Aperçu d'une nouvelle organisation de la justice et de la police en France, par M . l'abbé Sleyc» (1 ), mars 1790.

AVERTISSEMENT.

This project of judicial organization was written, last September (1), 'on principles adopted for a long time by all those who' have even thought about social order. The bases on which the second Constitution Committee, wanted to establish its work "in this regard, having seemed to me irreconcilable with my plan, I had rejected it in my wallet, from where it does not come out today, against my will, only by considerations of duty, which it is useless to account for.

Why, we might say, do not give us at the same time, in one or more preliminary speeches, the general spirit, the developments, the notes, etc. than your supposed plan, and of which it presents here only the results and the whole? Why ? because these dissertations, these summaries, etc. may be sufficient for the Author in their current form, and that to make all of this readable for others, it would be necessary to take a pain that I had hoped not to need to take, and which, at this moment, spends my strength . But I long for my work to be useful to others, to make it less imperfect. We would only like not to forget that this is only the organization of the judicial machine, and not a general system of justice. It is always necessary to distinguish the Constitution, from the Legislation and even from this part of the legislation which presents the views of public officials. A draft police and justice constitution does not exempt from drawing up a police code and a justice code.

(1) This document has not been inserted in Moniteur.

(2) I was therefore concurrently in charge of this work, since I was also on the 1st Constitution Committee.

need to take it, and which, at the moment, passes my strength. But I long for my work to serve others, to make it less imperfect. Or just do not forget that this is only the organization of the judicial machine and not a general system of justice. It is always necessary to distinguish between the constitution of legislation and even that part of the legislation which presents the duties of public officials. A draft constitution of police and jus¬ tice does not exempt from doing then a Code of Police and a Code of Justice.

DRAFT DECREE.

Art. 1. On 1 June of the present year 1790, the old organization of the general police and justice, and all that takes their place, will cease at once in all parts of the kingdom, and will be replaced by a new judicial order. and public safety, as constituted by this decree.

Art. 2. The direction of the police and the dispensation of justice will continue to be everywhere in the name of the king.

TITLE I

Primary police and justice in cities and the countryside.

Art. 3. Every year, on the first Sunday of December, each primary assembly will appoint within its bosom, and for the full extent of its local life, a police lieutenant and a lieutenant of justice, who will take office on 1 January. next.

Art. 4. These two primary magistrates may be continued for three consecutive years; after which neither can be re-elected until after an interval of at least a year.

Art. 5. As for the present year 1790, the place of police and of justice will be everywhere appointed on the first Sunday of May, to be in service on the following June 1st, and this election will take place, for the present which, under the terms of the preceding article, should be made in December; so that the first election of the lieutenants of justice and police will be for nineteen months, and the second election will take place only in December, 1791.

Art. 6. The duties of police lieutenants are:

1. To prevent, as far as possible, offenses, and even legal disputes;

2. To seek the authors of com¬ mis offenses;

3. To deliver them to justice.

These three kinds of judicial functions constitute the police proper, or the general police, which must not be confounded, on the one hand, with the administrative police entrusted to the municipalities and other administrative bodies; and on the other, with that part of the purely contentious police, which can not be separated from the judicial authority.

Art. 7. To characterize these different policies, in order to determine their extent and their limits, and to regulate the manner in which they are to be exercised, a general police code, in which the general police chiefly organization enters into this decree, will find all its essential developments.

Art. 8. The lieutenants of police shall furthermore exercise, within the primary jurisdiction of their jurisdiction, the functions of the public prosecutor's office.

Art. 9. Any dispute which engages a request for justice, emerges from this moment from the competence of the police; it must be brought to the place of justice, who may also be called a justice of the peace. In general, any request for justice, in any matters, other than those which will be excepted by the present decree, in title 4, must be brought to the justice of the peace.

Art. 10. The function of the justices of the peace is primarily to provide an arbitral award on all court cases before them. They also consist in taking the first information or legal infor- mation, both on the requisition of police lieutenants, as public prosecutors, and on the commissions given by the superior judges. This subject will be developed in the following articles.

Art. 11. Justices of the peace will not be charged with this host of extra-legal acts relating to seals, curatorship, guardianship, etc., etc., previously attributed to local judges, or to commissioners of police. Such acts will come under the administrative direction, which may employ such agents as it may authorize for this purpose.

Art. 12. If the dispute before the justice of the peace has arisen between the citizen and the police officer acting in the order of his duties, the justice of the peace, before even inquiring into the fact of the dispute, shall request if there has been, on the part of the citizen, whoever he may be, obedience pro¬ visory to the police.

Art. If the citizen has refused provisional obedience to the police, he will be sentenced without further formality, and even before being heard on the fact of the protest, to a fine known as resisting the police.

Art. 14. The fine will be paid on the spot, or a valid bond will be given. After which, if provisional obedience is still useful, it will be demanded by the citizen.

Art. 15. After having "fulfilled and made fulfill all the aforesaid conditions, the justice of the peace will hear and judge the parties on the fact of the dispute.

Art. 16. The contestations which shall be brought to the justice of the peace, without the concurrence of the police, those in which this contest will not have proved resistance, and that in which this resistance has been purged, as has just been said, will be judged as follows.

Art. 17. In disputes or misdemeanors for simple acts of police in light matters, the justice of the peace shall will tell the parties if they want to rely on his judgment.

When the answer is affirmative, he will pronounce, and his sentence will be final.

Art. 18. If the parties, or one of them, do not in advance to rely on the judgment of the sole justice of the peace, the dispute shall be treated as those of the following article.

Art. 19. When the request for judicial proceedings has been made before the justice of the peace, he shall be required to ask each of the two parties for the name of an arbitrator of their choice. On their answer he will call the two arbitrators in the shortest time.

Art. 20. These two arbitrators will be taken from among the members of the Primary Assembly, and if the constitution should one day adopt the lists of eligiblet

for the administration, they can only be among the citizens inscribed on these lists.

Art. 21. If the two parties want, in concert, to do without arbitrators, they can urge the judge to pronounce, promising to rely on his decision. In that case, the sentence of the justice of the peace will have the same force as if the arbitrators had been summoned.

Art. 22. The arbitrators consulted will give their opinion according to the law, in their soul and conscience. If they agree, the judge will rule like them; otherwise he will balance the two opinions, and he will proclaim according to the law, in his soul and conscience.

Art. 23. Cases that may be brought to court will be divided into two classes: Summary Cases, and Cases of Instance or Appeal. The rules necessary to separate precisely these two classes of contestations or offenses will be the subject of a particular law.

Art. 24. The summary cases will be decided definitively by the justices' arbitration or equivalent decision. Cases may be submitted by appeal to the judges of the department, as will be stated in Title II of the present decree.

Art. 25. In the municipalities which contain from two primary assemblies up to ten, the police lieutenants will form between them a police office, in order to more effectively ensure public safety and tranquility, by enjoying the advantages of a unit center. They will even be able to appoint an annual president of the office, who will bear the title of first police officer.

Art. 26. As for the city of Paris, its immense population, the great influx of foreigners, and the business movement require special laws for the organization of its police force. These laws may extend in proportion to all cities that contain more than ten primary assemblies. They will be part of the General Police Code announced above in Article 7.

Art. 27. In municipalities where there are several primary assemblies, the lieutenants of justice or justices of the peace will likewise have a common center in a bureau of justice, freely organized by them, and whose annual president may bear the title first justice of the peace.

Art. 28. They will be required to report to this office, at least once a week, all sentences they have pronounced. The purpose of this report is to preserve unity in primary jurisprudence. The office can even exercise a kind of censorship on its members, but that will have no external effect.

Art. 29. The appeal referred to in Article 24 can not be brought before the judicial offices. The judicial functions to be assigned to them will be explained in Title IV of this Decree.

Art. 30. Primary justice and police, as they have been established for the towns and the countryside, shall be free. But the justice sought by appeal, and the superior police will not be totally free. Certain rules will be laid down in this respect in Title II.

Art. 31. The salaries or honoraria of the primary magistrates and the police will be considered as a charge of the district. They will be voted every ten years by the Administrative Assembly, and paid annually by the Directory, on the particular funds of the district.

Title II.

Police and justice in the departments and districts.

Art. 32. The following legislatures will take care to give the French a new uniform code of legislation and a new procedure, both reduced to their most perfect simplicity. Only then, the. The judicial system may be so combined that one or two judges per department will suffice to render justice of appeal by the whole kingdom. In the meantime, the causes of proceedings, after having undergone in the primary jurisdictions an examination and a decision which are essentially arbitration, will, at the request or the call of one of the parties, be formally and finally judged, as is stated in the following articles.

Art. 33. There shall be, in each chief town of the department, a tribunal composed of twelve judges.

Art. 34. These twelve judges will be chosen by the electorate of the department, so that there is always at least one of each district.

Art. 35. They will be appointed in full, at the beginning of May this year, to start work on the first day of

, June-

Art. 36. For the first time, they will be among the most favored judges, lawyers, practitioners and jurists by their lives; and in the future they can only be among the lieutenants of justice and police of the department.

Art. 37. These judges may be deprived of their place only on the grounds of forfeiture or prevarication judged, and again by the trial ballot.

Art. 38. The test ballot shall be made once a year by the electorate of the department, as follows:

Art. 39. Each elector will vote on his Jbillet, which he may leave blank, if he does not wish any change among the judges, or on which he has written the name of the one of the twelve judges whom he thinks most useful. move.

Art. 40. If the result of the vote does not give plurality against any of the judges in particular, there will be no dismissal.

Art. 41. If plurality meets against one of the judges, it will be dismissed by this fact alone, and the electorate will appoint in its place.

Art. 42. On any other occasion, the vacant places among the twelve judges will be appointed by the next electoral assembly. But, at each vacancy, the electoral body, before proceeding to the replacement, will be required to ask the administrative body of the department if it is possible to reduce the number of judges, without harming the dispensation of justice: if the answer is in the affirmative, the vacant place will not be filled; so that with time, instead of three rooms, there will be only three judges.

Art. 43. The twelve judges of the District Court will distribute themselves in three chambers of four members each. This distribution will be renewed every year by chance or by lot.

Art. 44. Each room will be named

president in his bosom. This election will be renewed every year.

Art. 45. The first of the three chambers will be for criminal trials; the other two for civil suits.

Art. 46. ​​The two civil chambers will have no marked attribution in advance; they will be seized indiscriminately of all civil matters, without any other rule than the option of the litigants, if they are in agreement, or the way of the lot, if the litigants do not agree of the room which must judge them .

Art. 47. All members of each chamber, with the exception of the president, shall be subject to an annual tour, and in turn, a tour of the department, to hold, at the district capitals, and in the other cities considered. ¬ desrable, if there is any, the legal basis of the chamber which deputes them.

Art. 48. The tours will begin at the three times of the year when the work of the cam- paign is the least urgent. They will last more or less, depending on the business requirement,

Art. 49. The three judges, deputies at once by the three chambers, will begin their tour at the same time; but they will not be obliged to follow the same road, and if they are in the same city of assizes, they will not be obliged to expect one another; each judge, as soon as he is finished, will continue his tour.

Art. 50. The criminal trials, of the jurisdiction of the assizes, will be judged by the judge of the Criminal Division; the civil cases will be by one or the other of the judges deputies of the two chambers, at the option of the litigants, or by lot.

Art. 51. No judge on a tour will be able to pass a city of asylum, without opening his seat there. If the two civil judges are together in the same city, they will keep their properties separately, like the rooms they represent.

Art. 52. The three chambers of the department will, in the meantime, continue to be active: at the end of each tour, they will receive summary accounts of the operations of their judge-deputy; and this account will be deposited in the registry.

Art. 53. The causes of the proceedings or appeal of a primary sentence will be divided into two classes: those which must be brought to the assizes, and those which must be brought to the chambers of division. But both judgments will be equally final.

Art. 54. This distinction, between causes of assizes and causes of tribunal, will be established as much on their personal importance, or even real, as on the difficulty of the matter or the instruction. All those which are apt to lend themselves to prompt and expeditious forms, and whose importance does not give rise to fear of undue influence over a multitude of passions, will be put to the competence of the Assises. The causes, on the contrary, whose instruction demands the great judicial forms, or which are of great importance, will be brought to one of the chambers of the department. But it will be made a particular regulation to determine in detail, and know in advance what causes of assizes, what are the causes of the court.

Art. 55. If, nevertheless, a cause of assizes becomes acquired during the trial, the characters of a court case, it may be returned to one of the chambers of the department, or in concert by both parties, or at the request of one of them, by the Assize Judge.

Art. 56. When the parties agree to bring to court a cause of jurisdiction, the justice of the peace shall issue his schedule of appeal for the department, instead of giving it for the sitting.

Art. 57. When the parties request jointly to bring their case to another place, a certificate of invitation for that other court will be issued for that purpose by the clerk of the chamber who, without that see them, judge them or have them judged.

Art. 58. The party who wishes to appeal to the assizes or to the tribunal of a sentence of the justice of the peace shall be bound to follow the procedure prescribed by the following articles.

Art. 59. First, it shall notify its intention to both the justice of the peace and to its adverse party, and this, after eight weeks, and before the end of the month, from the day of the sentence. These two terms are de rigueur. The party who will call before eight, or who will let the month pass without appeal, will lose, in this case, the faculty to call and the sentence of the justice of the peace will be final.

Art. 60. Nevertheless, and in the sole event that the referral of the appeal beyond eight days would cause the case or evidence to lapse, the justice of the peace may dispense with the delay of eight days, and the appeal may be brought without delay.

Art. 61. The justice of the peace who has received a notice of appeal shall summon both parties to inform them of the place where their cause is to be brought, whether at the assizes, or at the tribunal.

Art. 62. If the appellant party is the public prosecutor, or if he is informed of an offense for which he has been sentenced to an offense, the appeal schedule shall be issued by the judge immediately and without further notice.

Art. 63. In any other case, the justice of the peace will issue his schedule of appeal only after having required and received from the appellant a valid bond, capable of guaranteeing the provisional deposit to be furnished before the judgment, as well as it will be decided in the following articles.

Art. 64. The judge shall, within eight days, send to the clerk's office or the court notice of the certificate he has issued, with the security provided by the appellant.

Art. 65. In the event that the parties whose case falls within the jurisdiction of the Court, would have accor¬ ed to bring them to court, and again, if they had obtained a schedule of invitation to the court from another department, according to art. 56 and 57, the valid bond will be returned to the court to be seized of the case.

Art. 66. The appellant shall be required to submit or cause to be submitted, within two weeks, his appeal schedule to the Assize or Divisional Registry; in addition, he will require the said registry to adopt a provisional filing regulation and the fixing of the time when his case may be called to the roll.

Art. 67. The payment of the percentage of the provisional deposit and the fixing of the time when the case will be placed on the list will be notified to the party concerned, within a week.

Art. 68. The provisional deposit being intended to pay the vacancies of the judges and the registry in addition to fees, it will be fixed by the clerk, according to an authorized bylaw, where the nature of the proceedings has been consulted, and presumed time that it will be necessary to give their judgment.

Art. 69. The Registrar may require, before the investigation of a case, that the security for the provisional deposit be converted into cash.

Art. 70. The provisional deposit may not be increased in the course of the trial; its fixation will be immutable. Whatever the number of vacations of the judges and the clerk, they will have nothing more to claim from the litigants.

Art. 71. If the appellant comes to win his case, he will have his appeal on his opposite side, for the provisional deposit, as for all the other judicial costs which fall to the charge of the loser.

Art. 72. If, since the delivery of the provisional deposit and before the beginning of the investigation, the appellant withdraws his appeal, the deposit will be returned to him. If the appellant withdraws from the case, but before the judgment, he will lose only part of his deposit, pro¬ rata to the past.

Art. 73. There will be in the administrative center of each department a Superior General Police Chamber, which will be composed of three members of the departmental directorate, at the discretion of the Executive Board, and, in addition, of the President of the the criminal chamber.

Art. 74. The three members of the Executive Board in the Superior Police Chamber will also be responsible for filling the functions of the Public Prosecutor's Office with the three chambers of the court.

Art. 75. There shall be in the chief town of each district a general police chamber, to be composed of two members of the executive board of the district, at the discretion of the directory, and, in addition, the commander-in-chief of the national militia. district.

Art. 76. The two members of the Executive Board in the Police Chamber will also be responsible for filling the functions of the Public Prosecutor's Office at the judicial meetings.

Art. 77. The police lieutenants, appointed by the primary assemblies, will accurately complete their correspondence with the district police chamber and execute their official commissions.

Arl. 78. The District Police House shall correspond with the Superior Chamber of the Department and shall be subordinate to it in all cases determined by the above-mentioned General Code of Police.

Art. 79. A court registry shall be established ex officio in the departmental court, which shall serve at the same time as the court and the police chambers. There will be a clerk appointed by each primary assembly, to serve justice and the police under his jurisdiction; this clerk will keep his place until he is dismissed. The clerks of the department will depend on the court or the Cham¬ ber from which they will serve.

Art. 80. The salaries or fixed fees of the judges of the department will be considered as a charge of the department. They will be voted every ten years by its administrative assembly, and paid annually by its directory on the own funds of the department.

TITLE 111.

Juries.

Art. 81. Any cause of action, whether civil or criminal, brought either to the assizes or to the chambers of a county court, may be tried only by the ministry of a jury.

Art. 82. No citizen may be called to serve on a jury, if he is not included in the list of eligibles, who will be trained for such functions.

Art. 83. These eligible persons may be distinguished by the name of legal advisers. Their list will be started by the electorate of each department, which will meet in May.

Art. 84. Next, the electoral bodies will take care to increase this list or to reduce it once a year, according to the needs of the jurisdiction and the conveniences of public opinion.

Art. 85. These eligible persons or advisers of justice will be taken from the active citizens of all the primary assemblies of the department, so that there is more than enough of them for the needs, in all parts of the territory, but especially in the chief towns of the districts and the department.

Art. 86. As for the present, and until France is purged of the different customs which divide it, and a new complete and simple Code has been promulgated for the whole kingdom, all the citizens known today as the the names of legal persons, and currently employed in that capacity; will be, by law, entered on the table of eligible for the juries.

Art. 87. But the inscription of the lawmen, sta-killed by the preceding article, must not prevent, even for this year, that of the other citizens, who, commended by their enlightenment and their wisdom, will appear to the electors, their own to fulfill the duties of counselor of justice.

Art. 88. When the jurists, who are entered on the roll under Article 86, will be summoned to a jury, they shall be paid from their vacancies, as were before the judges, at the expense of the litigants; and this continuation of legal fees will take place until after the establishment of a new civil code.

Art. 89. The election of citizens, other than lawyers, for the justiciary council, will be in the following forms.

Art. 90. In the electoral assembly of a department, the elector deputies of the same district shall have in common the right of presentation for all the eligible persons of their district; but no citizen may be presented by them until they have been agreed upon by two-thirds of the votes.

Art. 91. The names of the presenters will all be run on a list, in order of numbers; this list will be exhibited, at least twice a day, in the assembly hall.

Art. 92. At the time of the ballot, and all the electors having arranged to write their notes, the names of the presents will be read to them aloud, according to the extent they had in the list presented; after each name, his number will be distinctly pronounced.

Art. 93. When an elector wishes to refuse a given name, he shall pay attention to the number under which the name is placed, and he will con¬ trace the number on his ticket.

Art. 94. The electors will let the names and numbers of the nominees who will be admitted; finally, the reading over, each voter will deposit his ticket in the ballot box.

Art. 95. Those who will be in charge of counting the ballot will mark, on the list of presents, beside the numbers, the number of times each of them is written in the notes.

Art. 96. In order that the papers submitted to the ballot may be entered on the roll of judicial advisers of the department, they must not have against them a full third of the number of voters.

Art. 97. This voting ball must serve no

only to increase the table, but also to reduce it, under Article 84 and even to revoke those who should not remain there, even though the list would be likely to increase. All these cases are left to the free will of the annual voters.

Art 98. When the vote is to reduce or to revoke, all the names inscribed on the table of eligible persons, and their numbers, will be pronounced aloud, and the electors will write as the numbers of those whom they want to elfacerate. But no one can be erased if he does not meet in the first and only ballot the plura¬ lity against him.

Art. 99. The formation of the juries belongs to the syndic-syndic of the department, or to his fault, to the district attorney-general, or, in the absence of both, to the syndic-attorney of the commune where the judgment must be rendered. No judge may, in any case, compose a jury himself.

Art. 100. The jury, for a civil trial, will be 18 members; for a criminal trial, it will be 27.

Art. 101. The syndic-attorney, who shall have a jury to be formed, shall take it, as far as possible, from among the judicial advisers residing at the place where the trial is to be judged. He will still be careful to choose him from among the accused's peers or litigants, that is, from citizens who are in a similar position, or analogous of duties and relations of fortune and society, and which, for these reasons, the legal character of the cases to be judged must be better known.

Art. 102. If one of the parties is a foreigner, the Attorney-Attorney will compose, as far as possible, the jury of one half of foreigners and always, if it has the choice, by consulting the relations of peerage or parity, with the party to judge.

Art. 103. As long as a new code does not simplify justice, and the distinction between lawyers registered by law on the roll and citizens registered by election, will remain, the proctor-trustees will be compelled to compose the juries, of counselors of these two classes, in the following proportion.

Art. 104. For civil suits, the jury will have five sixths of lawyers, that is to say 15 out of 18 and one sixth of councilors per election.

For criminal trials, the large half of the jury will be law, that is, there will be 14 out of 27.

Art. 105. The trials that will be pending at such court, or before any judge, on the first day of next June, may be submitted by the parties to the new county courts, in accordance with the extent of the new jurisdictions, and the articles of this decree.

Art. 106. To speedily dispatch all these trials, the Chambers of the new tribunals are authorized to require from three to nine juries, according to the number of the cases which are brought to them. First, the distribution of these trials will be between the Chambers, then between the judges appointed to direct the different juries separately, and hasten their decisions. The first juries will be permanent, until there are no longer any old trials to judge. They will in fact comply with all the rules set out below.

Art. 107. Trials which begin after the period of June 1st shall be submitted to the decision of other juries. There will be, for this purpose, two kinds: some will only be named for a particular case; the others will be called upon to decide on an entire role of trial; they will be distinguished by the name of common-juries.

Art, 108. At the meeting, each judge will be required by one or several joint juries, depending on whether the business to be taken will require one or more roles.

Art. 109. At the court chambers, from time to time, depending on the affluence of cases, cases will also be taken for which joint-juries will be required.

Art. 110. A special jury will be required in all criminal cases which are subject to criminal penalties, and in civil cases of great importance, where the litigants, by mutual consent, or a single party, agree to enlarge the deposit. provisionally, according to the rate specified in the regulations of the Registry. In the latter case, the party who has refused his consent to the increase of the provisional deposit, will not be required to repay this increase, if it comes to succumb

Art. 111. The judge shall be required to present the list of the joint or special jury without delay to the accused or the litigants without delay.

Art. 112. If it is a criminal case, the accused or the accused in common, and if it is a civil trial, the defendant against the appeal, will be held within twenty-four hours, to re¬ one third of the members of the jury, and they will be forbidden to say the reasons for their choice. Thus, in a criminal trial, nine will be disqualified, and in a civil trial six.

Art. 113. If both parties to the proceedings are both accusing and accused, the judge will mention it in his indictment for the jury; and the Syndic-Attorney, with regard to it, will increase his nine-member jury.

Art. 114. In this case, the party who first called the appeal will only be the second party to challenge it. The two parties will have also challenged nine people from the jury. But the first will have recused only a quarter of the list presented to him, and the second will have recused one-third of the remaining number.

Art. 115. If it is only in the course of the investigation that the appellant party becomes an accused party, there will be no change to the jury.

Art. 116. Among the cases which have been distinguished, Article 54, by the name of court cases, those which, by their nature, are of long and difficult instruction, and those which, either by obscurity, old laws, or by the complication of the old procedure still in force, engage in many writings and discussions, will require from the jury, an essential preliminary formality.

Art. 117. This formality imposed on the jury consists of dividing, for these sorts of causes into two parts. One, to be the instruc¬ tion board and the other the discussion board.

Art. 118. The investigating council shall consist of only two members of the jury, to which will be added the judge in charge of the case. The other members of the jury will form the decision-making council. The investigating counsel, charged, as such with the report of the trial, will not retain the right of suffrage for any of the decisions in the case.

Art. 119, The board of inquiry, or if there is none, the trial judge will, after a sufficient investigation of the case,

to analyze it and to arrange in a direct line all questions of fact and of law; whose solution must lead naturally to the final judgment of the trial.

Art. 120. Although this analysis, which is almost always clear in criminal matters, often becomes obscure and very difficult in civil matters, however, as there is a real analogy in the course of all trials, the judge and the counsel instruction will endeavor to seize it. They will feel that in civil matters, as in criminal matters, the first thing is to put the fact, whether real or personal, in its truth; next, to discern how the fact is contrary to the law; finally, to touch the one who is responsible for it, and who can incur the penalty, or must the repair regulated by the law.

.Art. 121. If, in many civil matters in particular, it is often difficult and sometimes even impossible to carefully separate the fact from the law, the judge and the examining council will not be discouraged. They will be careful that this decree submits all questions, without exception, questions of fact, questions of law, questions mixed in fact and law, up to and including the penal question, the jury's successive decision, and that the essential thing is to seize the real step which most surely leads, by a good series of questions, to the just conclusion of the affair.

Art. 122. Thus, after a case has been heard before the jury, it will be for the judge, or the board of instruction jointly with the judge, to establish the on which the decision of the jury will be required. These questions will always be as few as possible, without prejudice to the clarity and safety of the decision. The judge will look rather like a director of justice, changed the law of doing justice, than a judge of the old state of affairs, responsible for making it himself. If the name of a judge is to be preserved exclusively for him, it is because it is for him to pronounce the judgment, and the law commits him in this respect to be his organ.

Art. 123. Nevertheless, the burden of establishing the questions is not so much imposed on the judge, or even on the investigating council, that the jury can not, if a question seems ill-posed to it, ask the judge to change it. If this request causes any difficulty, it will be treated as an indictment by the judge and decided by the jury.

Art. 124. The jury can not make a decision if the number of voters is lower in civil matters than 10 and in criminal cases 15.

Art. 125. In civil matters, all questions will be decided by a plurality of votes.

Art. 126. When there is a tie, the deliberation will begin again, and the jury will not dispense with the fact that there is inequality in the votes. If this inequality is slow to establish, the judge will vote yes and no, the question of which side should tip the scales. Finally, this election will be resumed, if necessary, until there is an inequality of votes.

Art. 127. In criminal matters, no question may be decided except in the case of a plurality of at least 10 out of 15, of 11 out of 16 and 17, and of 12 out of 18 voters; and even the criminal question, if it is a question of the death penalty, can be decided only at the plurality of 12 out of 15, of 13 out of 16 and 17 and of 14 out of 18 voters.

Title IV.

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Art. 128. Four kinds of cases will be subject to special rules, or forms of exception, but not to different judges; namely: (1) the causes that arise between close relatives, to which must be added the police recourse on the part of the families;

2 ° disputes and requests for justice in matters of commerce;

3. The offenses of public officers in the order of their functions;

4 ° Challenges with the tax authorities, regarding contributions and taxes.

Art. 129. Domestic causes, or internal disputes of families, can only be brought to justice after having been examined by a family council, which will be composed by the parties themselves, as follows:

Art. 130. Direct-line parents and other second-degree relatives who would have to file an action against each other, will first agree on the appearance before the justice of the peace of eight parents of one of them. the other sex, or friends, who will be required under a judge's schedule, to review the dispute, and give their reasoned opinion.

Art. 131. If this reasoned opinion is not sufficient to settle the parties, they will be required to appear before the justice of the peace, who will invite them to defeat them by exposing to them the inconveniences of a trial between close relatives. So if one of the parties persists in asking for justice, the justice of the peace will be required to deliver him a schedule, by which, it will be attested that the family council was called, heard, but that he could not reconcile the parts. The claim in court may, therefore, be established in ordinary forms.

Art. 132. A father, mother, guardian or family who is in serious fear or alarm about the conduct of a child, ward, or parent or second-degree relative, shall apply to the district police office; or, if the case is urgent, to the lieutenant of police of the spring, to expose to them the reasons of their deep anxiety.

Art. 133. The bureau district, or the lieutenant of police of the jurisdiction, if the case is very urgent, will behave, first, as it is enjoined to do on any denunciation, in urgent cases, by the general code of police announced above (1); and if necessary, he will make sure of the person denounced.

Art. 134. If the complaints of the family are not such as to require that the moments are abrupt, or after the police have ascertained the person denounced by the family, the police office shall consult at least eight of them. main parents, relatives, and friends of

(1) In a free country, imprisonment must be enlightened and regulated by the most precise laws. The habeas corpus of the English is far from respecting the best rules in this respect. But it is only in the code of the citizen, and in those of police and justice for the public officers, that one can place the true laws on this matter.

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the accused, to know whether the fears are well founded, whether the one against whom they are brought is in the case of being corrected, or even if it is in the case of being arrested to prevent him from committing any offense, or if it should not be only admonished by the police.

Art. 135. In cases where the opinion of the parents will only be admonished, the district police office will call the accused to do so immediately, or he will commit the police lieutenant to the jurisdiction; to exercise this kind of censorship.

Art. 136. If the opinion of relatives and friends tends to a sentence, such as a momentary confinement in a legally established correctional house, the police office will take all the necessary information to know the truth of the facts alleged, and will send his opinion with that of the parents, to the police department of the department.

Art. 137. The police chamber of the department, acting as public prosecutor at the court, will present the case to the criminal chamber formed in committee, that is to say, deliberating without the ministry of a judge; this committee may, on the double bill submitted to it, authorize the execution of the family opinion in its entirety; or modify it, if he thinks it more suitable; or finally to reform it entirely, if the grounds alleged lack evidence or importance.

Art. 138. But if there is, or if there is a demand in court, a civil party or the public party, against the individual who is closed by the authorization given to a notice of family, this authorization will be revoked in whole or in part, as it could adversely affect the applicant's rights; unless, in the case where there is only one civil party to be disinterested, that the family does not obtain its withdrawal.

Art. 139. Pending a more precise regulation on the nature and jurisdiction of the courts Con¬ sular and admiralty, all the cases that now accompany these jurisdictions, will be brought to the offices of justice, which, in all cities where there are several primary assemblies, will be formed by the meeting of justices of the peace, as set out in sections 27 and 29.

Art. 140. The judicial offices will judge as the consuls judged. The cases which the consuls could decide only on the charge of the appeal, will be brought in the second instance to the tribunal of the department, where they will take the character of ordinary causes.

Art. 141. The public prosecutor's office in the Justice Committee will be carried out by two members of the police bureau.

Art. 142. If in France there are seaports or other commercial cities, provided with a consular jurisdiction, where nevertheless there is not more than one primary assembly, and consequently no more than a lieutenant of justice, the consular affairs who were in the habit of being judged there, will be, on the provisional opinion of the department, or brought to the nearest court of justice, or decided on the spot by the judge of peace, assisted by two assessors, appointed by the primary assembly.

Art. 143. The complaints of the citizen against the offenses of simple police which public officers may have committed in the order of their duties shall be brought to the superiors of these officers, and these superiors shall offer, if the offense is pronounced, to punish him according to his gravity. But if the complaining party does not feel satisfied and pre- to seek justice in good standing, she may bring her complaint to the county court, as in the following article.

Art. 144. The offenses of public officers in the order of their functions, whether they attack the citizen or the public property entrusted to them, will be denounced and prosecuted at first instance by the county court.

Art. 145. These offenses may be denounced and prosecuted by citizens wounded in their rights, by the public prosecutor, or by the superiors of these accused officers.

Art. 146. The county court, to judge these kinds of offenses which may be distinguished by the name of political offenses, will be formed into a large committee, the three chambers assembled, presided over by the oldest of the three presidents. He will not need, for the sake of his judgment, the minis¬ tere of another jury, than that presented for a public officer, the assembled chambers, composed of public officers and independent of all superior influence. The following title will regler with regard to the appeal of the judgments of the courts of department, in political matters.

Art. 147. Complaints in the matter of contributions or public taxes will be considered first and foremost as police objects, and will be charged to the three members of the district board of directors, who form the district police chamber.

Art. 148. This chamber will decide in the first instance, after having consulted the municipal office of the place where the complaint is lodged; and its judgment will be provisionally executed.

Art. 149. The appeal of its decisions shall be brought to the tribunal of the department, formed in a large committee, the chambers assembled, and the judgment of this tribunal shall be final.

Title V.

From the general police and justice center for the whole kingdom.

Art. 150. A national court shall be established in the metropolis of the kingdom, the composition, division, competence and functions of which shall be determined by the following articles. It will be active, like all other courts, on June 1 of this year.

Art. 151. The national court will consist of a judge-deputy for each department, and consequently it will be made up entirely of eighty-three members who will bear the title of great judges of France.

Art. 152. The election of the great judges of France will be held next May, by the same electoral assemblies, which have to choose the judges of department.

Art. 153. At this first election, the great judges may be elected from among all the eligible citizens, known for their enlightenment and wisdom; then, until 1795, they can only be among the magistrates of justice or police of department or primary assembly; finally, and from 1796, they can only be taken among those magistrates who have exercised at least six years.

Art. 154. The great judges of France are ina¬ movable as the judges of the department, and like them nevertheless submitted to the ballot of articles 38 and 41 of this decree. Voting will be done annually by the National Assembly, and it will be double, that is to say each

Voting may carry two names, instead of one on his ticket.

Art. 155. If, by the result of the ballot, there are one or two great judges dismissed, the departments from which they have been deputies will be advised to replace them at their first electoral assembly.

Art. 156. The eighty-three great judges of France will distribute themselves in four high rooms. The first will be the big police council; the second, the grand council of revision; the third will be the political court or public institution; and the fourth, the tribal court of state crimes. This distribution will be renewed each year.

Art. 157. Immediately after their separation, the upper chambers will be named, each in its bosom, one or two presidents for the year.

Art. 158. The Grand Police Council will be six members. Its leadership competence is defined by the purpose of the general policy: to prevent deaths, to find the perpetrators of the crimes committed and to deliver them to justice. It will have an inspection on the general policy of the kingdom, in order to preserve the unity of principles and supervision.

Art. 159. The six members of the Grand Council of Police will still have to fulfill the functions of the Public Prosecutor's Office in the other three upper chambers and in the national court itself, in certain cases where the chambers may meet.

Art. 160. The Grand Revision Council shall be thirty-six grand judges. It will have applications for the annulment of departmental judgments: (1) for non-observance in judicial forms; 2 ° for variation of case law in the same court; 3 ° for dissimilarity of case law in the various courts. Thus, its great object must be to maintain the certainty and unity of principles and forms in the dispen-sation of justice by the whole kingdom.

Art. 161 -In cases where the board of auditors has quashed a judgment of the departmental court, it will refer the case to a court in a neighboring department, with the reasons for the judgment of cassation.

Art. 162. The political tribunal will likewise be thirty-six great judges. Its competence and responsibility is to judge the appeal of the offenses committed in the order of the public establishment, by the agents or agents of any rank who are employed there, or that these offenses were committed by a separate agent or by a whole body of man¬ dates. Judges and county courts will likewise be justiciable by this tribe for political offenses. Except for its jurisdiction, ministers and other chiefs responsible for the executive power, including the great judges of France whose natural courts, for political offenses, will be mentioned in article 172 will be excluded.

Art. 163. The State Crimes Court will consist of only five major judges; but in all causes he will employ the ministry of the grand jury. (See article 167 et seq.)

Art. 164. When a clear and precise law has determined what are the state crimes among this crowd of offenses which may directly or indirectly attack the constitution, the state and the king's person, and which it has settled, in addition, the nature of the sentence applicable to each offense: then, all those who will be accused of such crimes with any judge, will be returned to the Grand Council of Police, to be brought to the State Crimes Court, if necessary.

Art. 165. The Ministers and other major agents of the executive power, including the eighty-three of France's chief justices, can not be brought before the State Crimes Tribunal until after the National Assembly has decided that Translation will take place, and it will have appointed two national prosecutors from among the six members of the Grand Council of Police to pursue the case and request judgment. Any other party may be brought before the State Court only after it has been decided in the police council that the translation is due.

Art. 166. If any of the judges of State crimes are complicated in the denunciations or translations of the court of which he is a member, or if he is admitted to recuse himself for reasons judged valid by the same court, the court National Assembly will assemble at once to fill the vacant place.

Art. 167. The grand jury will be composed as follows:

At the first election that the departments will make of their deputies to the National Assembly, they will take care to designate, in the number of these deputies, that which may be required by the court of the crimes of State, to be member of the national grand jury.

Art. 168. The deputies, appointed to be members of the grand jury, will change, like the other deputies with each legislature; the electorates of the departments will always designate in the new deputation the one who will be eligible for this office; they may even give him, in the same deputation, a deputy in case of need.

Art. 169. As soon as a trial has begun in the State Crimes Court, the complete list of the eighty-three members of the national jury will be presented to the accused, or to the accused in common, if there are more than one. .

Art. 170. The accused or the accused in common will be obliged to challenge twenty-four, without saying any motive of their choice. Twenty-four others will be cast aside by chance; so that there will remain thirty-five then. If there are new defendants, after these two kinds of challenges, and before the instruction is begun, these new accused will be obliged to challenge them; or, if there are no new defendants, the third challenge of seven members of the grand jury will be made by the same accused, still without stating the reasons for their choice.

Art. 171. The grand jury will be definitively formed of the remaining twenty-eight members. Then they will assemble to name four of them, who, united with the five great judges, will form the council of instruction. The twenty-four others will reserve for the decision of all the questions of fact and law, etc., on the report of the council of instruction; and the four counselors who are members of the jury will not retain their right of suffrage in these decisions. (See above 119 and following)

Art. 172. Crimes, other than State crimes, allegedly committed by their ministers and other major agents of the executive power, including the great jus de France, in the order of their public functions, will be denounced. and tried in the national court, the chambers assembled, under the chairmanship of the oldest judge among the annual presidents.

Art. 173. The great judges of France can not, in any case, accept or exercise other public functions, except the only judicial or police functions entrusted to them by the present constitutional decree. Any violation of this law will be treated as a state crime.

Art. 174. If any one of the high chambers or the national court in body, interfered in any other part of the public powers, than that which is committed to him by the constitution, in particular if it never tried to usurp or replace the power legislative, or the one who votes, allocates, administers finances, etc. by this fact alone, any mission and authority delegated to the 83 chief justices of France would cease at the most; the departments would have the right to appoint new grand judges, and the new national court, wherever found to be ripe, would judge, according to the law of State crimes, but without a jury, all those of the former national court, which allegedly participated in the above-mentioned usurpation of power.

Art. 175. In all cases and disputes, the last function of the judge after pronouncing the judgment, will be to ask the execution of the internal public force.

Art. 176-If this judgment needs to be supported by an enforcement force in a jurisdiction other than the one in which it was rendered, it will be presented to the registry of that jurisdiction for recognition and genuine certification; and then, the public force of the said jurisdiction shall be bound to execute it.

Note. It seems natural, at the end of the day, to ask two questions: what will be the fate of each magistrate, both police and justice? And in totality, how much will all this judicial and police order cost the Public Treasury?

The primary magistrates will be able to content themselves with five hundred pounds of fees, one in the other. It is to be hoped that the most commendable men of the primary assemblies will exercise zealously functions given by the confidence of their fellow citizens, functions which do not displace, which, at this primary stage, do not form an absorbing state or profession, and of which the great utility is so manifest, & c. If there are, as we believe, about 6,000 primary assemblies, at 1,000 livres for the first two magistrates, it is already a sum of six million. At this first stage, it is fair, it is fitting that justice and general supervision for public safety be entirely free. Now, I let the reader reflect on the thousand reasons that must be engaged, both in relation to the judge and the litigant, in not allowing the compensation of the court of appeal to be completely free for the litigants. The idea of ​​temporary deposit seemed to me to fill all these views. By putting the fixed salary of departmental judges at 2,000 livres, it is reasonable to hope that the provisional deposit will at least triple this sum. It is not too much than 2,000 crowns for the judges who will want to do their duty. The great judges may be fixed at twelve thousand livres; so we will have to pay:

For the primary magistrates. . 6,000,000 liv.

For the 996 district judges ............ 2,092,000

For the 83 great judges of France • ... ....... 996,000

Total. . . 9,088,000 liv.