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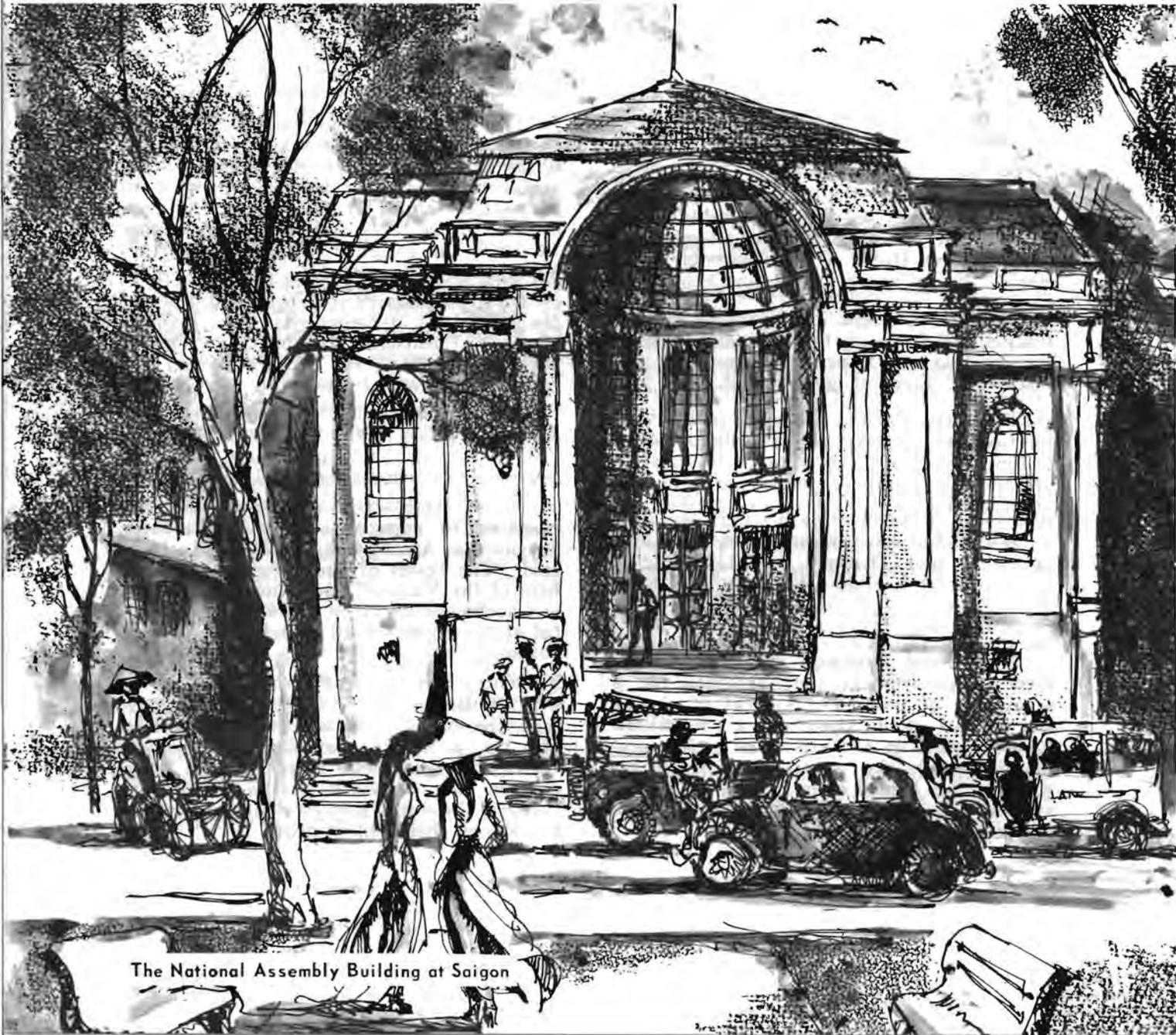
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THE CONSTITUTION . . .

. . . Of The Republic of Vietnam



The National Assembly Building at Saigon

THE PREAMBLE

“Confident that the patriotism, indomitable will, and unyielding traditions of the people will assure a radiant future for our country;

“Conscious that after many years of foreign domination, followed by the division of our territory, dictatorship and war, the people of Vietnam must take responsibility before history to perpetuate those hardy traditions and at the same time to welcome progressive ideas in order to establish a republican form of government of the people, by the people and for the people whose purpose is to unite the nation, unite the territory and assure independence, freedom and democracy with justice and altruism for the present and future generations;

“We, 117 Deputies of the National Constituent Assembly representing the people of Vietnam, after debate, approve this Constitution.”

On Sept. 3, 1967, more than 80 per cent of the 5.8 million registered voters in the Republic of Vietnam lined up at polling places throughout the nation, endorsing a commitment to freedom as they cast their votes in the first national elections held under a new Constitution.

On that September day, a President, Vice-president and 60 members of the Upper House of the National Assembly were elected. One hundred thirty-seven members of the Lower House of the Assembly were elected the following month, on October 22.

With these steps completed, world attention will focus on the Vietnamese, their Constitution and their first genuinely representative form of government.

The purpose of this pamphlet is to review the Constitution, officially promulgated April 1, 1967, which is to serve as the foundation of this new democracy emerging from the uncertainties of two decades of conflict.

Within the constitution's framework of a preamble, nine chapters and 117 articles, the people of Vietnam have pledged themselves to an "indivisible, unified and independent Republic."

They have launched a representative form of government that provides for a separation of powers, a system of checks and balances and, above all, a recognition of the dignity of the individual citizen and his right to justice, security and ample reward for his honest efforts. From such provisions is to be woven the fabric of their democratic system.

Following years of political turmoil and pressure from various factions of the civilian population, the military junta ruling the Republic in 1966 came to realize the need for a stable and representative government.

The immediate requirement was a new Constitution, one which would put Vietnam on the path to self-government and individual freedom. An election for a National Constituent Assembly was directed. The Constituent Assembly was elected on September 11, 1966, and assigned the task of drafting a constitution.

On September 27, 117 representatives of the people met at Saigon's old French Opera House to reconstruct the political spirit of their nation from the frustrations of the previous 20 years.

The product of the six months of their labor was given to the Vietnamese on April 1 to the sound of a 21-gun salute in a ceremony held at Independence Palace in Saigon.

U. S. Ambassador Ellsworth Bunker, speaking to members of the Vietnamese Journalists Association on July 16, 1967, said, "The result of their work (the members of the National Constituent Assembly) is a document liberal in character and mindful of the rights of all citizens."

The Constitution is a blend of Western influences and the deeply rooted culture of the Vietnamese. It is tailored to their heritage, the ethnic components of their society and the prospects they foresee for their country. Yet, it seems to restate the ideals of free men elsewhere in the world, particularly those who actively strive to improve the lot of their fellow man.

THE CONSTITUTION

In Chapter I (Articles 1-5) are stated the "Basic Provisions" of the Constitution. Article 1 declares that Vietnam is a "territorially indivisible, unified and independent Republic." It adds, "Sovereignty resides in the whole people." (Article 107 states that Articles 1 and 107 may never be amended or deleted.)

Article 2 recognizes the existence of certain basic human rights and guarantees equality among all the people, without discrimination based upon sex, religion, race or political party. (It seems, however, that these provisions must be considered alongside those of Article 4, which states that the Government opposes communism, one type of political ideology.)

Article 3 establishes the three branches of government—legislative, executive and judicial. Chapters III, IV and V include the detailed provisions for these.

Chapter II (Articles 6-29) deals with the "Rights and Duties of Citizens." Article 29 makes it very clear that the essence of all the basic freedoms are guaranteed by the Constitution and cannot be violated. Any restrictions upon these basic rights must be clearly defined before they will be enforced.

Under these Articles, Vietnamese citizens are guaranteed certain basic rights relating to the power and authority of the State. For example, no one can be arrested or detained without a court order, unless the case is a flagrant violation of law.

Neither can anyone be tortured, threatened or forced to make a confession which would be admissible in a court of law. No one may enter, search or confiscate the property of another without an order issued by the court.

Furthermore, every accused is entitled

to a speedy and public trial, with the right to counsel at the time of the preliminary investigation.

The State also recognizes freedom of thought, speech and of the press. The people have the right of association and can petition the Government for the redress of grievances. They are free to join labor unions and to strike when they deem it necessary. There is also the freedom of movement, with the opportunity to change residence when desired.

The Vietnamese are guaranteed many other freedoms. There is no recognized State religion. Each citizen is free to practice the religion of his own choosing. The State, however, does recognize the importance of culture and education. Basic education is compulsory and free of charge and money must be appropriated for the development of culture and education.

None of these freedoms are absolute in nature. Many times they are qualified by phrases such as "if in the national interest," "if not harmful to the public safety or good order" or "if not contrary to good morals." Only time will determine if and to what extent these qualifications will abridge the freedom guaranteed by the Constitution.

These rights are accompanied by certain duties and responsibilities which each citizen owes his government. The Constitution states each person has the duty to pay taxes, to fulfill his military obligation and to defend his country. He must also defend the Constitution and respect the law.

The State, however, is not without responsibility to each of its citizens. It must respect the security of each individual and guarantee his right to bring a case before a court of law. It recognizes the family as

a foundation of society and encourages family cohesion. It is also the duty of the State to establish a system of social security, social welfare and public health.

Thus, Chapter II of the Constitution is concerned not only with the citizen but also with the Government. Each owes allegiance to the other; both must work together.

Chapter III (Articles 30-50) makes provision for a bicameral National Assembly. It describes the composition of the two houses, qualifications for membership, election procedures, terms of office, guarantees for members and gives authority, legislative procedures and regulations of the Assembly.

The initial article in the chapter states, "Legislative authority is vested by the people in the National Assembly."

The Lower House is composed of 137 representatives who are elected directly by secret ballot and "universal suffrage." Candidates run as individuals from separate constituencies no larger than provinces and those elected serve for four year terms. They may be reelected.

Candidates must be Vietnamese citizens, at least 25 years old, have the full rights of citizenship, have their draft status in order and meet the conditions prescribed in electoral laws.

The members of the Upper House total 60 in number. They are elected at-large by direct and secret ballots. Voters cast their ballots for blocs of candidates named on lists of not more than 10 candidates each. The voter selects several lists whose total number of candidates do not exceed the number of seats contested.

Members of the Upper House serve for six years and may be re-elected. Their qualifications are the same as those for candidates for the Lower House except that the minimum age is 30.

The Constitution provides that members of the first Upper House will be divided into two groups by drawing lots. The first group will serve for a period of six years while the second group will serve for only three years with elections to be held at the end of their term. Thus, voters will select one-half of the Upper House every three years.

Members of the National Assembly are given special immunity from prosecution in regard to their statements and votes in the Assembly. They may be detained only for flagrant violations of the law during their term in office except with the consent of three-fourths of the members of their house.

Also, Assembly members are given specific permission to serve as instructors with institutions of higher learning. Members and their wives are prohibited from contracting with any government agency.

The Constitution provides for impeachment of members of the Assembly and describes the procedure necessary for such action, directing, "The Representative or Senator concerned has the right to defend himself in debate during all phases of the removal."

Under the specific powers granted to it, the National Assembly votes legislation, ratifies treaties and international agreements, determines declarations of war and holding of peace talks, determines the declarations of a state of war, controls the government in execution of national policy and, within each house, passes on the validity of the election of members.

The separate houses and their committees may request government officials to appear before them for various reasons. The Upper House may open investigations regarding national policy.

By a vote of two-thirds of the total membership of the National Assembly, the legislators may recommend part or all of the

government as formed by the Prime Minister be replaced. They may over-ride an objection by the President to this action by a vote of three-fourths of the total membership of the Assembly.

In legislative procedures, bills may be introduced by members of either House and by the President. Bills are submitted to the Office of the Lower House.

Time limits are imposed by the Constitution on the length of debates, the movement of a bill from one house to another, and for the approval or rejection of a bill by the President.

In the latter case, the President may ask the Assembly to reconsider part or all of a bill. He must give his specific reasons. However, the Assembly, in a joint plenary session, may refuse to act on the President's recommendations by a simple majority vote. In that case, the bill becomes law in the original form submitted to the President.

Time limits are also set for action on the annual draft budget which must be submitted to the Lower House no later than September 30 each year.

Provision is made for two regular sessions of 90 days duration each year. The National Assembly may meet in extraordinary sessions at the request of the President or by a vote of one-third of the total members of either House. Meetings of both Houses are open except when a majority of the members request a meeting be closed.

Each House elects its own chairman and permanent officers, establishes permanent committees and is responsible for its own internal rules. They jointly determine liaison procedures between the two Houses.

The Chairman of the Upper House presides over joint plenary meetings of the two Houses. In the event he cannot do so, the Chairman of the Lower House serves as

the presiding officer at joint meetings.

The Executive Branch of the Government is the subject of Chapter IV (Articles 51-75) of the Constitution.

The Constitution declares executive authority is vested by the people in the President, who takes an oath of office before members of the National Assembly and the Supreme Court, which states, "I solemnly swear before the Nation to protect the Fatherland, respect the Constitution, serve the interests of the People, and to the best of my ability fulfill my duties as President of the Republic of Vietnam."

Both the President and Vice-President run on the same ballot and are elected for a period of four years by the entire nation by "direct and secret" ballot. They may be re-elected once. Elections are held on a Sunday, four weeks before the term of the incumbent President ends.

The basic qualifications for candidacy for the offices of President and Vice-President are the same. They include citizenship from birth, at least ten years residency in Vietnam prior to the date of election, at least 35-years-old, must have legal draft status, must enjoy "full rights of citizenship" and must meet all other conditions set forth in the Presidential and Vice-Presidential election law. The Supreme Court establishes the list of candidates, controls the fairness of the elections and announces the results.

Provisions are made for the termination of duties by either the President or the Vice-President through death, resignation, impeachment and serious or prolonged illness. Prescribed also are the circumstances under which the Vice-President assumes the duties of President.

In the powers granted to the President, the Constitution specifies that he promulgates all laws in accordance with prescribed



Chief of State Nguyen Van Thieu Signs Decree Making Constitution Official

procedures, appoints a Prime Minister, and with the approval of the Upper House, appoints chiefs of Diplomatic Missions and Rectors of Universities. The Prime Minister nominates the remainder of the ministers who are then appointed by the President.

The President is the Nation's representative in international relations. He signs, and after ratification by the National Assembly, promulgates all treaties and international agreements. He is the Supreme Commander of the Armed Forces, determines national policy and presides over the Council of Ministers.

The President also has the power to sign decrees declaring states of emergency, curfew or alert within the country. However, the National Assembly must meet within 12 days following such a decree to sustain, modify or reject the President's action.

The Vice-President is chairman of three permanent groups established by the Constitution, the Culture and Education Council,

the Economic and Social Council and the Ethnic Minority Council. He cannot hold any other position in the government except when assuming the duties of President as provided for in the Constitution.

Provision for a National Security Council is made in this chapter. The President serves as chairman of this group which is charged with examining all matters relating to national defense. It is given the authority to make proposals concerning the national security and specific actions during times of emergency.

The final six articles of the chapter dealing with the executive pertain to local administration. It is specifically stated. "The principle of local separation of power is recognized for legal regional entities: Villages, Provinces, Cities, and the Capital."

The government is charged with appointing two civil servants to assist mayors, province chiefs and village chiefs in admin-

istrative and security matters. The President is given the authority to dismiss members of deliberative bodies and heads of executive agencies of local administrative units if they violate the Constitution, laws of the nation or national policy.

The third branch of the Government, the Judiciary, is covered in Chapter V (Articles 76-84).

Under the Constitution, independent judicial power is vested in the Supreme Court and is exercised by judges. It is specified that every court below the Supreme Court must be established by law with an element that judges the cases and an element that prosecutes the accused, both of which must be professionally qualified. It is also stipulated that courts must respect the rights of defense.

Presiding judges are charged to make decisions "according to their consciences and the law," under the control of the Supreme Court. Prosecuting judges monitor the application of the law in order to protect public order, under the control of the Ministry of Justice.

Members of the Supreme Court are chosen by the National Assembly from a list elected by the Association of Judges, Association of Prosecutors and Association of Lawyers, each represented equally. The President then appoints the members, no less than nine nor more than 15 in number, for a term of six years. All members of the Supreme Court must be judges or lawyers who have served at least 10 years in the judiciary.

The Supreme Court is empowered to interpret the Constitution, to decide on the constitutionality of all laws and decree-laws, and to decide on the constitutionality of decrees and administrative decisions.

Among its other powers, the Supreme Court decides on the dissolution of any poli-

tical party whose policies and activities "oppose the republican form of government." It is also empowered to decide on appeals from lower courts.

Provision is made for a Judicial Council which has the responsibility to propose appointment, promotion, transfer and disciplining of judges and to advise the Supreme Court on matters relating to the judiciary. Members of the council are judges elected by the Association of Judges.

Chapter VI (Articles 85-98) of the Constitution establishes six Special Institutions, including a Special Court, an Inspectorate, an Armed Forces Council, the Culture and Education Council, the Economic and Social Council and the Ethnic Council.

The Special Court, consisting of the chairman of the Supreme Court and five members from each of the two Houses of the National Assembly, is empowered to remove from office the President, Vice-President, Prime Minister, Ministers, Secretaries of State, Supreme Court judges and members of the Inspectorate in cases of treason or other high crimes.

Proscribed are the methods to bring charges before the Special Court and the rights of individuals charged. The Special Court determines the question of removal from office by a three-fourths vote of its membership, except in cases involving the President or Vice-President which require a vote of four-fifths of its total membership.

The Inspectorate is a watch-dog agency which includes nine to 18 members. It has broad powers to investigate persons in public office as well as those in the private domain who may be involved in corruption, speculation, influence peddling or acts harmful to the national interests. Members of the Inspectorate may inspect accounts of public agencies and commercial enterprises and audit the property of public agencies in-

cluding the President, Vice-President, Prime Minister, members of the National Assembly and Chairman of the Supreme Court. In cases involving investigation of members of the Inspectorate, the audit of personal property is conducted by the Supreme Court.

The Inspectorate may propose disciplinary measures or request prosecution of those it investigates and it may make public the results of an investigation.

The Armed Forces Council advises the President on matters relating to the Armed Forces, "especially promotion, transfer and disciplining of soldiers of all ranks."

Advising the Government on drafting and executing cultural and educational policy is the responsibility of the Culture and Education Council. The term of office of members of the council is four years. One-third of its membership is appointed by the President and the remainder are elected from various organizations.

The Economic and Social Council serves in an advisory capacity to the Government on economic and social matters. Its membership includes one-third appointed by the President and the remainder elected from the fields of industry, commerce and labor. Its members also serve four years.

The Ethnic Council represents the non-Vietnamese ethnic groups living in Vietnam and advises the Government on matters pertaining to the ethnic minorities. Its membership is composed of one-third presidential appointees and two-thirds elected by the ethnic minorities themselves. Members of this council serve a four year term.

Political parties and opposition are the topics of Chapter VII (Articles 99-102) of the Constitution. Essentially, these Articles recognize the role of political parties in a democratic system of government, permit them freedom of operation under conditions prescribed by law and encourage progress towards a two-party system.

Only communists are banned from organized political activity (by Chapter I, Article 4, which specifically bans every activity "designed to publicize or carry out" communism).

The method of amending the Constitution is prescribed in Chapter VIII (Articles 103-107). The President or a majority of members of either House of the National Assembly may propose amendments to the Constitution. Following study by a joint committee, a two-thirds vote by the entire Assembly is required to approve a resolution for Constitutional amendment. The amendment is promulgated by the President in the same manner as other legislation once the Assembly has passed it by the necessary majority.

The final section of the Constitution, Chapter IX (Articles 108-117), provides for the transition of the Government from its state in 1966 to full operation under the provisions of the Constitution.

Accordingly, following the election of the President and Vice-President, the National Constituent Assembly elected Sept. 11, 1966, was to serve until the first National Legislative Assembly was convened.

The National Leadership Committee and the Central Executive Committee were to continue in power until the first President and Vice-President took office.

Courts in operation at the time of promulgation of the Constitution were to continue in operation until the establishment of the Judicial system provided for in the Constitution.

It was specified that the election of the National Assembly and the organization of the Supreme Court and the Inspectorate must be carried out within 12 months from the date the President first assumes office. Other agencies prescribed by the Constitution are to be established no later than two years from the date the first National Assembly is established.