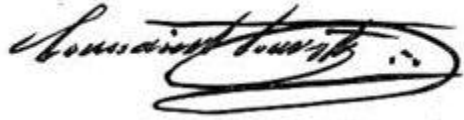


Haitian Constitution of 1801 (English)

From TLP



Signature of Toussaint Louverture.

See also the French version of this document.

The Saint-Domingue **Constitution of 1801** (also referred to as *Toussaint Louverture's Constitution*) was promulgated on July 8th, 1801 by the Governor General Toussaint Louverture, who sent a letter to Napoléon on the 1801 Constitution accompanying this document. The letter and constitution was brought to Napoléon Bonaparte by Toussaint Louverture's friend, the French Colonel Vincent, who had been stationed in Saint-Domingue.

Bonaparte and Tobias Lear on Toussaint's Constitution

In a July 17, 1801 letter to to the U.S. Secretary of State, James Madison, Tobias Lear the newly appointed U.S. Consul to Saint-Domingue writes: "*A new and important Symbol Aera has commenced here. A Constitution has been formed for the Government of this Island, by Deputies called together for that purpose by the General in Chief. It was read in public, with great parade, on the 7th instant. The papers which I send you will shew the Addresses which preceded and followed the reading. It is not yet printed from the public. It declares Genl. Toussaint Louverture Governor for life, with the power of naming his successor. It is to be submitted to the French Republic for approbation; but in the meantime, it is to have effect here in the Island.*"

Napoléon Bonaparte in a letter to Toussaint, addressing the new constitution, writes that the document "*...contains some [provisions] that are contrary to the dignity and sovereignty of the French people, of which Saint-Dominique forms only a portion.*" and that he will expel Toussaint's children, Placide and Isaac from France

Full text of 'Toussaint's Constitution'

CONSTITUTION OF 1801

Original translation by Charmant Theodore, June 2000.

The representatives of the colony of Saint-Domingue, gathered in Central Assembly, have arrested and established the constitutional bases of the regime of the French colony of Saint-Domingue as follows:

TITLE I
Of the Territory

Art. 1. – Saint-Domingue in its entire expanse, and Samana, La Tortue, La Gonave, Les Cayemites, L'Ile-a-Vache, La Saone and other adjacent islands form the territory of a single colony, which is part of the French Empire, but ruled under particular laws.

Art. 2. – The territory of this colony is divided in departments, arrondissements (districts) and parishes.

TITLE II
Of the Inhabitants

Art. 3. - There cannot exist slaves on this territory, servitude is therein forever abolished. All men are born, live and die free and French.

Art. 4. – All men, regardless of color, are eligible to all employment.

Art. 5. – There shall exist no distinction other than those based on virtue and talent, and other superiority afforded by law in the exercise of a public function.

The law is the same for all whether in punishment or in protection.

TITLE III

Of the Religion

Art. 6. - The catholic, apostolic, roman faith shall be the only publicly professed faith.

Art. 7. – Each parish shall provide to the maintaining of religious cult and of its ministers. The wealth of the factories shall be especially allocated to this expense, and the presbyteries to the housing of ministers.

Art. 8. – The governor of the colony shall assign to each minister of the religion the extent of his spiritual administration, and said ministers can never, under any circumstance, form a corps in the colony.

TITLE IV Of the Mores

Art. 9. – Marriage, by its civic and religious institution, tend to the purity of mores; spouses who will practice the virtues required by their condition shall always be distinguished and especially protected by the government.

Art. 10. – Divorce shall not take place in the colony.

Art. 11. – Laws that will tend to expand and maintain social virtues, and to encourage and cement family bonding shall fix condition and rights of children born in wedlock.

TITLE V Of Men in Society

Art. 12. – The Constitution guarantees freedom and

individual security. No one shall be arrested unless a formally expressed mandate, issued from a functionary to whom the law grants the right to order arrest and detention in a publicly designated location.

Art. 13. – Property is sacred and inviolable. All people, either by himself, or by his representatives, has the free right to dispose and to administer property that is recognized as belonging to him. Anyone who attempts to deny this right shall become guilty of crime towards society and responsible towards the person troubled in his property.

TITLE VI Of Cultures and Commerce

Art. 14. – The colony being essentially agricultural cannot suffer the least disruption in the works of its cultivation.

Art. 15. – Each habitation shall constitute a manufacture that requires the gathering of cultivators and workers; it shall represent the quiet haven of an active and constant family, of which the owner of the land or his representative shall be the father.

Art. 16. – Each cultivator and each worker is a member of the family and shares in parts of the revenues.

Every change in domicile on the part of the cultivator carries the ruin of the cultivation. In order to repress a vice as disruptive to the colony as it is to public order, the governor issues all policy requirements necessary in the circumstances and in conformance with the bases of rules of police of 20 Vendémiaire, year IX [1801], and of the proclamation of the following 19th Pluviôse of the

Chief General Toussaint-Louverture.

Art. 17. – The introduction of cultivators indispensable to the reestablishment and to the growth of agriculture shall take place in Saint-Domingue. The Constitution charges the Governor to take convenient measures to encourage and favor the increase in manpower, to stipulate and balance the diverse interests, to ensure and guarantee the execution of respective engagements resulting from this introduction.

Art. 18. – Commerce in the colony consists uniquely of exchange goods produced on its territory; consequently, the introduction of goods similar in nature is and shall remain prohibited.

TITLE VII

Of the Legislation and Legislative Authority

Art 19. – The colonial regime is determined by laws proposed by the Governor and rendered by a gathering of inhabitants, who shall meet at fixed periods at the central seat of the colony under the title Central Assembly of Saint-Domingue.

Art. 20. – No law relative to the internal administration of the colony shall be promulgated unless it contain the following formula:

The Central Assembly of Saint-Domingue, upon the proposition of the Governor, renders the following law:

Art. 21. – No law shall be obligatory to the citizen until the day it is promulgated in the chief town of departments.

The promulgation of law shall take place as follows: In the name of the French colony of Saint-Domingue, the Governor orders that the subsequent law be sealed, promulgated and executed in all of

the colony.

Art. 22. – The Central Assembly of Saint-Domingue shall be composed of two representatives of department, whom, to be eligible, shall be at least 30 years of age and have resided for 5 years in the colony.

Art. 23. – The Assembly shall be renewed every two years by half; no one shall be a member for six consecutive years. The election shall proceed as follows: municipal administrations nominate every two years, on the 10th Ventôse (March 1st) each of the deputies, whom shall meet ten days thereafter at the chief town of their respective departments, where they shall form as many departmental electoral assemblies that will nominate, each, one representative to the Central Assembly.

The next election shall take place on the 10th Ventôse of the eleventh year of the French Republic [March 1st 1803]. In case of death, resignation or other vacancy of one or several members of the Assembly, the Governor shall provide a replacement.

He shall equally designate the members of the actual Central Assembly who, at the time of first renewal, shall remain members of the Assembly for two additional years.

Art. 24.' – The Central Assembly shall vote the adoption or the rejection of laws that are proposed to it by the Governor; it shall express its vote on rules made and on the application of laws already made, on abuses to correct, on improvements to undertake in all parts of service of the colony.

Art. 25. – The session shall begin each year on the 1st Germinal (March 22) and shall not exceed three months in duration. The Governor can convoke the Assembly in extraordinary meeting; the hearings shall not be public.

Art. 26. – On the state of revenues and spending that are proposed to the Assembly by the Governor, the Central Assembly shall determine, when appropriate, establishment of rates, quotas, the duration and mode of tax collection, its increase or decrease; these conditions shall be summarily printed.

TITLE VIII Of the Government

Art. 27. – The administrative direction of the government shall be entrusted to a Governor who corresponds directly with the government of the Metropole, on all matters relative to the interests of the colony.

Art. 28. – The Constitution nominates the citizen Toussaint-Louverture, Chief General of the army of Saint-Domingue, and, in consideration for important services rendered to the colony, in the most critical circumstances of the revolution, and upon the wishes of the grateful inhabitants, he is entrusted the direction thereof for the remainder of his glorious life.

Art. 29. – In the future, each governor shall be nominated for five years, and shall continue every five years for reasons of his good administration.

Art. 30. - In order to strengthen the tranquility that the colony owes to steadfastness, activity, indefatigable zeal and rare virtues of the General Toussaint-Louverture, and in sign of the unlimited trust of the inhabitants of Saint-Domingue, the Constitution attribute exclusively to this general the right to designate the citizen who, in the unfortunate event of the general's death, shall immediately replace him. This choice shall remain secret; it shall be cosigned under sealed envelope and to be opened

only by the Central Assembly, in presence of all active generals and chief commanders of departments of the army of Saint-Domingue.

The Governor Toussaint-Louverture shall take all necessary precautionary measures to let the Central Assembly know the depository of this important envelope.

Art. 31. – The citizen that shall be chosen by the Governor Toussaint-Louverture to take the direction of the government upon his death, shall swear in front of the Central Assembly to execute the Constitution of Saint-Domingue and to remain attached to the French government, and shall be immediately installed in his functions; all shall be in presence of active generals and chief commanders of departments of the army of Saint-Domingue, who all, individually and without delay, shall swear obedience to the orders of the new Governors Saint-Domingue.

Art. 32. – At least one month before the expiration of the five years fixed for the administration of each General, the one in central function, jointly with the active-duty Generals and Chief Commanders of Departments, shall meet at the ordinary place of hearing of the Central Assembly. to the effect of nominating, concurrently with the members of this Assembly, the new Governor or continue the administration of the one who is in function.

Art. 33. – Failure on the part of a Governor in function to convoke constitutes a manifest infraction to the Constitution. In such circumstance, the highest ranked General or the senior General of equal rank, who is in active service in the colony, shall take, of right, if provisionally, the control the government.

This General shall convoke immediately the other General in active duty, the Chief Commanders of Departments and the members of the Central

Assembly, who shall all obey the convocation, to the effect of proceeding concurrently to the nomination of a new Governor.

In the event of death, resignation or other vacancy by a Governor before the expiration of his mandate, the Government passes as well provisionally to the highest ranked General, or the senior General of equal rank who shall convoke, to the same ends as above, the members of the Central Assembly, the active-duty Generals and Chief Commanders of Departments.

Art. 34.– The Governor shall seal and promulgate the laws; he nominates to all civilian and military employment. He is the chief commander of the armed forces and is charged with its organization; State vessels in station at the shores of the colony receive orders from him.

He shall determine the divisions of the territory in manners most conform to internal relations. He watches and provides, according to the law, for internal and external security of the colony, and given that the state of war is a state of abandonment, malaise and nullity for the colony, the Governor is charged to take in those circumstances measures he deems necessary to ensure the subsistence and the supply of goods of all sorts to the colony.

Art. 35. – He shall exercise the general police of inhabitants and of the factories, and enforces the obligations of owners, farmers and of their representatives towards cultivators and workers, and the duty of cultivators towards owners, farmers or their representatives.

Art. 36. – He shall propose laws to the Central Assembly, as well as changes to the Constitution that experience may necessitate.

Art. 37. - He shall direct, supervise the collection, the payments and the use of finances of the colony,

and shall give, to this effect, any and all orders.

Art. 38. – He shall present, every two years, to the Central Assembly the conditions of receipts and disbursements of each department, year by year.

Art. 39. – He shall supervise and censor by the authority of his commissaries, all writings designed for printing on the island he shall cause to be suppressed all those coming from abroad that would tend to corrupt mores or trouble the new colony; he shall punish the authors or colporteurs, according to the severity of the situation.

Art. 40. – If the Governor is informed of some plot against the tranquility of the colony, he shall immediately proceed to the arrest of the presumed authors, instigators or accomplices; after having them undergo extra-judiciary questioning, he shall cite them in front of a competent tribunal.

Art. 41. – The salary of the Governor is fixed at the present time at 300.000 Francs. His honor guard shall be charged to the colony.

TITLE IX Of the Courts

Art. 42. – Citizen shall have an inalienable right to be judged by arbiters at their choice.

Art. 43. – No authority shall suspend nor impeach the execution of judgments rendered by the Courts.

Art. 44. – Justice shall be administered in the colony by Courts of first instance and by Courts of appeal. The law determines their organization, their number, their competence and the territory of each Court's jurisdiction.

These tribunals, according to their degree of jurisdiction, shall recognize all civil and criminal

affairs.

Art. 45. – There shall exist for the colony a Court of Cassation that shall pronounce on demands of annulments against judgments rendered by Appeal Courts, and issue opinions against an entire tribunal. This court does not hear the facts of the cases, but overturn judgments rendered on procedures in which the forms have been violated; or that contain some express contravention [infringement] to the law, and shall return the facts of the process to the tribunal in question.

Art. 46. – Judges of divers Courts conserve their function for life, unless they are condemned for forfeiture. Commissaries of the government can be revoked.

Art. 47. – Military misdemeanors shall be submitted to special tribunals and subject to special judgments.

These special Courts also hear cases of theft, abduction, domicile violation, murder, assassination, arson, rape, plotting and mutiny.

The organization of these Courts pertains to the Governor of the colony.

TITLE X Of Municipal Administrations

Art. 48. - There shall be in each parish of the colony a municipal administration; where there is a Court of first instance, the administrative body shall be composed of a mayor and four administrators.

The commissary of the government near the tribunal shall hold gratuitously the functions of commissary near the municipal administration.

In other parishes, municipal administrations shall be

composed of a mayor and two administrators; a substitute commissary of the responsible tribunal shall hold the function of commissary near the municipality gratuitously.

Art. 49. – Members of these municipal administrations shall be nominated for two years; they may always continue beyond that time. Their nomination devolves to the Governor, who, on a list of at least sixteen individuals, presented by each municipal administration, chooses the persons most appropriate to manage the affairs of each parish.

Art. 50. – The function of municipal administrators consists in the exercise of simple police of cities and towns, in the administration of taxes originating from revenues of factories and additional impositions of the parishes.

They are, in addition, especially charged with the record keeping of births, marriages and deaths.

Art. 51. – The mayors exert particular function that the law determines.

TITLE XI Of the Armed Forces

Art. 52. – The Armed Forces are essentially obedient, they can never deliberate; they are at the disposition of the Governor who can mobilize them only to maintain public order, protection due to all citizens, and the defense of the colony.

Art. 53. – They are divided in paid colonial guard and unpaid colonial guard.

Art. 54. – The unpaid colonial guard shall not go out of the limits of its parish unless there is a case of imminent danger, and upon the order and the responsibility of the local military commander.

Outside of its parish it shall be compensated; and shall be submitted, in this case, to the military discipline, and in all other case, is only subject to the law.

Art. 55. – The state police force of the colony shall be part of the Armed Forces; it shall be divided in a mounted force and a pedestrian force. The mounted force is instituted for the high police of security of the countryside; it has the charge of the wealth of the colony.

The pedestrian force is instituted for the police of cities and towns; it shall be at the charge of the city or town for which it performs services.

Art. 56. – The army is recruited upon the proposition the Governor makes to the Central Assembly, according to the mode established by law.

TITLE XII

Of Finances, of Sequestered and Vacant Estates

Art. 57. – The finances of the colony shall be composed of: 1) duties on imports, weights and measures; 2) duties on the rental value of city and town houses, and duties on manufactured goods, other than agriculture and salt marshes; 3) revenues from ferries and postal services; 4) fines and confiscated wrecks; 5) duties on rescue of wrecked ships; revenue of colonial domains.

Art. 58. – The product of closing from sequestered properties of absentee and represented owners becomes provisionally part of the public revenue of the colony and shall be applied to expenses of administration.

The circumstances shall determine the laws that should be made relative to outstanding public debt, and to farming of sequestered property collected by

the administration prior to the promulgation of the present law.

Art. 59. – Funds originating from the sales of personal estate and from the price of closing of vacant inheritance opened in the colony under the French government since 1789, shall be placed in a particular coffer, shall not be available as well as real estate gathered under colonial domains until two years after the publication of peace in the island, between France and the maritime powers; let it be understood, that this deadline is only relative to successions whose five year deadline fixed by the edict of 1781 should expire; and concerning those opened on or around the peace period, they shall not become available and gathered until after seven years.

Art. 60. – Foreign successors of French parents or foreign parents in France shall succeed them also in Saint-Domingue; they shall be allowed to enter contract, acquire and receive properties situated in the colony, and dispose as well as the French by all means authorized by laws.

Art. 61. – Laws shall determine the mode of collection of the administration of finances and sequestered vacant estates.

Art. 62. – A temporary commission of accounting shall regulate and verify the revenue and disbursement accounts of the colony; this commission shall consist of three members, chosen and nominated by the Governor.

TITLE XIII

General Dispositions

Art. 63. – The residence of any person shall constitute an inviolable abode. During nighttime, no one shall have the right to enter therein unless in case of fire, flooding or upon request from within.

During the day, one shall have access for a special determined object or, by a law, or by order issued from a public authority.

Art. 64. – For a lawful arrest to be executed; it must

- 1) formally express the motive of the arrest and the law in virtue of which it is ordered;
- 2) be issued from a functionary whom the law formally empowers to do so;
- 3) presented to the person in form of copy of the warrant.

Art. 65. – Anyone who, without authority of the law to make an arrest, gives, signs, executes or causes to be executed the arrest of a person, shall be guilty of the crime of arbitrary detention.

Art. 66. – Any person shall have the right to address individual petitions to all constitutional authority and especially to the Governor.

Art. 67. – There cannot exist in the colony corporations or associations that are contrary to public order.

No citizen association shall be qualified as popular society. All seditious gathering shall be dissipated immediately, first by way of verbal order and, if necessary, by development of armed force.

Art. 68. – Any person shall have the faculty to form particular establishments of education and instruction for the youth under the authorization and the supervision of municipal administrations.

Art. 69. – The law supervises especially all professions dealing with public mores, public safety, health and fortune of citizens.

Art. 70. – The law provides for awards to inventors of rural machines, or for the preservation of the

exclusive ownership of their discoveries.

Art. 71. – There shall exist in the colony uniformity of weights and measures.

Art. 72. – It shall be given, by the Governor, in the name of the colony, awards to warriors who will have rendered exceptional services while fighting for the common defense.

Art. 73. – Absentee owners, for whatever reason, conserve all their rights to properties belonging to them and situated in the colony; it suffices, to remove any sequestration that might have been imposed, to reintroduce their titles of ownership and; in default of title thereof, supplementary acts whose formula is determined by law. Exempt of this disposition are, nevertheless, those who might be inscribed and maintained on the general list of emigrants of France; their properties shall continue, in this case, to be administered as colonial domains until their removal from the list.

Art. 74. – The colony proclaims, as guarantee of public law, that all leases [beaux? /as spelled in original] of legally leased properties by the administration shall have their full effect, if the contracting parties prefer not to compromise with owners or their representatives who would obtain the return of their sequestered goods.

Art. 75.– It proclaims that it is on the respect of the citizen [personne] and of the properties that rest agriculture, all productions, all means of employment and all social order.

Art. 76. – It proclaims that any citizen owes services to the land that nourishes him or that guarantees his rights, and in regard to those [services] that shall have been collected, at a later time, they shall be exactable and reimbursed in the year that follows the lifting of sequestration of goods.

Art. 77. – The Chief General Toussaint-Louverture is and shall remain charged with sending the present Constitution to be sanctioned by the French government; nevertheless, and given the absence of laws, the urgency to exit from this condition of peril, the necessity to promptly reestablish agriculture and the unanimous wishes pronounced by the inhabitants of Saint-Domingue, the Chief General is and remains invited, in the name of public good, to proceed with its execution in all areas of the territory of the colony.

Made at Port-Republican, this 19th Floréal year IX of the French Republic, one and indivisible.

Signed: Borgella, President

Raymond Collet Gaston Nogérie

Lacour,

Roxas,

Munos,

Mancebo,

E. Viert, secretary

After having taken knowledge of the Constitution, I give it my approval. The invitation of the Central Assembly is for me an order; consequently, I shall pass it to the French government in order to obtain its sanction; as for its execution in the colony, the wish expressed by the Central Assembly shall be fulfilled as well and executed.

Given at Cap Français, this 14 Messidor, year IX [July 3, 1801] of the French Republic, one and indivisible.

The Chief General:

Signed: Toussaint-Louverture

See also

- Toussaint letter to Napoleon on the 1801 Constitution - When the constitution was sent to France this letter accompanied it.
- Napoléon Bonaparte letter to Toussaint Louverture (1801) - Letter in which Napoléon Bonaparte is critical of Toussaint Louverture's constitution.
- Tobias Lear letter to James Madison - Makes mention of the constitution.
- Julien Raimond - Served on a 10 person committee to draft the constitution.
- Colonel Vincent - Charles-Humbert-Marie de Vincent was charged with taking the 1801 constitution to Bonaparte.

Speeches

- Toussaint L'Ouverture and the Haytian Revolutions - 1841 speech by McCune Smith.

References

- Tobias Lear letter to James Madison. (1801). Haiti. NARA - US National Archives and Records Administration, Record Group 59, Miscellaneous Letters.

External links

- Georgetown University: 1987 Constitution of the Republic of Haiti - The constitution currently in effect. (Unofficial english translation)

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