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ARGENTINE CONSTITUTIONAL LAW

THE JUDICIAL FUNCTION IN THE MAINTENANCE OF THE FEDERAL SYSTEM AND THE PRESERVATION OF INDIVIDUAL RIGHTS

By SANTOS P. AMADEO

WITH A FOREWORD BY L. S. ROWE, DIRECTOR GENERAL OF
THE PAN AMERICAN UNION



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MANUFACTURED IN THE UNITED STATES OF AMERICA

To Maruja

FOREWORD

THE ARGENTINE Republic presents so many points of similarity with the United States both in environmental conditions and political development that a study of the constitutional system of this progressive Latin American state possesses special interest.

In many respects the history of the political organization of the Argentine Republic presents problems of special interest to the student of political science. In no other country of the Western Hemisphere has the conflict between two systems of government, viz., the centralized or unitary and the federal system, been so clearly expressed. The author has shown deep insight into this important aspect of Argentine history.

No less instructive is the author's analysis of the diverse influences that entered into the formation of the Constitution of 1853. Of special interest to readers in this country will be the clear picture of the extent to which the framers of the Argentine Constitution were influenced by the provisions of the Constitution of the United States.

An important chapter is devoted to the relation of the federal government to the provinces. The Argentine Constitution not only guarantees to each province a republican form of government but also guarantees "to each province the enjoyment and exercise of its institutions." The broad terms of this provision have made possible in many instances the extension of the control of the federal government over the provinces. The author sets forth with great clearness the numerous "interventions" under which the federal government has practically taken over for periods of short or long duration the administration of one or more provinces, thus practically displacing the local governments.

This foreword would not be complete without some mention of the author's exhaustive study of the Argentine judicial system. In some respects this is the most illuminating chapter of the work.

Students of political science owe a debt of gratitude to Dr. Amadeo for this vivid picture, not only of the structure, but also of the actual operation of the political system of one of the progressive democracies of this continent.

L. S. ROWE

Washington
April, 1943

PREFACE

IT IS the purpose of this study to consider certain features of Argentine constitutional law, with special reference to the role of the judicial department in the maintenance of the federal system and the protection of individual rights. And since the constitutional law of the United States has had a profound influence on the development of constitutional law in Argentina, emphasis has been placed upon the relationship, the similarities and the differences, between the two.

This study was commenced and carried on under the direction and with the assistance and advice of Professor Noel T. Dowling, of the School of Law of Columbia University. The study had its origin in work done by the author while attending a seminar in Comparative Constitutional Law given at Columbia in 1938 by Professors Deák, Dowling, and Rogers. The author wishes to acknowledge with special gratitude the assistance given him by Professors Dowling and Deák, whose suggestions and criticisms are responsible for whatever merit the following pages possess, although they are in no way to be held to account for the ideas here expressed. He is grateful also to Dr. Bryce Wood for his generous assistance in seeing the book through the press. The author hopes that the effort to make available in English so much of what is Spanish has not suffered unduly from the fact that English is not his native tongue.

Thanks are due also to Dr. Joseph P. Chamberlain, Professor of Public Law at Columbia University, whose kindness in permitting the use of the facilities of the Legislative Drafting Research Fund, of which he is Director, for the final preparation of this study for publication, was of invaluable aid. Moreover, the author must make special mention of the Jockey Club of the City of Buenos Aires, which afforded him the resources of its splendid library for much of the research upon which this study is based.

As a member of the Faculty of the University of Puerto Rico, the author is deeply indebted to the Board of Trustees of the University

for making it possible for him to spend a year on leave of absence in furtherance of this work. The author is grateful to the John Simon Guggenheim Memorial Foundation for the financial and other assistance which permitted him as a Latin American Fellow of the Foundation, to complete the study in residence under the Faculty of Law of Columbia University. The author is, finally, grateful to His Excellency Dr. Felipe A. Espil, Argentine Ambassador to the United States, and to Mr. Nelson A. Rockefeller, Coordinator of Inter-American Affairs, for their assistance in the publication of this book.

It is the hope of the author that this work will provoke interest in the study of Argentine constitutional law on the part of students and commentators on the constitutional law of the United States, and will lead to further studies of a more specialized nature relating to Argentine public law.

SANTOS P. AMADEO

New York
April, 1943

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**ARGENTINE
CONSTITUTIONAL LAW**

ABBREVIATIONS

J.A. **Jurisprudencia argentina**

S.C.N. **Suprema Corte de Justicia Nacional**

Part One: THE CONSTITUTION AND THE COURTS

I: THE ANTECEDENTS OF THE CONSTITUTION

THE STRUGGLE of the Argentine people to establish a federal system of government is one of the most heroic and interesting chapters of modern political and constitutional history. This struggle began when the force of historical events led the Argentine nation to declare its independence from Spain early in the nineteenth century.

THE REVOLUTION

Historians ¹ have classified the causes of Argentine independence as internal and external. The internal causes were: first, the political absolutism of the Spanish government; second, the exclusion of native Argentines from governmental positions; and third, the economic system imposed by Spain on her which prevented her from trading with other countries, thus creating a monopoly in behalf of Spanish merchants detrimental to the economic interests of the colonies.

The external causes were: the invasion of Buenos Aires by the English in the years 1806 and 1807; the revolution of the English colonists in North America; and the French Revolution. The English occupation of Buenos Aires contributed to the Argentine Revolution in three ways: it made the natives conscious of their military importance, since they took an active and decisive part in the defeat of the English invaders; it made them conscious of their economic importance, because during the occupation of Buenos Aires the native population carried on commerce with the English and prospered under the liberal economic policies of the English in

¹ J. González Calderón, *Historia de la organización constitucional*, pp. 8-10.

ways impossible under Spanish control; and it enabled the Argentine intellectuals to become acquainted with the literature which was the intellectual cause of the revolutions of the English colonies and of the French people. The introduction of these books had been prohibited by Spain.²

The revolution of the North American colonies as well as the French Revolution had a profound effect on the Argentine Revolution, not only because they constituted an intellectual and sentimental incentive to the Argentine people, but also because the system of government created after these revolutions influenced Argentine legislators in drafting the constitution for their country. The leaders of the Argentine Revolution were fully acquainted with the English, French, and North American literatures which prepared the way for these revolutions.³ The ideas of the French Revolution spread throughout the world through its writers and philosophers. Those ideas of liberty and sovereignty reached as far as the distant colony of La Plata. In the University of Chuquisaca the patriots studied the jurists and historians of the Indies and the French philosophers.⁴

Mariano Moreno, the youngest and most radical of the revolutionists, had translated into Spanish Rousseau's *Contrat Social* and also put at the service of the revolution his knowledge of the writings of Montesquieu, Mably, Daguesseau, Locke, Filangieri, Jovellanos, Raynal, and other encyclopedists. Bernardo de Montea-gudo, the successor of Moreno as the publisher of the newspaper *La Gaceta* dedicated to the spreading of revolutionary ideas, was also a student of William Paley, Turgot, and other English and French philosophers.⁵ Dean Funes, a leader of the Argentine Revolution, said that the North American and French Revolutions had stimulated the thinking of the Argentines on the natural rights of men.⁶

The Argentine Revolution crystallized into a movement which led to complete independence. It took place when Napoleon in-

² L. V. Varela, *Historia constitucional de la República argentina*, I, 121-24.

³ L. A. de Herrera, *La revolución francesa y Sud América*.

⁴ R. Levene, *A History of Argentina* (tr. by William S. Robertson), pp. 233-34.

⁵ J. M. Guastavino and C. A. Novaro, *Elementos de derecho público argentino*, pp. 19 and 32.

⁶ Cited in A. Padilla, *La constitución de Estados Unidos como precedente argentino*, p. 22.

vaded Spain and imprisoned King Charles IV and the legal heir to the throne, Ferdinand VII. The Argentine revolutionists, led by Rodríguez Peña, Belgrano, Paso, Vieytes, Alberti, Terrada, French, Berruti, Chiclana, Viamonte, Saavedra, Castelli, and others, requested Viceroy Cisneros to convoke a *cabildo abierto* or popular municipal assembly for the purpose of permitting the people to decide what was to be done with the government of the viceroyalty, inasmuch as the government which gave authority to the colonial government no longer existed. The purpose of the revolutionists was to assume control of the government on behalf of the Argentine people although acting in the name of King Ferdinand VII, then imprisoned. Although Viceroy Cisneros hesitated at first to comply with the request of the revolutionary leaders, he finally acceded to it.

On May 22, 1810, the open *cabildo* was held in the city of Buenos Aires and the first step toward Argentine independence was taken. The proceedings of the *cabildo* were described as follows by a well-known Argentine historian:

In the popular assembly of May 22 three parties met face to face. The loyalist party favored the continuance of the viceroy in his post with only the innovation of associating with him in the government the chief members of the *audiencia* of Buenos Aires. That *audiencia* was at the head of the loyalist party, and its organs were the *oidors* of the *audiencia*, supported by the moral authority of the bishop and the phalanx of Spanish officials. As already indicated the party of reconciliation, which was under the influence of the chief municipal *alcaldes* and *regidores*, and which counted upon the support of the influential Spanish general, Pascual Ruiz Huidobro, wished to harmonize the demands of the two extreme parties with the exigencies of the situation and to settle the dispute by having the *cabildo* temporarily assume the supreme command until a provisional government should be organized that would remain dependent upon the supreme authority of the Peninsula. This party had the support of some patriots; among others Nicolás Rodríguez Peña, Feliciano Chiclana, Vieytes, Viamonte, and Balcarce. The majority of the patriot party stood merely for the deposition of the viceroy and the formation of a suitable government invested with power conferred by the people. This party was divided into two factions: one which wished to delegate to the *cabildo* the duty of organizing a new government, and the other which desired that this should be done as the result of a popular vote. Cornelio Saavedra, who was one of the outstanding leaders of the revolution, belonged to the

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first faction, while Castelli and other more impetuous or farsighted citizens belonged to the second.⁷

The revolutionists who were in favor of the deposition of the viceroy were successful. They vested the provisional government in a body representing the people but acting in the name of the king until representatives of the provinces could be convoked to establish the form of government deemed necessary. The separatist movement spread throughout the viceroyalty, and on July 9, 1816, at the Congress of Tucumán, in which all the provinces of Argentina were represented, the revolution of the cabildo of Buenos Aires of May 22, 1810, was consecrated as a national movement and the Argentine provinces declared themselves independent and free from Spain.

The principles of the North American and French Revolutions were expounded by the revolutionists in the debates at the meetings of the cabildo as well as in the steps taken to organize the provisional governments to rule the Argentine people. These political principles were first enunciated in the debates between the revolutionists and the Spaniards who supported the colonial government. Against the allegation of the latter that the Argentines had no right to supplant the Spanish government, the leaders of the revolution argued that as the legal sovereign of the provinces had been deposed the sovereignty returned to the people of Argentina. This argument constituted in effect an affirmation of the principle of popular sovereignty. This principle was once more affirmed when the revolutionists contended that the people had the right to decide who should have the power to govern in Argentina.

The principle of a representative form of government was advocated in the revolution when it was proposed and accepted that a provisional board elected by the people should take charge of the government until a national congress was convoked. In addition, the principle of separation of powers was enunciated when it was provided that the provisional board should not exercise judicial functions but that these should be exercised by the regularly constituted courts. The enunciation of the principles of popular sovereignty, representative government, and separation of powers constituted a proclamation of the basic elements of a republican form

⁷ B. Mitre, *Historia de Belgrano*, I, 241-42, as cited in R. Levene, *op. cit.*, p. 221.

of government which were later consecrated in the Constitution of 1853.⁸

The Federalist Principle

During the revolutionary period and until the nation was constitutionally organized in 1853, two principles concerned with the constitutional structure of the nation dominated Argentine political and constitutional thought, namely, the federalist and the unitary.

It has been debated in Argentina whether the federalist principle was simply an imitation of the federalism of the United States or a product of the political and constitutional history of the nation. The trouble with this debate is that those participating have failed to distinguish between the constitutional mechanism employed in the application of the federalist principle and the historical, geographical, personal, social, and economic factors which may give rise to the idea or the necessity for applying it. The truth is that although Argentine federalism may have been influenced by the federal mechanism of the United States, Switzerland, and the German Confederation, nevertheless the various factors which gave rise to the idea and the necessity of establishing a federal system of government in Argentina were not the result of the imitation of any other federal system but rather had their deep roots in the political, economic, and social history of the nation, as well as in its geographical features, and in the characteristics of the Argentine people.

Thus, in considering the origin of Argentine federalism, a distinction must be made between the factors which gave rise to the idea and the necessity of the application of the federal principle and the legal mechanism to put this principle into practice. Alberdi,⁹ in an admirable discussion, classifies these factors as follows: (1) The provincial differences and rivalries which were systematically promoted by the Spanish regime and were later revived by the republican demagogy. (2) The long periods of provincial isolation and independence which took place during the revolution. (3) The local peculiarities in soil and climate and also in the character,

⁸ J. González Calderón, *op. cit.*, pp. 22-27.

⁹ J. B. Alberdi, *Bases y comentarios de la constitución argentina*, pp. 106-8.

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habits, and language of the people. (4) The enormous distances that separated some provinces from others, and the lack of good roads. (5) The partial sovereignty acknowledged by the May Revolution as belonging to all the provinces. (6) The extensive franchises previously granted to the towns and provincial governments by the Spanish regime. (7) The powerlessness of any central government to subjugate the provinces or their governments without violence and bloodshed. (8) The treaties or compacts entered into between the provinces during the period of isolation. (9) The establishment of provincial monetary systems initiated by Buenos Aires through the issuing of paper money. (10) The Agreement of San Nicolás of May 30, 1852, ratifying the Treaty of 1831, which had authoritatively affirmed the federal principle of government.

Although when the Constitution of 1853 was drafted the federalist principle as embodied in the Constitution of the United States influenced the makers of the Argentine Constitution, nevertheless in the early revolutionary days other federal systems besides that of the United States influenced Argentine federalism. On this point Alberdi said:

The federalist principle was well known to our revolution in 1810. North American federalism was not the only source of inspiration; the federalism of Holland and of Switzerland served also as examples to our federalism. Rousseau, Necker and Dumont brought to the French Revolution the liberalism of the Helvetic Confederation. Moreno and Paso were the Argentine exponents of the French Revolution and found inspiration in Rousseau. They translated his works and were also federalists like him.¹⁰

Among the most important antecedents of Argentine federalism which contributed to the adoption of the Constitution of 1853 were the treaties entered into between the different provinces during the years 1820 to 1846. In this period¹¹ more than thirty treaties were made between the different provinces for the following purposes: to make peace, to establish bonds of mutual friendship, to contract military alliances against other provinces and foreign countries, to establish commercial relations, and to arrange for the calling of a national convention to establish a federal system of government.

¹⁰ *Ibid.*, p. 340.

¹¹ *Asambleas constituyentes argentinas*, Vol. VI, part 2, pp. 131-259.

The Treaty of del Pilar between the provinces of Buenos Aires, Santa Fe, and Entre Ríos was signed on February 23, 1820, for the purpose of ending the war between the contracting provinces and to enable them to concentrate all their efforts towards the creation of a national federal government. This treaty was the first in which a group of provinces declared the necessity of creating a federal system.

The treaty of January 25, 1822, called *El Cuadrilátero* because signed by four provinces, Buenos Aires, Santa Fe, Entre Ríos, and Corrientes, marked another step in the development of the federalist principle. This was a treaty of peace and commerce which also provided for the extradition of criminals and for the calling of a national convention to establish a national federal government.

The treaty of May 17, 1827, signed by the provinces of Córdoba, Santa Fe, Entre Ríos, Corrientes, Santiago del Estero, La Rioja, Salta, Mendoza, San Juan, San Luis, and the Banda Oriental, constituted another affirmation of the federalist principle. It was provided in this treaty, first, that the contracting provinces should form an offensive and defensive military alliance; second, that the signatory provinces should agree to reject the Constitution of 1826,¹² because, among other reasons, it was based on unitary principles in violation of the rights of the provinces; third, that the provinces should agree to pool all their resources in order to destroy the national authorities which were causing so many evils to the nation; ¹³ fourth, that the provinces should invite other provinces to take action for the purpose of convoking a national convention to create a federal government; and fifth, that this convention should be held in the city of Santa Fe and that the respective provinces should have the inalienable right to elect and remove the delegates sent to this convention.

By another treaty, of July 5, 1830, the provinces of Catamarca, Córdoba, San Luis, Mendoza, and La Rioja agreed that it was for the common interest of all the provinces to establish a national government and to that end the governor of the province of Córdoba should call a convention. A provision for calling a constitu-

¹² See page 18 of this chapter for a discussion of this constitution.

¹³ The national authorities referred to were those established under the Constitution of 1826.

tional convention for the purpose of forming a union of the provinces was also incorporated in a treaty of August 31, 1830, signed by the provinces of Mendoza, San Luis, San Juan, Salta, Tucumán, Santiago del Estero, Córdoba, Catamarca, and La Rioja.

The last important treaty which laid the immediate foundation for the Constitution of 1853 was the Treaty of El Litoral signed by the provinces of Buenos Aires, Santa Fe, and Entre Ríos on February 15, 1831. This treaty contained many important provisions. First, the signatory provinces reaffirmed all the preceding treaties of alliance, peace, friendship, and commerce which had been signed by the parties. Second, the treaty provided that all the provinces should be invited to a national congress for the purpose of establishing the general administration of the nation under a federal system of government. Third, it contained certain provisions which were later embodied in the Constitution of 1853, namely, the extradition of fugitives from justice, the guarantee of equal privileges and immunities to the inhabitants of the several provinces, and the prohibition of discriminatory taxes on ships or products entering into one province from another. Finally, a federal authority was created, to be called the Representative Committee of the Littoral Provinces of the Argentine Republic. This Committee was composed of one delegate from each province; it had power to make war, to negotiate treaties of peace, to raise an army and appoint the officers of the same, and to invite the other provinces to join in forming a federal government. This Committee, as will be seen later, was dissolved in 1832, but it constituted a step toward the organization of the Argentine Republic as a federal state.

The Unitary Principle

As in the case of the federalist principle, there were also many factors which supported the unitary principle as a possible basis upon which a national government could be established. Once more we turn to Alberdi¹⁴ for a discussion of these factors. He classified them under two types, those belonging to the colonial epoch and those belonging to the revolutionary period. The first were: unity of Spanish origin; unity of population; unity of religion; unity of customs and language; unity of political and govern-

¹⁴ J. B. Alberdi, *op. cit.*, pp. 103-6.

mental organization (since all the provinces formed part of a single state); unity of civil, penal, and commercial legislation; unity of judicial administration (since there was but one court of appeals, which was in Buenos Aires); unity of territory (the Viceroyalty of La Plata); and unity of financial affairs and public expenditures; and unity of executive administration (since the viceroy was head of the Viceroyalty). Finally, another unitary factor was the city of Buenos Aires, capital of the Viceroyalty. In the struggle between federalist and unitary principles Buenos Aires was the center of agitation for a unitary system. Her claim to rule the rest of the provinces was supported not only by historical factors but also by the fact that she controlled the port of Buenos Aires, the only port through which international commerce could be carried on.

The second group of factors comprised unity of political belief (since by that time the people believed in republican principles); unity in the sacrifices of the War of Independence (since all the provinces had shed blood and suffered common sacrifices and sorrows in this enterprise); unity in the conduct and efforts in the War of Independence; the different pacts entered into between the provinces and foreign countries (of which the most important one was the Declaration of Independence since in this act all the provinces acted as a united nation); the general congresses, directories, and presidencies during the revolution and after it; the diplomatic union in international affairs as established in the treaties with Brazil, England and France; the unity of glory and reputation in the symbolic colors of the flag of the Argentine Republic, and of the coat of arms of the nation; and finally, the implied and intuitive unity increasingly revealed in the unconscious expressions of the people—Argentine Republic, Argentine territory, Argentine people, instead of Republic of San Juan, nation of Buenos Aires, or state of Santa Fe.

CONSTITUTIONAL EXPERIMENTS FROM 1811 TO 1826

From 1811 to 1826 Argentina passed through a period of constitutional experimentation. Several constitutions embodying the political and constitutional principles of the revolution were tried out. The influence of the French constitutional organization of the epoch was reflected in the measures of 1811, 1815, and 1817, which

established a unicameral legislature and a plural executive; but the constitutions of 1819 and 1826 reflected more strongly the influence of the Constitution of the United States, especially in the establishment of the single executive, the bicameral legislature, and the independent judicial system.¹⁵ Although some of these constitutions were of short duration because of political intrigue and revolution, and others were never put into operation for the same reasons, they unquestionably were antecedents of the Constitution of 1853 since many of their principles and provisions were later incorporated into that Constitution.

The Organic Regulations of 1811

The first revolutionary government of Argentina adopted the first constitution of the nation on October 22, 1811. This constitution was based upon the principle of separation of powers for it provided for the determination of the powers, prerogatives, and duties of the legislative, executive, and judicial departments of government. The legislative power was vested in a junta or committee called Junta Conservadora, composed of the deputies of the province of Buenos Aires and of the other provinces. This committee was given power to declare war, make peace and treaties, impose taxes, create courts of justice, and appoint the members of the executive power in case of death or resignation.

The instrument created a plural executive of three members called the Triumvirate, with the power to defend the state, to organize armies, to collect taxes, to enforce the laws, to appoint and remove civil and military employees and their secretaries and to try them for their public conduct. The executive was, however, prohibited from exercising judicial functions; these were vested in the courts. The judicial department was made independent of other departments; it had power to apply the general laws, municipal ordi-

¹⁵ The influence of the Constitution of the United States was also reflected in four drafts of constitutions which were either not submitted or not approved. One was drawn up by a committee appointed by the Triumvirate, and another by a patriotic society; the other two were written by unknown authors. These were complete constitutional documents containing specific provisions embodied in the Constitution of the United States—especially one of these whose authors were unknown, half of which was based directly on the Articles of Confederation and the Constitution. For the texts of these constitutions, see *Asambleas constituyentes argentinas*, Vol. V, part 2, pp. 623-38.

nances, and proclamations, and also to try persons accused of crime.

The Organic Regulations of 1811, unlike other constitutions of later date, contained no detailed bill of rights, but it did contain a general declaration which constituted a sweeping guarantee of individual rights. This declaration provided that the powers of the Conservative Board¹⁶ should be exercised only if not opposed to the supreme right of the civil liberties of the Argentine people. Regarding this provision Varela has said that it proves that Dean Funes, who drafted the document and who had translated into Spanish many foreign books on public law, was imbued with the principles of Magna Carta, upon which were based the civil liberties of the English people.¹⁷

The Provisional Statute of 1811

By a political coup d'état the former constitution was, just a month after its adoption, changed by the Provisional Statute of 1811. This new instrument provided for the establishment of a general assembly composed of the cabildo of Buenos Aires, representatives of the provinces, and a number of citizens elected by the city of Buenos Aires according to the rules prescribed by the executive branch of the government. According to the Provisional Statute, the executive could not decide any matter affecting the liberty and the existence of the provinces without the express agreement of the general assembly. But according to a decree issued by the executive, the assembly could be convoked by the executive power only twice a year, could treat only those matters submitted to it by the executive, and could remain in session only eight days unless prorogued by the executive.

The executive power under this new Provisional Statute was exercised by a Triumvirate elected by the assembly. The judicial power continued to be exercised by the established courts as under the Organic Regulations of 1811, except that the Triumvirate possessed appellate jurisdiction—thus violating the principle of separation of powers which was one of the basic principles of the Organic Regulations of 1811.

The Provisional Statute did not contain any bill of rights, but it

¹⁶ The Conservative Board exercised the legislative functions of government.

¹⁷ L. V. Varela, *op. cit.*, II, 26.

provided that the liberties of the individual and of the press should be protected by decree issued by the government, which decree should become a part of the statute. On November 23, 1811, the Triumvirate issued an important decree establishing the guarantees of personal liberty, many of which were later incorporated into the Constitutions of 1819, 1826, and 1853.

The Provisional Statute of 1815

As a result of another revolution the third constitution of Argentina became effective on May 5, 1815. This document, which was called the Provisional Statute of 1815, did not constitute a fundamental departure from the former provisional constitutions but it had many interesting new features. Besides being the fundamental law of the nation it was also a code of public and private morals. For example, it provided that every man must obey the law and perform the following duties: to contribute to the maintenance and conservation of the rights of other citizens and the public happiness of the state; to offer all sacrifices on behalf of the country, even the sacrifice of his life; to be worthy of being called a good man, father, brother, son, and friend. At the same time it provided that the state owed the following duties to the members of the body politic: to guarantee the enjoyment of the rights of man; to alleviate the misery and distress of the citizens and to supply them with the means of becoming prosperous and of instructing themselves. All acts and regulations promulgated by the state in violation of these rights were to be of no effect.

The Provisional Statute of 1815 provided that the legislative power resided originally in the people, and that until the national congress of the provinces was held the power would be exercised by the Board of Observation. Unlike the former constitutions, which provided that the executive power should be exercised by a Triumvirate, this statute provided that this function should be exercised by a person called the Director of the State, who should be at least thirty-five years of age, and should be elected according to regulations to be drafted. The Statute created three secretaries of state to assist the executive. It also defined the powers of the executive as well as the limitations imposed on the exercise thereof. The Statute further provided that the judicial power should be exer-