GHQ/SCAP Records(RG 331)
Description of contents

THE
NATIONAL ARCHIVES
OF THE
UNITED STATES

(1) Box no. 2083

(2) Folder title/number : (6)
IV. The National Executive

(3) Date : ?

(4) Subject :

Classification	Type of record
021	d

(5) Item description and comment :

(6) Reproduction : (Yes) No

(7) Film no. Sheet no.

What to put
charts ?

SECTION IV

THE NATIONAL EXECUTIVE

INTRODUCTION

Under the form of government that existed prior to the Occupation, the term "Executive" would be extremely misleading, since a national bureaucracy controlled all phases of the execution and administration of laws and government. The organization of the government before the Occupation will be considered first, if briefly, then an examination will be made of the governmental structure as it existed in August 1945, and in the subsequent sections, the various changes that took place before and after the revision of the constitution.

It cannot be too strongly emphasized that we are dealing with an extremely complex and ill-defined organization when we discuss the organization and operations of the government of Japan. For one thing, the so-called Meiji Constitution was not an all-embracing organic law but merely one document of a collection of laws, rescripts and customs which, together, made up the unwritten constitution of the Japanese State. For another, the formal structure of the government, as defined by law, presented the slimmest kind of skeleton and gave no hint of the manner of operation or even the elasticity of detailed organization. There was never any clear separation of powers or division of responsibilities. The government, within the general framework, was constantly being revised and reorganized either to meet the pressures of a particular situation or to suit the requirements of a particular clique or cabal.

The Japanese governmental structure was not one that developed gradually through the growth of native institutions but one that was imposed, in toto, within a period of twenty years (1868-1890). The institutions were for the most part copied after the continental pattern, although British and American political patterns were to some extent drawn upon by the Meiji statesmen and

their successors. The structure was pyramidal in form, all authority being concentrated in the imperial institution and all powers being exercised or controlled through a central executive answerable only to the throne. The National Diet was primarily a device for giving an appearance of parliamentary government and for providing a convenient forum for relieving popular pressure through permitted debate on selected critical issues. The courts were solely creatures of the Ministry of Justice. There was no autonomy in the local governments.

ORGANIZATION

Before considering the actual organizational details of the executive, it will be well to point out just how this executive operated. The focal point was, of course, the Emperor. Policy was a matter of compromise between the various groups and factions which had access to the Emperor and which controlled the exercise of the imperial will. These factions may be divided for convenience into four general groups, but the lines of demarcation between them were vague and subject to constant change. The four groups were: the Military, heirs and representatives of the samurai--the knights of old Japan; the Aristocracy, including the members of the Imperial Family; the Zaibatsu, monopolistic financial and industrial interests founded by the wealthy merchants who had financed the Meiji Restoration; and the Bureaucracy, the professional, privileged civil servants who conducted the administration of government. Each controlled its own bailiwick, yet each supported the others and differed only in matters of degree and method. The Military operated through the Grand Imperial Headquarters, and the Aristocracy through that typical Japanese device, the family council, or through the Genro, the council of Elder Statesmen. The Zaibatsu infiltrated all top advisory agencies of government, particularly the Privy Council and the House of Peers, and the same was true of the Bureaucracy.

The following are the semi-official and extra-constitutional agencies through which all formal policy decisions were made. Only one, the Privy Council, was mentioned in the Meiji Constitution; not one was strictly defined by law.

1. Imperial Conferences (Gozen Kaigai). The Imperial Conference was solely the prerogative of the throne. Neither the Constitution nor the law authorized its existence. Attendance at these conferences varied, both in

number and in representation. The largest ones were attended by high-ranking generals and admirals, the Prime Minister, the Genro, the Lord Keeper of the Privy Seal and various Ministers of State. Finality on major problems, both executive and legislative, was reached in the presence of the Emperor. His sanction sufficed to give full authority to whatever action was decided upon.

2. Genro. The Genro may be described as advisors to the executive sovereignty of the Emperor. The original group, established during the Meiji era, consisted of six members. They advised both the Emperor and the Cabinet. Advice was at the request of the Emperor. With only one exception, this group selected all Prime Ministers after 1892. As a result this extra-constitutional body was assured almost certain control of the Cabinet. The Genro consisted entirely of Japanese aristocrats, princes, marquises, viscounts, and other titled and landed representatives of old families.

3. Senior Statesmen (Jushin). The body of senior statesmen was created considerably later than the Genro. In some respects it gradually assumed certain functions of the latter group. Senior statesmen had no fixed tour in office. Usually they included the Lord Keeper of the Privy Seal, the President of the Privy Council, and former Prime Ministers. The senior statesmen met informally, merely by virtue of their high office.

4. The Emperor's Military Board. No body of the Japanese Government controlled the war powers of the Army or Navy. Such powers were vested exclusively in the Emperor to whom the military enjoyed direct access. Two formal bodies, the Supreme War Council and the Board of Field Marshals and Fleet Admirals, formulated military policy in the name of the Emperor.

5. The Board of Field Marshals and Fleet Admirals. The Board of Marshals and Fleet Admirals was, in theory, the highest advisory body to the Throne

on Army and Navy affairs. In actual practice, however, the basic policy was formulated by the Supreme War Council.

6. Supreme War Council. The Supreme War Council was established by Imperial Ordinance No. 294 in 1903. The Council advised the Emperor on all military and naval policy and coordinated all administrative and tactical organizations. Its deliberations encompassed more than military and naval affairs and, as a result, it assumed an importance in government considerably above what might be expected of an agency so constituted. Its membership was composed exclusively of Army and Navy officers and officials of the War and Navy Ministry.

7. Privy Council. The Imperial Ordinance creating the Privy Council explained that "we deem it expedient to consult personages who have rendered significant services to the State, and to avail ourselves of their valuable advice on matters of State." The Council furnished another example of an extra-constitutional body exercising both executive and legislative functions. It was organized to be a permanent governmental institution of conservative statesmen.

The Privy Council consisted of a president, a vice-president, and twenty-five councillors, all of whom were appointed for life by the Emperor. Six specific powers were assigned to the Council by Imperial Ordinance:

a. Matters which were under its jurisdiction according to the provisions of the Imperial House Law.

b. Drafts of laws and doubtful points relating to the provisions of the Constitution and laws and ordinances supplementary thereto.

c. Proclamation of national law under Article 14 and the Imperial Ordinances to be issued under Articles 8 and 70 of the Constitution, as well

as all other Imperial Ordinances having penal provisions.

d. International treaties and agreements.

e. Matters relating to the amendment of the organization of the Privy Council and to the rules for the conduct of its business.

f. Matters especially submitted to its deliberation for its advice in addition to those above-mentioned.

Article 56 of the Meiji Constitution specifically provided for the Council: "The Privy Councillors shall, in accordance with the provisions for the organization of the Privy Council, deliberate upon important matters of state when they have been consulted by the Emperor." The president of the Council controlled its meetings and introduced matters for discussion, voted and announced decisions, appointed committees, and signed all documents for the Council. The work of the Council was performed by committees, decisions were reached by majority vote, records were kept, and opinions on various issues were sent to the Emperor and to the Prime Minister. Reports covering the activities of the Council also were released to the press in many instances.

It will be seen that the Privy Council was probably the most important and powerful single agency of the Japanese Government. No laws could be enacted, no appointments made, no rescripts issued without its approval and while access to the Emperor could be obtained without going through the Privy Council, no formal action could be undertaken without its concurrence.

8. <u>The Lord Keeper of the Privy Seal</u>. The Lord Keeper of the Privy Seal acted as the personal advisor to the Emperor on virtually all matters of importance to the state. Appointed directly by the Emperor, he customarily

made recommendations to the throne on the appointment of the Prime Minister and controlled all access to the Emperor except for top-ranking military and naval officers and a very few others.

Since all bills and petitions passed through his office for Imperial sanction, his power over the executive was unquestioned.

9. The Prime Minister. The actual administration of civil government was carried on by the Ministries, Boards and Bureaus of the Cabinet, acting under the Prime Minister. The Prime Minister was the chief link between the inner circle surrounding the Emperor and the legal government. He was ex officio a member of the Privy Council. He was not the senior member but the actual executive head of the Cabinet. While not legally responsible to the Diet, he exercised considerable actual authority over the House of Representatives and maintained the chief liaison between the Diet and the Cabinet. He was, of course, the top public figure in the government and, as such, bore the responsibility for whatever happened. With little real authority, save through the wielding of his influence and the use of his connections, charged with the onerous task of carrying out the policies determined by the powers behind the throne, constantly forced to keep peace between the many contending factions, exercising little control over the police or the bureaucracy, and none at all over the military, his seat was never an easy one nor his tenure long.

10. National Agencies not Under the Cabinet. Before considering in detail the organization of the Cabinet itself, mention should be made of three agencies of the government which, while not properly a part of the executive, played important roles in the administration of government. The Board of Audit, under Article 72 of the Meiji Constitution, was responsible for verifying and confirming the accounts of the government and reporting

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thereon to the Diet. The Board had considerable prestige and influence. The Court of Administrative Litigation existed as a special body to hear and determine complaints against administrative acts and regulations. It was the only court in which actions were heard against an official or agency of the state, and there was no appeal from its decisions. Its jurisdiction was purely statutory and extremely limited in extent.

11. The Ministry of the Imperial Household was not a ministry of the cabinet at all, but the state agency which administered the needs, managed the property and arranged the protocol and ceremonial functions of the imperial institution and the Imperial Family. It was entirely extra-constitutional, functioning under the Imperial Household Law, and one of the most powerful bodies in Japanese political and economic society.

12. The Cabinet. All formal operations of the government were performed under the supervision and control of the Cabinet, the top administrative agency of the state. The courts, directly under it, were little more than instruments of state power. The Diet--that is, the House of Representatives, was secondary to it. Only the military agencies were independent of and not under its influence. The following is a contemporary account by a Government Section observer based on an "on-the-spot" study:[1]

"In Japan the term 'Cabinet' has two distinct meanings. The first is a collective term to designate all Ministers of State and the Prime Minister. In this sense, the terms 'Cabinet' and 'Cabinet Council' are interchangeable. The second meaning designates the executive agencies of the Prime Minister, comprising special executive offices directly responsible to the Prime Minister and entirely apart from the Ministries and the Cabinet Council.

"The Cabinet Council (Kakugi) is composed of all the heads of Ministries,

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1 Appendix D-1. Study of the Cabinet.

Ministers of State without Portfolio, the Chief of the Bureau of Legislation, and the Chief Secretary of the Cabinet. The Cabinet Council must pass on the following: drafts of laws; the draft budget; treaties with foreign countries and important international agreements; imperial ordinances concerning law enforcement and administrative rules and regulations; jurisdictional disputes among the various Ministries; public petitions forwarded by the Diet or from the Emperor; disbursements not provided for in the budget; and the appointment, award of honors to and treatment of First Class Officials. The Cabinet as an executive agency of the Prime Minister likewise has important government functions. However, these functions are, generally speaking, more administrative than policy-making.

"The Cabinet and its subordinate Bureaus, Boards, Sections and Committees have powers or functions which are either not delegated to other government agencies or are general in nature, such as personnel affairs covering all higher officials.

"The Cabinet as a whole can be regarded as the principal executive organ under the Japanese system of government. However, it would be somewhat inaccurate to think of it as 'executive' in the Occidental sense of the term. According to Japanese political theory, the Emperor combines in himself all powers of government and simply delegates to the Cabinet the responsibility for the administration of law and the direction of the execution of government policy.

"In more prosaic language, the Cabinet in one of its capacities can be regarded as a general administrative 'housekeeping' unit of the government as a whole and in another sense it can be regarded as one of the supreme consultative organs for the Emperor. As a 'housekeeping' unit it is simply a government body which can be considered in the same light as a Ministry; as a consultative body it is the Cabinet Council."

13. The Cabinet Secretariat. The Cabinet Secretariat, responsible to both the Cabinet Council and the Prime Minister, was the key organ for the administration of Cabinet business. It was, however, under the direct supervision of the Chief Cabinet Secretary and the Assistant Chief Cabinet Secretary, both of whom were directly responsible to the Prime Minister.

The Chief Secretary was responsible for the proper functioning of the Cabinet Secretariat and served in a capacity equivalent to that of a Parliamentary Vice-Minister with functions similar to those of a Vice-Minister. His responsibility was upward toward the Prime Minister and not downward toward the organizations under his supervision. In other words, his principal function was that of offering advice to the Prime Minister, not of administering the Sections under him.

The Cabinet Secretariat was not a separate Cabinet organ but was comprised of component Sections, namely, General Affairs, Personnel, Accounts, and the Cabinet Councillor' Chamber. The head of each Section was directly responsible to the Chief Cabinet Secretary. Most of its functions pertained only to the Cabinet although some covered government-wide fields of activity.

II. THE MACHINERY OF GOVERNMENT

Since Occupation policies are implemented by the existing Japanese governmental machinery, the Japanese Government as of September 1945 is a logical starting point for a study of the national governmental structure. In graphic form, Chart 1 depicts that organization immediately prior to the surrender. The structure differs from that of the old peace-time organization to some extent, but in no actually important feature.

In the execution of Government Section's mission, a number of structural changes were made in the Japanese Government. Some of these were the direct result of SCAP action. In by far the greater number of cases, however, changes were initiated by the Japanese and accomplished with the advice and guidance of SCAP. Almost overnight, the Cabinet became the actual executive head of the government, the extra-constitutional advisory bodies disappeared or became ineffective, and the administration of government resumed a guise of legality and regularity that was indeed reminiscent of the nineteen-twenties. Skilled in their trade, the bureaucrats assumed the power and undertook to prepare the scene for the new act. It is indeed significant that every shift was made without benefit of statute and without the necessity of touching the Meiji Constitution.

1. <u>The Military Headquarters</u>. This consisted of the Grand Imperial Headquarters and the Supreme War Council. The Grand Imperial Headquarters was composed of the Imperial Aides-de-Camp, the Board of Field Marshals and Fleet Admirals, the Army and Navy General Staffs, and the Ministers of War and Navy--in other words, the military advisers of the Emperor. The Supreme War Council included the top military and naval figures and other influential officials and functionaries of the government. Both were dissolved with the surrender,

the military components by direct order of the Supreme Commander. All that remained was the skeleton organization required to complete demobilization and demilitarization of the Japanese armed forces.

2. The Imperial Conferences. These were never formal organizations and with the top policy decisions taken out of the hands of the Emperor and the Japanese Government, the necessity for calling them disappeared. Neither Genro nor Jushin convened after September 2, 1945 and the adoption of the new Constitution completed their extinction.

3. The Imperial Household Ministry. This went out of existence with the passage of the Imperial Household Law in April 1947, in conformity with the new constitution.

4. The Board of Audit. This agency continued to perform its normal functions but was given new importance and greatly enlarged powers under the revised Board of Audit Law enacted in March 1947. The new Law accorded the Board a status "independent of the Cabinet". Its members are appointed by the Prime Minister with the consent of the Diet but, when the two Houses disagree, the decision of the House of Representatives as expressed by a simple majority will prevail. Its powers include that of demanding disciplinary punishment of negligent public officials and the power to levy indemnities against officials responsible for losses to the state. These provisions together with the provisions in the New Finance Law protecting the Board against arbitrary budgetary restrictions by the Cabinet assure to it the independence required for effective functioning as the top auditing authority over the financial affairs of the government.

5. The Court of Administrative Litigation. This agency performed no useful function subsequent to the Surrender and went out of existence on May 3, 1947, when the new Constitution became effective.

6. The Privy Council. The Privy Council functioned normally until its abolition immediately prior to the effectuation of the new Constitution. A number of new appointments were made to it during the early months of 1946 and it performed certain useful supervisory or coordinating functions though it fell completely under the influence of the Prime Minister subsequent to the Surrender.

7. Lord Keeper of the Privy Seal. The office was abolished by the Japanese on their own initiative in November 1945, and custody of the Imperial Seal and control of official access to the Emperor transferred to the office of the Prime Minister.

8. The Prime Minister. Although no legal change occurred, the office increased immensely in influence and prestige between September 2, 1945 and May 3, 1947 when the Prime Minister became the chief executive official of the Government. With the new political freedom and the growth of political parties, almost immediately the Prime Minister became the leader of the dominant political party. As the de facto head of the government, he was the official through whom the Supreme Commander transmitted his orders. The natural, if unplanned, assumption of by far the great majority of Occupation officials that the Cabinet was the chief responsible administrative organ of government (an assumption not reflected in the basic policy directives) helped to bolster the Prime Minister's position. With the convening of the first truly popularly elected Diet in May 1946, it was inevitable that a cabinet crisis would ensue that could be resolved only through the parliamentary device of selecting the leader of the strongest party in the House of Representatives. Force of circumstances then elevated the office and transformed it into something closely approaching a responsible parliamentary premiership.

9. The Boards and Bureaus of the Cabinet. These fall into two general categories, those which handle purely administrative matters within the government and those which deal with special governmental responsibilities. Those which fall into the first group are few in number and of no major significance save for one only.

a. The Secretariat. The Cabinet Secretariat, headed by the Chief Secretary, manages the business affairs of the Cabinet. While its formal functions are purely administrative, the Chief Secretary has become a party leader second only in influence to the Prime Minister, and a powerful figure in his own right in cabinet circles.

b. Bureau of Pensions and Bureau of Statistics. The functions of both of these small bureaus are routine and administrative and they play no significant part in affairs of state.

c. Bureau of Legislation. This bureau prepared the original drafts of all bills and other documents coming before the Cabinet or the Diet. After the surrender, it took over the work of drafting Imperial Ordinances and rescripts and in fact every legal document issued by the government. Its influence, never slight, became great indeed. Early in the Occupation the officials who staffed this bureau assumed the prerogative of supervising all Diet legislation and, indeed, of superseding the Diet through the device of Cabinet Orders. The conflict broke out into the open in the summer of 1947, at which time the Diet asserted its independence and, at the same time, SCAP issued Staff Memorandum No. 81 restricting the scope and purpose of Cabinet Orders within constitutional bounds.[2] Early in 1948, by act of the Diet, the Bureau of Legislation was abolished and its functions, carefully delimited, transferred to the newly established Attorney-General's Office.

2. Appendix G: 8a-(7). "Curtailment of Scope of Japanese Cabinet Orders," Staff Memorandum No. 81, October 1, 1947.

d. Temporary Committee for the Investigation of the Legal System. This body was set up under Imperial Ordinance No. 348 of 1946 in August 1946, to undertake such revision of the various codes of law as revision of the Constitution might require. The committee served until eliminated at the time of the reorganization of the Cabinet in May 1947.

e. The Administrative Research Bureau. Established in October 1946, under Imperial Ordinance No. 490 of 1946, this Bureau was charged with the work of drafting plans for the reformation of administrative organization within the national government. Working in close consultation with the Government Section, it performed yeoman service in planning the reorganization of the internal structure of the national government and drafting the necessary bills to effectuate many of the changes that took place.

The remaining boards and bureaus performed executive functions of government. It has long been customary within the Japanese Government to establish a special board or agency to handle some problem which did not fall specifically within the jurisdiction of one of the regular ministries. These agencies operated directly under the Prime Minister and were frequently headed by a Minister of State without Portfolio. Some of them were--and are-- of top importance.

f. The Board of Decorations. This was the least important of the cabinet boards, being responsible for all official awards and decorations.

g. The Central Aviation Research Institute. This was the national aviation planning board, abolished in September 1945.

h. The Synthetic Project Board. This was the wartime cabinet planning board, also abolished in September 1945.

i. The Technological Board. This Board, established in January 1942, was responsible for technological developments, patents, standards, and the like, during the war. It was abolished in September 1945, and its Bureau

of Patents and Standards transferred to the newly organized Ministry of Commerce and Industry.

j. The Board of Investigation. Established in September 1945 for the planning and coordination of post-war programs, it replaced the Synthetic Projects Board and was in turn replaced in December 1945 By the Cabinet Councillors Room, established by Imperial Ordinance No. 645 of 1945.

k. The Investigation Council for the War of Greater East Asia, subsequently renamed The Investigation Council of the War. This board was established in January 1946 by Imperial Ordinance No. 647 of 1945 for the purpose of investigating the causes of the war and determining how a recurrence could be prevented. It was abolished in October 1946.

l. The Board of Post War Rehabilitation. Established on November 1, 1945 by Imperial Ordinance No. 621 of 1945 to plan and undertake the reconstruction of war-torn Japan, this board has become one of the most important special executive agencies of the government. Upon the dissolution of the Home Ministry in January 1948, the Land or Public Works Bureau was transferred to the Board of Reconstruction and there have been several proposals for elevating the Board to the status of a ministry.

m. The Board of Information. This agency, established under the second Konoye Cabinet in 1940 for censorship, propaganda and public opinion control purposes, lasted but a few months after the war. An effort was made in October 1945 to transform it into a peace-time organization, but the taint and vestiges of war-time control remained, and under the urging of Government Section in November and December, the Japanese Government finally disbanded it on January 1, 1946. Some of its personnel and responsibilities were transferred to the Home Ministry.

n. The Board of Communications. The past incarnations this agency has gone through would fill a volume. During the war, the Ministry of

Transportation and Communications was reorganized in connection with a complete overhauling of all mobilization and war production agencies, and the Board of Communications was set up as an independent cabinet board. Mail, telephone, telegraph and radio, as well as postal savings and insurance were managed by this board. At the close of the war it was composed of a Secretariat, seven bureaus and local offices. The bureaus were:

General Affairs - Planning, personnel & property
Business Affairs - Mail, telephone & telegraph
Engineering - Maintenance
Insurance & savings - Postal savings, etc.
Superintendence of Communications - Control & censorship
Electric Waves - Radio
Reconstruction of Electric Communication - Construction

In an effort to eliminate war-time controls and organize on a more efficient basis, the Board underwent several reorganizations. The Business Bureau and the Control Bureau were abolished in October 1945 and the Postal and Telegraph Bureaus established. By Imperial Ordinance No. 54 of 1946, a Bureau of Building and Repairs was established and the Bureau of Reconstruction revamped into a Materials Bureau.

Typical of the method of operation and raison d'etre of changes in organization undertaken by the Japanese bureaucracy is the story of the elevation of the Board to a ministry. Early in 1946, a movement to secure this result was initiated in Japanese political circles, the protagonist being the Vice-President of the Board, who was politically ambitious and hoped by this means to secure a seat in the Cabinet. Means were found to procure the support of the powerful Communications Union, probably through promise of allievation of the serious situation resulting from failure to pay living allowances. It was openly argued that the President of the Board did not have sufficient prestige as such to secure cabinet approval of payment of allowances in default or of increased allowances. Considerable

pressure was exerted and following the April general elections the newly appointed Yoshida Cabinet submitted to SCAP a formal request for permission to create a Communications Ministry. After fully considering the several arguments, General Whitney recommended to the Supreme Commander that since no primary Occupation objective was involved, the question be treated as purely a domestic one, for the Japanese themselves to settle. General MacArthur approved this recommendation and the issue was left entirely in the hands of the Cabinet. On July 1, 1946, by Imperial Ordinance No. 343 of 1946, the Board of Communications became a ministry.

o. Economic Stabilization Board. This, the most important of all the Cabinet Boards, was established in September 1946 by Imperial Ordinance No. 380 of 1946. Vested with sweeping powers, it became responsible for the formulation of overall policies and the administration of controls for the economic rehabilitation of Japan.

p. The Price Board. Another agency for controlling the economy, this Board was established in August 1946, by Imperial Ordinance No. 381 of 1946. In the same group fall the Office for Newsprint Allocation, established January 1, 1947 by Imperial Ordinance No. 516 of 1946 and the Economic Reconstruction and Reorganization Committee, established in February 1947, by Imperial Ordinance No. 41 of 1947.

q. The Board of Demobilization. This Board, established in July 1946, by Imperial Ordinance No. 314 and 315 of 1946, took the place of the First and Second Demobilization Ministries.

10. <u>The Ministries</u>. In Organization, every ministry follows much the same pattern as the Cabinet boards and agencies. Immediately below the Minister are the Vice-Minister, the Parliamentary Vice-Minister and the Parliamentary Councillor, the last two being his Diet contact and liaison men.

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The Minister's Secretariat has charge of personnel, records, pay and other administrative matters. The operating organization may be divided into Boards, Divisions, Bureaus, and Sections, in that order of subdivision, though usually the Bureau is the customary top administrative unit. Boards and Committees are frequently attached to the Ministry in a semi-autonomous status or advisory capacity. Prior to the effectuation of the new Constitution, the entire problem of organization rested with the Cabinet, which could by Imperial Ordinance (that is, with the approval of the Privy Council and by exercise of the Emperor's authority under Article 10 of the Meiji Constitution)* establish or reorganize ministries without reference to the Diet. The executive has been constantly revamped to suit the exigencies of a particular situation, without consideration of or adherence to any overall plan and usually without any considered study of the matter. Much progress has been made, however, in the field of proper planning, while the limitations imposed by the new Constitution operate as a brake on ill-considered shifts and changes.

a. The Ministry of Foreign Affairs. In August 1945 this Ministry was composed of four bureaus: Diplomatic Affairs, Wartime Economic Affairs, Treaties and Investigations. With the abolition of the Greater East Asia Ministry by an Imperial Ordinance of August 26, 1945 many of its officials and much of its responsibility were transferred to a newly created Control Bureau. As noted in the section on the Control of Japanese External Affairs the Japanese Foreign Office early in the Occupation, acting under a misconception as to the true status of the Japanese Government under the Occupation, behaved as though it were conducting international relations for a sovereign government. This misconception was soon dispelled however, and the need

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* "Article X. The Emperor determines the organization of the different branches of the administration and the salaries of all civil and military officers, and appoints and dismisses the same. Exceptions especially provided for in the present Constitution or in other laws, shall be in accordance with the respective provisions (bearing thereon)." See Appendix C: 1. The Meiji Constitution.

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to continue operations with a fullfledged Foreign Office organization disappeared. In January 1946 there was a reorganization of the Ministry, resulting in the abolition of the Diplomatic Affairs and Economic Affairs Bureaus and the establishment of a General Affairs Bureau, a Public Relations Office and a Diplomatist's Institute. It would be reasonable to assume that under a military occupation the personnel of the Foreign Ministry would be severely curtailed, and this did take place, but at the same time there was a rapid and continuous expansion in the personnel of the Central Liaison Office, an organization set up at the beginning of the Occupation to handle all liaison between General Headquarters, SCAP and the Japanese Government. Beginning with nine branch offices and six branch committees and staffed with foreign service personnel, this organization steadily expanded to the point where it closely paralleled the existing Japanese administrative structure from top to bottom, so that officials of the Central Liaison Office were on hand whenever General Headquarters, subordinate commands or units in the field came into contact with an official Japanese agency and thus were in a position to maintain surveillance over and to influence all relations between Occupation Forces and the Japanese Government. As the Occupation progressed the Occupation authorities, utilizing technical channels, came more and more to deal directly with the appropriate functional agencies of the Japanese Government. The continued presence of Central Liaison Office representatives as intermediaries, therefore, became decreasingly necessary and in some instances proved a delaying rather than expediting agency. Consequently, on February 1, 1948, the Central Liaison Office was abolished and its essential offices transferred to the responsible ministries.

b. The Ministry of Home Affairs. This Ministry represented the heart and center of the internal administrative bureaucracy and exercised the controls which reached down through Regional, Prefectural, City, Town and Village governments to the Ward offices and Neighborhood Association system to enter, influence and restrict every phase of life for every man, woman and child in Japan. The Local Affairs Bureau administered, controlled, and supervised all local government units. The Police Bureau, as primary agents of direct operation, enforced every law, rescript, regulation and administrative order. They maintained daily contact with and watch over the people. Every office and agency, other than the military, used the police when it wished to impose its will on the individual subject. The Police Bureau maintained a separate and independent chain of command and communication system running directly up from the local police box to the Home Ministry. The National Land Bureau was responsible for public works, such as road construction, water courses, flood control, city planning and rehabilitation. The Board of Shrines administered the affairs of National Shinto, maintaining the close tie-in between church and state that was so significant a feature of the pre-war Japanese State. During the war the Air-raid Defense General Headquarters, responsible for all civilian air raid defense, was also attached to the Home Ministry.

Immediately following the surrender, the Home Ministry underwent its first reorganization. The Air-raid Defense General Headquarters was abolished, and a Control Bureau added, to which later some of the functions exercised by the Greater East Asia Ministry were transferred. Police and Public Works Bureaus were enlarged. This was all done in September 1945. In October, upon issuance of SCAPIN 93, the "Civil Liberties Directive",[3] the Police Bureau was again reorganized to do away with the Special Higher Police, notorious for its

3. Appendix B: 2d. SCAPIN 93, "Removal of Restrictions on Political, Civil and Religious Liberties," October 4, 1945.

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political oppression. In December, upon the issuance of SCAPIN 448,[4] directing the dissolution of all ties between the Japanese Government and National Shinto, the Board of Shrines was abolished. In February 1946, at the suggestion of Government Section, the Control Bureau was abolished. In September 1946, by Imperial Ordinance 370 of 1946, the investigation Bureau was established, primarily for the purpose of keeping record of clubs, societies and organizations subject to or which might become subject to the provisions of SCAPIN 548, banning all militaristic, ultra-nationalistic and similar societies and like organizations.[5]

c. The Ministries of War and Navy. Pursuant to instructions from this General Headquarters, the ministries were reduced to the First and Second Demobilization Ministries on December 1, 1945 (Imperial Ordinances Nos. 674, 675, 680 & 686). On July 1, 1946, they became the Board of Demobilization under the Prime Minister, with First and Second Demobilization Bureaus. This was accomplished by Imperial Ordinances Nos. 314 & 315 of 1946. At the same time, prefectural agencies were transferred to the Prefectural governments under the name of Local Assistance Bureaus.

d. The Ministry of Finance. This Ministry administered the regular financial affairs of the government. Military finances and all business relating to the Imperial Household were outside the scope of its operations. The Mint and Monopoly Bureaus - the latter controlling the tobacco, salt and camphor monopolies - were also under the jurisdiction of the Finance Ministry. The regular bureaus consisted of Revenues, National Savings, Financing, Foreign Currencies, Accounts, and Printing. Regional, Prefectural and local offices extended its controls down close to the lowest level. It has undergone only the reorganization necessary to put it on a peace footing. In October 1945,

4. Appendix B : 3a. SCAPIN 448, "Abolition of Governmental Sponsorship, Support, Perpetuation, Control and Dissemination of State Shinto," December 15, 1945.
5. Appendix B : 5a. SCAPIN 548, January 4, 1946.

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a Board of State Property was established to assume control over former military and naval properties. By Imperial Ordinance No. 661 of 1945, a Price Board was established on January 1, 1946 to administer price controls. In January 1946, by Imperial Ordinance No. 69, there was a further reorganization which established four bureaus - Accounts, Revenues, Financial and Banks - revised the State Property Division, abolished the Bureau of Foreign Currencies, and left untouched the Bureau of Printing, the Price Board, the Mint and the Board of Monopolies. To meet the increased and exacting requirements of SCAP's Economic and Scientific Section and of the demands of the Occupation Forces, an extensive internal reorganization was undertaken in May, at which time a Special Financial Division was established. The pressure of growing inflation was beginning to make itself felt in widespread demands by government workers for more pay. As a consequence, the Salaries and Allowances Bureau was established in June by Imperial Ordinance No. 340 of 1946. On August 12, 1946, the Price Board was established directly under the Prime Minister by Imperial Ordinance No. 381, and the Price Board in the Finance Ministry abolished. With the establishment of the Economic Stabilization Board in September, there were additional changes, as many of the responsibilities having to do with SCAP directives were transferred to that new body. Further reorganization was undertaken in April 1947, when a State Property Bureau was substituted for the Board of State Property, the Special Financial Division was abolished and an Administration Bureau established.

All of these many shifts and changes were caused by three pressures. The first of these was the serious economic depression and heavy inflation that followed the war and increased immensely the burden of financial management and administration. The fact that the Finance Ministry had become deeply

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involved during the war in almost every phase of economic activity, and continued to remain involved further aggravated its difficulties. Furthermore, the bureaucrats in the Finance Ministry were loth to restrict their activities or to surrender a single one of their control measures. Far from reducing the Finance Ministry they actually enlarged it to make room for the many officials who wanted to maintain close liaison between private and public financial agencies. This constituted the second of the pressures. The third was, of course, the steadily increasing demands of the Occupation and the requirements of Occupation directives for the accounting for and preservation of property of United Nations Nationals and many another problem arising out of the war.

e. The Ministry of Justice. This Ministry controlled the courts, the procurators and the prisons. It had three bureaus, Civil Affairs, handling courts, lawyers, bankruptcy, arbitration, the civil codes, Criminal Affairs, handling the prosecution and trial of criminal cases, thought control cases and economic crimes prosecutions, and the Penal Administration Bureau, handling prisons, paroles, and juvenile affairs. Under the central organization was the Supreme Court, seven Courts of Appeal, forty-seven district courts, and a large number of local courts. Procurators' Offices were attached to each court. The Ministry of Justice underwent no substantial change until the new Constitution went into effect, save that the Thoughts Section of the Criminal Affairs Bureau and the Fourth Section of the Penal Administration Bureau, responsible for "Thought criminals", were abolished in October 1945, pursuant to the "Civil Liberties" Directive.

f. The Ministry of Welfare. This Ministry appears to have devoted itself largely to mobilizing the civilian population for the war effort and to the care of veterans. In August 1945, it had three bureaus, Health

Promotion, Health, and Labor Service, two Divisions, Mobilization and Guidance, and a Relief Board for Veterans having two bureaus. In September and October 1945, the Labor Service Bureau, Mobilization and Guidance Divisions were abolished and five new bureaus established, Insurance, Social Affairs, Temporary Infectious Diseases, Labor and Labor Administration. These changes were due not only to the necessity for demobilization and demilitarization, but to strong pressure from SCAP's Public Health and Welfare Section for a complete reorientation of welfare responsibilities. The Medical Treatment Bureau was established in February 1946. The Health Promotion Bureau was abolished in March 1946, as was the Temporary Infectious Disease Bureau. Meanwhile, following the abolition of the Relief Board for Veterans in February (Imperial Ordinance No. 75 of 1946), a Repatriates Relief Board was established in March, under Imperial Ordinance No. 130 of 1946. This was made necessary by SCAP's insistence that ex-service personnel should receive no special or separate treatment. By Imperial Ordinance No. 517 of 1946, the Medical Treatment Bureau became the Medical Bureau, the Health Bureau became the Public Health Bureau and a Prevention Bureau was established. In the meantime, the pressure for extension of social service activities increased steadily and in the spring of 1947, the Labor Bureau became the Employment Security Bureau, and a Womens' and Childrens' Bureau was established.

g. The Ministry of Education. Exercising less actual control but fully as much influence as the all powerful Home Ministry, the Ministry of Education was an important agency for the training and indoctrination of all Japanese, both youths and adults. It controlled all schools, public and private, much scientific research, all religion, other than National Shinto, and the liberal arts. Its Bureaus were Learning and Science, Student Mobilization,

Technical Education and Education. In September 1945, the Student Mobilization Bureau became the Bureau of Physical Training. In October 1945, the National Education Bureau became the School Education Bureau, the Bureau of Text Books was established, the Technical Education Bureau was abolished and a Social Education Bureau established. An Acceptability Inquiry Board was established in May 1946, to review the appointment of teachers. A Research Bureau was established in January 1947.

h. The Ministry of Agriculture and Forestry. Of all the ministries, this one has probably undergone the least reorganization. Of its original ten bureaus - General Affairs, Agricultural Administration. Forestry, Fishery, Fibre, Life Commodity, Material and Resources, Labor, Horse Administration and Staple Food Administration, three, General Affairs, Material and Resources and Labor have been abolished, the Horse Administration has become the Live-stock Bureau, and two have been added: Land Development and Statistics and Surveys.

i. The Ministry of Commerce and Industry replaced the Ministry of Munitions in September 1945. The Ministry of Munitions had been organized in 1943 to mobilize the war effort. It was given almost complete control over industrial production in Japan, with extensive powers over transportation and labor matters. With the termination of the war, it was abolished, to be replaced by the Ministry of Commerce and Industry with nine bureaus: General Affairs, Commercial Affairs, Industrial Affairs, Fibre (renamed Textile), Mining, Guel, Electric Power, Adjustment and Patents and Standards (The Adjustment Division controlled the aircraft industry). The General Affairs Bureau was abolished in January 1946, only to be reestablished in November of that year. In December 1945, the Board of Trade and the Coal Board were

established. In November 1946 the ministry underwent a major reorganization, under Imperial Ordinance No. 530. Commercial Affairs, Industrial Affairs and Adjustment Bureaus were abolished and the following bureaus established: Chemistry, Machinery, Industrial Reconstruction and Reparations Enforcement. All of the changes were undertaken for the purpose of rendering the agency more efficient in undertaking the economic reconstruction of Japan and in carrying out SCAP directives.

j. The Ministry of Transportation. Of all the ministries, Transportation and Communications have been under the most strain, due to the fact that through operation of all communication and transportation facilities and the employment of hundred of thousands of workers they have been subjected to the heaviest pressure from organized labor and at the same time have offered the most promising objects of political maneuvering. One contest that has been carried on incessantly, with no solution yet reached, is the important one of whether seamen's affairs should be managed by Transportation or Labor, and whether Seamen's Insurance should be under Welfare, Labor or Transportation. The Ministry of Transportation controlled railway transportation (the government owning and operating most of the railways), freight and express, road transportation, civil aviation, Maritime transportation (operation of merchant ships had been taken over on a "bare-boat" charter basis by the Civil Merchant Marine Committee during the war), seamen's affairs, stevedoring and all similar or related activities. Before the war, the Ministry embraced both Transportation and Communications. It consisted of a Planning Bureau, a Civil Aviation Board, a Railway Board, a General Maritime Board and a Motor Car Board. The Civil Aviation Board was abolished in November 1945, by order of SCAP[3]. The Planning Board was abolished in

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[3] ~~SCAPIN 307~~

January 1946, under Imperial Ordinance No. 67. Under the Railway Board were six bureaus: General Affairs, Traffic and Operations, Construction and Maintenance, Personnel and Supplies, Labor Service and Materials. Labor Service was abolished in January 1946, and Operations and Electric Bureaus established (Imperial Ordinance No. 67 of 1946). The General Maritime Board was composed of a Bureau of General Affairs (abolished in January 1946, by Imperial Ordinance No. 67), a Maritime Transportation Bureau, a Shipbuilding Bureau, a Seamen's Bureau and a Bureau of Harbors. The Motor Car Board consisted of two bureaus, the Traffic and Supervision Bureau and the Personnel and Supplies Bureau. It was renamed the Land Transportation Control Bureau in January 1946 under Imperial Ordinance No. 67 and reorganized to include three divisions: Motor Cars, Control and Maintenance.*

k. The Ministry of Communications. This Ministry was established, as has already been pointed out, on July 1, 1946, by authority of Imperial Ordinance No. 343. As established, it contained eight bureaus: General Affairs, Postal, Electric (Telegraph & Telephone), Engineering, Electric Waves (Radio), Savings and Insurance, Materials and Building & Repairs. Two more were added in April 1947, by Imperial Ordinance No. 143 and 144 - Labor Bureau and Post Office Life Insurance Bureau.

l. The Munitions Ministry. See Ministry of Commerce & Industry, supra.

m. The Ministry of Greater East Asia. Established in 1943 to coordinate and guide the development of the Greater East Asia Co-Prosperity Sphere, this Ministry was responsible for the systematic exploitation of

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* It is to be noted that roads, canals and rivers come under the Public Works Bureau of the Home Ministry.

the occupied areas. All of the overseas companies and all of the occupation governments were under its control. The Ministry was dissolved by the Cabinet Order of August 26, 1945. It had five Bureaus: General Affairs, Southern Areas, Trade, China Affairs, and Manchukuo Affairs.[b]

11. Local Extensions of the Central Executive

a. Regional Administrative Councils. In July 1943 Regional Administrative Councils were established for the purpose of imposing closer supervision and control of local government and coordinating civil administration of government in furtherance of the war effort. As originally organized, each Region or District, as it was sometimes called, (Chiho) embraced a number of prefectures, except for Hokkaido, which coincided with Hokkaido Prefecture. In each Region, Bureaus of Home Affairs, Taxes, Monopolies, Agriculture & Forestry, Maritime Affairs, Welfare, Youths, Communications and Railways were established. Later Post Office, Customs and Mines were added. The chiefs of these bureaus, with the governors and the chiefs of police of the prefectures included, governed the region. A president was appointed by the Prime Minister, and a secretariat was provided.

In June 1945 the Regional Administrative Councils were abolished and Regional Superintendencies General were established. These were organized "with the exclusive object of meeting the exigencies of the war situation. They were given the form and complexion of a centralized government, with the object of administering local affairs with authoritarian thoroughness".* The real purpose of the change was to provide for the anticipated invasion

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[b] See Appendix B ; 3. Greater East Asia Ministry. (Report of Conference, November 22, 1945).

* Statement submitted by Japanese Government, October 1945.

emergency, when the central government might become disorganized. The number was reduced from nine to eight and each region coincided with a military district. The military counterpart of the president was the military district commander.

In September 1945, the Japanese Government requested permission to dissolve these Superintendencies General and establish in their place Regional Administrative Affairs Bureaus, with Regional Administrative Bureaus of Commerce and Industry attached. There was some feeling that SCAP should direct the Japanese Government to dissolve the regional organization completely and not replace it, but it was finally decided to permit the Regional Administrative Affairs Bureaus on the theory that they might prove useful agencies for control, should need arise. Approval was granted by SCAPIN 222. The Administrative Affairs Bureaus as organized proved very similar to the original Regional Administrative Councils. They remained in existence and operation until late in 1947 when, in conjunction with the enactment of the new local autonomy law, they were abolished.

b. Ministries Establish Local Offices. In addition to the regular prefectural and municipal agencies of government, operated under the supervision of the Home Ministry, and the police system, every ministry and other national agency had prefectural and local offices of its own. Before the establishment of the regional councils, the channels of command were direct. The Regional Administrative Council served to coordinate and exercise general supervision, although each ministry dealt directly with its own regional bureau and in some cases matters were handled outside of the regional organizations. As it became clear that local autonomy in local matters would become a fact and the national government would be deprived of its tight controls over prefectures and municipalities, the national government proceeded to vastly expand the web of local offices directly answerable to the

national ministries and in most cases duplicating operations conducted by the local governments. So serious did the situation become and so widespread the abuses - in some cases agencies of the national government attempted to take over offices in the prefectural buildings and oust local officials - that SCAP was finally forced to step in. The whole subject of separation of areas of jurisdiction between national and local public entities has proved a most difficult one, and it has been necessary again and again to emphasize the nature of the constitutional provisions on this subject (Chapter 8), which make it clear that it is for the Diet by law to establish the area and limits of the respective jurisdictions of administration.

12. Changes Wrought by the New Constitution. Heretofore, the organization of the national government has been considered down to May 3, 1947, the date upon which the new Constitution became effective. This document radically altered the situation.[7] As has already been pointed out, it contained specific guarantees of local autonomy and left it for the Diet to determine where the dividing line should be placed. But far more than that, in place of the old predominant executive, it established three equal and largely independent branches of government, executive, legislative and judicial. It provided a basis of law for government and made all officials answerable in law for the exercise of their authority. The Diet was made the "highest organ of state power" and the "sole law-making organ". The Cabinet became the executive head of the State but answerable directly to the Diet and limited in its authority to the execution of the laws enacted by the Diet under the constitution. It had no independent authority. The Judiciary was freed from all executive discipline, held office for good behavior and could not have its compensation reduced during office. The Supreme Court was expressly given the right to pass on the constitutionality of all laws and executive acts, and was granted the

7. Appendix C: 21. The Constitution of Japan.

whole rule-making power, so that it could administer its own affairs and the business of the courts without executive interference. No officer of government and no public agency had any authority to act beyond or outside the scope of statutory law.

Up until May 3, 1947, governmental reorganization was undertaken by the Cabinet in consultation with the Privy Council by means of Imperial Ordinance and without Diet concurrence or approval. Such statutes as did exist contained the vaguest statements of purpose and set no limits on or definitions of the exercise of power or the extent of responsibility of any office or agency. This was now changed. In a series of laws prepared in consultation with Government Section during the spring of 1947, the organization of the major agencies of government was established, to become effective on May 3. After that time, all major changes had to be accomplished by Diet action, and all minor changes only by virtue of the authority conferred by the Diet. The major changes that have taken place will now be discussed.

13. Creation of a Labor Ministry. Noteworthy among the specific steps undertaken by the Japanese to secure a complete reformation of their governmental structure to conform to the requirements of the Potsdam Declaration and to implement basic rights guaranteed by the new constitution, was the establishment on September 1, 1947, of a Labor Ministry. The move had early been proposed, not only by the many Japanese who felt entirely dissatisfied with the work on labor problems being performed by the conservative and bureaucratic Welfare Ministry, but also by many officials in SCAP. Throughout 1946 SCAP held consultations with the Ministry of Welfare and other Japanese agencies to assist the Japanese Government in preparing for the establishment of such a Ministry. In the meantime, however, neither the Shidehara nor the Yoshida Cabinets made any serious move toward the actual establishment, although the Social Democratic party and indeed all other

liberal and radical groups were insistent in their demands that something be done.

In January 1947, when the Yoshida Cabinet almost fell, the Prime Minister undertook to persuade the Social Democrats to join a coalition cabinet. By way of inducement, he proposed the formation of a Labor Ministry and offered the post to the Social Democrats. At the same time, having sought the advice of the Supreme Commander and secured his approval for its establishment, he sent his private secretary to Government Section with a draft "Organization of Ministry of Labor", marked <u>confidential</u> by the Japanese and apparently intended to be issued as an Imperial Ordinance. The "draft" bore no relationship to the plans prepared by the Ministry of Welfare in consultation with SCAP and contained only the vaguest sort of outline.

Government Section rejected this attempt to slip through such a major reorganization without consultation with the agencies and officials most interested and without any attempt at constructive planning. It was quite apparent that the Yoshida Cabinet was interested in the move only as a political maneuver. Following the rejection, officials of the Cabinet Board of Legislation, the Welfare Ministry and the Central Liaison Office were instructed that "it was not the intention of the Supreme Commander to impose any particular form of organization upon (the Japanese Government), they were free to work it out according to their own ideas, but that nothing short of an effective labor agency in government would be acceptable."

As soon as it became apparent that SCAP would not accept anything short of a constructive plan, and the Cabinet crisis having been surmounted in the meantime, Yoshida's enthusiasm for a Labor Ministry waned. Nevertheless,

consultations between SCAP and Japanese officials on the working level continued throughout the spring, and plans were gradually evolved for the establishment of a satisfactory and effective Labor Ministry.

The Yoshida cabinet fell as a result of the April general election which returned the Social Democrats with a plurality in the House of Representatives. Shortly thereafter, the Katayama Coalition Cabinet was formed and without any suggestion from SCAP, a Minister-Designate for Labor was included. Immediately after taking office, Mr. Yonekubo, who was to be Japan's first Labor Minister, called on SCAP to present the new Cabinet's draft of a law establishing the Ministry. This bill, representing the fruits of nearly a year of work, was approved by both SCAP and the Cabinet in July and immediately introduced into the Diet. The Diet made only one change, deleting a provision that gave to the Cabinet the authority to establish new bureaus without Diet approval, and enacted the bill into law.

As organized, the new Ministry of Labor contained five bureaus: Labor Administration, Labor Standards, Women's and Minors', Employment Security and Labor Statistics and Research. At the same time, the Labor Administrative, Employment Security, and Labor Standards Bureaus in the Welfare Ministry were abolished. Some conflicts arose. There was strong pressure for the retention of control of all forms of social insurance in the Ministry of Welfare, but it was finally agreed that while administration of the insurance aspects would be handled there, all other matters connected with Workmen's Compensation and Employment Security would fall within the jurisdiction of the Labor Ministry. The conflict in jurisdiction between Welfare and Labor on Women and Children was resolved by giving to Labor authority only over employed women and children, but making it responsible for coordinating all other activities in this field.

14. <u>The Dissolution of the Home Ministry</u>. The Law Abolishing the Home Ministry enacted by the Diet on December 8, provided for abolition of that once powerful agency of the Japanese Government on December 31, 1947.

The date will be a significant one in Japanese history because it marked the end of an institution which had long been the Japanese Government's central policy and control agency for the oppression of the Japanese people. An agency similar to the Home Ministry existed as early as 649 A.D., but this official organization was established in 1868 with the advent of the Meiji Restoration, and almost immediately became the most important ministry of government. For a period of seventy-five years, because of its broad powers and influence, the Home Ministry held a peculiarly important place in Japanese life. The Police Bureau alone controlled every phase of Japanese domestic economy and dominated the daily life of every family in Japan. The Home Ministry, moreover, by its power to appoint and to remove prefectural governors, to discipline mayors and headmen, and to allot or to withhold funds, dictated to each small community in Japan exactly what should or should not be done. Its army of inspectors, local agents and secret investigators held each local government and subdidision wholly at the mercy of the all-powerful Home Minister in Tokyo.

Much of this strict control was stripped away by provisions of the New Constitution ensuring autonomy to local entities and granting to each town and prefecture the right to select and to dismiss their own officials. More of the centralized dictatorship was taken away by various reform laws passed since the surrender.

Much, however, remained to be done. Laws and practices dating back prior to the Meiji Restoration had delegated to the Home Ministry authority not

legally conferred but exercised through custom and tradition. Even more important was the complexity of the extra-legal powers, the general prestige and the traditional deference that had accrued to the Home Minister and to his organization. Next to the War and Navy Ministers, the Home Minister represented to the average Japanese the very essence of Imperial authority.

The abjectness of Japanese in approaching even the humblest Japanese policeman and the haughty arrogance of the latter in dealing with a common citizen was noted by every observant pre-war visitor to Japan. This attitude had been typical of the privileged positions of the Home Ministry in Japanese affairs.

Home Ministry authority and effectiveness sprang not only from laws and practices whereby that ministry dictated virtually every detail of Japanese daily life but arose also from the fact that Home Ministry personnel was extraordinarily well trained and thoroughly disciplined. The Home Ministry clique has been well-known in Japan. This clique operated not only as an administrative unit but also as a politically conscious group of career men who welded themselves together into a compact and, for control purposes, efficient organization.

For many years the Home Ministry had been the special preserve of a coterie of leaders who, in the past, owed allegiance to the late Prime Minister Takashi Hara, organizer and administrator of the Tokyo city political machine familiarly known as "Japan's Tammany Hall." More recently, especially since the assassination of Prime Minister Hara in 1921, this faction had been under the control of Ichiro Hatoyama who, prior to his purge in May 1947, was the leader of the Liberal party.

Not one of the Home Ministers from the time of Reijiro Wakatsuki in 1926 until the surrender period made any move to use the undoubted powers of the Home Ministry for democratic or for progressive purposes. Instead, even during the period when Wakatsuki himself was in power, the Home Ministry sponsored such repressive legislation as the Peace Preservation Law.

The inner group of Home Ministry officials, installed by Hara and continuing in power for many years thereafter, had close associations with public works contractors, terroristic organizations, black marketeers and operators in commercialized vice and crime. Ordinary office-holders of the Home Ministry did not, of course, participate in the contract awards nor did they grant the protection afforded such illicit operations, nor, as a general rule did the Home Minister himself direct such activities nor profit by them even if he were aware of the abuses practiced in his name, but the same sinister forces which controlled the activities of the officials and of the Home Minister reaped commissions, extorted bribes and manipulated public activities.

The close personal and political association governing the activities of the Home Office were reinforced by the growth within the Home Ministry, as within all other branches of the Japanese Government, of a highly specialized and closely knit controlling group. Officialism and rigidity of procedure was furthered by special practices inherent in the Home Ministry organization so that to many Japanese the term bureaucracy meant pre-eminently the Home Ministry. Particularly after the surrender, those who sought to effect much-needed democratic reforms in the Japanese Government system found themselves resolutely opposed by an entrenched bureaucracy. The bureaucracy was composed of a professional class interested quite as much in the promotion of their

own special interests as in the furtherance of national affairs, and it had its heart and nerve center in the Home Ministry.

The Japanese Home Ministry bureaucrat, as a member of a special privileged class, has been intensively narrow-minded. Carefully selected for his work, he has been educated for his career in certain schools which in the past enjoyed a virtual monopoly in training public officials. He then passed an examination set by bureaucrats, after which his personal qualifications for entering public service were scrutinized by other bureaucrats. Once accepted in the fraternity, his contacts, socially and officially, were almost exclusively with the official class. This close professional inbreeding was intensified not only by education but by experience. Trained not in public administration but in routine procedure, the Japanese official had little specific preparation for the post he was to fill and little sympathy with those associates who, outside the narrow circle of government service might possess special knowledge or special skill.

Technically the Home Ministry official acted with extreme care not to overstep his proper sphere of authority nor to disobey any single rule or regulation. Each document drafted in accordance with accepted and prescribed patterns, followed a set and tedious channel. This caused innumerable delays, especially when as many as twenty seals and signatures were required to approve even a comparatively unimportant matter. His promotion to a better office, as well as his retention of whatever post he held, depended upon his ability to follow precedent and to pay proper deference to the hierarchy in control.

Few, if any, bureaucrats, either within the Home Ministry or in any government department, understood that government should be conducted as an

instrument of public service. Nurtured on the concepts that the government is all important, that the authority of the state is unchallengable and that the government alone, and the Home Ministry in particular, knows what is good for the people, the Home Office petty autocrat looked upon himself as the inviolable agent of an infallible Emperor.

Under the new Constitution with the government subservient to the wishes of the people this anachronistic concept was no longer tenable. Instead of being masters of the people, public officials became their servants. This, however, was a concept that the Home Ministry officials proved not only unwilling but unable to comprehend. Realising that their continued monopoly on experience, knowledge and tradition was at stake, they worked to sabotage so far as they could or dared the revolutionary changes required under the new charter. Attempts by outright action, or more subtly by evasion and delay to undermine the transfer of power from the national government to local entities, and to retain within the framework of the new Constitution as much as possible of the spirit of the outworn Meiji document marked the efforts of the Home Ministry to retain its former domination over the lives and liberties of the people. Confronted by this continual obstructionism the first Cabinet under the new Constitution planned the destruction of the Home Ministry. On June 27, 1947, the Cabinet recommended the abolition of the Home Ministry, the transfer of many of its functions to local bodies, and the distribution of all other responsibilities among various governmental agencies. A bill for this purpose was introduced in the Diet on November 21, passed by the House of Representatives on 28 November and approved by the House of Councillors on December 8.

The Law Abolishing the Home Ministry complements the transfer of powers effected by other recent statutes enacted during the First National Diet.

The Local Autonomy Law took the control of local affairs from the hands of the central government by granting local autonomy to the prefectural, city, town and village governments. Decentralization of the police and the establishment of an Attorney General's Office transferred other important functions and responsibilities from the Home Ministry into more appropriate hands, while the Home Ministry's Public Works Bureau was amalgamated with the War Damage Rehabilitation Board to form a Construction Board directly under the Prime Minister. The National Election Management Commission, also under the Prime Minister, will handle the administration of all elections, formerly a Home Ministry function. A Local Finance Committee was created by a law enacted by the Diet on December 1. Operating at Cabinet level, this committee is charged with the responsibility of drafting a plan of local taxation which will be used as the basis for future legislation.

The remaining functions of the dissolved Home Ministry will be assumed by a provisional Domestic Affairs Bureau, with a secretariat made up of three members, a State Minister, one appointed from among representatives of local bodies, and one designated from among Diet members. This committee will exercise such powers as will remain under the jurisdiction of the Local Affairs Bureau of the Home Ministry after the transfer of Home Ministry powers to other agencies.

On January 1, 1948, this temporary Domestic Affairs Bureau assumed jurisdiction over the police system during the 90-day transitional period, as provided by the new Police Reorganization Law. On March 7, 1948, the end of the 90-day transitional period, the National Public Safety Commission and the Local Public Safety Commissions assumed all police responsibilities.

On December 26 the government announced the appointment of two Democratic Party members of the government to key administrative posts created to take over certain functions of the dissolved Home Ministry: Kozaemon Kimura, incumbent Home Minister, to become President of the Construction Board, and State Minister Giichi Takeda to become Chairman of the Local Finance Committee.

The Cabinet session on the same day also decided to appoint Keiso Hayashi, chief of the Local Government Bureau of the Home Ministry, as Director of the provisional Domestic Affairs Bureau. A simple ten-minute ceremony wound up the seventy-five year history of the Home Ministry. At noon on December 27, 1,400 officials of the Ministry heard farewell addresses by Minister Kimura and Vice-Minister Mikio Suzuki.

15. <u>The Abolition of the Ministry of Justice</u>. While perhaps not as far reaching in its effect, a change comparable with the dissolution of the Home Ministry was the abolition of the Ministry of Justice and the establishment of an Attorney-General's Office, in the spring of 1948. The move was the logical step following separation of the judiciary from the executive under the new Constitution. Under the old system the Ministry of Justice had been the agency for enforcing State Policy in the courts and maintaining added controls over the people. Under the new Constitution its existence was no longer justified. At the same time, the need had arisen for an agency to supply legal advice to the government on one hand and to assure protection of the individual against the government on the other. The new Office of the Attorney-General created to fill this need included the old Board of Legislation and a newly established Bureau of Civil Liberties.

16. Reorganization of Cabinet Offices. The inauguration of the new Constitution accompanied by a marked increase in the legal authority of the Prime Minister and the Cabinet, necessitated a Cabinet reorganization which was undertaken in May 1947. Cabinet Orders issued that month established a new subdivision, the Office of the Prime Minister, with a secretariat. Assigned to this office were the Pension Bureau, Statistics Bureau, Board of Reconstruction (subsequently established as the Construction Board), the Demobilization Board, the Prisoners of War Information Board, the Economic Stabilization Board, the Price Board, the Decorations Bureau, the Administrative Investigation Department, the Paper Allocation Board and the Imperial Household Office. Outside of the Prime Minister's Office were the Cabinet Secretariat proper and the Bureau of Legislation. By this reorganization the conduct of internal cabinet business was separated from the administration of the several boards and bureaus directly answerable to the Prime Minister.

17. Demilitarization and Demobilization. Predominant among the responsibilities of the Supreme Commander under the Potsdam Declaration and implementing policy directives was the complete demilitarization of the Japanese Government. At the same time the disarmament and demobilization of the Japanese military machine including the repatriation of over five million soldiers, sailors and civilians from overseas had to be carried out promptly and without danger to the Occupation forces.[8] Responsibility for demobilization and repatriation was assigned to G-2 and G-3, GHQ; Eighth Army and the Commander, Naval Forces Far East, while the Government Section assumed responsibility for the demilitarization of the civil government and for the removal of militarists and ultra-nationalists from public office.

Under the initial plan the remnants of the Japanese military and naval machine, stripped to their bare essentials, were used to discharge the various

8. Appendix B: 1 d, Demobilization of Japanese Armed Forces, SCAPIN 137, October 14, 1945

responsibilities connected with demilitarization and demobilization. On December 1, 1945, with the approval of SCAP, the War and Navy Ministries were reduced to the First and Second Demobilization Ministries. These were combined to form a single Demobilization Board under the Prime Minister on July 1, 1946.[9] By this time there were indications that the professional military men in the demobilization agencies were making a determined effort to retain their organization. Large numbers of career army and navy officers were retained on the ground that they were still needed for the work of demobilization. These officers had received temporary exemption from the terms of the Purge Directive ordering the removal of all career commissioned personnel from public service. Despite the reorganization of the demobilization ministries into a cabinet board, the accompanying reduction in overall size and the transfer of Local Assistance Bureaus to prefectural control, the organization remained top-heavy with high-ranking officers and showed a persistent tendency to hold on to more ex-military and naval personnel than the size or nature of the remaining demobilization duties appeared to warrant. Consequently, on the recommendation of Government Section, the Supreme Commander directed the Commander, Naval Forces Far East and the Eighth Army to undertake a complete investigation of the demobilization machinery. As a result of this investigation the Government Section required the Japanese Government to plan for the complete integration of all demobilization machinery into the regular civil agencies of administration and for the progressive removal of ex-military and naval personnel subject to the Purge Directive.

Following conferences with the Japanese and coordination with the other

9. Appendix 13: 1e. Establishment of Demobilization Board, SCAPIN 993, June 1, 1946 including "Outlines for Establishment of Demobilization Board."

interested staff sections of GHQ and the field units SCAPIN 1791[10] was issued on October 4, 1947. This directive ordered the Japanese Government to dissolve the Demobilization Board by January 1, 1948, transfer on that date minesweeping and ship maintenance functions add agencies to the Transportation Ministry, transfer remaining demobilization functions and agencies to the Welfare Ministry and prepare a final plan for final and complete integration of all demilitarization and demobilization agencies. This plan, presented by the Japanese Government on May 4, 1948 and approved by SCAP, became effective on the 31st of that month. It provided for discharge of ex-military and ex-naval personnel at the rate of 5 percent a month thereafter and transferred all personnel, pay and administration responsibilities to ministerial control. By its terms demobilization and repatriation were transferred to the Welfare Ministry's Board of Repatriation, while minesweeping and ship custody were placed under the General Maritime Board of the Transportation Ministry. The plan also provided for the immediate reduction in size and responsibility of the individual agencies and for their complete deactivation when the work was finished.

18. The Imperial Household. The Imperial Household, that extra-constitutional ministry which regulated the affairs and managed the property of the Imperial Family has gradually decreased in size and importance since the beginning of the Occupation. A stronghold of reaction and feudalism in the past, it had broad economic, political and social ramifications. Owning agricultural and forest lands all over Japan, businesses and business properties, large blocks of securities in key enterprises (a substantial interest for instance in the Yokohama Specie Bank), the Imperial Household Ministry was in

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[10] SCAP Memorandum for the Japanese Government, AG 391.1 (4 Oct. 47) GS, Subject: Reorganization of Demobilization Machinery

10. Appendix B: 1 f. SCAPIN 1791, "Reorganization of Demobilization Machinery," SCAPIN 1791, October 4, 1947.

a position to exercise important influence upon Japanese economy. Since all official life centered around the Emperor, its political influence was tremendous. The tenure of its officials was secure, since in no way was this agency answerable to the government or the law.

The Imperial Household Ministry managed all of the private and business affairs of the Imperial Family and the Imperial Princes, regulated court protocol and precedence, controlled court ceremony and in general administered the affairs of the Imperial Institution. The Minister ranked next to the Lord Keeper of the Privy Seal and the officials were in general the cream of the Buresucracy and the ranking members of the aristocracy.

Despite the gradual reduction in the scope of its activities and the divesting of the properties under its control, the only substantial reorganization the Imperial Household has undergone is its reduction from the status of a ministry to that of an office under the Prime Minister. The number of officials employed remained substantially the same until comparatively recently, when the Ashida Cabinet undertook to replace the top personnel and to reduce it to a size consistent with its functions. With the adoption of the new Constitution and the removal of the Emperor from active participation in Government, the sole governmental responsibility of the Imperial Household became that of liaison between Government and Emperor. Under the new Constitution, all Imperial property became public property. By Diet law, certain real estate was assigned for Imperial use, and the Imperial Household undertook the management of this, and continued to administer the private affairs of the Imperial Family. The size of the Family was itself reduced under the Imperial Household Family Law to the Empress Dowager, the Emperor, the Empress, the Crown Prince, the other prince and princesses, and the

three brothers of the Emperor, Takamatsu, Mikasa and Chichibu and their families.

On June 28, 1948 the Diet approved a new National Property Law which will accomplish a reclassification of public property now devoted to Imperial use, and leave to the Imperial Family only the palaces and villas they themselves use. The Shosoin at Nara, the Katsura Villa and Shugakuin Gardens and other properties at Kyoto exclusive of the Omiya Palace, and similar properties will become national parks or national treasurers, maintained and preserved for the public benefit.

19. Summary. The attached charts show in graphic form the important changes which took place in the national executive from September 1945 to June 1948. The foregoing pages have attempted little more than straight recording of the facts, since it is still too early for an accurate analysis to be made. There are two reasons for this. In the first place, under the Japanese Constitution, so great a degree of flexibility existed in the legal structure of government, and there were so few fixed points of reference, that major changes could be accomplished overnight. Ministries of state, for example, could be created or abolished at will. Complete authority rested with the primary agents or the exercise of the Imperial command - the Privy Council and the Cabinet. No law in the Western sense of that word stood in the way of action desired by the leader of the group then in power. There was no one to give consent, no portion of the population, large or small, to whom the nation's rulers were in any way responsible under law. The primary determining factor was the wishes of the oligarchy, call it military, economic or bureaucratic, the successors of the daimyo, samurai and court retainers of Shogun and Emperor, a small and tightly interwoven group which constituted the ruling power in Japan. While the effectiveness of this oligarchy was greatly

weakened after the surrender, its influence survived and the flexibility continued, with the result that the old system still prevailed until the new Constitution came into effect.

Furthermore, no proper plan or planning board existed which had the authority to control governmental reorganization, and the Diet was not strong enough nor did it have the understanding or ability to cope with the situation. It was not until the convening of the First National Diet under the new Constitution that a change became observable. After that time, steady, if slow progress was made toward statutory and budgetary control of the organization and operation of the governmental structure, while at the same time both of the coalition prime ministers, Katayama and Ashida, insisted upon planned and integrated reorganization.

Between the surrender and June 1948 a basic change took place which profoundly affected all processes of government: organizational, legislative, operational and judicial. In September 1945 the organizational process was accomplished by authority of the Emperor and the sole official body that held the determining power was the Privy Council. Laws, rescripts, ordinances and appointments passed through and required the approval of this body. Every official of government down to the lowest stratum owed his appointment to the Emperor, processed through the Lord Keeper of the Privy Seal and the Privy Council. The so-called Meiji Constitution gave an external gloss - an appearance of regularity - to the structure, but agencies of government were established, reorganized or abolished, governmental authority was conferred or withdrawn, the limits of jurisdiction were defined, and public officials were appointed, empowered and dismissed at the will and whim of those exercising the Imperial authority, and without regard to constitutional or other statutory requirements. Today, the new Constitution

establishes a basic code of authority, vesting sovereignty in the people, establishing in clear and simple terms the shape and nature of the structure of the state and defining how and when and by whom the powers of government may be exercised.

In September 1945 the legislative process, by which national policy is determined, was accomplished in secret conclave by those persons and groups immediately surrounding and having access to the Emperor, without legal obligation to consult with or any legal or political accountability to the people or their representatives. They operated without restraint or restriction of any sort, being unofficial, extra-constitutional and for the most part hidden. There were no standards, no rules, no references. Today, one body and only one exercises the primary function of policy determination, the Cabinet. It is directed by a Prime Minister appointed by the Diet and a majority of its members must be members of that body. Cabinet members must appear before the Diet when called upon, to "give answers or explanations". Thus, there is complete accountability. Furthermore, there is an actual check in that funds must be provided by the Diet. Finally, the Diet, as the highest organ of state power, may by law establish governmental policy which cannot be overridden.

In September 1945, the operational process of government - implementation of policy decisions and execution of the laws - was conducted by a complex and highly centralized organization arranged in the form of a descending hierarchy of agencies. In this hierarchy each agency was responsible only to the one immediately superior to it and was guided in the conduct of its affairs not by rules or standards established by law, but by the will or whim of the superior office, by custom and tradition and by the dominating influence of family, clan or business connection. Very often the governmental officials did not deal

directly with the people and assumed no direct responsibility. They dealt with groups - oyabun, tonari gumi, associations - each of which administered and directed the affairs of those within its assumed jurisdiction. Leaving out of consideration the military machine, the only agency of government which dealt directly with the people was the police organization, the basic operating agency of the government.

Today, the new Constitution has established a clear separation of powers so that execution of the laws is the responsibility of the Cabinet. Furthermore, all public officials are made the servants of and answerable to the individual citizen. Local autonomy is assured under specific constitutional guarantees. Through any number of statutes drafted with the advice and assistance of SCAP and enacted by the Diet legislative standards define grants of power, delimit jurisdiction, provide for hearings and appeals and place upon the various agencies the clear legal obligation to discharge specific duties. Each board, office and bureau must now deal directly with the individuals who may be concerned. There is no insulating layer protecting them from accountability. The citizen has his rights and the means to enforce them. He also has the opportunity to know whether the law is being administered in the manner he directed, whether the public funds to which he has contributed are being expended according to law.

Heretofore, the courts were used as instruments of state policy; they were not an independent forum for the settlement of disputes arising between the government and the individual and between individuals. Not only was the individual unable to appeal to the courts for protection, but he had no rights under the law which gave him protection. The supremacy of the state was absolute.

Today, an independent judiciary has been established in which the whole judicial power has been vested, and the individual has been secured in the enjoyment of certain absolute rights and liberties. The government is established as the servant of and accountable to the people and to this end every individual has an absolute right of appeal, where his interests are affected, to the courts to determine by what authority the act was done and to redress or indemnification if he has been wronged, or injunction or reinstatement if no authority exists.