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SENIOR THESIS APPROVAL SHEET

This Honor's thesis entitled

"The Paths to Democracy in the Czech Republic"

written by

Allison Allred

and submitted in partial fulfillment of the

requirements for completion of the

Carl Goodson Honors Program

meets the criteria for acceptance

and has been approved by the undersigned readers

Thesis Director

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April 15, 1994

The Paths to Democracy in the Czech Republic

Allison Allred

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All of Europe strains for unity, yet Czechoslovakia willingly and peacefully divided itself into two nations on January 1, 1993. Czech Republic and Slovakia share many common interests and a powerful kinship that promotes alliance even under separate flags. The following quote demonstrates the unique history of Czechoslovakia from the perspective of an 80 year-old Czech citizen:

Look, I was born in Austro-Hungary. I grew up in Czechoslovakia, suffered from Germans, spent 50 years in a colony of Russia--without ever leaving Prague! Now, we're Czechs again, like we've been for a thousand years. What's so bad about that?¹

In sociological, historical, and political contexts, the Velvet Revolution and Velvet Divorce seem easier to comprehend. In 1994, the future of the Czech Republic seems promising because the Czech people have embraced changes; at the same time, they also remember the lessons of what lies behind the Velvet Curtain of their past.

History of the Czech lands in the Middle Ages

The Czech Republic is composed of three entities: Bohemia, Moravia, and a part of Silesia. The Czech lands existed as one state, or as a confederation of states, as early as the Middle Ages and survived as such for many centuries. The Czech people have Germanic roots, while the Slovak people have Hungarian roots. The present territory

¹Daniel Singer, "Czechoslovakia's Quiet Revolution," The Nation 29 Jan. 1990: 126.

of Slovakia was an integral part of the Hungarian kingdom from around the year 1000 to 1918.² The establishment of the Czechoslovak Republic in the fall of 1918 signalled a radical change in the political situation.

The histories of the Czech lands and Slovakia do not form an organic whole, and it would be confusing at best to attempt to map the historical frameworks of both in a single account. Therefore, the following discussion will focus on the history of Bohemia, Moravia, and Silesia as it relates to the birth of the Czech Republic. The subject of Slovakia will be considered logically following the formation of Czechoslovakia; otherwise, the Slovak past will be touched on only when necessary.

The history of Czech lands dates back to the Middle Ages. Charles IV became Bohemia's first Holy Roman Emperor in 1378, and the city of Prague flourished as the imperial capital. In 1648 after the Thirty Years' War, the Catholic Hapsburgs solidified control over the Czech people, while the Slovak lands became absorbed in the expansion of the Ottoman Empire.³ Czech and Slovak history diverged in the

²Petr Cornej, Fundamentals of Czech History, trans. T. Morath (Prague: Prah, 1992) 4.

³Jiri Hajek, Czechoslovakia and Europe, trans. (Prague: Association for the European Home, 1990) 12.

Middle Ages, but the Czechs and Slovaks finally united in the twentieth century after generations of fealty to the Austro-Hungarian Empire.⁴

Birth of Czechoslovakia

The peace conference at Versailles after World War I definitively fixed the borders of the nation of Czechoslovakia. The successor states of the Hapsburg monarchy included Czechoslovakia, Poland, Yugoslavia, Austria, and Hungary.⁵ The creation of these new states did not come without problems however. The German population in Bohemia and Moravia was not willing to live with Czechs and Slovaks in a single republic; the strong minority of Hungarians in eastern and southern Slovak lands as well as the Polish minority scattered throughout the regions reacted similarly.⁶ Nevertheless, various nationalities acquiesced despite ethnic differences, and the Czechoslovak Republic functioned as a single governmental unit for years to come.

⁴Ibid. 14.

⁵Josef Korb, Twentieth Century Czechoslovakia: The Meanings of Its History, (New York: Columbia UP, 1977) 25-26.

⁶Ibid. 27.

Inter-war period in Czechoslovakia

During the inter-war period, Czechoslovakia developed its national character in a guarded fashion. Political tensions in Europe influenced decisions of Czechoslovakian leaders. Czechoslovakia relied heavily on its alliance with France in foreign politics.⁷ In the arena of regional politics, it closely cooperated with Yugoslavia and Romania, all three of which felt apprehensive of Hungarian attempts to restore the Austro-Hungarian Empire.⁸

A constitution defined the internal structure and political organization of Czechoslovakia.⁹ French and American models served as the inspiration for the Czechoslovakian constitution.¹⁰ Ratified in 1920, the constitution proclaimed a "democratic republic." Constitutional stability relied on a combination of three conditions: a parliamentary system; cooperation between leaders of the most significant political parties--Agrarians, Social-Democrats, National-Socialists, and the Christian-Socialist People's Party; legitimacy and authority

⁷Jaroslav Sabata, Comments on Czechoslovakia's Foreign Policy, trans. (Prague: Association for the European Home, 1990) 28.

⁸Ibid.

⁹Personal interview with Dr. Jana Wurstova, director of International and Legal Department of the Czech Republic Ministry of Justice, 22 Jun. 1993.

¹⁰Ibid.

of the President.¹¹ At the first session of the National Assembly on November 14, 1918, T. G. Masaryk had been elected president of the Czechoslovakian state.¹² The Communist Party of Czechoslovakia formed in 1921. The Communist Party broke away from the Social-Democrats, and it looked toward the Soviet Union as its model of government.¹³

In the 1920's and 1930's, Czechoslovakia ranked among the ten most developed states in the entire world.¹⁴ Czechoslovakia had expanded its heavy industries and consumer industries as well as its agricultural base. The differences which persisted between the individual regions of the state negatively affected Czechoslovakia during the time of worldwide economic crisis after 1929. Economic strains contributed to the sharpening of problems of nationality, especially in Moravia and Slovakia.¹⁵

Numerous political activities prefigured the eventual separation of Czech and Slovak territories. From the first half of the 1930's, the People's Party of Hlinka in Slovakia

¹¹Korbel, Twentieth Century Czechoslovakia 48.

¹²Cornej 40.

¹³Vladimir Reisky de Dubnic, Communist Propaganda Methods: A Case Study on Czechoslovakia (New York: Praeger, 1960) 105.

¹⁴Jan Stransky, East Wind Over Prague (New York: Random House, 1951) 201.

¹⁵"Shouts and Murmurs in Free Slovakia," New York Times 2 Jan. 1993: A20.

called for the autonomy of Slovakia and did not endorse the concept of a single Czechoslovak nation.¹⁶ German inhabitants of Czechoslovakia turned their eyes towards neighboring Germany, where Adolf Hitler came to power in 1933. Hitler made no secret of his intentions to unite all Germans under one state. Hitler did, in fact, occupy part of Czechoslovakia during World War II.¹⁷

Post-World War II

After World War II, the Communist Party of Czechoslovakia triumphed with a predominance of support in the Czech lands in the parliamentary elections of 1946; whereas, in Slovak lands, the nationally-oriented Democratic Party received more support.¹⁸ The Communist victory heightened political ties between the Soviet Union and Czechoslovakia and played a major role in subsequent developments. At this time, the Communists enjoyed the trust of much of the populace. Faith in the fulfillment of

¹⁶Thomas J. Abercrombie, "Czechoslovakia: The Velvet Divorce," National Geographic Sep. 1993: 12.

¹⁷Tad Szulc, introduction, Czechoslovakia since World War II (New York: Random House, 1951) xvii.

¹⁸Zdenik Krystufek, The Soviet Regime in Czechoslovakia (New York: Columbia UP, 1981) 123.

Communist ideals developed as a reaction to hardships of World War II.¹⁹

Communist totalitarianism in Czechoslovakia

Communist functionaries skillfully took advantage of this support and proclaimed a governmental state of crisis. On February 25, 1948, the Communist leaders forced President Benes to entrust Klement Gottwald with the formation of a Communist government.²⁰ In such a way, the Communist party of Czechoslovakia seized power in a legal and constitutional manner with the sympathy of a variety of citizens--youths, workers, and intellectuals. On June 14, 1948, Klement Gottwald became President of the Czechoslovak Republic, and his election represented the culmination of the Communist rise to power.²¹

For the remainder of the Communist era, this also meant the end of democracy in Czechoslovakia, although the attribute "Popularly Democratic" appeared in the state's title. Other political parties such as the Populists, Socialists, and various Slovak political parties did not

¹⁹Ibid. 147.

²⁰Josef Korbel, The Communist Subversion of Czechoslovakia 1938-1948: The Failure of Coexistence (Princeton: Princeton UP, 1959) 78.

²¹Ibid. 83.

disappear, but they had to respect Communist decisions.²² The parliamentary system became a pure formality and served as the exterior mask of Communist totalitarianism. Under Gottwald's leadership, the Communist Party abandoned its pre-election commitment to a distinctive Czechoslovakian path to socialism. Instead, Gottwald and the Communist Party followed Joseph Stalin's directives and implemented the Soviet model of Communist government.²³

The Communist Party made sweeping changes in Czechoslovakian government and society. It carried out the nationalization of all enterprises as well as the forced collectivization of agriculture. The orientation of heavy industry focused on serving military ends. In 1949, Czechoslovakia entered into the Council for Mutual Economic Aid (COMECON), by which it built its economy according to Soviet dictates. Six years later, Czechoslovakia became a founding member of the Warsaw Pact, which formed to counterbalance NATO.²⁴ In all, the fundamental economic changes drastically altered life for the citizens of Czechoslovakia.

²²Reisky de Dubnic 167.

²³Szulc 49.

²⁴Alexander Ort, Ph.D., For a European Home, trans. (Prague: Association for the European Home, 1990) 7.

The general public expressed disagreement with the new course of events; however, the Communists quelled such disagreement quickly with political trials, executions of Communists as well as non-Communists, the establishment of concentration camps near uranium mines, and currency reform.²⁵ The Communist Party confiscated property and campaigned against churches, especially the Catholic Church.²⁶ Furthermore, the Communist Party declared Marxist-Leninist doctrine as the single official ideology which pervaded all levels of society in Czechoslovakia.²⁷ The worst excesses ended in 1953 when Stalin and Gottwald both died, but the Communists did not consider relinquishing power. In 1960, the party announced plans to formulate a socialist constitution.²⁸

Prague Spring

The exposure of the crimes of Stalinism and the less dogmatic course of Khrushchev in the Soviet Union led to a partial relaxation in Czechoslovakia.²⁹ The liberal drift

²⁵Reisky de Dubnic 119.

²⁶Rosemary Kavan, Love and Freedom (New York: Hill and Wang, 1985) 23-34.

²⁷Stransky 214.

²⁸Krystufek 141.

²⁹Ibid. 153.

of Czechoslovakian Communists led to the January 1968 election of Alexander Dubcek as both the head of the Communist Party of Czechoslovakia and the President of Czechoslovakia.³⁰ The Czechoslovak model of "Socialism with a Human Face" sprang up and allowed progressive political and economic reforms. This brief period of relaxed government known as the Prague Spring began in January 1968 and ended on August 21, 1968, when the armies of five Warsaw Pact countries (the Soviet Union, German Democratic Republic, Bulgaria, Poland, and Hungary) moved in to occupy Czechoslovakia.³¹

The single most important result of the short process of democratization came about on October 30, 1968. Government officials ratified a law on a federative arrangement within Czechoslovakia. Essentially, this law established separate Czech and Slovak republics within one centralized state. Despite these legal changes, the manner of government administration remained the same in practice.³² The Czechoslovakian Federalist Republic remained under the umbrella of Eastern European Communism.

³⁰H. Gordon Skilling, Czechoslovakia's Interrupted Revolution (Princeton: Princeton UP, 1976) 56.

³¹Ibid. 71.

³²Personal interview with Dr. Dana Bartova, assistant director of International and Legal Department of the Czech Republic Ministry of Justice, 23 Jun. 1993.

On April 17, 1969, the Communist Party of Czechoslovakia dismissed Alexander Dubcek from the office of President.³³ His dismissal came as a result of student protests against Soviet occupation. The student protests included the infamous self-immolations of Jan Palach and Jan Zajic in Wenceslas Square.³⁴ A twenty-year relapse of restrained Stalinism ensued. Gustav Husak headed the Communist Party from this time until mid-1975. In late 1975, he attained the office of President. Husak succeeded in securing political calm temporarily through superficial improving material lives of citizens. The Charter 77 organization demanded improvements in the area of human rights. Attempts to repress the protests unleashed a large scale campaign in retaliation.³⁵

Velvet Revolution

A combination of various influences led to the erosion and fall of the Communist monolith. Some of the prominent factors which contributed to the fall of Communism in the Czechoslovakian Federalist Republic include the following:

³³Stransky 233.

³⁴Fred Halliday, "Letter from Prague," New Statesman & Society 16 Jul. 1993: 11.

³⁵Daniel Siegel and Jenny Yancey, The Rebirth of Civil Society: The Development of the Nonprofit Sector in East Central Europe and the Role of Western Assistance (New York: Rockefeller Brothers Fund, 1992) 44.

devastation of the socialist economy, Gorbachev's succession in the Soviet Union, weakening ideological pressure, the fall of the Berlin Wall, and growing discontent of the younger generations with the political situation.³⁶ When the Communist regime brutally intervened against a student demonstration held on November 17, 1989, it prompted an avalanche of outrage. The Communist system caved in at the close of 1989.³⁷

The election of Vaclav Havel as President on December 29, 1989, eloquently confirmed the end of Communist rule in Czechoslovakia.³⁸ As a spokesman for Charter 77, Vaclav Havel had expressed radical views for the future of Czechoslovakia and spoken very critically of the Communist regime. Havel's election seemed to be a point of closure to the hectic revolutionary events of 1989. These events have come to be known as the "Velvet Revolution."³⁹ The people of Czechoslovakia ousted Communism without a call to arms. The relatively quiet revolution in Czechoslovakia did indeed have "velvet" qualities when one considers revolutionary

³⁶Szulc 179.

³⁷David Leviatin, Prague Sprung: Notes and Voices from the New World (Westport: Praeger, 1993) 11.

³⁸"Havel Is Elected President of New Czech Republic by Its Parliament." New York Times 27 Jan. 1993: A3.

³⁹Anthony Robinson, "The Velvet Curtain," World Press Review Nov. 1993: 18.

events and the aftermath in other Communist satellite countries.

Velvet Divorce

Czechs and Slovaks were not destined to continue tranquilly in their political and economic transformations. The challenging transition from totalitarianism to a democratic system and from a centrally-directed and planned economy to a market economy is not proceeding without shocks. The period of transition became intensified by points of national contention between Czechs and Slovaks. A conglomerate of anti-communist movements expressed various opinions and offered a wide range of solutions to very difficult problems facing Czechoslovakia.⁴⁰

Although the historical overview in this paper has been a brief one, it has created a broad context from which one may begin to analyze recent events in Czechoslovakia and, in turn, the Czech Republic. The previous historical narrative sheds light on the recent past as well as the present state of affairs in Czech lands. The "Velvet Divorce" is the logical starting point for understanding recent events in Czech politics.

⁴⁰Donald R. Shanor, "Free Market vs. Social Needs: Czechoslovakia in Search of a Third Way," New Leader 6 Aug. 1990: 7-8.

Two new states--the Czech Republic and Slovakia--were admitted to the United Nations on January 19, 1993.⁴¹ The General Assembly, acting by acclamation and on the recommendation of the Security Council, divided the seats on various subsidiary organs formerly held by Czechoslovakia. Czechoslovakia ceased to exist on December 31, 1992.⁴² The so-called "Velvet Divorce" had little in common with the violent splintering of its neighbor, Yugoslavia. In fact, the events of January 1, 1993 resembled a friendly divorce. Instead of soldiers, two teams of lawyers, accountants, and bookkeepers worked out the details of the division of Czechoslovakia.

Certain events precipitated the eventual split, and the division along political party lines intensified points of national contention between Czechs and Slovaks. Shortly after the election of Vaclav Havel, Charter 77 (also known as the Civic Forum) broke up into a range of political parties. The liberally oriented Civic Movement acquired a significant following, as did the conservative Civic Democratic Party. The Civic Democratic Party, led by Vaclav Klaus, pushed through radical economic reforms which

⁴¹"Czech, Slovak Republics Join UN," UN Chronicle Jun. 1993: 73.

⁴²Vaclav Havel, "I Should Not Be Amazed--But I Am," Newsweek 1 Jan. 1993: 12.

included immediate privatization and repression of the state's role in the economy. A third party, the Civic Democratic Alliance, solidly defended Czech interests according to conservative traditional values.⁴³

In less economically-developed Slovakia, the effects of economic reform were more painful. Economic depression affected entire regions of Slovakia.⁴⁴ Vladimir Meciar, chairman of the Movement for a Democratic Slovakia, gained popularity. Right-wing parties found only a small acceptance in Slovakia. Meciar defended the emancipatory endeavors of Slovaks against Prague advocates for a centrally-directed federation.⁴⁵ The longing of the Slovak people for political independence exacerbated the already complicated relations between Czechs and Slovaks.

The two-year confrontation culminated following parliamentary elections in June of 1992. In the Czech lands, the Civic Democratic Party gained the most votes (approximately 30 percent.) In Slovakia, Meciar's Movement for a Democratic Slovakia won with the same plurality.⁴⁶ It

⁴³Peter S. Green, "One Becomes Two," US News & World Report 11 Jan. 1993: 8.

⁴⁴Stephen Engelberg, "New Nation, Imperiled Economy," New York Times 12 Feb. 1993: D1, D4.

⁴⁵Judith Ingram, "Fireworks, Tears, and Doubt in Slovakia," New York Times 1 Jan. 1993: A14.

⁴⁶Ibid.

became apparent that parties with such divergent political and economic programs could not create a stable and functional federal government or a parliament capable of making decisions. Convincing proof came when a majority of Slovak members of parliament voted down Vaclav Havel and forced him to resign from the presidential office.⁴⁷

Representatives of the Civic Democratic Party and the Movement for a Democratic Slovakia then agreed to dismantle the Czechoslovakian Federation in a round of negotiations. On November 25, 1992, the Federal Assembly ruled for the termination of Czechoslovakia at midnight on December 31, 1992. Three weeks later, on December 16, the Czech National Council passed the first draft of the constitution of the independent Czech state.⁴⁸ Thus, in a civil manner, the 74-year-old marriage of Czechs and Slovaks ended. In a region splattered with warfare and despair, the breakup of Czechoslovakia truly seemed like a velvet divorce.

While the Slovakian government pushed for the split more than the Czech government, the Czechs recognized they might reap certain benefits as well.⁴⁹ Vaclav Klaus in

⁴⁷Leo Muray, "Some Aspects of the Czech/Slovak Split," Contemporary Review May 1993: 259.

⁴⁸Czech Republic, National Council, The Constitution of the Czech Republic, trans. (Prague: GPO, 1992), 1.

⁴⁹John Pomfret, "Czech Reform: A Two-Edged Sword," Washington Post 30 Oct. 1993: A18.

particular felt that the government should let the Slovaks go their own way. In a televised speech, he gave the following reasons: the drain on the Czech economy from Slovak regions, the desire to avoid having to deal with the issue of the Hungarian minority in Slovakia, and the wish to take the Czech regions out of the category of "eastern" or "central" European nations and put them in the western category.⁵⁰

Demands for a referendum fell on deaf ears in the Federal Assembly. For all practical purposes, it appears that Vaclav Klaus and Vladimir Meciar decided that they could not govern together and agreed to dissolve the country. Both leaders brushed aside a petition signed by 2.5 million Czechoslovakian citizens which called for a referendum.⁵¹ Even after the dissolution became official, public opinion polls continued to show that a majority of Czechoslovakians preferred that the country remain united; however, among those who would have preferred to remain

⁵⁰Stephen Engelberg, "Czechs and Slovaks are Hoping to Find Prosperity in a New Independence," New York Times 2 Jan. 1993: A4.

⁵¹Roger Thurow, "Czechs and Slovaks Are Splitting, but Few Are Sure Just Why," Wall Street Journal 31 Dec. 1992: A1, A2.

citizens of one nation, most considered the split inevitable.⁵²

Although Mr. Klaus promoted the image of Mr. Meciar as the prime actor in the movement for Slovakian independence, some Czechs now acknowledge that Mr. Klaus seemed too willing and even eager to cooperate.⁵³ Perhaps Vaclav Klaus welcomed the opportunity to dispense with the poorer Slovak region of the country. Petr Pithart, Klaus' predecessor as Czech Prime Minister, ardently opposed the breakup. He analyzed the split in these terms:

Czech selfishness played a significant role in this. . . We even started to use a very nasty term--the money pipeline--to describe our relations with the Slovaks. We created the impression that the state was being smashed by the Slovaks but really, two motives clashed here, not one.⁵⁴

Slovak leaders openly called for the divorce, while Czech leaders appear to have negotiated the details quietly.

Publicly, both leaders expressed remorse for the end of the 74-year nation of Czechoslovakia. Vaclav Klaus said, "It makes me sad . . . but clearly it [Czechoslovakia] was

⁵²Stephen Engelberg, "Breaking Up Is Not So Hard to Do," New York Times 3 Jan. 1993: E5.

⁵³Personal interview with Eva Adamova, Department of Public Administration of Czech Republic, 13 Jul. 1993.

⁵⁴Mark J. Mowrey, "Newly Independent States: Czech Republic & Slovak Republic," Business America 19 Apr. 1993: 32.

not meant to be."⁵⁵ Vladimir Meciar commented, "Europe, it is changing."⁵⁶ Meciar argued the split would happen in a matter of time; therefore, he urged leaders to manage the split peacefully in order to avoid emotions which fueled the civil war in Yugoslavia.⁵⁷ Such rhetoric led Meciar to a populist campaign victory in June of 1992. As Prime Minister of the Slovak Federative Republic, Meciar played a major role in the "velvet divorce."

Details of the divorce

What many political analysts considered superficial details became among the first orders of business. Leaders resolved the matter of naming the two new nation-states with little discussion. Slovakia kept its maiden name, while the Czech Republic adopted a more awkward name.⁵⁸ For its flag, Slovakia embraced the traditional banner with a Slovak seal. The Czech Republic broke an agreement and kept the old Czechoslovakian flag as its own.⁵⁹ The new nation-states simply split Czechoslovakia's national anthem, a fusion of a

⁵⁵Stephen Engelberg, "Czechoslovakia Breaks in Two, To Wide Regret," New York Times 1 Jan. 1993: A1.

⁵⁶"Shouts and Murmurs in Free Slovakia" A20.

⁵⁷"Slovaks Get Panicky About Cash," Wall Street Journal 12 Jan. 1993: A10.

⁵⁸Abercrombie 15.

⁵⁹Ibid. 17.

Slovak hymn and a Czech hymn. The Slovaks kept the lively part of the tune, and the Czechs retained the slower, more stately part.⁶⁰

The split of federal property and assets required more planning and debating between the two parties. Federal assets totalled approximately \$25 billion.⁶¹ The legislative measures outlining the terms of the divorce awarded the larger Czech republic twice as much as the smaller Slovak republic, except for military assets. The rationale behind this division mirrored population totals. Approximately 10.3 million people live in the Czech territory, while slightly more than 5.2 million live in the Slovak territory.⁶²

The details of the national divorce appeared straightforward in most respects. Czechs and Slovaks divided military equipment a two-to-one basis, but most military bases reside in Czech borders; therefore, equipment has been virtually useless to the Slovaks without storage facilities and operation centers.⁶³ Czechs and Slovaks divided foreign embassies and also state television, radio,

⁶⁰Engelberg, "Breaking Up" E5.

⁶¹"The Czech Economy," Economy 13 Nov. 1993: 78.

⁶²Green 8.

⁶³Murray 260.

and news services with few objections.⁶⁴ Even a prisoner exchange has been planned. Government officials traded 300 convicted Czechs in Slovak jails for 1,500 convicted Slovaks in Czech jails.⁶⁵

The breakup produced comic results too. The following examples demonstrate that not every detail worked neatly according to legislative directives. Reporters found a town where the ski chalet is in one country and the ski slopes in another. Postal routes frequently criss-crossed between the two countries. In one small village, the train station and the town it serves were in different countries.⁶⁶

Early in the process, the Czechoslovakian government acknowledged with some degree of embarrassment that it did not know exactly where the border lay between the Czech Republic and Slovakia. The officials resorted to Nazi-era maps of the Slovak state for guidance.⁶⁷ Seventeen border posts opened in the first month of 1993, but the 350 roads which link the two nations remain relatively open. As late as July of 1993, Czechs and Slovaks had not been required to

⁶⁴Personal interview with Eva Adamova.

⁶⁵Peter Maass, "After Their Civil Divorce, Czechs and Slovaks Are Still Friends," Washington Post 10 Aug. 1993: A12.

⁶⁶Abercrombie 35.

⁶⁷Dean E. Murphy, "A Year After Split, Czech and Slovak Nations Act as if There's No Yesterday," Los Angeles Times 25 Dec. 1993: A36.

show their passports at border crossings.⁶⁸ More recent reports indicate that Czechs and Slovaks must now present their passport documents when crossing the border.

The currency matter has been among the most troublesome problems facing Czechs and Slovaks thus far. First of all, the Czechs had the only printing press, and the Slovaks had the only mint.⁶⁹ Both Czech Republic and Slovakia agreed to continue using the koruna (or crown) until midsummer of 1993 when new coins and bills could be produced in their respective countries.⁷⁰ The common currency agreement fell apart 38 days into 1993 and left both nations scrambling to replace outdated and devalued currencies.⁷¹ Slovakia had historically operated with a trade deficit due in part to Communist central planning. In addition, anxious Slovak depositors moved savings into Czech banks. The Slovak government printed more money to compensate for these kinds of losses, and this instantly ended the common currency. The Czech Republic withdrew from the currency arrangement without hesitation in February of 1993.⁷²

⁶⁸Ibid.

⁶⁹Abercrombie 37.

⁷⁰"New Republics' Currency Plans," Wall Street Journal, 3 Jan. 1993: A10.

⁷¹Murray 260.

⁷²"Slovaks Get Panicky About Cash" A10.

The currency division created quite a stir among Czechs and Slovaks alike. When new, different banknotes began to circulate, thousands of Slovaks rushed across the Czech border to have their old notes stamped as Czech currency.⁷³ From the beginning, most people expected the Czechs to fare much better than the Slovaks. Most people also expected higher levels of unemployment in Slovakia; therefore, an estimated 300,000 Slovaks applied for Czech citizenship based on residence before the split. Slovakia announced it would permit dual citizenship.⁷⁴

Privatization process

Two of the most sensitive issues in the Czech Republic during these changing times are privatization and bankruptcy. Unlike other governments in Eastern Europe, the Czech government decided to move as fast as possible to transfer national assets into private hands. The sweeping program started in June of 1993. The government offered people books of vouchers for 1,000 crowns (\$35, which is an average week's salary in Czech Republic.) The vouchers could then be used to bid on shares.⁷⁵ Six million Czech

⁷³"The Czech Economy" 79.

⁷⁴Mowrey 32.

⁷⁵"Czech Privatization," Economist 19 Jun. 1993: 71-72.

people quickly claimed vouchers under the privatization plan; therefore, the government extended the purchase period to December 8, 1993.⁷⁶

As privatization lurches along in Eastern Europe, there is little consensus regarding what is the best method. Each country started in early 1990 with different economic and social conditions. For example, Hungary had some private enterprises and so did Poland, but Czech Republic had none.⁷⁷ The Czech program contrasts with the piecemeal approach of Hungary, which has sold government enterprises one by one. In Poland, a mass privatization program, which is more limited in scope than the Czech plan, started in December of 1993.⁷⁸

Andrzej Rapaczynski, director of the Privatization Project at Charles University in Prague, cites the speed of the Czech process as a big advantage in helping prevent what has happened in other countries. Slower, more calculated steps toward privatization would have allowed former Communist managers to skim off the best assets. Rapaczynski commented, "I see this as a way of getting the Czech

⁷⁶Jane Perlez, "Czechs Move Quickly to Privatization," New York Times 24 Dec. 1993: A8.

⁷⁷Ibid.

⁷⁸Murphy A36.

Republic to become a capitalist country. . . When you have concrete owners, they take care of business better.⁷⁹

Most economists would agree that the figures and statistics concerning privatization are impressive. In 1990, the state controlled 97% of all production. In June of 1993, Czech economists estimated that 60% of the Czech Republic's large companies and over 90% of its small private businesses had been placed in private hands.⁸⁰ In Hungary and Poland, on the other hand, the percentages are much smaller. In Hungary, 20% of large companies, and in Poland, 35% of large companies had been privatized by mid-1993.⁸¹ Only 10 to 15% of all Czech assets are expected to remain state-owned by the end of 1994.⁸² The Czech Republic definitely took a bold approach to selling off state assets.

Several economists have expressed the concern that voucher privatization may not turn out to be very effective in fostering the recoveries of weak companies.⁸³ Most of the investment points acquired by individual Czechs have

⁷⁹"More Czech Privatizations Set," Wall Street Journal 21 Jul. 1993: A11.

⁸⁰Ibid.

⁸¹Personal interview with Jan Kalvoda, head of Civic Democratic Alliance of the Czech Republic, 8 Jul. 1993.

⁸²Personal interview with Dr. Ladislav Venys, director of the Anglo-American Business Institute and director of The Center for Democracy and Free Enterprise, 23 Jun. 1993.

⁸³Ibid.

ended up in the hands of mutual funds. Those who supervise mutual funds have little or no experience in managing the companies in which they have acquired shares. More than 400 mutual funds have developed in the Czech Republic, while ten big funds among these 400 dominate the market. Under Czech laws, these mutual funds are not allowed to hold more than 20 percent of a company's shares. This often results in five or six funds having stakes in one company.⁸⁴

With over 1,000 companies "voucherized" so far, analysts say that at least 150 of these show better performance because of fund management.⁸⁵ One well-known case involved the Tatra truck plant, where a mutual fund with a stake in the company brought in an American management team. Another case involved the Prague Breweries. Prague Breweries privatized during the first wave of vouchers in 1993. The presence on the brewery board of mutual funds helped complete a deal with the British company, Bass Breweries. Bass acquired a 34 percent stake in the Czech company for 9 million pounds (\$13.5 million.) This transaction wiped out the company's debt.⁸⁶ However,

⁸⁴"Czechs Alarm Foreign Investors," Wall Street Journal 23 Mar. 1993: A12.

⁸⁵Personal interview with Dr. Ladislav Venys.

⁸⁶Ibid.

most analysts will also admit that it is too early to predict success or failure for mutual funds.

In the second wave of voucher privatization, citizens once again had to decide whether to use the voucher points to bid for shares in companies being privatized or give the points to mutual funds for investment. (Voucher points reflect share prices.) Officials at the Czech Ministry of Finance placed an early February 1994 deadline for this second wave; thus, data is not yet available regarding investment distribution between shares and funds.⁸⁷ The share prices, quantified in points, are adjusted by a series of computerized bidding rounds to match supply and demand, with the shares issued to individuals or to funds. The Prague Stock Market, which opened in June of 1993, determines the monetary value of the shares.⁸⁸

In the year before the Velvet Divorce, the Czechoslovakian government began preparations to offer 1,500 companies for privatization. After the country split into Czech Republic and Slovakia, 988 of the companies remained in Czech hands.⁸⁹ This proved to be yet another economic

⁸⁷Personal interview with Dr. Jana Wurstova

⁸⁸Pomfret A18.

⁸⁹Jane Perlez, "Yeltsin and Havel Try to Bury Past," New York Times 27 Aug. 1993: A3.

indicator that a difficult financial course lay ahead for Slovakia. The Czech Republic has cushioned the shock of the transition to a market economy, and thus far, Czech officials have avoided pitfalls that might undermine support for its sweeping reforms.

The Prague Stock Exchange has advised shareholders not to trade until companies hold shareholders' meetings and release financial results.⁹⁰ However, many shareholders meetings did not take place until December of 1993, and by that time, some shareholders' meetings turned out to be little more than bankruptcy announcements. Critics such as the Adam Smith Institute in London expect at least a third of Czech firms to dissolve and predict unemployment to reach 40%.⁹¹

Stability of Czech market

At least three reasons exist which suggest that events in the Czech Republic will unfold at a more stable pace than in other nations of Eastern Europe. First, the new laws protect companies and investors. Proceedings against privatized companies can only begin two months after shares

⁹⁰Personal interview with Dr. Ladislav Venys.

⁹¹Czech Republic, Ministry of Finance, introduction, The Bankruptcy and Composition Act, Trans A. Posustova, K. Bigg, M. Gillis, (Prague: Trade Links, 1993) iv.

have been distributed. Firms facing a bankruptcy petition are protected from their creditors for three months, after which time, these same firms can negotiate an additional three-month reprieve. The law gives a company eight months in all. Even when a case eventually does reach court, it may take months to process the case due to lack of bankruptcy judges and officials.⁹²

To establish who owes what to whom, the government has licensed three companies to match debtors with creditors via computer. The Minister for Industry and Trade, Vladimir Dlouhy, has threatened to fine directors of private- and state-owned firms that try to avoid registration.⁹³ Benzina is a state-owned oil company, and over 7,000 debtors owe it a total of 100 billion crowns.⁹⁴ The discouraging side to this matter is that the legal proceedings to recover these debts could last years.

Government intervention is the second reason to believe that events will continue to unfold at a stable pace. Dlouhy promised that "under no circumstances will there be a massive wave of bankruptcies that would harm the economy."⁹⁵

⁹²Ibid. 14.

⁹³Personal interview with Dr. Jana Wurstova.

⁹⁴Ibid.

⁹⁵Ibid.

Fear of social unrest has kept some unprofitable firms open for business. For example, the giant Poldi Kladno steelworks has incurred a debt of 4.9 billion crowns since 1989.⁹⁶ The Czech government realizes that it cannot afford to let the steelworks go under, so Poldi Kladno continues to operate in the red margin.

The banks are the third reason. According to the Czech National Bank (CNB), total "enterprise" debt to the country's 50 or so banks is 130 billions crowns. Of this amount, 100 billion crowns produces no interest. Most of that money is owed to three commercial banks--Komerčni, Investični, and Obchodni.⁹⁷ One way to save ailing companies is debt-for-equity swaps. On June 1, 1993, Investični Bank took a 34% share in Aero Praha, a soon-to-be-privatized aircraft producer, in exchange for 500 million crowns of the 1.3 billion crowns the firm owes the bank. One of the other commercial banks, Komerčni Bank, contested the plan, in part because Aero Praha owed it 2 billion crowns.⁹⁸

The banks have partially cushioned the businesses from the effects of change because thus far they have been

⁹⁶The Bankruptcy and Composition Act 11-12.

⁹⁷Ibid. 14.

⁹⁸Ibid. 16-17.

willing to help companies avoid declaring bankruptcy. Banks are not pushing firms into bankruptcy, even though recent legislation gives them the powers to do so. In fact, most banks would rather roll over bad debts.⁹⁹ Some analysts have argued that "bankruptcy helps viable firms restructure and liberates the resources which are being wasted by hopeless companies."¹⁰⁰ At any rate, companies have an array of options, including bankruptcy, if hard times fall upon them.

While the delays built into the bankruptcy proceedings and preventive action by the government and the banks may slow down the pace of change, the problems of privatization have not been solved. There is enough insecurity to present foreign investors with some good opportunities. Few Czech companies are strong enough to resist aggressive takeovers. Some have already surrendered. In the meantime, most Czech business men and women have set their sights on the longer term. Smaller banks and funds may be forced to merge, and companies will inevitably go bankrupt; however, the survivors will be stronger and more efficient than ever before.

⁹⁹"The Czech Economy" 79.

¹⁰⁰Ibid. 78.

The young market economy in the Czech Republic has already begun to encounter a few authentic capitalist experiences: an uncertain stock market, plant and company closures, and bankruptcy lawsuits. Newly drafted bankruptcy laws became effective on March 1, 1994.¹⁰¹ The new laws present a legal challenge to the existing system. Judges and lawyers in the Czech Republic have never dealt with the issue of bankruptcy. After all, even the most inefficient operations managed to remain open during the Communist years because the government controlled the production of goods and services. Czech businesses have recently begun to understand that the marketplace is a survival of the economically fittest.

"Legal Reform Training in the Czech Republic"

The Anglo-American Business Institute realized that drafting bankruptcy laws would do little good unless the judicial and legal community knew how to interpret and execute these laws. Dr. Ladislav Venys, head of the A.A.B.I., developed a proposal to address this problem. "Legal Reform Training in the Czech Republic" contained the following four parts: program objectives, analysis of needs based on the present situation, program description, and

¹⁰¹Personal interview with Dr. Jana Wurstova.

participating institutions. A.A.B.I. planned to submit the proposal to Ford Foundation in the United States during August of 1993.

At this point, I must interject pertinent autobiographical information. I worked closely with Dr. Venys during June and July of 1993 to prepare this proposal. As an intern for the Czech Ministry of Justice, I worked in the office of Dr. Jana Wurstova, Head of International and Legal Department. Dr. Wurstova's office represented a key component in the success or failure of the proposal. Dr. Venys needed a contact within the Ministry of Justice, so I acted as a liaison between him and Dr. Wurstova. I brought drafts of the proposal to Ministry staff meetings and discussed the proposal with Dr. Wurstova and her colleagues in the Ministry of Justice. Dr. Venys made changes according to the opinions and concerns expressed in these meetings. Dr. Venys realized that Dr. Wurstova's approval would be an integral component in the success of his proposal.

In September of 1993, the Ford Foundation granted funds for the implementation of legal reform training in the Czech Republic. The program is currently operational; therefore, the legal reform training process is changing the face of the legal system in the Czech Republic. Czech judges and lawyers are learning how to resolve bankruptcy proceedings

and many other legal issues which arise in free market economies and democratic political systems. Learning by example is the basis of the proposal as it was designed by Dr. Venys and his staff at A.A.B.I.¹⁰²

To explain the training process, I would like to summarize the contents of "Legal Reform Training in the Czech Republic." Two objectives described the overarching goals of the program. The first objective sought to do the following:

Train judges in the practical application and interpretation of new laws in selected specific legal areas which did not exist [bankruptcy] or have been completely transformed since the fall of the Communist system.¹⁰³

The second objective focused more on the long term goals calling for "help towards institutionalizing the systematic and on-going training of judges on new laws as they are developed."¹⁰⁴

The needs analysis of the present situation identified key characteristics of the Czech legal system and emphasized the inadequacies of the old system in light of recent changes. The primary deficiency of the judicial system during the Communist period was the lack of independence.

¹⁰²Personal interview with Dr. Ladislav Venys.

¹⁰³Anglo-American Business Institute, Legal Reform Training in the Czech Republic (Prague: A.A.B.I., 12 May 1993) 1.

¹⁰⁴Ibid.

During the summer of 1993, bankruptcy laws had been completely transformed or newly created. An acute need for re-training existed. Dr. Venys carefully crafted the justification for re-training because he did not want to offend judicial officials, especially Dr. Wurstova and other top officials in the Ministry of Justice.¹⁰⁵

Some training institutions and programs already existed. The Institute for Further Education of Judges (sponsored by the Ministry of Justice) previously assumed most of this task. However, most programs offered through the Ministry of Justice sponsored "only short-term workshops for a limited number of judges."¹⁰⁶ The fact that the Ministry of Justice coordinated all other training programs affected the viability of the A.A.B.I. proposal, and this is the point at which I became instrumental in coordinating communication between A.A.B.I. and the Ministry of Justice.

Four other institutions had assumed various roles in the changing judicial scene as well, but their emphases on re-training did not prove to be very extensive. The Central and East European Legal Institute (C.E.E.L.I.) had joined forces with the American Bar Association (A.B.A.) to offer three sessions of bankruptcy law training for all regional

¹⁰⁵Personal interview with Dr. Ladislav Venys.

¹⁰⁶Legal Reform Training in the Czech Republic 1.

and high court judges. The Council of Europe acted in a purely advisory capacity to the Ministry of Justice but did not offer specific legal training programs. M.E.D.E.L. (European Union of Judges for Democracy and Freedom) sponsored and coordinated a conference on judicial independence in May of 1993.¹⁰⁷

Dr. Venys had a longer time frame and a more extensive commitment to the re-training process in mind when he drafted the proposal to the Ford Foundation. He wished to go beyond the scope of existing training institutions and programs. Venys envisioned a two-year program with limited focus on the following three topics: criminal law, commercial law, and civil law. The time span covered the fall of 1993 through the spring of 1995.¹⁰⁸

Furthermore, the A.A.B.I. approach to legal reform training emphasized "the practical application of Czech laws based on experience of interpreting American/European laws rather than seminars on American/European legal systems."¹⁰⁹ Of course, relevant documents and materials would be translated into Czech. The flexibility of the program would reach judges at all court levels. American and European

¹⁰⁷Ibid.

¹⁰⁸Ibid. 2.

¹⁰⁹Ibid.

judges would lead workshops, and these workshops would take place in a retreat atmosphere in order to remove judges from day-to-day activities. A retreat format would allow judges to focus more clearly on specific reform topics as well as give them opportunities to work with colleagues. As a result of the legal re-training process, a limited number of participants would have the opportunity to intern in Europe or the United States for short periods of time. The proposed internships spanned the spring of 1994 through the summer of 1995.¹¹⁰

In order to implement the entire program, A.A.B.I. had to enlist the cooperation of a number of different organizations. As mentioned earlier, the Ministry of Justice played a pivotal role in the re-training process. Second, the Institute for the Further Education of Judges had to cooperate in the area of course development. Third, A.A.B.I. counted on the Association of Judges to select judges for participation. Fourth, the Center for Democracy and Free Enterprise coordinated logistical details between the Ministry of Justice and the Ford Foundation.¹¹¹ Dr. Venys and his staff secured verbal agreements from each of

¹¹⁰Personal interview with Dr. Ladislav Venys.

¹¹¹Ibid.

these groups; thus, the proposal hinged on whether or not the Ford Foundation granted the necessary funds.

I do not have any knowledge about the details or breakdown of the figures in the budget proposal. Dr. Venys completed the budget analysis after meeting with Joseph Schull of the Program Division for International Affairs at the Ford Foundation in August of 1993. At that time, the Ford Foundation granted the funds for "Legal Reform Training in the Czech Republic."¹¹² The Foundation suggested minor modifications of the proposal in the areas of topic selection and application of new Czech laws. For the most part, however, the Ford Foundation endorsed the text of the proposal as originally submitted.¹¹³ Legal re-training processes have begun in Prague and Brno at this point, but I have not received further information from Dr. Venys as to the short-term outcomes of the process. Most likely, it is still too early to tell if the program is indeed a success or a failure.

Constitutional reform in the Czech Republic

The sweeping changes in the area of constitutional reforms have not yet been addressed. My research took on a

¹¹²Telephone interview with Dr. Ladislav Venys.

¹¹³Ibid.

very personal nature in this area, and I would like to relate a few of my experiences from the summer of 1993. As mentioned earlier, the National Council adopted the first draft of the Constitution of the Czech Republic on December 16, 1992. Government officials released the first English translation of the constitution in May of 1993. I arrived in Prague in mid-June of 1993, and my internship provided me with some very timely and unique opportunities. My responsibilities at the Ministry of Justice included proofreading English translations of Czech government documents. When Dr. Jana Wurstova gave me my first assignment, I did not realize it would turn out to be my most noteworthy one as well.

Dr. Wurstova asked me to proofread the new English translation of the constitution. She asked me to help improve the "readability" of the document.¹¹⁴ For the most part, this meant re-wording awkward phrases and checking grammar and usage. Initially, I viewed this assignment as a way to gain a clearer understanding of the structure and contents of the document. In the end, I contributed in an official capacity to the constitutional process. I met with the committee of men and women who drafted the constitution, and I explained my corrections and suggestions to them.

¹¹⁴Personal interview with Dr. Jana Wurstova.

This committee consisted entirely of persons with advanced degrees. As an entering college senior, I readily admit that I felt overwhelmed by this group of seasoned lawyers and Ph.D.s. I discussed the numerous corrections and marks I had made throughout the constitution. The committee members each had a photocopy of the text I marked, and I explained each mark as clearly as I could to non-native speakers of English. Government officials at the Ministry of Justice submitted the English translation with my corrections to the United Nations on July 1, 1993. My name appears on the document as the "official proofreader of the English translation."

Although I played a relatively small role in the constitutional process, I feel very fortunate to have observed and participated in such historical processes in the Czech Republic. At this point, I will discuss the structure of the document and comment on the legal nature of the constitution of the Czech Republic. Finally, I will draw parallels between the constitutions of the Czech Republic and the United States.¹¹⁵

The opening and closing lines of the Preamble sound familiar. The United States constitution begins with a

¹¹⁵I have attached a complete translation of the Constitution of the Czech Republic for clarification of points in the following discussion.

similar sense of determination and assertions of sovereignty.

We, the citizens of the Czech Republic in Bohemia, Moravia, and Silesia,

at the time of the renewal of the independent Czech State,...

hereby adopt, through our freely elected representatives, the following Constitution of the Czech Republic.

After the Preamble, the constitution is organized according to chapters. Each chapter covers a limited topic, and within the chapter, discussion is broken down into numbered articles. The document is very systematic and well-organized. The structure is familiar to American students of political science because it closely resembles that of the U. S. Constitution.

Chapter one--fundamental provisions

Chapter One addresses Fundamental Provisions and contains 14 articles. Article 1 calls for legal sovereignty of the Czech Republic. Article 5 protects the role of political parties in the political system, and Article 6 describes the expectations of majority will and protection of minority rights. Articles 13 and 14 complete the list of Fundamental Provisions by identifying Prague as the capital city and describing the various state symbols and their proper usages.

Chapter two--legislative power

Chapter Two addresses Legislative Power and relies on articles 15 through 53 to accomplish this purpose. Similar to the U. S. system, legislative power is vested in a bicameral legislature. In the U. S., this body is called Congress, while it is called Parliament in Czech Republic. The Chamber of Deputies accommodates 200 deputies for terms of four years each, while the Senate has 81 members for terms of six years each. Unlike the method of popular representation in the U. S., Article 18 calls for proportional representation in the Chamber of Deputies and popular representation according to majority vote in the Senate. Those citizens who have reached 18 years of age are eligible to vote.

A disparity exists between minimum ages for candidacy to these two offices. At the age of 21, a Czech citizen may be elected to the Chamber of Deputies. A Senator, on the other hand, must have reached the age of 40. Article 21 prescribes the limitation that one may not serve simultaneously in both chambers of Parliament. Both Deputies and Senators have protections of immunity as delineated in Article 27. For example, neither a Deputy nor a Senator "may be prosecuted without the consent of the

chamber whose member he is. If the chamber refuses to give consent, prosecution shall be ruled out forever."

Article 33 contains provisions concerning veto power and division of powers between the chambers. The Chamber of Deputies can be dissolved, and if that occurs, the Senate can act alone and lawfully legislate and regulate any matters which cannot be delayed. The Chamber of Deputies has the exclusive power to adopt legislation in matters concerning the constitution and the budget, among other things. Note the parallel between the U. S. and Czech systems. The House of Representatives and the Chamber of Deputies both play an important role in determining money matters.

While Article 33 mentions the fact that the Chamber of Deputies can be dissolved, Article 35 details who can do this, why it might be done, and when it can be done. The President of the Republic may dissolve the Chamber of Deputies for any number of reasons, which are given in Article 35. However, the chamber cannot be dissolved during the three months prior to its election term. Similar provisions for the dissolution of the U. S. Congress do not exist under the terms of the constitution. Article 36 specifies that sessions of Parliamentshall be open to the public.

Article 39 defines a quorum as the "presence of at least one-third of their members." The passage of a resolution in the chamber requires a simple majority of the Deputies or Senators present. Items 3 and 4 of Article 39 give exceptions to this voting standard. For example, a declaration of war requires the vote of a simple majority of all Deputies and all Senators. Approval of international treaties requires a vote of three-fifths of all Deputies and all Senators.

Chapter three--executive power

Chapter Three deals with Executive Power as it is described in Articles 54 through 80. Members of the executive branch include the President of the Republic and members of the Government. The President of the Czech Republic acts as the head of state and is elected at a joint meeting of both chambers of Parliament. Five years constitutes one term of office according to Article 55, while no one may be elected "more than twice in succession." Presumably, a person might be elected to more than two terms as long as he or she did not serve the terms consecutively.

Like constitutional officers in the United States, the President of the Czech Republic also takes an oath of office, or "vow" as it is referred to in Article 59:

I promise allegiance to the Czech Republic. I

promise to observe its Constitution and laws. I promise upon my honor to exercise my office in the interest of all the people and according to the best of my knowledge and conscience.

Articles 62 and 63 describe the various responsibilities and duties of the office of President. Typical of parliamentary systems, the powers of the Czech President are formidable in name but are increasingly ceremonial in practice. According to Article 65, the President cannot be arrested or prosecuted, except for crimes of "high treason." In the event of high treason, the constitutional court tries the case at the request of the Senate. This is contrary to procedures in the United States, where the House of Representatives brings impeachment proceedings against the U. S. President, and the Senate tries the case.

The second area of discussion in Chapter Three is the Government. The Government is described in Articles 67 through 80. Article 67 identifies the members of Government: the Prime Minister, Deputy Prime Ministers, and Ministers. "The Government shall be accountable to the Chamber of Deputies," according to Article 68. The President appoints the Prime Minister, and the Prime Minister appoints other members of Government in turn. Article 69 gives the vow or oath for members of Government. The wording is similar to the presidential vow.

The Government may request an expression of confidence from the Chamber of Deputies. As described in Article 72, a group of at least fifty Deputies must submit a proposal for a vote of no confidence. Then, a simple majority of all Deputies must approve a vote of "no confidence." If a vote of "no confidence" passes, the Government resigns to the President. The Government adopts decisions as a collective body based on the decisions of a simple majority of its members.

Chapter four--judicial power

Chapter Four deals with Judicial Power which is vested in both Constitutional Courts and Law Courts. Judicial Power is explained in Articles 81 through 96 of the Czech constitution. Article 83 succinctly identifies the role of the Constitutional Court as "the judicial authority (organ) for safeguarding constitutional legality." The President appoints 15 judges for a term of 10 years. To be eligible for appointment to the Constitutional Courts, one must have a law degree and have been in the legal profession for at least ten years. Article 87 provides a lengthy, detailed list of topics upon which the Constitutional Court can rule.

As indicated in Article 90, Law Courts shall "provide the protections of rights in the manner prescribed by law." The system of Law Courts includes the following: the

Supreme Court, the Supreme Administrative Court, superior courts, regional courts, and district courts. Article 93 describes the appointment to Law Courts "without a time limitation." Analogous to U. S. Supreme Court Justices, Czech judges in Law Courts are appointed for life.

Chapter five--Supreme Control Office

Beginning with Chapter Five, the remaining chapters are relatively brief and sketchy. Presumably, new areas are addressed as they arise in the day to day dealings of government in the Czech Republic. Chapter Five describes the Supreme Control Office. This is a very short chapter in the Czech Constitution; it contains only one article. Article 97 states, "The Supreme Control Office shall be an independent authority. It shall supervise and control the administrations of state property and the implementation of the state budget." The President of the Czech Republic appoints the President and Vice-President of the Supreme Control Office from candidates nominated by the Chamber of Deputies.

Chapter six--Czech National Bank

Chapter Six discusses the Czech National Bank in Article 98. The Czech National Bank acts as the central state bank and monitors stability of the currency. This is

the only prescribed function of the national bank; however, the article is open-ended and calls for other stipulations by law. The role of the Czech National Bank probably has become more visible with the changes brought on by the privatization process and bankruptcy proceedings in recent months.

Chapter seven--territorial self-government

Chapter Seven describes provisions of Territorial Self-Government in Articles 99 through 105. The Czech Republic is divided into communities. Article 99 calls communities the "basic level" of self-governing units. "Higher level" self-governing units include provinces or regions. Article 100 stipulates that a higher level self-governing unit can be created or abolished only by constitutional law. A board of representatives shall independently govern these units according to Article 101.

Members of boards of representatives are elected by secret ballot. A member of this board serves for a term of four years. Articles 102, 103, and 104 regulate the authority of these boards of representatives at different level of self-government.

Chapter eight--interim and final provisions

Chapter Eight is entitled, "Interim and Final Provisions." This section begins with Article 106, which stipulated that the Czech National Council become the Chamber of Deputies by the "date of effectiveness" (January 1, 1993.) Furthermore, an Interim Senate acted in the manner prescribed by law until a Senate could be elected according to the Constitution. Generally speaking, these seven articles collectively form a grandfather clause that validated pre-existing institutions until the provisions of the Constitution were in place.

Czechs and Slovaks inhabit a strategically important geographic position in the very heart of Europe. Historical forces as well as geographic position sent the Czech and Slovak people along two divergent paths. Under the threat of losing their national identities, Czechs and Slovaks struggled to cooperate as a single national community from 1918 until December 31, 1992. While Czechs and Slovaks are ethnically similar and have lived next to one another for a millennium, a deep and broadly based "Czechoslovak" sentiment has never truly existed.

Since the Velvet Divorce, the contrasts between developments in the Czech Republic and Slovakia have been stark. Cautious optimism, hard work, and a restored free market economy contribute to the successful state of affairs in the Czech Republic. On the other hand, Slovakia

continues to slip deeper into a trough of economic recession and insecurity. While the split is often described as friendly, the recent events in the former Czechoslovakia seem more like a lesson in civility than a friendly divorce.

The Czech Republic has a promising future. Czechs have drafted a constitution and organized a new form of government. Privatization has taken place at an impressive pace. The stock market has been operating effectively for almost a year. New laws have been passed to handle bankruptcies, and judges have begun re-training to learn how to adjudicate these cases. The future of the Czech Republic is in the hands of people who are determined to succeed. At this point, the Czech people need only one kind of outside support---moral support.

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Constitutional Law of the Czech National Council
of 16th December, 1992

T h e C O N S T I T U T I O N
o f t h e C Z E C H R E P U B L I C

**The CONSTITUTION
of the CZECH REPUBLIC**

of 16th December 1992

The Czech National Council has enacted the following
Constitutional Law

PREAMBLE

We, the citizens of the Czech Republic in Bohemia, Moravia and Silesia,

at the time of the renewal of the independent Czech State,

true to all the sound traditions of the ancient statehood of the Crown Lands of Bohemia as well as to those of the Czechoslovak statehood,

determined to build up, protect and develop the Czech Republic in the spirit of the inviolable values of human dignity and liberty
as a homeland of equal, free citizens, who are aware of their duties towards others and of their responsibility to society as a whole,
as a free and democratic state, based on respect for human rights and on the principles of a civic society, as a part of the family of the democracies of Europe and of the world,

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determined to act together in safeguarding and developing the inherited natural and cultural, material and spiritual wealth,

determined to abide by all the well-proven principles of law-governed state,

hereby adopt, through our freely elected representatives, the following Constitution of the Czech Republic.

CHAPTER ONE
FUNDAMENTAL PROVISIONS

Article 1

The Czech Republic shall be a sovereign, united and democratic law-governed state, based on respect for the rights and freedoms of Man and of the citizen.

Article 2

(1) The people shall be the source of all power in the state; they shall exercise it through the authorities of legislative, executive and judicial power.

(2) A constitutional law may determine the instances when the people are to exercise state power directly.

(3) State power shall serve all citizens and may be applied only in the instance, within the limits and in the ways prescribed by law.

fo < (4) Every citizen may do what is not forbidden by law, and nobody may be compelled to do what the law does not prescribe.

Article 3

The Charter of Fundamental Rights and Freedoms shall form part of the Czech Republic's constitutional order.

Article 4

The fundamental rights and freedoms shall be under the protection of the judicial power.

Article 5

The political system shall be based on the free and voluntary emergence and free competition of political parties respecting the basic democratic principles and rejecting violence as a means of furthering their interests.

Article 6

Political decisions shall stem from the will of the majority, expressed by means of a free vote. The majority's decisions must heed the protection of the minorities.

Article 7

The state shall take care that the natural resources are exploited economically and that Nature's wealth is duly protected.

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Article 8

The self-administration of territorial self-governing units shall be guaranteed.

Article 9

(1) The Constitution may be supplemented or amended only by constitutional laws.

(2) No change shall be permissible in the essential foundation of the democratic, law-governed state.

(3) No interpretation of any legal regulations may justify the abolition or endangerment of the foundations of the democratic state.

* Article 10

The ratified and promulgated international treaties on human rights and fundamental freedoms, by which the Czech Republic is bound, shall be applicable as directly binding regulations, having priority before the law.

Article 11

The territory of the Czech Republic shall form an indivisible entirety, whose state boundaries may be altered only by a constitutional law.

Article 12

(1) The ways of acquiring and losing the state citizenship of the Czech Republic shall be regulated by law.

(2) Nobody may be deprived of the state citizenship against his will.

Article 13

The capital city of the Czech Republic shall be Prague.

Article 14

(1) The state symbols of the Czech Republic shall be the large and the small state emblems, the state colours, the state flag, the banner of the President of the Republic, the state seal and the state (national) anthem.

(2) Particulars of the state symbols and their use shall be regulated by law.

CHAPTER TWO
LEGISLATIVE POWER

Article 15

(1) Legislative power in the Czech Republic shall belong to Parliament.

(2) The Parliament shall consist of two chambers, namely, the Chamber of Deputies and the Senate.

Article 16

(1) The Chamber of Deputies shall have 200 Deputies, elected for a term of four years.

(2) The Senate shall have 81 Senators, elected for a term of six years. The election of one-third of the Senators shall be held every two years.

Article 17

(1) The election to both the chambers shall be held in the course of the period beginning with the thirtieth day before the expiration of the election term and ending on the date of its expiration.

(2) If the Chamber of Deputies has been dissolved, the election shall be held within sixty days following its dissolution.

Article 18

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(1) The elections to the Chamber of Deputies shall be carried out by secret ballot on the basis of universal, equal and direct franchise, according to the principle of proportional representation.

(2) The elections to the Senate shall be carried out by secret ballot on the basis of universal, equal and direct franchise, according to the majority-system principle.

(3) Every citizen of the Czech Republic who has reached the age of 18 years shall have the right to vote in the elections.

Article 19

(1) Any citizen of the Czech Republic who has the right to vote and has reached the age of 21 years may be elected to the Chamber of Deputies.

(2) Any citizen of the Czech Republic who has the right to vote and has reached the age of 40 years may be elected to the Senate.

(3) The mandate of a Deputy or of a Senator shall commence with the election.

Article 20

Other conditions concerning the exercise of the right to vote, the organization of the elections and the extent of judicial re-examination shall be prescribed by law.

Article 21

Nobody can be simultaneously a member of both the chambers of Parliament.

Article 22

< (1) Incompatible with the function of a Deputy or of a Senator shall be the exercise of offices of the President of the Republic, or by the date on which he has taken over the function of a judge or another function incompatible with the function of a Deputy or of a Senator, his mandate of Deputy or Senator shall terminate.

< (2) By the date on which a Deputy or a Senator has taken over the office of the President of the Republic, or by the date on which he has taken over the function of a judge or another function incompatible with the function of a Deputy or of a Senator, his mandate of Deputy or Senator shall terminate.

Article 23

(1) A Deputy shall take a vow at the first meeting of the Chamber of Deputies which he attends.

(2) A Senator shall take a vow at the first meeting of the Senate which he attends.

(3) The vow of a Deputy and of a Senator shall be worded as follows: "I promise allegiance to the Czech Republic. I promise upon my honour to exercise my mandate in the interest of all the people and according to the best of my knowledge and conscience."

Article 24

A Deputy or a Senator may renounce his mandate by a declaration made personally at a meeting of the chamber whose member he is. If he is prevented from doing so by important circumstances, he shall proceed in the manner prescribed by law.

Article 25

The mandate of a Deputy or of a Senator shall terminate

- a) by a refusal to take the vow or by the taking of the vow with a reservation,
- b) with the expiration of the election term,
- c) by a renouncement of the mandate,
- d) by the loss of eligibility,
- e) for Deputies, by the dissolution of the Chamber of Deputies,
- f) with the commencement of the incompatibility of functions according to Article 22.

Article 26

Deputies and Senators shall exercise their mandate personally in accordance with their vow, without being bound, in doing so, by any orders.

Article 27

(1) Neither a Deputy nor a Senator may be held accountable for his voting in the Chamber of Deputies or in the Senate or within their organs.

(2) A Deputy or a Senator cannot be prosecuted for statements made in the Chamber of Deputies or in the Senate or within their organs. A Deputy or a Senator shall only be subject to the disciplinary jurisdiction of the chamber whose member he is.

(3) For minor offence (misdemeanours), a Deputy or a Senator shall only be subject to the disciplinary jurisdiction of the chamber whose member he is, unless the law provides otherwise.

(4) Neither a Deputy nor a Senator may be prosecuted without the consent of the chamber whose member he is. If the chamber refuses to give consent, prosecution shall be ruled out for ever.

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(5) A Deputy or a Senator may be detained (arrested) only if he has been caught in the act of committing a criminal offence or immediately after. The authority (officer) concerned must immediately report the detention to the Chairman of the chamber whose member the detained person is; if the Chairman of the chamber does not give his consent, within 24 hours following the detention, for the detained person to be committed to a law court, the authority concerned must release him. At its first subsequent meeting, the chamber shall adopt the final decision as to whether prosecution is permissible.

Article 28

A Deputy as well as a Senator shall have the right, even after having ceased to be a Deputy or a Senator, to refuse to testify about matters which he came to know in connection with the exercise of his mandate.

Article 29

(1) The Chamber of Deputies shall elect and recall the Chairman and the Vice-Chairman of the Chamber of Deputies.

(2) The Senate shall elect and recall the Chairman and the Vice-Chairman of the Senate.

Article 30

(1) For the purpose of investigating a matter of public interest, the Chamber of Deputies may set up an inquiry commission, if this has been proposed by at least one-fifth of the Deputies.

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(2) The proceedings before the commission shall be regulated by law.

Article 31

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- (1) The chambers shall establish committees and commissions to function as their organs.
- (2) The activities of the committees and commissions shall be regulated by law.

Article 32

A Deputy or a Senator who is a member of the Government cannot be the Chairman or a Vice-Chairman of the Chamber of Deputies or of the Senate, nor can he be a member of the Parliamentary committees, of an inquiry commission or of other commissions.

Article 33

(1) In the event that the Chamber of Deputies should be dissolved, it shall be up to the Senate to adopt legislative measures in order to regulate matters which cannot be delayed and would otherwise require the adoption of a law.

(2) The Senate shall not, however, be competent to adopt legislative measures in matters concerning the Constitution, the state budget, the final account of the state, the election law and international treaties according to Article 10.

(3) A legislative measure can be proposed to the Senate only by the Government.

(4) A legislative measure of the Senate shall be signed by the Chairman of the Senate, by the President of the Republic and by the Prime Minister; it shall be promulgated in the same way as a law.

(5) A legislative measure of the Senate must be approved by the Chamber of Deputies at its first meeting. If it fails to be approved by the Chamber of Deputies, it shall cease to be effective.

Article 34

? (1) The sessions of the chambers shall be permanent. The session of the Chamber of Deputies shall be convened by the President of the Republic in good time to be inaugurated not later than on the thirtieth day following the date of election; if he does not do so, the Chamber of Deputies shall meet on the thirtieth day following the date of the election.

(2) The session of a chamber may be interrupted as a result of its resolution. The total length of the time for which a session may be interrupted must not exceed one hundred and twenty days in a year.

(3) During the interruption of a session, the Chairman of the Chamber of Deputies or of the Senate may convene a meeting of the chamber before the fixed date. He shall invariably do so if this has been asked for by the President of the Republic, by the Government or by at least one-fifth of the members of the chamber concerned.

(4) The session of the Chamber of Deputies shall end with the expiration of its election term or by its dissolution.

Article 35

- (1) The Chamber of Deputies may be dissolved by the President of the Republic, if
- a) the Chamber of Deputies has failed to express confidence to the newly-appointed Government whose Chairman (the Prime Minister) has been appointed by the President of the Republic on the basis of a proposal made by the Chairman of the Chamber of Deputies,
 - b) the Chamber of Deputies fails to reach a final decision, within three months, on the draft of a Government bill with the consideration of which the Government has connected the question of confidence,
 - c) the session of the Chamber of Deputies has been interrupted for a longer time than permissible,
 - d) the Chamber of Deputies has proved unable to constitute a quorum for a period longer than three months, although its session has not been interrupted and despite the fact that it has been repeatedly convened for a meeting during the period in question.

(2) The Chamber of Deputies cannot be dissolved in the course of the three months preceding the end of its election term.

Article 36

The meetings of the chambers shall be open to the public. The public may be excluded only under the conditions laid down by law.

Article 37

(1) A joint meeting of the chambers shall be convened by the Chairman of the Chamber of Deputies.

(2) The deliberations of the joint meeting shall be governed by the orders of procedure of the Chamber of Deputies.

Article 38

(1) A member of the Government shall have the right to attend the meetings of both the chambers, of their committees and commissions. He shall be enabled to take floor whenever he asks for it.

(2) A member of the Government must turn up in person at a meeting of the Chamber of Deputies on the basis of its decision. This rule shall also apply to the meetings of a committee, a commission or the inquiry commission, though there the member of the Government may be represented by his deputy or by another member of the Government, unless his personal presence is expressly required.

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Article 39

(1) The chamber can adopt valid decisions in the presence of at least one-third of their members.

(2) The adoption of a decision (resolution) of a chamber shall require the supporting vote of a simple majority of the Deputies or Senators present, unless the Constitution provides otherwise.

(3) For the adoption of a resolution on the declaration of a state of war and for the adoption of a resolution sanctioning the deployment of foreign troops on the territory of the Czech Republic, the supporting vote of a simple majority of all Deputies and or a simple majority of all Senators shall be required.

(4) The quorum required for the enactment of a constitutional law and for the approval of an international treaty according to Article 10 shall be a majority of three-fifths of all Deputies and a majority of three-fifths of the Senate present.

Article 40

For the enactment of a general-election law, of a law regulating the principles underlying the deliberations and contacts of both the chambers in mutual and external relations, and of the law prescribing the rules of procedure of the Senate, the approval of both the Chamber of Deputies and of the Senate shall be required.

Article 41

(1) Drafts of proposed laws (bills) have to be submitted to the Chamber of Deputies.

(2) A bill may be submitted by a Deputy, by a group of Deputies, by the Senate, by the Government or by the board of representatives of a higher-level territorial self-government unit.

Article 42

(1) The state budget bill and the bill of the final account of the state have to be submitted by the Government.

(2) These bills shall be considered and decided upon, at a meeting open to the public, only by the Chamber of Deputies.

Article 43

(1) The Parliament may decide on the declaration of a state of war, if the Czech Republic has been attacked or if it is necessary to fulfil international contractual obligations concerning collective defence against aggression.

(2) Armed forces may be sent outside the territory of the Czech Republic only with the consent of both the chambers.

Article 44

(1) The Government shall have the right to state its opinion on all draft legislation.

(2) If the Government does not state its opinion within thirty days following the delivery of a bill, it shall be presumed that its attitude has been positive.

(3) The Government shall be entitled to require that the Chamber of Deputies should conclude the consideration of a Government bill within three months following its submission, it the Government has connected with it the request for the expression of confidence.

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Article 45

Once the Chamber of Deputies has expressed its agreement with a bill, it shall refer it to the Senate without undue delay.

Article 46

(1) The Senate shall consider the bill and reach a decision on it within thirty days following its delivery.

(2) By its decision, the Senate shall approve or reject the bill or return it to the Chamber of Deputies with proposed amendments, or express the will not to deal with it any more.

(3) If the Senate does not express its opinion within the time limit specified in paragraph 1, it shall be presumed that the bill has been adopted (enacted).

Article 47

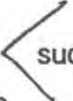
(1) If a bill is rejected by the Senate, the Chamber of Deputies shall vote on it again. The bill is adopted if it has been approved by a simple majority of all Deputies.

(2) If a bill is returned to the Chamber of Deputies by the Senate with recommended amendments, the Chamber of Deputies shall vote on its version approved by the Senate. By its positive decision the is adopted. *Omitted word bill?*

(3) If the Chamber of Deputies does not approve the bill in the version approved by the Senate, it shall vote again on the bill in the wording in which it was presented to the Senate. The bill is adopted if it has been approved by a simple majority of all Deputies.

(4) No amendments shall be permissible when a rejected or returned bill is under consideration by the Chamber of Deputies.

Article 48

if by self?  If the Senate has expressed the will not to deal with a bill any more, the bill is adopted by such a decision.

Article 49

(1) International treaties requiring the agreement of Parliament shall be approved by the Parliament in the same way as a draft legislation (bills).

(2) The Parliament's agreement shall be required for treaties concerning human rights and fundamental freedoms, political treaties and economic treaties of a general nature, as well as those treaties for the implementation of which a law is needed. *awkward phrase*

Article 50

(1) The President of the Republic shall have the right to return an adopted law, with the exception of a constitutional law, with a substantiating commentary, within fifteen days following the date on which it has been delivered to him.

(2) The Chamber of Deputies shall vote on the returned law again. No amendments shall be permissible. It the Chamber of Deputies reaffirms the returned law by a simple majority of all Deputies, the law shall be promulgated. Otherwise the inference shall be that the law has not been adopted (enacted).

Article 51

The adopted laws shall be signed by the Chairman of the Chamber of Deputies, by the President of the Republic and by the Prime Minister.

Article 52

In order to become effective, a law must be promulgated. The manner of promulgation shall be prescribed by law. The same shall apply to international treaties approved by Parliament.

Article 53

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(1) Every Deputy shall have the right to interpellate the Government or its members about the matters belonging to their spheres of competence.

(2) The interpellated members of the Government shall reply to the interpellation within thirty days following the date on which it was made.

CHAPTER THREE
EXECUTIVE POWER

The President of the Republic

Article 54

(1) The President of the Republic shall be the head of the state.

(2) The President of the Republic shall be elected by Parliament at a joint meeting of both the chambers.

oes this (3) The President of the Republic shall not be answerable for the exercise of his function.

Article 55

The President of the Republic shall enter upon his office by taking the vow. The election term of the President of the Republic shall be five years, commencing by the date on which he takes the vow.

Article 56

The election shall be held in the course of the last thirty days of the election period of the President of the Republic in office. If the office of the President of the Republic is vacated, the election shall be held within thirty days.

Article 57

(1) Any citizen who is eligible for the Senate may be elected President of the Republic.

(2) Nobody may be elected more than twice in succession.

Article 58

(1) A candidate may be nominated by a group of at least ten Deputies or ten Senators.

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andidate... (2) Elected as President of the Republic shall be the candidate supported by a simple majority vote of all Deputies as well as by a simple majority vote of all Senators.

(3) If none of the candidates has won the support of a simple majority vote of all Deputies and all Senators, a second round of the election shall be held within a fortnight.

(4) Qualified for the second round shall be the candidate who has won the highest number of votes in the Chamber of Deputies, as well as the candidate who has won the highest number of votes in the Senate.

run-off election

(5) If there are several candidates who have won the same highest number of votes in the Chamber of Deputies, or several candidates who have won the same highest number of votes in the Senate, the votes polled for them in both the chambers shall be added up. Qualified for the second round shall be the candidate who has thus won the highest number of votes.

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(6) Elected should be the candidate who has won a simple majority vote of the Deputies present as well as a simple majority vote of the Senators present.

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(7) If the President of the Republic has not been elected even in the second round, a third round of the election shall be held within a fortnight; elected in this third round shall be the candidate of those of the second round who has won a simple majority vote of the Deputies and Senators present.

(8) If no President of the Republic has been elected even in the third round, a new election has to be held.

Article 59

(1) The President of the Republic shall take a vow, to be received by the Chairman of the Chamber of Deputies, at a joint meeting of both the chambers.

(2) The vow of the President of the Republic shall be worded as follows: "I promise allegiance to the Czech Republic. I promise to observe its Constitution and laws. I promise upon my honour to exercise my office in the interest of all the people and according to the best of my knowledge and conscience."

Article 60

If the President of the Republic refuses to take the vow or if he takes it with a reservation, he shall be regarded as not having been elected.

Article 61

The President of the Republic may resign from his office, addressing the resignation to the Chairman of the Chamber of Deputies.

Article 62

The President of the Republic shall

- a) appoint and recall the Prime Minister and other members of the Government and accept their resignations, recall the Government and accept its resignation,
- b) convene sessions of the Chamber of Deputies,
- c) authorize the Government whose resignation he has accepted or which he has recalled, to continue to exercise its functions temporarily, until a new Government has been appointed,
- e) appoint the judges of the Constitutional Court, as well as its Chairman and Vice-Chairman,
- f) appoint, from amongst judges, the Chairman and the Vice-Chairman of the Supreme Court,

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- g) forgive and mitigate sentences imposed by courts, order that criminal proceedings should not be instituted, or if they have been instituted, that they should be discontinued, and allow judicial sentences to be deleted from personal records,
- h) have the right to return to Parliament an adopted law, with the exception of a constitutional law,
- i) sign laws,
- j) appoint the President and the Vice-President of the Supreme Control Office,
- k) appoint the members of the Banking Council of the Czech National Bank.

Article 63

(1) Furthermore, the President of the Republic shall

- a) represent the state in external relations,
- b) negotiate and ratify international treaties; he may transfer the negotiation of international treaties to the Government or, with the Government's consent, to its individual members,
- c) be the supreme commander of the armed forces,
- d) receive the heads of foreign diplomatic missions,
- e) appoint and recall the heads of diplomatic missions,
- f) call elections to the Chamber of Deputies and to the Senate,
- g) appoint and promote generals,
- h) bestow and award state distinctions, unless he authorizes another organ (body) to do so,
- i) appoint judges,
- j) have the right to grant amnesty.

(2) The President of the Republic shall also be entitled to exercise powers which are not specifically mentioned in a constitutional law, if authorized by law to that effect.

(3) In order to be effective, a decision of the President of the Republic issued according to paragraph 1 and 2 must be countersigned by the Prime Minister or by a member of the Government authorized by him.

ng (4) The responsibility for the President of the Republic's decision which needs to be countersigned by the Prime Minister or by a member of the Government authorized by him, shall be borne by the Government.

Article 64

(1) The President of the Republic shall have the right to attend the meetings of both the chambers of Parliament, of their committees and commissions. He shall be enabled to take the floor whenever he asks for it.

(2) The President of the Republic shall have the right to attend meetings of the Government, request reports from the Government or its members, and discuss with the Government or its members matters within its or their responsibility.

Article 65

(1) The President of the Republic cannot be detained (arrested) or prosecuted, nor can an action or charge be brought against him for breach of the law or for an offence of an administrative nature.

(2) The President of the Republic can only be prosecuted for high treason and tried by the Constitutional Court on the basis of an action brought by the Senate. The penalty can be the loss of the Presidential Office and of the qualification to regain it.

ing? (3) The prosecution for any criminal offence committed during the exercise of the function of President of the Republic shall be ruled out for ever.

Article 66

If the office of the President of the Republic becomes vacant and the new President of the Republic has not yet been elected or has not taken the vow, as well as if the President of the Republic cannot exercise his office for important reasons, and if the Chamber of Deputies and the Senate have adopted a decision to that effect, the Prime Minister shall be authorized to exercise the functions specified in Article 63 paragraph 1 items a), b), c), d), e), h), i), j), and Article 63 paragraph 2) At the time when the Prime Minister is exercising the specified functions of the President of the Republic, the Chairman of the Chamber of Deputies shall be authorized to exercise the functions of the President of the Republic specified in Article 62 items a), b), c), d), e), and k); if the office of the President of the Republic becomes vacant at a time when the Chamber of Deputies is dissolved, these functions shall be exercised by the Chairman of the Senate.

THE GOVERNMENT

Article 67

- (1) The Government shall be the supreme authority of executive power.
- (2) The Government shall consist of the Prime Minister, Deputy Prime Ministers and Ministers.

Article 68

- (1) The Government shall be accountable to the Chamber of Deputies.
- (2) The Prime Minister shall be appointed by the President of the Republic; upon his proposal, the President shall appoint the other members of the Government and authorize them to direct ministries or other offices.
- (3) Within thirty days following its appointment, the Government shall present itself to the Chamber of Deputies and ask it for an expression of confidence.
- (4) If a newly-appointed Government fails to gain the confidence of the Chamber of Deputies, further procedure shall be governed by the provisions of paragraphs 2 and 3. If even the Government appointed in this way fails to gain the confidence of the Chamber of Deputies, the President of the Republic shall appoint a Prime Minister nominated by the Chairman of the Chamber of Deputies.
- (5) In other instances, the President of the Republic shall appoint and recall the members of the Government upon the Prime Minister's proposal and authorize them to direct ministries or other offices.

(2) The President of the Republic can only be prosecuted for high treason and tried by the Constitutional Court on the basis of an action brought by the Senate. The penalty can be the loss of the Presidential Office and of the qualification to regain it.

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- (2) The Government shall consist of the Prime Minister, Deputy Prime Ministers and Ministers.

Article 68

- (1) The Government shall be accountable to the Chamber of Deputies.
- (2) The Prime Minister shall be appointed by the President of the Republic; upon his proposal, the President shall appoint the other members of the Government and authorize them to direct ministries or other offices.
- (3) Within thirty days following its appointment, the Government shall present itself to the Chamber of Deputies and ask it for an expression of confidence.
- (4) If a newly-appointed Government fails to gain the confidence of the Chamber of Deputies, further procedure shall be governed by the provisions of paragraphs 2 and 3. If even the Government appointed in this way fails to gain the confidence of the Chamber of Deputies, the President of the Republic shall appoint a Prime Minister nominated by the Chairman of the Chamber of Deputies.
- (5) In other instances, the President of the Republic shall appoint and recall the members of the Government upon the Prime Minister's proposal and authorize them to direct ministries or other offices.

Article 69

(1) A member of the Government shall take a vow directed to the attention of the President of the Republic.

(2) The vow of a member of the Government shall be worded as follows: "I promise allegiance to the Czech Republic. I promise to observe its Constitution and laws and to put them into effect. I promise upon my honour to exercise my office conscientiously and not to misuse my position."

Article 70

A member of the Government must not be engaged in any activities whose nature is incompatible with the exercise of his function. Particulars shall be prescribed by law.

Article 71

The Government may address to the Chamber of Deputies a request for the expression (a vote) of confidence.

Article 72

(1) The Chamber of Deputies may express an attitude of "no confidence" to the Government.

(2) A proposal for a vote of "no confidence" to be expressed to the Government shall be considered by the Chamber of Deputies only if it has been submitted in writing by a group of at least fifty Deputies. For the approval of the proposal, a simple majority vote of all Deputies shall be required.

Article 73

(1) The Prime Minister may tender his resignation to the President of the Republic. The other members of the Government may tender their resignations to the President of the Republic through the Prime Minister.

(2) The Government shall resign if the Chamber of Deputies has turned down its request for the expression of confidence, or if it has expressed "no confidence." The Government shall invariably resign after the constituent meeting of a newly-elected Chamber of Deputies.

(3) If the Government resigns according to paragraph 2, the President of the Republic shall accept the resignation.

Article 74

The President of the Republic shall recall a member of the Government, if this is proposed by the Prime Minister.

Article 75

The President of the Republic shall recall the Government which has failed to resign although it was its duty to do so.

Article 76

(1) The Government shall adopt decisions as a collective body.

(2) For the adoption of a decision by the Government, a supporting vote of a simple majority of all its members shall be required.

Article 77

(1) The Prime Minister shall organize the Government's activities, preside over its meetings, act on its behalf and carry out other activities which have been entrusted to him by the Constitution or by other laws.

(2) The Prime Minister may be represented by a Deputy Prime Minister or by another authorized member of the Government.

Article 78

For putting a law into effect and within its limits, the Government shall be entitled to issue decrees. A decree must be signed by the Prime Minister and by the Government member concerned.

Article 79

(1) Ministries and other administrative authorities (offices) may be established and their competence may be regulated only by law.

(2) The legal status and conditions of civil servants (state employees) at ministries and other administrative offices (government authorities) shall be regulated by law.

(3) On the basis of laws and within their limits, legal regulations may be issued by ministries, by other administrative offices and by territorial self-government authorities, if they have been empowered by law to issue them.

Article 80

(1) The Office of the Prosecutor General (Attorney of State) shall represent the public prosecution in criminal proceedings; it shall also implement other tasks, if the law so provides.

(2) The status and the competence of the Office of the Prosecutor General (Attorney of State) shall be regulated by law.

CHAPTER FOUR

JUDICIAL POWER

Article 81

Judicial power shall be exercised, in the name of the Republic, by independent courts.

Article 82

(1) Judges shall be independent in the exercise of their function. Nobody shall be permitted to endanger their impartiality.

(2) A judge cannot be recalled against his will or transferred to another court; exceptions, based particularly on disciplinary responsibility, shall be specified by law.

(3) The function of a judge shall not be compatible with the function of President of the Republic, of Member of Parliament, or with any function in public administration (civil service); the law shall specify the other forms of activity with which the exercise of the function of a judge shall be incompatible.

The Constitutional Court

Article 83

The Constitutional Court shall be the judicial authority (organ) for safeguarding constitutional legality.

Article 84

(1) The Constitutional Court shall consist of 15 judges, who shall be appointed for a term of ten years.

(2) The judges of the Constitutional Court shall be appointed by the President of the Republic with the agreement of the Senate.

(3) Eligible for appointment as a judge of the Constitutional Court shall be a blameless citizen (with a clean record) who is qualified to be elected to the Senate, has university-level legal education (a law degree) and has been engaged in the legal profession for at least ten years.

Article 85

(1) A judge of the Constitutional Court shall take charge of his function by taking a vow directed to the attention of the President of the Republic.

(2) The vow of a judge of the Constitutional Court shall be worded as follows: 'I promise, upon my honour and conscience, that I will safeguard the inviolability of the natural rights of Man and the rights of a citizen, abide by the constitutional laws and decide according to the best of my conviction, independently and impartially.'

(3) If a judge refuses to take the vow or if he takes it with a reservation, he shall be regarded as not having been appointed.

Article 86

(1) A judge of the Constitutional Court cannot be prosecuted without the consent of the

Senate. If the Senate refuses to give its consent, the prosecution shall be ruled out for ever.

(2) A judge of the Constitutional Court may be detained (arrested) only if he has been caught in the act of committing a criminal offence, or immediately after. The appropriate authority (officer) must immediately notify the Chairman of the Senate about the detention. If the Chairman of the Senate does not give his consent, within 24 hours following the detention, for the detained person to be committed to court, the authority concerned must release him. At its first subsequent meeting, the Senate shall decide about the permissibility of prosecution with final effect.

(3) A judge of the Constitutional Court shall have the right to refuse to testify, even after having ceased to be a judge of the Constitutional Court, about matters which he came to know in connection with the exercise of his function.

Article 87

(1) The Constitutional Court shall decide

- a) about the annulment of laws or of their individual provisions, if they are in contradiction with a constitutional law or with an international treaty according to Article 10,
- b) about the annulment of other legal regulations or of their individual provisions, if they are in contradiction with a constitutional law, with a law or with an international treaty according to Article 10,
- c) about a constitutional complaint of the territorial self-government authorities against illegitimate interference by the state (government),
- d) about a constitutional complaint against an effective decision and another form of interference by the authorities of public power affecting the constitutionally guaranteed fundamental rights and freedoms,
- e) about a legal remedy (redress) against a decision concerning the verification of the election of a Deputy or Senator,
- f) in cases of doubt, about the loss of eligibility and about the incompatibility of the exercise of functions of a Deputy or Senator, according to Article 25,
- g) about the Senate's constitutional indictment against the President of the Republic according to Article 65 paragraph 2,
- h) about the proposal of the President of the Republic for the annulment of a decision (resolution) of the Chamber of Deputies and of the Senate according to Article 66,
- i) about the measures necessary for the implementation of an international tribunal's ruling which is binding for the Czech Republic, in case it cannot be implemented otherwise,
- < j) about whether a decision on the dissolution of a political party, or another decision concerning a political party's activities, is in conformity with constitutional or other laws,
- k) disputes on the respective ranges of competence of state (government) authorities and territorial self-government authorities, unless the law authorizes another organ (authority) to deal with such disputes.

(2) The law may provide that, instead of the Constitutional Court, it shall be up to the Supreme Administrative Court to decide

- a) about the annulment of legal regulations or of their individual provisions, if they are in contradiction with the law,
- b) disputes on the respective ranges of competence of state (government) authorities and territorial self-government authorities, unless the law prescribes that such disputes should be dealt with by another organ.

Article 88

(1) The law shall specify who shall be entitled, and under what conditions, to submit a petition for the institution of proceedings by the Constitutional Court, and it shall also prescribe the procedural rules for them.

(2) In their decision-making, the judges of the Constitutional Court shall be bound only by the constitutional laws and international treaties according to Article 10 and by the law mentioned in paragraph 1.

Article 89

(1) A ruling of the Constitutional Court shall become effective as soon as it has been promulgated in the manner prescribed by law, unless the Constitutional Court has decided otherwise about its effectiveness.

(2) Effective rulings of the Constitutional Court shall be binding for all authorities and persons.

Law Courts

Article 90

The main purpose of law courts shall be to provide the protection of rights in the manner prescribed by law. Only a court can decide about guilt and about penalties for criminal offence.

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Article 91

(1) The system of law courts shall be formed by the Supreme Court, the Supreme Administrative Court, superior courts, regional courts and district courts. The law may prescribe different designations for them.

(2) The competence, jurisdiction and organization of the law courts shall be prescribed by law.

Article 92

The Supreme Court shall be the highest-level judicial authority (tribunal) in the cases falling within the jurisdiction of law courts, with the exception of matters to be decided by the Constitutional Court or by the Supreme Administrative Court.

Article 93

(1) A judge shall be appointed to his function by the President of the Republic, without a time limitation. He shall enter upon his office by taking the prescribed vow.

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(2) Eligible to be appointed as a judge shall be a blameless citizen (with a clean record), who has university-level legal education (a law degree). Other prerequisites and the procedure shall be prescribed by law.

Article 94

(1) The law shall specify the instances in which judges are required to adopt decisions

(rulings) collectively in a panel known as a senate, and prescribe the composition of such a body. In other instances, judges shall decide as individuals.

(2) The law may specify the instances and prescribe the ways in which other citizens, beside judges, may take part in the decision-making of law courts.

Article 95

(1) In his decision-making, a judge shall be bound by the law; he shall be entitled to assess the conformity of another legal regulation with the law.

(2) If a judge comes to the conclusion that a law which is to be applied to the solution of the matter under consideration is at variance with a constitutional law, the court shall refer the issue to the Constitutional Court.

Article 96

(1) All the parties to a law suit shall have equal rights before the court.

(2) Judicial proceedings shall be verbal and open to the public; exceptions shall be specified by law. The judgment (sentence) shall invariably be pronounced publicly.

CHAPTER FIVE

THE SUPREME CONTROL OFFICE

Article 97

(1) The Supreme Control Office shall be an independent authority. It shall supervise and control the administration of state property and the implementation of the state budget.

(2) The President and the Vice-President of the Supreme Control Office shall be appointed by the President of the Republic on the basis of nominations received from the Chamber of Deputies.

(3) The status, competence, organizational structure and other particulars shall be prescribed by law.

CHAPTER SIX

THE CZECH NATIONAL BANK

Article 98

(1) The Czech National Bank shall be the central bank of the state. The main aim of its operation shall be to take care of the stability of the currency; any intervention on its activities shall only be permissible on the basis of a law.

(2) The status and jurisdiction, as well as other particulars regarding the Czech national Bank shall be stipulated by law.

CHAPTER SEVEN

TERRITORIAL SELF-GOVERNMENT

Article 99

The Czech Republic's territory shall be divided up into communities, which shall form the basic-level territorial self-governing units. The higher-level territorial self-governing units shall be provinces or regions.

Article 100

(1) The territorial self-governing units shall be territorial commonwealths of the citizens who have the right to self-government there. The law shall provide when such units shall form administrative areas.

(2) A community shall invariably form part of a higher-level territorial self-governing unit.

(3) A higher-level territorial self-governing unit can be created or abolished only by a constitutional law.

Article 101

(1) A community shall be administered independently by a board of representatives.

(2) A higher-level territorial self-governing unit shall be administered independently by a board of representatives.

(3) The territorial self-governing units shall be public corporations (legal entities) which may have property of their own and operate according to their own budgets.

(4) The state may intervene in the activities of territorial self-governing units only if this is required for protecting the law, and only in the manner specified by law.

Article 102

(1) The member of the boards of representatives shall be elected by secret ballot, on the basis of universal, equal and direct franchise.

(2) The term of office of a board of representatives shall be four years. The law shall specify the conditions under which a new election to a board of representatives should be called before the expiration of its term of office.

Article 103

The name (designation) of a higher-level territorial self-governing unit shall be determined by its board of representatives.

Article 104

(1) The competence of the boards of representatives can be determined only by law.

(2) The board of representatives of a community shall decide on matters of self-government, unless they have been entrusted by law to the board of representatives of a higher-level territorial self-governing units.

(3) Within the limits of their competence, the boards of representatives may issue generally binding ordinances.

Article 105

The exercise of state administration may be entrusted to the organs of self-government only in the instances specified by law.

CHAPTER EIGHT

INTERIM AND FINAL PROVISIONS

Article 106

(1) By the date of effectiveness of this Constitution, the Czech National Council shall become the Chamber of Deputies, whose election term shall end by 6th June 1966.

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(2) Until the time of election of the Senate according to the Constitution, the function of the Senate shall be exercised by an Interim Senate. The Interim Senate shall be filled in the manner prescribed by a constitutional law. Until such a law becomes effective, the functions of the Senate shall be exercised by the Chamber of Deputies.

(3) The Chamber of Deputies cannot be dissolved, as long as it exercises the function of the Senate according to paragraph 2.

(4) Until the laws regulating the orders of procedure of the Chambers have been adopted, the procedure in the individual Chambers shall be governed by the standing orders of the Czech National Council.

Article 107

(1) The law governing the elections to the Senate shall regulate the manner in which to determine, for the first election to the Senate, the one-third of the Senators whose term of office shall be two years, and the one-third of the Senators whose term of office shall be four years.

(2) The session of the Senate shall be convened by the President of the Republic in good time to be inaugurated not later than on the thirtieth day following the date of the election; if the President does not do so, the Senate shall meet on the thirtieth day following the date of the election.

Article 108

The Government of the Czech Republic appointed after the general election in 1992 and exercising its function on the date of effectiveness of the Constitution shall be regarded as a Government appointed according to this Constitution.

Article 109

Until the Offices of the Prosecutor General (Attorney of the State) has been established, its functions shall be exercised by the Office of the Director of Public Prosecutions of the Czech Republic.

Article 110

Until 31st December 1993, the system of law courts shall also comprise military courts.

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Article 111

The judges of all the law courts of the Czech Republic exercising the judicial function on the date of effectiveness of this Constitution shall be regarded as judges appointed according to the Constitution of the Czech Republic.

Article 112

(1) The constitutional order of the Czech Republic shall be formed by this Constitution, by the Charter of Fundamental Rights and Freedoms, by the constitutional laws adopted according to this Constitution, as well as by the constitutional laws of the National Assembly of the Czechoslovak Republic, of the Federal Assembly of the Czechoslovak Socialist Republic and of the Czech National Council regulating the state boundaries of the Czech Republic, and by the constitutional laws of the Czech National Council adopted after 6th June 1992.

(2) Repealed hereby shall be the Constitution valid up to the present, the Constitutional Law on the Czechoslovak Federation, the constitutional laws subsequently amending it, as well as the Constitutional Law of the Czech National Council No. 67/1990 of the Law Gazette, regulating the state symbols of the Czech Republic.

(3) The other constitutional laws valid on the territory of the Czech Republic by the date of effectiveness of this Constitution shall henceforth be in force as laws.

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Article 113

This Constitution shall become effective as of 1st January 1993.

Signed:

M. Uhde (Chairman of the Chamber of Deputies)

V. Klaus (Prime Minister)