of his heir.

ART. 22. In taking possession of the power, the Prince Hospodar takes before the National Skupshtina the following oath:

In ascending the throne and taking possession of the power as Prince Hospodar of Montenegro, I swear before the Almighty God and before all the Saints to defend the Constitution, to govern according to the Constitution and the laws and, in all my tendencies and my acts, to have the well-being of the country before my eyes.

As I have sincerely sworn, may God aid me and the Holy Gospel and this cross which I embrace with faith and love. Amen.

ART. 23. If at the death of the Prince Hospodar the heir to the throne is not of age, the constitutional princely authority shall be exercised until his majority by a regency composed of three members.

ART. 24. The regents are appointed by the Prince Hospodar in his will; if he has not made provision in this regard, by the Skupshtina.

ART. 25. The testament by which the Prince Hospodar nominates the regents of the Prince must be written and signed by his own hand,

The members of the Council of Ministers sign as witnesses on the back of the testament.

The testament must be written in triplicate which, sealed under the seal of the Prince Hospodar, are deposited one with the Council of State, one with the Supreme Tribunal, and the third in the hands of the Keeper of the Seals.

ART. 26. If the Prince Hospodar has not designated the regents by his testament, the constitutional authority is exercised provisionally by the Council of Ministers, which announces it by a proclamation and convokes the Skupshtina for the election of the prince regents, a month, at the latest, from the day of the death of the Prince Hospodar.

ART. 27. If the Princess Mother is living, she must constitute part of the regency and the National Skupshtina chooses the other two regents.

ART. 28. The regents are chosen solely from among subjects Montenegrin by birth; they must be of the Orthodox religion, enjoy all the civil rights, be forty years old, be ministers, or councillors of State, or envoys accredited to a foreign court, presidents of the Supreme Tribunal or of the Control General of the State or brigadiers; or have exercised one of these functions.

ART. 29. The election of the regents is always done by secret ballot.

ART. 30. The regents receive per annum, as salary, the fifth of the civil list of the Prince Hospodar, which they divide among themselves in equal parts.

The regents before taking possession of the princely authority take oath that they will be faithful to the Prince Hospodar, and that they will govern according to the Constitution and the laws of the country; after which they announce by a proclamation, the taking possession of the princely authority. If they are named by the testament, they take the oath before the Skupshtina, which they must convoke, at the latest, a month after the death of the Prince Hospodar; in the other case they take the oath before the Skupshtina which has elected them.

ART. 31. During the minority of the Prince Hospodar, no change can be made in the Constitution.

ART. 32. If one of the regents dies or is prevented from exercising his functions, he is replaced by the President of the Council of State.

ART. 33. The princely regency shall direct the education of the minor Prince Hospodar.

ART. 34. If the Prince Hospodar dies without leaving male descendants and the Princess is pregnant, the princely power shall be exercised provisionally to the moment of the delivery, by the President of the Council of State, the President of the Council of Ministers and the President of the Supreme Tribunal; after the delivery the princely regents shall be elected conformably to Article 28 of the present Constitution.

ART. 35. The civil list of the Prince Hospodar is fixed by a law. It can not be increased without the authorization of the Skupshtina nor diminished without the consent of the Prince Hospodar.

ART. 36. The territory of the Principality of Montenegro can not be divided or alienated. Its frontiers can be neither diminished nor modified without an agreement between the Prince Hospodar and the Skupshtina.

ART. 37. Montenegro is divided into departments, the departments into arrondissements, the arrondissements into communes.

ART. 38. The arms of the Principality of Montenegro are the two-headed white eagle, surmounted by the imperial crown, holding in his talons, the imperial scepter at the right and the globe at the left; on the breast, a silver lion on a field of gules.

ART. 39. The national colors are: Red, blue, white.

ART. 40. The State religion of Montenegro is the Eastern Orthodox. The Montenegrin Church is autocephalous.

It does not depend on any foreign church, but it preserves unity of dogmas with the Œcumenical Eastern Orthodox Church.

All the other recognized religious confessions are free in Montenegro.

PART II.—THE NATIONAL REPRESENTATION.

ART. 41. The national representation is the Skupshtina. It replaces the meetings, the assemblies and the conferences hitherto existing in Montenegro.

ART. 42. The Prince Hospodar convokes the Skupshtina regularly every year on Saint Luke's Day (18/31 October), and designates the locality where it is to meet. He can also convoke it in extraordinary session, if grave and urgent affairs of State demand it.

ART. 43. The deputies are elected for four years.

ART. 44. If the elections take place after the dissolution of the National Skupshtina, the period of four years begins the day of the inauguration of the Skupshtina newly elected.

ART. 45. The Skupshtina is composed of deputies elected by the people and of deputies who form part of it because of their position, namely, the Metropolitan of Montenegro, the Archbishop of Antivari (Serbian Primate), the Mufti of Montenegro, the President and the members of the Council of State, the President of the Supreme Tribunal, the President of the Control General of the State and three brigadiers appointed by the Prince Hospodar.

ART. 46. The elections of deputies are direct.

ART. 47. Each arrondissement and each chief-town of department, also the city Dulcigno, elects one deputy each.

ART. 48. Every Montenegrin citizen of age is elector by right, without regard to the sum which he pays as taxes.

ART. 49. The following Montenegrin citizens lose temporarily their electoral rights:

1. Those who are sentenced to prison, until they have recovered their civil rights.

2. Those who are, as a consequence of some transgression, condemned to the loss of civil honors, this during the continuance of the penalty.

3. Bankrupts.

4. Those who are under guardianship.

5. Those who have entered the service of a foreign State without the authorization of the Montenegrin government.

ART. 50. The officers, non-commissioned officers and soldiers of the active army are not electors.

ART. 51. The vote is essentially personal and can not be cast except in one single place, namely, in the arrondissement or the city where the elector is registered.

ART. 52. Every citizen who does not have the right to vote is ineligible.

ART. 53. Every Montenegrin citizen to be eligible must be thirty years old, have his domicile fixed in Montenegro (exceptions made

for those who live abroad, charged with some official mission), enjoy all the civil rights, and pay to the State at least 15 crowns per annum under the form of contributions or of impost, or of contributions and impost together.

ART. 54. Functionaries forming part of the administrative authorities (police) are ineligible.

ART. 55. All deputies must live in Montenegro, but they are not obliged to reside in the arrondissement or in the city where they have been elected.

ART. 56. To be proclaimed deputy-elect in an arrondissement or a city, it is necessary to obtain the absolute majority of the votes cast.

ART. 57. If no candidate obtains the absolute majority, the election is recommenced, limited to the two candidates having obtained the largest number of votes; in case of tie, lot decides.

ART. 58. Every candidate elected in two or more districts must choose before the Skupshtina. In the other districts, where he had been elected, they proceed to a new election not later than within a month.

ART. 59. In case of invalidation, of resignation, or of death, complementary elections must be held, not later than a month from the day when the seat became vacant.

ART. 60. Each deputy represents the entire nation and not solely his electors.

Thus the electors can not give an imperative mandate to the deputy, to whom his experience and his conscience must alone dictate his acts and his orders.

ART. 61. In its first meeting, under the presidency of the oldest member, the Skupshtina is divided by drawing lots into committees which shall each elect a member to serve on the commission charged with the verification of the mandates of the deputies.

ART. 62. Only the National Skupshtina verifies the mandates of its members, and validates or invalidates them.

ART. 63. All deputies, on entering upon office, take the following oath:

I swear before the only God to be faithful to the Prince Hospodar, to defend faithfully the Constitution and to have in view in the exercise of my functions only the prosperity of the Prince Hospodar and of the country. May God aid me then in this world and in the other.

ART. 64. The National Skupshtina, every time it is convoked, chooses among its members and by secret vote a president, a vice-president and two secretaries.

ART. 65. The Prince Hospodar opens and closes the National Skupshtina. He can inaugurate it personally by a discourse from the throne, or through the medium of the Council of Ministers by a message or by a ukase.

ART. 66. The Prince Hospodar can adjourn the National Skupshtina which has been convoked, but for a period not exceeding more than three months; he can also dissolve it and cause new elections to be held.

The new elections must take place at the latest within a period of four months and the new Skupshtina must be convoked at the latest six months after the dissolution.

ART. 67. The National Skupshtina responds by an address to the discourse from the throne by which the Prince Hospodar inaugurates the session.

ART. 68. The meetings of the Skupshtina are held publicly or with closed doors. The doors must be closed on request of the President of the Skupshtina, of the government, or of ten deputies.

ART. 69. The Skupshtina can deliberate or debate only if more than half of all the deputies are present at the meeting. Its decisions to be valid, must be adopted by the absolute majority of the votes cast.

ART. 70. The vote of the Skupshtina is by roll-call and by standing and sitting, exception being made for the cases provided by Articles 29 and 64 of the Constitution.

PART III.—THE COMPETENCE OF THE NATIONAL ASSEMBLY.

ART. 71. The legislative power is exercised by the Skupshtina and the Prince Hospodar.

ART. 72. Within the competence of the National Skupshtina are all questions reserved to it by the Constitution, and those which the Prince submits to it by special right through the intermediary of the government.

ART. 73. No law can be promulgated or abrogated or modified or considered as obligatory without the consent of the National Skupshtina.

ART. 74. Orders relative to putting in force laws, even those which the Prince Hospodar promulgates by virtue of his supreme right of sovereignty and control, are given by the executive power.

The approval of the Skupshtina must be mentioned in each decree of promulgation of law. Decrees for putting laws in force must make mention of the law from which they are derived.

ART. 75. If in the interval between parliamentary sessions the security of the State should be menaced by external or internal dangers, the Prince Hospodar would have the right to take, on the proposal of the Council of Ministers, all the measures necessary for the safeguarding of the country: his decisions shall have the force of law. These laws extraordinarily promulgated should be notified to the Skupshtina at its first meeting.

ART. 76. The laws and decrees promulgated by the Prince Hospodar in virtue of Articles 74 and 75 of the present Constitution are equally obligatory for all the citizens and for all the authorities.

ART. 77. No impost or contribution, direct or indirect, can, in any case, be established or notified without the approval of the Skupshtina.

ART. 78. The government can make to the Skupshtina and the Skupshtina can make to the government any proposition relative to the creation of a new law, or to the modification or the completion or the interpretation of an already existing law, but definitive projects can be presented only by the government. The government only can submit to the Skupshtina the proposal to grant a gift, a recompense, or a subvention.

ART. 79. The ministers have the right to be present at the sessions of the Skupshtina. They can take part in all the discussions of the order of the day, have the floor at their request, and possess the right to speak, in the last resort, after the close of the discussion.

ART. 80. The Prince Hospodar can delegate, on the proposal of a minister, commissioners of the government, who shall be able to intervene in the discussions of the National Skupshtina, whether instead of said minister or with him, and give the Skupshtina the explanations which it may demand.

These commissioners enjoy in the case the same rights as the ministers.

ART. 81. Neither the ministers nor the commissioners have the right to vote if they are not deputies.

ART. 82. The Skupshtina is obliged to deliberate at first on the projects submitted by the government and in the first place the budget.

The government, on its side, shall study, as soon as possible, the proposals which the Skupshtina shall have indicated to it as urgent.

ART. 83. Every proposition emanating from the government or from the deputies, and, in general, every project, before being brought into discussion must be referred to one of the parliamentary committees.

ART. 84. The committees are required, before submitting their report to the Skupshtina, to hear the observations of the minister or the commissioner of the government.

ART. 85. The government is always obliged to furnish to the committees on their request, the necessary explanations.

ART. 86. The Skupshtina has the right to invite, of itself, the ministers or their commissioners to give it the necessary explanations. The latter are required to give them in all cases, except those where this communication would be harmful to the interests of the country,

concerns a secret of State, or would by its premature divulgence be prejudicial to the interests of Montenegro.

ART. 87. The government can withdraw a bill submitted to the Skupshtina so long as the latter has not definitely voted it.

ART. 88. If the Skupshtina passes a bill, adding thereto amendments or additions rejected by the government, the latter can either withdraw it completely or reintroduce it in the same Skupshtina, either modifying the reasons or changing the bill itself.

ART. 89. If the Skupshtina rejects a bill, the government can submit it to the same Skupshtina after having modified it, or wait for the opportunity to present it to the next Skupshtina in its primary form.

ART. 90. The Skupshtina can not make the vote on the budget depend on any question not having correlation with it.

ART. 91. The Skupshtina submits the budget when it has passed it for the approval of the Prince Hospodar.

If the National Skupshtina estimates that the sums asked for in the budget are susceptible of being diminished or suppressed, it shall state the grounds for its proposal, enumerating the chapters in which economies are possible without injuring the interests of the State.

ART. 92. The government shall examine, in detail, the propositions which the Skupshtina shall submit to it by virtue of Article 91 and take account of them so far as possible unless that action could injure the interests of the State.

If the amendments proposed by the Skupshtina are not agreed to by the government and if the explanations of the government do not, on the other hand, satisfy the Skupshtina, the budget of the preceding year is applicable for the current year the same as if the Skupshtina is adjourned before passing the budget. In this case, the Prince Hospodar shall promulgate an ordinance, countersigned by all the ministers, which shall have the force of law.

ART. 93. The State can not contract a loan without the consent of the Skupshtina.

If extraordinary and urgent circumstances necessitate the issuing of a loan, the Skupshtina must be convoked in extraordinary session. If circumstances do not permit the convoking of the Skupshtina in extraordinary session, the Prince Hospodar can, on the proposal of the Council of Ministers and in agreement with the Council of State contract a State loan to the amount of 200,000 crowns. By the same procedure, the Prince Hospodar can, in case of urgency, order the treasury to make payment, not provided constitutionally, to the amount of 50,000 crowns.

In the two cases the government shall notify the statement of these acts to the Skupshtina at the first ordinary session and inform it of the reasons which have dictated its conduct.

ART. 94. Each decision of the National Skupshtina must be sanctioned by the Prince Hospodar and as far as possible in the same session.

ART. 95. The Skupshtina has the right to make inquiries on the subject of electoral and purely administrative questions.

ART. 96. The Skupshtina can receive written complaints relative to affairs already regulated by the competent ministers but it can not accord an audience to the complainants.

The Skupshtina admits only written petitions.

ART. 97. The deputy is not answerable for what concerns his participation in the work of the Skupshtina. No accounting can, at any time, be demanded of him on the subject of the votes he has cast in the Skupshtina.

If a deputy offends, in his discourse to the Skupshtina, one or more of its members, the president has the right and the duty of suspending the sitting for half a day. In the following meeting the president shall propose to the Skupshtina the temporary exclusion of the offender.

If a deputy employs in the Skupshtina expressions containing, against anyone whatever, offenses considered by the penal code as being misdemeanors or transgressions, the deputy can be denounced to the competent tribunal, but on the authorization of the Skupshtina.

ART. 98. During the continuance of the session and the five days preceding, the deputies can neither be imprisoned nor handed over to the tribunals.

ART. 99. No authority can in the course of the parliamentary session summon a deputy nor imprison him if the Skupshtina does not authorize an inquiry against him. Exception is made for one taken *in flagrante delicto* in crime.

ART. 100. If a deputy is taken *in flagrante delicto* in crime in the course of the parliamentary session, he can be arrested, but it is necessary to inform the Skupshtina immediately, and no action can be brought against the delinquent before the Skupshtina has decided whether there is occasion to proceed against him.

ART. 101. The deputies can meet in a sitting of the Skupshtina only on the invitation of the Prince Hospodar. They can not continue their discussions when the meetings are broken up or adjourned, or when the Skupshtina has been dissolved.

ART. 102. The deputies who do not reside in the city where the Skupshtina is convoked receive from the treasury of the State traveling expenses and a daily compensation provided by a special law.

ART. 103. A special law shall regulate the labors of the Skupshtina.

PART IV.—THE MINISTERS.

ART. 104. The Prince Hospodar appoints and recalls the ministers.

ART. 105. The Council of Ministers presides over the administration of the State. It is subject directly to the Prince Hospodar.

ART. 106. The Council of Ministers is composed of the ministers appointed for the different branches of the administration of the State. The Prince Hospodar chooses one from among these latter as President of the Council.

ART. 107. The ministers swear before the Prince Hospodar to be faithful to him and to observe conscientiously the Constitution and the laws of the country.

ART. 108. The ministers are responsible for their official acts before the Hospodar and the National Skupshtina. Every official act signed by the Prince Hospodar must be countersigned by the competent minister.

ART. 109. Only a Montenegrin citizen can be minister.

ART. 110. Ministers who have resigned can be kept at the disposal of the Prince Hospodar for a year at the utmost; if, at the expiration of this period they no longer accept the post which they occupied before being appointed ministers, or an analogous situation, they can be retired, after having completed in the service of the State, the minimum of years prescribed by the law on civil functionaries.

The resigned ministers, who, before being ministers, had not been in the service of the State, can obtain a situation yielding a salary of 4,000 crowns. If a post of this importance is not vacant, they shall have a right to a pension corresponding to the said situation, on condition that they have been ministers the minimum of years prescribed by the law on civil functionaries.

ART. 111. A minister can be impeached:

1. If he commits an act of treason against the country or the sovereign.
2. If he violates the Constitution.
3. If he lets himself be suborned.
4. If, through cupidity, he causes damages to the State.
5. If he violates the laws in the cases specified in the law on ministerial responsibility.

ART. 112. Ministers can be impeached by the Prince Hospodar and by the Skupshtina.

The proposal to impeach a minister must be written and contain the counts of the indictment. If it is the Prince Hospodar who accuses the minister, the President of the Council of Ministers submits the act of accusation to the Skupshtina; if it is the Skupshtina

which is accuser, the act of accusation must be signed by a third at least of the deputies.

ART. 113. The right to make complaint against a minister lasts five years, starting from the day when he has committed the act with which he is reproached.

ART. 114. Two thirds of all the deputies present at the Skupshtina are necessary to impeach a minister.

ART. 115. The minister impeached is tried by a tribunal composed of the members of the Council of State and of the Supreme Tribunal.

ART. 116. The Prince Hospodar can not pardon a condemned minister, nor suspend an examination begun, except on the proposal of the Skupshtina.

ART. 117. A special law shall fix the different cases of ministerial responsibility, the penalties applicable to their offenses, and the procedure.

PART V.—THE COUNCIL OF STATE.

ART. 118. The Council of State is composed of six members.

The members of the Council of State are appointed by the Prince Hospodar, who also names its President. The latter remains in charge so long as the Prince Hospodar does not replace him.

ART. 119. The councillors of State must be Montenegrin subjects, be 35 years of age, have followed a regular course of studies in a foreign faculty or a special superior school equivalent to a faculty, and have passed ten years in the service of the State, unless they have been ministers.

ART. 120. The Council of State has the following functions:

1. To study the bills which the government submits to the Skupshtina and to give its advice.

2. To give the government its appreciation on the matters which it submits to it.

3. To deliberate on the complaints against ministerial decisions in administrative questions in dispute.

The decisions of the Council of State are obligatory for the ministers.

4. To settle conflicts between the different administrative authorities and between the administrative and judicial authorities.

5. To judge functionaries of State in the capacity of a disciplinary tribunal.

6. To approve partial payments effected on a general credit fixed by the budget for an extraordinary need as well as the transfers made to provide for the public works.

7. To approve the naturalization of a foreigner in exceptional cases.

8. To approve arrangements made between the State and individuals which would be considered useful to the State.

9. To approve State loans and extraordinary credits in the cases specified in Article 93 of the present Constitution.

10. To deliberate on complaints given out against decrees which violate the rights of individuals guaranteed by the law. If the decree injures an interest of the State, materially in favor of individuals, the Control General of the State has the right to lodge a complaint before the Council of State in the name of the State.

11. To deliberate on protests against ministerial decisions in questions where the minister is not competent or exceeds his competence.

12. To decide on the sale of real estate belonging to the departments, to the arrondissements and to the communes.

13. To decide on the abandonment of irrecoverable credits.

14. To demand from the Control General of the State reports on the accounts of the State.

15. To decide on protests against the decisions of the Control General of the State.

16. To execute the affairs which are reserved to it according to the laws.

ART. 121. A special law shall regulate the labors of the Council of State.

PART VI.—THE ARMY.

ART. 122. Every Montenegrin subject is subject to military service.

ART. 123. A special law establishes the age at which one owes military service, the manner of serving, and the exemptions as well as the grades existing in the army and the manner of gaining and of losing the said grades.

ART. 124. A special law establishes the organization of the army whose formation is fixed by the Prince Hospodar by a regulation.

ART. 125. The Prince Hospodar establishes by regulation instructions on military discipline and disciplinary punishments.

ART. 126. The soldiers, non-commissioned officers and officers in active service are, during their presence with the colors, judged by the military tribunals, but only for penal actions.

ART. 127. A special law shall establish the composition, the organization and the competence of the military tribunals.

PART VII.—THE CHURCH, SCHOOLS AND BENEVOLENT INSTITUTIONS.

ART. 128. All the religious confessions recognized by the State have the right to exercise their cult freely and publicly.

ART. 129. The internal administration of the Eastern Orthodox Church belongs either to the Montenegrin Metropolitan or to the Episcopal Synod.

The administration of the internal ecclesiastical affairs of the Catholic Church belongs to the archbishopric of Antivari.

The internal administration of the Mussulman religious confession belongs to the Montenegrin Mufti.

ART. 130. The spiritual authorities of all the religious confessions recognized by the State are subject to the surveillance of the Minister of Instruction and of Cults.

ART. 131. The organization of the ecclesiastical authorities and of the theological faculty of the Eastern Orthodox Church is established by a law on the basis of an agreement between the Minister of Instruction and the Episcopal Synod.

ART. 132. The ecclesiastical authorities try the clergy for offenses which they commit in the exercise of their sacerdotal functions except for crimes arising from the penal code.

ART. 133. Religious persons and ecclesiastical institutions are subject to the laws of the country in what concerns their civil relations and their property; for what concerns the internal organization and administration they must abide by a regulation which the government must approve.

ART. 134. Protests against abuses by the spiritual authorities of all the religious confessions recognized by the State must be presented to the Minister of Instruction and of Cults.

ART. 135. The correspondence of the spiritual authorities of the Eastern Orthodox Church with foreign ecclesiastical authorities and synods must be authorized by the Minister of Instruction and of Cults.

The correspondence of other religious confessions with foreign spiritual authorities must be submitted for the approval of the Minister of Instruction and of Cults.

ART. 136. Every act directed against the Eastern Orthodox Church (proselytism) is forbidden.

ART. 137. No spiritual authority can publish and execute, in Montenegro, the official acts and orders of foreign spiritual authorities, councils and synods without the authorization of the Minister of Public Instruction and of Cults.

ART. 138. Primary instruction is obligatory and gratuitous in the public schools.

ART. 139. All public and private schools, all literary and scientific societies and other scientific institutes are subject to the surveillance of the Minister of Public Instruction and of Cults.

ART. 140. Institutions of charity and of works having an ecclesiastic or scientific object, founded by individuals, must be ap-

proved by the authorities. Their property and their endowments can not be considered as property of the State, and can not be destined for other objects than those for which they have been established.

ART. 141. The clergy of the Eastern Orthodox Church has its own fund founded by previous withdrawals from salaries and from which it receives its retirement conformably to the existing law.

PART VIII.—THE JUDICIAL AUTHORITY.

ART. 142. The judges are independent. Justice is exercised in the name of the Prince Hospodar.

ART. 143. There exist tribunals of arrondissement, of department, and the Supreme Tribunal.

ART. 144. In the cities designated by law the arrondissement judicial authority of first instance is exercised by the communal tribunals.

ART. 145. All judges are appointed by the Prince Hospodar.

They can not be transferred, dismissed, or retired, except by virtue of the law relative to magistrates.

ART. 146. The tribunals judge and render their decisions conformably to the laws of the country.

ART. 147. The law has no retroactive effect to the detriment of rights acquired by preceding laws.

ART. 148. A tribunal or a judicial authority can not be established except by virtue of a law.

ART. 149. No tribunal can enter any action whatever, if it is incompetent.

ART. 150. The trials are public, exception being made for the case where the court shall find it necessary to proclaim closed doors on account of moral or public order.

ART. 151. Each sentence or decision must have the grounds stated from the provisions of the law on which it is based.

ART. 152. Every accused person must have counsel from the moment when he has been put in accusation. If he does not choose counsel for himself, the tribunal shall appoint one officially for him.

ART. 153. Blood relatives in direct line to any degree whatever, in lateral line to the fourth generation (eight degrees), and by marriage to the second generation (four degrees), can not serve at the same time in the same tribunal or judge in the same affair.

ART. 154. He only can be judge who is a Montenegrin subject and who has finished regularly his studies in a faculty of law, not to mention other conditions desired by the law.

To be judge in a departmental tribunal, it is necessary to be 25 years old and to have served two years in the judicial administra-

tion; to form part of the Supreme Tribunal, one must be 30 years old. To be president of a departmental tribunal, it is necessary to have served at least four years as a judge of a departmental tribunal or as secretary to the Minister of Justice or of the Supreme Tribunal. To be president and member of the Supreme Tribunal, it is necessary to have served at least six years as a judge of a departmental tribunal.

PART IX.—THE FINANCES OF THE STATE.

ART. 155. Each Montenegrin subject owes to the State imposts and taxes, which are paid in proportion to the wealth.

ART. 156. The Prince Hospodar and the members of the reigning house pay neither impost nor taxes.

ART. 157. No one can be exempted from paying imposts and taxes except in the cases provided by the law.

ART. 158. The Skupshtina approves the budget every year, which is valid only for one year.

ART. 159. The budget must be submitted to the Skupshtina at the beginning of the session. At the same time the balance sheet of the preceding year must be presented to the Skupshtina.

ART. 160. All the revenues and expenditures must be registered in the final budget.

ART. 161. If the Skupshtina has not been able to approve the new budget before the commencement of the budgetary year, it shall prolong temporarily the budget of the year just past until the new budget is voted.

ART. 162. If the Skupshtina is dissolved or adjourned before it has passed the budget, the budget of the current year is likewise valid for the following year.

PART X.—THE PROPERTY OF THE STATE.

ART. 163. The property of the State consists of all the real estate and personal property and all the property rights which the State acquires and preserves.

ART. 164. The property of the State can not be alienated, pledged, or hypothecated except with the consent of the Skupshtina.

ART. 165. The right of monopoly belongs to the State. It can transfer this right to others, but only for a period determined by the laws.

ART. 166. Mines are the property of the State in a proportion established by the laws.

ART. 167. Concessions, of any kind whatever, can be granted only for a determined period and by a special law.

ART. 168. The property of the State is administered by the Minister of Finance, conformably to the provisions of the laws.

ART. 169. The property of the State must be distinguished from the private property of the Prince Hospodar. The Prince Hospodar disposes freely of his property during his life and at his death. Sentence 2 of Article 2 of the present Constitution is not applicable to the property of the Prince Hospodar.

PART XI.—THE CONTROL GENERAL OF THE STATE.

ART. 170. The Control General of the State is established for the review of the accounts. It constitutes a special authority and a Court of Accounts.

ART. 171. The Control General of the State has a president and two members.

The president and the members of the Control General of the State are chosen by the Assembly among the candidates which the Council of State proposes to it in double number of posts vacant.

ART. 172. To be president or member of the Control General of the State it is necessary to be a Montenegrin subject, be 30 years of age, have pursued a regular course of studies in a faculty or in a special superior school equivalent to a faculty and have passed ten years in the service of the State or have been Minister of Finance; or else, have served as a superior functionary in the financial administration and have had at least ten years of service. But the president or one of the members of the Control must have completed regularly his studies in a faculty of law.

ART. 173. The Control General of the State examines, corrects and liquidates the accounts of the administration of the State and of all those who have accounts to render to the treasury of the State.

It watches to see that the credits made by the budget are not exceeded; it closes the accounts of all the administrations of the State and is required to obtain all the vouchers and necessary informations.

ART. 174. The general budget of the State is submitted to the Skupshtina with the observations of the Control General of the State, at the latest, two years after the end of each budgetary year.

ART. 175. A special law regulates the organization and the competence of the Control General of the State, as well as the formation of its personnel.

PART XII.—COMMUNES AND JUDICIAL PERSONS.

ART. 176. Communes have their autonomy conformably to the provisions of the laws.

ART. 177. To administer the affairs of communes, there are: the communal tribunal, the communal commission and the communal council.

ART. 178. Communal elections are direct.

ART. 179. Every Montenegrin subject of age paying imposts or taxes has the right to vote at communal elections.

ART. 180. Communal authorities, outside of communal affairs, are obliged to occupy themselves with affairs which the law attributes to them concerning the State.

ART. 181. Every citizen and all real property must belong to a commune and support all communal charges.

ART. 182. The commune can not establish any impost without the approval of the communal council.

ART. 183. The commune can not contract a loan without the authorization of the communal council.

ART. 184. A law establishes in what cases the approval of the legislative power or of the government is necessary to create an impost or contract a loan.

ART. 185. The departments, arrondissements and communes can possess property.

ART. 186. A new commune can not be created nor the limits of communes already existing be modified without the approval of the legislative power.

ART. 187. No juridical person can exist without the approval of the State.

ART. 188. Juridical persons can possess property which must support the charges of the State and of the communes.

ART. 189. A special law regulates the organization and the competence of the communal authorities and the relations existing between them and the authorities of the State.

PART XIII.—THE SERVICE OF THE STATE.

ART. 190. All Montenegrin subjects have the same rights to all the employments in all the branches of the service of the State, provided they satisfy the conditions prescribed by the Constitution and the laws.

Foreign subjects can not be accepted in the service of the State except on the basis of a contract.

ART. 191. For the nomination and the advancement of functionaries, their conduct, their aptitudes and their knowledge must be taken into consideration.

ART. 192. Every functionary is responsible for his official acts.

ART. 193. Functionaries, at the time of entering the service of the State, swear to be faithful and obedient to the Prince Hospodar and to observe conscientiously the Constitution and the laws.

ART. 194. The law regulates the employments, the salaries of functionaries and the hierarchy in the service of the State.

ART. 195. Functionaries have the right to retirement.

The law establishes on what conditions a functionary can have the right to retirement and to be retired.

There exists a special fund, formed by previous deductions from the salaries of functionaries, which assures the pension of functionaries, their widows and their children.

If this fund is insufficient, the treasury shall supply the deficit.

PART XIV.—THE CONSTITUTIONAL RIGHTS OF MONTENEGRIN CITIZENS.

ART. 196. All Montenegrin citizens are equal before the law.

ART. 197. The Constitution guarantees to each one his personal liberty.

ART. 198. No suit can be brought against any one whomsoever except in cases provided by the law.

ART. 199. No one can be arrested or deprived of his liberty except in the cases and according to the provisions specified by the law.

ART. 200. No one can be judged without having been heard or summoned by legal process to defend himself.

ART. 201. No one can be judged by an incompetent tribunal.

ART. 202. Penalties can be established only by the law and applied only for acts punishable according to the law.

ART. 203. Capital punishment for crimes purely political is abolished.

Attempts against the person of the Prince Hospodar and against the members of the reigning house are excepted.

Those cases, also, are excepted where the purely political crime is accompanied by an action punishable, according to law, by capital punishment, and cases punished by the death penalty according to military law.

ART. 204. The domicile of Montenegrin citizens is inviolable.

The authorities can make no search of the domicile except in the cases and in the manner provided by the law.

ART. 205. The penalty of confiscation of property is forbidden; only those objects are liable to seizure which are the product of a punishable action, have served, or were destined to perpetrate this punishable act.

ART. 206. Property of whatever character is inviolable.

ART. 207. No one can be obliged to give his property for public needs; the right of property can be limited only in the cases permitted by the law in consideration of an indemnity.

ART. 208. Liberty of conscience is unlimited.

The recognized religious confessions are free and protected by the law in so far as the exercise of their cult does not offend public order and morals.

ART. 209. Every Montenegrin citizen has the right, within the limits of the law, to manifest his ideas by speech, writing, the press, and engraving.

ART. 210. The press is free.

Censorship, warning and every preventive measure capable of preventing the issue, sale and publication of writings and of journals are forbidden except in the cases provided for by the law on the press.

ART. 211. Epistolary and telegraphic privacy is inviolable except in case of war or judicial inquiry.

ART. 212. Citizens have the right to assemble in peace according to the law.

ART. 213. Citizens have the right of assembly when it concerns objects which are not contrary to the laws.

ART. 214. Citizens have the right to protest against illegal processes by the authorities.

ART. 215. Every citizen is free to renounce the Montenegrin nationality, after having performed his military service and having been acquitted of the duties which he may have towards the State or individuals.

ART. 216. Foreigners domiciled on Montenegrin territory enjoy the protection of the Montenegrin laws in what concerns their individuality and their property.

They are obliged to support the communal charges and those of the State in so far as international treaties are not opposed thereto.

ART. 217. Extradition is not admitted for crimes purely political.

PART XV.—THE CONSTITUTION OF THE STATE.

ART. 218. The Constitution can not be suspended either partially or as a whole.

ART. 219. The proposal to modify, complete, or interpret the Constitution can be made only by the Prince Hospodar or the Skupshtina.

Such a proposal must cite particularly the Articles to be modified, completed, or interpreted.

ART. 220. In order that a proposal of modification, completion, or interpretation of the Constitution may be adopted, it must be passed

by two thirds of the deputies present and the Skupshtina must take the same decision in two regular consecutive sessions.

ART. 221.—1. Up to the presentation of the bills provided in the present Constitution, the present laws remain in force, so far as they are not in contradiction with the provisions of the present Constitution.

2. The princely government shall prepare on the basis of the present Constitution the bills most necessary, which, discussed by the Council of State and approved by the Prince Hospodar, shall have the force of provisional laws, until the Skupshtina has discussed and passed them in its ordinary sessions.

3. The princely government shall elaborate first :

- (1) A bill on the election of deputies applicable only to the election for the first parliamentary period.
- (2) A bill on the internal regulation of the Skupshtina.
- (3) A bill on ministerial responsibility.

These three projects, submitted to the discussion of the Council of State and sanctioned by the Prince Hospodar, shall enter in force provisionally until the first ordinary session of the Skupshtina.

4. The Council of State is abolished in its present form, and the Prince Hospodar can appoint the president and the members of the Council of State without regard to the provisions of the present Constitution. The Council of State thus constituted shall exercise the functions provided by the present Constitution at the latest until the end of the second ordinary parliamentary period. Then the nomination of the president and the members of the Council of State shall be proceeded with, conformably to Articles 118 and 119 of the present Constitution.

5. The Supreme Tribunal and the departmental tribunals shall be completed, in case of need, without regard to the provisions of the present Constitution at the latest up to the end of the second ordinary parliamentary period. After this period, those who shall not have the qualifications provided by the present Constitution shall no longer be able to exercise their functions.

6. The nomination of the president and the members of the Control General of the State must be made conformably to the provisions of the present Constitution, before the end of the second parliamentary period at the latest.

7. The following laws shall be submitted to the Skupshtina in its first ordinary session :

The law on the budget of the State.

The law on the internal regulation of the Skupshtina.

The law on ministerial responsibility.

Others absolutely necessary for the entrance into force of the present Constitution.

ART. 222. The present Constitution enters into force on 6/19 December 1905.¹

LAW OF 28 AUGUST 1910 PROCLAIMING PRINCE NICHOLAS KING.²

ARTICLE 1. The Principality of Montenegro is proclaimed Kingdom of Montenegro.

ART. 2. Prince Nicholas I Petrovitch Niégosch is proclaimed, by the grace of God, Hereditary King of Montenegro. The King and Queen shall have the title of "Majesty."

ART. 3. The Hereditary Prince Danilo is proclaimed the heir to the throne of Montenegro. The Hereditary Prince, the Hereditary Princess and their children shall have the title of "Royal Highness."

ART. 4. All the other children, male or female, of their Majesties shall receive the title of "Royal Highness," and the grandchildren of the latter the title of "Highness."

ART. 5. This law comes into force when signed by the Prince Hospodar, and in all the laws of the land the words "Prince" and "Princely" shall be replaced by "King" and "Royal."

¹ In the publication of the Constitution by Nicholas I on Saint Nicholas Day, 1905, the following sentence is appended immediately after Article 222: "We order all our ministers to publish the present Constitution and to watch over its observation, the authorities to apply it and all and each to obey it."

² Published and sanctioned by Nicholas I, Cettinje, 28 August 1910, after passage by the Skupshchina. Translation reprinted from the *British and Foreign State Papers*, 105: p. 991.