

# The Kleristocratic Constitution • T.L. Hulsey

[The following entry was one among 42 others in the [Underthrow Constitution Conest of Max Borders](#), which concluded 15 November 2023. No edits have been made to the original entry.]

## INTRODUCTION (80 words max)

This Constitution institutes kleristocracy, a new form of government replacing the failed state model of 1648. It repudiates the universalist liberal claims of the state, instead founding its claims on architectonics, the application of the subjective theory of value to localized government. It describes a *dominium sortiens*, the society of “property, with sortition”: The society of absolute property rights, the absence of coerced public goods, and the sovereignty of the people exercised not through oligarchic elections but through democratic sortition.

## PREAMBLE (80 words max)

To preserve the rights inherent in each human being, seeking not revolution but the permanent institution of the ancient rights of Englishmen for all in a new form of government that abolishes politics and that is to be described as a kleristocracy, we set before the world and the supreme arbiter of the destinies of nations this Constitution that ordains and establishes a government to be known as The American Federation.

## BODY (5000 words max)

### County

The County is the sovereign unit of government, and the constituent element, of The American Federation, having permanent residents numbering no more than 250,000. It is administered by one body, the County Commission, composed of five County Commissioners, of which one is Head. As the agent of the community’s standard of excellence, or those public virtues defined uniquely by that community alone, this Commission holds power limited principally by its citizens’ recall and referendum, and by their threat of abandonment.

On the date of adoption of this Constitution, County administrators remain incumbent until the first sortition occurs, at which time the five-person County Commission replaces any other form of administration. Each Commissioner is the chief administrator for those precincts within the County constituting roughly one-fifth of the County’s total population; each serves a four-year term, which may be repeated but not consecutively; each shall take an oath to use his office to reduce public goods and to promote the autonomy of the County; and each assumes office on January 1 of the nearest odd-numbered quadrennium, simultaneously with the other four Commissioners. As of the date of first taking office, each Commissioner shall have primary residency in the County for at least three years uninterrupted, be at least thirty years of age, and hold Federation citizenship for at least five years uninterrupted.

The principal duties of the County Commission are the administration of the County Calendar; the selection by sortition of subordinate County administrators and of Federation legislators and administrators; and the maintenance of an online portal accessible only by

citizens of the County, by which County Calendar budgets, nullifications, initiatives, referenda, and related communication between Commissioners and citizens may be effected.

The County Commissioners shall define the conditional County citizenship. Any County Commission may make one attempt during its four-year term to modify existing terms of County citizenship; if attempted, the new definition shall be presented as an online referendum item to all citizens of the County within six months of being published, and upon the approval of two-thirds of the participants of the referendum it is immediately adopted; failing the approval of two-thirds, the previous definition stands.

The County Commissioners shall define within the County allodial title status for properties, that is, property title held free and clear of any superior landlord, not subject to taxation, eminent domain, or any assertion of superior right. County citizenship is a prerequisite for holders of allodial title, and allodial title reverts to taxable fee simple on the sale of the property, unless the property is acquired by someone who has held within a year of the sale allodial title on some other property within the County, or unless acquired by an heir who is also a citizen of the County.

The County Commissioners shall organize the County militia beyond, but not in defiance of, the Federation prerequisites defined herein.

The County Commissioners possess the power of interposition, by which their majority at any time may enjoin that any law of the Federation enacted within the previous two years not be enforced within the County. Each interposed law shall be presented as an online referendum item to County citizens within six months of being so pronounced, and upon the approval of two-thirds of the participants, it remains unenforceable within the County and enters the next legislative agenda as a nullified law; failing that approval, the interposition is removed.

If a Commission-sponsored nullification fails, the next-seated Commission may publish its secession from the Federation, in which case, secession is effected with a two-thirds referendum approval by its citizens, along with a simple majority referendum approval by all adjacent Counties (including those diagonally adjacent at a single point), along with a simple majority approval by both chambers of the Federation legislature.

The County Commissioners may by their majority nullify within the County any act of municipal government, city council, or other subordinate administrative body – whether it be a law, promulgation, rezoning, administrative decree, or any act whatsoever; and any municipal official, councilman, or mayor is likewise subject to Commission removal, which shall immediately summon a sortition to replace those so removed.

The County Commissioners may by their majority demand the replacement of any justice below the County appellate level solely for incapacity or malfeasance as prescribed by statute, and on this demand a sortition shall occur within six months to provide the replacement.

## **Consilium**

The Consilium is the supreme unit of administration of The American Federation, constituting with its subordinate administrators the complete executive functions of the Federation. It is composed of ten Consuls, each of whom shall be at least thirty-five years of age at the time of selection, none of whom may serve more than a total of ten years. When voting, a simple majority among voting members signifies approval.

For the first instantiation of the Consilium, each of the following shall select two candidates (with several alternates), not of their own number: Drawing from the local State subdivisions (*viz.*, one of fifty U.S. States), the members of the last-serving State House, the members of the last-serving State Senate, the last-serving State Governor, the State Supreme Court; and drawing from the Federal level, the State's Senators, whereby each of the latter shall select one candidate (with alternates).

Two new Consuls (or an additional number if the Consilium has fallen to less than eight members, to ultimately restore the ten) shall be elected by the Federation legislature (whereby the majority vote of the House and Senate voting separately concur on each candidate) at the conclusion of its session. If the two additions should constitute twelve, the currently serving Federation Senate first shall vote among themselves to dismiss two currently serving Consuls, with or without sanction.

Each Consul on installment shall take an oath to use his office to reduce public goods and to promote the autonomy of the Counties; also, each shall post a performance bond, in the amount determined by statute, with the optional assistance of pledges. Any currently serving Federation House or Senate may, by majority vote, sanction any Consul(s) for any reason, on any compelling evidence; the Federation House of the following session will, as its penultimate business (Consul election being its final), by majority vote to dismiss a Consul thus sanctioned (each Consul considered separately), and 100% of the bond is forfeited; further, starting at a vote to dismiss by at least 66% of House members, an additional 3% penalty is imposed for each higher percentage, so that a possible 199% loss of the bond is suffered. The forfeiture and penalties remain binding, even if a Consul should resign from office, which resignation is permitted at any time.

The Consilium has two major functions: A consultative function in even-numbered years for the biennial legislature's session in odd-numbered years, and a year-round administrative function.

To fulfill its consultative function, the Consilium studies to provide the following, where to select "from County sortition" indicates to select "from among the résumés submitted by sortition, as prescribed herein, from the Counties":

- the independent selection of Federation judiciary candidates, to be approved individually by House majority vote;
- the selection of County judiciary candidates from County sortition;
- the selection of House committee chairs from County sortition;
- the selection of fifty Senators, or a number equal to one-fourth the number of Counties, whichever is fewer, from County sortition;
- the agenda for the legislature, which among other items includes the biennial budget, initiatives and referenda, and qualifying County nullifications;
- the list of laws to be abolished;
- the list of State services to be abolished or privatized;
- the independent selection of Federation administrators as needed from County sortition.

To fulfill its administrative function, the Consilium performs the following:

- although not present in the legislature during its session, it is available remotely for discussion;
- it provides staff to legislators for crafting unambiguous law;
- it conducts official relations with other governments on behalf of the Federation;
- it issues passports for Federation citizens, exclusively valid in all Counties;
- it executes the Federation laws as established by its legislature and this Constitution.

The Consuls of the Consilium shall assign among themselves the administration of the Federation functions. Initially one Consul of the Consilium shall assume each of the following administrative boards: Legal, Natural Resources, Technology (including the office of Sortition Integrity), Defense, Energy, Public Goods Reduction, and Foreign Affairs; two Consuls shall administer Home Affairs – one managing the Federation Properties Board, Public Pension and Retirement Board, Finance, Securities Board, Insurance Commission, and Mutual Insurance, the other managing the Lottery Commission, Motor Vehicles, and Transportation Commission; the remaining Consul shall be the Consilium's biennially rotating chief administrator, who shall generally supervise the other nine, and evaluate with the Senate the reports of whistleblowers. At the biennial rotation, this Consul shall trade office with one of the other Consuls so that none is chief administrator for more than two years. The initial boards and offices listed above will change as they are abolished, restructured, or devolved to the Counties in keeping with the Consul's oath to reduce public goods.

Whenever any County has acquired 300,000 or more permanent residents as determined by the Federation's initial, and thereafter decennial, census, the Consilium shall within six months of the publication of the census provide three different redrawn maps of the one County into the minimal number of Counties of less than 250,000 each. The majority of County citizens participating by referendum held within six months of the publication of the maps shall define the one new map of Counties.

The Consilium may by their majority require the replacement of any County justice at or above the appellate level, or of any Federation justice, solely for incapacity or malfeasance as prescribed by statute, which replacement is provided by sortition.

The Consilium may impose user fees for its administrative services, with the aim of abolishing these services or of privatizing them, as far as possible.

The Consilium shall enforce 100% reserve banking throughout the Federation. The Federation and County governments shall have no power of incorporating their functions, nor shall establish any school, nor shall have any central bank; and while the Federation alone may issue money, it shall be a unit of measure with no stated value beyond that measure, fully redeemable in gold specie on demand. While the Federation may have a mint, it shall not enjoy a monopoly on the minting of Federation coinage; it may strike silver specie for circulation, but shall never state a fixed exchange rate between its silver and gold issue.

## **Legislature**

Federation House and Senate shall meet at noon on the second Tuesday in January of each odd-numbered year for 140 calendar days. The Consilium may impose up to two further special

sessions of thirty days each at the conclusion of any regular session, if in its judgment its legislative agenda requires further resolution by the legislature.

The Federation House, as its first item of business, shall by majority vote approve or reject individually each of the County and Federation judiciary candidates submitted by the Consilium, with each rejection requiring the submittal of an alternate candidate from the Consilium.

Either the House or Senate may, by majority vote, on any compelling evidence, demand the removal of any currently serving justice. If the justice is below the County appellate level, a simple majority of the House effects the removal; for County appellate justices, a two-thirds vote of the House effects removal; for Federation justices, a two-thirds vote of both the House and Senate effects removal. In all such instances, a sortition shall occur within the same legislative term to provide the replacement.

The legislature cannot initiate legislation without Consilium approval unless two-thirds of both House and Senate vote to approve the introduction of each legislative item.

A two-thirds vote both of the House and Senate shall be required for the issuance of debt in the name of the Federation, as requested in the Consilium legislative agenda, provided that two-thirds of all Federation debt is self-supporting, that is, not funded out of general revenues, and provided that it is retired in ten years. No part of the Federation shall fund any insurance, welfare, or redistributive scheme of any kind.

## **Judiciary**

On the date of adoption of this Constitution, currently serving justices at all levels shall be allowed to complete their terms. Once placed in office by sortition, all justices at or above the County superior level, including Federation justices, shall hold office for twenty years, unless removed from office by incapacity or malfeasance as prescribed by statute, or by voluntary retirement. Each justice on installment shall take an oath to use his office to reduce public goods and to promote the autonomy of the Counties.

As part of the judicial mandate to reduce public goods, every court shall strive to restore any injury or loss to the victim of a crime or tort or other wrongful act in preference to, but not in exclusion of, retribution against the wrongdoer, and strive to apply alternative dispute resolution and private law.

The County courts shall have original jurisdiction in all judicial matters, civil, criminal, and any others that originate within the County. Entirely within the jurisdiction of the County, one appellate court shall exist for civil appeals, and one for criminal appeals. Courts below the appellate level may petition the Commission for creation of subordinate courts, subject to availability of County funding, but all shall be courts of record. Municipal courts shall not exist. Except for its subordinate courts, which may be subject to superior and appellate review, the judgments of the County courts are final, except for specific violations of the Charter of Rights as pronounced, preemptively or on appeal, by the Federation judiciary.

The County courts above the level of subordinate courts may at any publicly announced time convenient to its members convene to modify qualifications for the office of their County Commissioners, as approved by two-thirds of those voting. Such convention shall be administered by justices of the County civil appellate court. Its amended qualifications shall become law for the County following the term of the currently serving Commission.

The County civil appellate court shall oversee the sortition, which is conducted by the County Commission at the end of its four-year term, of the new Commission, and shall appoint one of the five members as Head.

Any court may rule in advance of any litigated dispute on any statute within its jurisdiction. Constitutional issues shall be presented to the proper Federation court by the litigated dispute of parties having legal standing.

The primary functions of the Federation courts are to rule on violations of the Charter of Rights, on Constitutional questions, and on disputes between Counties.

## **Sortition**

“Sortition” shall signify the random selection of officeholders, solely as prescribed in this section. A two-round sortition is prescribed unless the initial random pool is less than ten candidates, in which case a one-round sortition shall suffice. The initial random pool formed by these qualifying candidates shall not be stratified at any time for demographic representation or for any other purpose.

Except for the Commission office, the initial pool shall be formed of candidates meeting the qualifications set by statute by the County Commissioners solely according to their will or whim, with the aim of promoting the community’s standard of excellence, or those public virtues defined uniquely by that community alone. The Commission shall provide qualifications for subordinate County administrators such as mayors and councilmen among others, for the County judiciary, and for the legislators and administrators who will serve the Federation. Qualifications for County Commissions shall be set by the County courts above the level of subordinate courts; the County civil appellate court shall oversee their selection by sortition, as previously prescribed.

The Consilium shall maintain a Technology office of Sortition Integrity, whose sole purpose is methodological, to assure that each County’s office of sortition employs the prescription for randomness set forth below. Neither the Consilium, nor any office or agent of the Federation, nor any other County shall challenge the County’s standards in forming the initial random pool.

Candidates submitting résumés qualifying for the initial pool shall be assigned a quantum-generated true random number. One additional random number shall be drawn to provide a tell to determine the electors of the first sortition, that is, by selecting those candidate numbers nearest to the tell – proximate for a few electors, less proximate to obtain more electors. These electors shall become ineligible for that office, and shall separately and without consulting the other electors provide a blind evaluation of the remaining candidates, whose résumés shall be divided equally among them for acceptance or rejection. From their final pool, the required officeholder(s) shall be selected by proximity to another newly drawn tell. The selected candidate(s) shall be ineligible for the next term’s drawing for that same office, thus skipping one term; however, any qualifying candidate, including an elector, may enter immediately for some other office.

## **County Calendar**

“County Calendar” shall signify solely what is prescribed in this section.

On January 1 of any even-numbered year, the County Commission shall publish online its two-year budget exclusively to citizens of the County. This online budget shall offer between twenty and forty budget items, with a blank input field alongside each of the Commission's recommended expenditures. One item of this initial budget shall state the funding for Federation operations as the County's per capita total of its proportion of the Consilium's funding request. No budget item nor public agency shall fund any insurance, welfare, or redistributive scheme of any kind. Each County citizen may enter a determination for each item, whether higher or lower, with an automatic total provided. Each citizen's entries shall total no less than the absolute floor budget total set by the Commission. The online budget shall provide three other separate sections for citizen input: For the *bonum sociale*, or *Bonus*, for the nullification of any statute or statutes, and for any initiative or referendum item.

The *bonum sociale* is the County's sponsored voluntarily funded charity, provisioned with no taxed or coerced or government-sourced contributions of any kind. Inputs for this section shall indicate how the Commission shall distribute the *bonum sociale*, with several fields for a percentage distribution entry, including a field for non-distribution, with an automatic validation that the total is 100%.

Input for the nullification section shall provide for entry of the official statute number of any existing statutes that the citizen wants removed – a nullification provision that shall enter the January legislative agenda of the Federation if a two-thirds majority of any County's citizens so indicate. Citizen nullification is distinct from the aforementioned County nullification.

A separate section shall provide input for any initiative or referendum item. Whenever a simple majority of the citizens of a majority of all Counties within the Federation so indicate within a given even-numbered calendar year by means of each citizen's County online portal, the initiative or referendum item(s) shall be placed on the legislative agenda for the next legislative session, and shall be voted on by both House and Senate in that session, where a simple majority of both House and Senate enacts the item.

On March 1 of any even-numbered year, the County Commission shall publish online the January budget exclusively for County citizens, showing their determinations and showing its agreement or modification of citizen entries, along with its reasoning for such modification. The County citizens shall select again, either confirming or modifying the Commission's proposed amounts.

On May 1 of any even-numbered year, the County Commission shall publish online the March budget exclusively for County citizens, and again showing its agreement or modification of citizen entries, along with its reasoning for such modification. The County citizens shall select a third and final time, either confirming or modifying the Commission's amounts, with no further changes admitted.

On September 1 of any even-numbered year, the County Commission shall publish online the final, enforced two-year budget exclusively for County citizens, accepting the averaged third determination by its citizens for each of the budget entry fields. The Commission also publishes the amounts it shall spend from the *bonum sociale* as averaged in each of its published categories.

During the first week of September of any even-numbered year, the Commission shall select by sortition from among the qualified candidate résumés, two candidates for the Federation legislature, one officeholder for each vacant County judiciary office, and one officeholder for

each vacant subordinate County administrator's office. Since the candidates for the Federation legislature also provide a pool for selection of Federation administrative offices, a third candidate may be selected if the number provided by the selection of two is insufficient.

On September 7 of any even-numbered year, the Commission shall publish the names of those selected by sortition for the various offices and immediately forward relevant résumés of the same to the Consilium.

The County *Landesgemeinde* week shall begin on the third Saturday in September of any even-numbered year – a County-sponsored event comprised of town halls at which those selected by sortition present themselves and accept questions from citizens of the County, and at which event the County Commissioners shall describe the effects of the adopted budget and – if their absolute floor budget total is too high – face calls for impeachment, as prescribed by statute.

## **Citizenship**

“Citizenship” shall signify solely what is prescribed in this section.

The prerequisite citizenship of the Federation is conferred on the basis of *ius sanguinis* and not *ius soli*; that is, its citizenship is conferred on anyone who has lived in any Federation County for a total of thirty-five years, disregarding any hiatus, or on anyone who can document lineal descent to, or adoption by, an ancestor who has lived in any Federation County for a total of thirty-five years, disregarding any hiatus. With this residency requirement and with the oath of citizenship in the Federation, citizenship is automatic, unlike the conditional County citizenship. Every citizen shall hold Federation citizenship, which is a prerequisite for holding County citizenship as optionally conferred by the County Commission; thus, a person may be a citizen of the Federation without citizenship in any County. Only the Federation shall issue passports, which shall be valid in all Counties.

County citizenship is prerequisite for receiving any part of the *bonum sociale*, funded solely by voluntary contributions.

Until the first anniversary of the formal date of the adoption of this Constitution, any citizen of the previous government possessing a valid driver's license or valid ID card shall be assumed to be a citizen of the Federation, after which time the requirements for citizenship set forth in this Constitution shall prevail.

The following oath shall be affirmed or signed in the presence of an immigration official of the Federation or his official delegate, or otherwise be made public record, as a prerequisite for Federation citizenship:

By accepting citizenship in The American Federation, I hereby declare that

- I place the political sovereignty of The American Federation above all others, and will defend its Constitution against all enemies, foreign and domestic, and will support its County militias;
- I will not support any public policy that initiates violence against others;
- I will not support any public policy that would be unethical were an individual alone to follow it;



- I will not support any public policy that would extract or borrow funds for any insurance, welfare, or redistributive scheme;
- I will not consider religious arguments as *ipso facto* final reasoned support for any public policy;
- and that I make this declaration freely, without any mental reservation or purpose of evasion.

## **Militia**

The American Federation declares itself to be a neutral country, and shall have military alliances with, or military obligations to, no one.

The Federation shall not possess any standing army, navy, or air force; the foremost task of its Defense department is to provide instruction for the creation in the Counties of an acephalous militia proficient in asymmetrical warfare. It shall offer to any invading aggressor no target force whose defeat or surrender might signify the defeat or surrender of the Federation as a whole; it may issue letters of marque and reprisal, in the sense of authorizing and funding external mercenaries for its defense; without being provocative, the Federation may openly and frankly advertise a program of targeted assassination, but only as a defensive response to aggression against the neutral Federation, and only after a formal declaration by its legislature of that aggression.

The Federation shall define exemptions from militia service for both conscientious objection or incapacity and shall define the terms under which the County may accept payment in lieu of service. Beyond that, the County establishes further conditions and exemptions as it sees fit. Militia service is not compulsory; however, unexempted refusal to participate shall result in the loss of County citizenship. Those who initially voluntarily refuse service may reconsider, so that the loss is not permanent.

## **Charter of Rights**

This charter of individual rights lists as follows those rights inherent in each person, which shall not be violated or compromised by any person, agency, or jurisdiction. Civil rights shall be the rights conferred by the County upon its citizens, beyond those specifically enumerated in this Charter; civil rights in the sense of any special legal status accorded to a group or demographic, superior to or of more general applicability than the County, shall not exist.

- The right to carry any weapon on or about one's person for the defense of that original property, one's life, and for readiness in the County militia;
- the right to be secure in one's own being and property against any searches and seizures, unless shown a warrant from the most local jurisdiction upon probable cause, particularly describing the place to be searched, and the persons or things to be seized; against any taking of any property supposedly instrumental *in rem* to a crime; against any trespasser, whom the property owner or owner's agent may remove; and against any use, or withholding from use, of any property contrary to the owner's sole will or whim;

- the right to hold property under allodial title as defined by the County of which the person is a citizen, that is, property held free and clear of any superior landlord, not subject to taxation, eminent domain, or any assertion of superior right; the allodial title holder shall have the right of replacing County property codes with those of the holder's homeowners' association of at least thirty separately owned contiguous properties, where all properties are of the same association, including but not limited to codes related to the removal of utility easements as public utilities are replaced by private utilities;

- the right to peaceably associate with any person or persons, in public or private, solely according to will or whim, as well as the freedom from forced association with any person or persons, except under legal confinement;

- the right to express or publish any thought or opinion to any adult, provided that the expression or publication is free of willful, demonstrable fraud, and whose agency of expression or publication does not violate the property rights of another;

- the right to travel and to privately communicate without government harassment or intrusion;

- the right of freedom from charge for a capital, or otherwise infamous crime, except upon a presentment or indictment of a grand jury; the right of freedom from charge for the same offence to be twice put in jeopardy of life or limb; the right of freedom from compelled testimony against oneself in any criminal case; and the freedom from governmental threat to life, liberty, or property, without due process of law;

- the right to a speedy and public trial, by an impartial jury of the most local jurisdiction wherein the crime shall have been committed, and to be informed of the nature and cause of the accusation; the right to confront in court one's accusers, to have compulsory process for obtaining witnesses, and to have the assistance of legal counsel; and the right to a trial by a jury that shall on seating be informed of its right of jury nullification;

- the right of each person, as a victim of a crime, tort, or wrongful act, to initiate legal proceedings as a plaintiff for the restoration of any injury or loss;

- by the extended right of association inherent in its citizens, any adjacent Counties (including those diagonally adjacent at a single point) may join The American Federation upon the approval of two-thirds of its citizens in a referendum as prescribed herein, which approval signifies adherence to this Constitution and to the laws of the Federation;

- the enumeration in this Constitution, of certain rights, shall not be construed to deny or disparage others retained by each person;

- the powers not delegated to the Federation by this Constitution, nor prohibited by it to the Counties, are reserved to the Counties respectively, or to each person.

This Constitution may be amended by a Federation legislative convention summoned by approval from two-thirds of all Counties, wherein two-thirds of the citizens from each County referendum so indicate.