

010.1 CONSTITUTION, JAPAN
SWNCC

010.1
Const

THE JOINT CHIEFS OF STAFF
WASHINGTON 25, D. C.

RESTRICTED

SM-7857
24 March 1947

MEMORANDUM FOR THE SECRETARY, STATE-WAR-NAVY
COORDINATING COMMITTEE:

Subject: Directive on Provisions for
the Review of a New Japanese
Constitution.

References: a. SWN-5252.
b. WAR 94614.
c. SM-7848.

Enclosure: CM-IN-4320 (24 Mar 47) Copy No. 5.

The enclosed message from the Supreme Commander
for the Allied Powers in reply to WAR 94614 is forwarded
for information.

MAR 25 1947

3704



STATE WAR & NAVY COORDINATING
COMMITTEE

M. M. Stephens
M. M. STEPHENS,
Captain, U.S. Navy,
Asst. Executive Secretary.

SWNCC SECRETARIAT

State Member	-----
Army Member	-----
Navy Member	-----
Ass't State Member	-----
Ass't Army Member	-----
Ass't Navy Member	-----
Executive Secretary	-----
Ass't Exec. Secretary	-----
State Adm. Assistant	-----
Army Adm. Assistant	-----
Navy Adm. Assistant	-----
File	-----

RESTRICTED

WAR DEPARTMENT
CLASSIFIED MESSAGE CENTER
INCOMING CLASSIFIED MESSAGE

RESTRICTED TOT

PARAPHRASE NOT REQUIRED; HANDLE AS RESTRICTED CORRESPONDENCE
PER PARAS 511 and 60a (4) AR 380-5

From: CINCFE Tokyo Japan sgd MacArthur.

To: War Department for JCS

Nr: C 51143

24 March 1947

Reurad WAR 94614 March 22. Receipt acknowledged.

End

ACTION: JCS

CM IN 4320

(24 Mar 47)

DTG 241005Z

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COPY NO.

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THE JOINT CHIEFS OF STAFF
WASHINGTON 25, D. C.

RESTRICTED

SM-7848
22 March 1947

010.1
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MEMORANDUM FOR THE STATE-WAR-NAVY COORDINATING COMMITTEE:

Subject: Message regarding the release to the press outside Japan by the Far Eastern Commission of its policy decision on provisions for the review of a new Japanese constitution.

Reference: SWN-5252.

Pursuant to the request of the State-War-Navy Coordinating Committee in SWN-5252, the Joint Chiefs of Staff on 21 March 1947 dispatched the substance of paragraph 3 and the message in paragraph 2 thereof to the Supreme Commander for the Allied Powers as WAR 94614, copy of which is enclosed for information.

MAR 21 1947

For the Joint Chiefs of Staff:



3896

M. M. Stephens
M. M. STEPHENS,
Captain, U.S. Navy,
Asst. Executive Secretary.

SWNCC SECRETARIAT

Enclosure.

WAR 94614 (March 47) - Copy No. 47.

- State Member
- Army Member
- Navy Member
- Ass't State Member
- Ass't Army Member
- Ass't Navy Member
- Executive Secretary
- Ass't Exec. Secretary
- State Adm. Assistant
- Army Adm. Assistant
- Navy Adm. Assistant
- File

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WAR DEPARTMENT
CLASSIFIED MESSAGE CENTER
OUTGOING CLASSIFIED MESSAGE

RESTRICTED

PARAPHRASE NOT REQUIRED. HANDLE AS RESTRICTED
CORRESPONDENCE PER PARAS 511 and 60a (4), AR 380-5.

Joint Chiefs of Staff
Capt. M.M. Stephens, USN
W.D. Ext. 77500

21 March 1947

Supreme Commander for the Allied Powers Tokyo Japan

Nr: WAR 94614

To MacArthur from the Joint Chiefs of Staff.

The following, received from the State, War and Navy
Departments, is forwarded for your information:

"The Far Eastern Commission at its 50th meeting on
March 20, 1947 adopted, with the New Zealand representative
abstaining from voting, the following motion:

'That the Far Eastern Commission release to the
press outside Japan its policy decision on provisions
for the review of a new Japanese constitution (FEC-
031/41, transmitted to the Supreme Commander for the
Allied Powers on October 28, 1946 as serial number 62).'"

In voting for the adoption of the motion the United
States representative stated that the decision would be
released 48 hours after notification of receipt by you,
therefore acknowledgment of receipt is requested. End of
message.

End.

ORIGINATOR: JCS

DISTRIBUTION: AAF, Adm Leahy, ASW, CAD, ID, Adm Nimitz,
P&O, CSA

CM OUT 94614 (March 47) DTG 220043Z hab

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COPY NO.

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VFF:bjh

SWN-5252
21 March 1947

MEMORANDUM FOR THE SECRETARY, JOINT CHIEFS OF STAFF:

Subject: Message regarding the release to the press outside Japan by the Far Eastern Commission of its policy decision on Provisions for the Review of a New Japanese Constitution.

The Far Eastern Commission at its fiftieth meeting on March 20, 1947 adopted, with the New Zealand Representative abstaining from voting, the following motion:

"That the Far Eastern Commission release to the press outside Japan its policy decision on Provisions for the Review of a New Japanese Constitution (FEC-031/41, transmitted to the Supreme Commander for the Allied Powers on October 28, 1946 as Serial No. 62)."

It is requested that this decision of the Far Eastern Commission be forwarded by the Joint Chiefs of Staff to the Supreme Commander for the Allied Powers.

It is also requested that the Supreme Commander for the Allied Powers be informed that in voting for the adoption of this motion, the United States Representative stated that the release would take place forty-eight hours after receipt of notification from the Supreme Commander for the Allied Powers of his receipt of the Far Eastern Commission's decision to this effect. Therefore, acknowledgment of the receipt of this message is requested.

For the State-War-Navy Coordinating Committee:

H. W. ROSELEY,
Secretary

COPY FOR SWNCC FILE

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5252

ADDRESS OFFICIAL COMMUNICATIONS TO
THE SECRETARY OF STATE
WASHINGTON, D. C.



DEPARTMENT OF STATE
WASHINGTON

[Handwritten signature]

In reply refer to
NA

MAR 20 1947

RESTRICTED

MEMORANDUM FOR THE SECRETARY, SWNCC

Subject: Message regarding the release to the press outside Japan by the Far Eastern Commission of its policy decision on Provisions for the Review of a New Japanese Constitution.

The Far Eastern Commission at its fiftieth meeting on March 20, 1947 adopted, with the New Zealand Representative abstaining from voting, the following motion:

"That the Far Eastern Commission release to the press outside Japan its policy decision on Provisions for the Review of a New Japanese Constitution (FEC-031/41, transmitted to the Supreme Commander for the Allied Powers on October 28, 1946 as Serial No. 62)."

It is requested that this decision of the Far Eastern Commission be forwarded to the Joint Chiefs of Staff for transmission to the Supreme Commander for the Allied Powers.

It is also requested that the Supreme Commander for the Allied Powers be informed that in voting for the adoption of this motion, the United States Representative stated that the release would take place forty-eight hours after receipt of notification from the Supreme Commander for the Allied Powers of his receipt of the Far Eastern Commission's decision to this effect. Therefore, acknowledgment of the receipt of this message is requested.

MAR 21 1947



[Handwritten signature]
J. H. Hilldring
Assistant Secretary



3679

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VFF:aj

SWN-4986
17 December 1946

MEMORANDUM FOR THE SECRETARY, JOINT CHIEFS OF STAFF:

**Subject: Draft Directive Regarding Issuance of
the Policy Decision on Review of the
Japanese Constitution.**

There is enclosed a draft directive prepared on the basis of a policy decision unanimously approved at the 37th meeting of the Far Eastern Commission on December 12, 1946, under the provisions of paragraph II, A, 1, of its terms of reference.

It is requested that the enclosed directive be forwarded by the Joint Chiefs of Staff to General MacArthur for his guidance in accordance with paragraph III, 1, of the terms of reference of the Far Eastern Commission. It is assumed that if the Joint Chiefs of Staff have any question regarding the draft directive they will refer the matter to the State Department for clarification before transmitting a directive on the subject.

For the State-War-Navy Coordinating Committee:

H. W. MOSELEY,
Secretary.

Enclosure:
Draft Directive

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COPY FOR SWNCC FILE

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ENCLOSURE

DRAFT DIRECTIVE REGARDING ISSUANCE OF THE
POLICY DECISION ON REVIEW
OF THE JAPANESE CONSTITUTION

The following directive, prepared by the State Department to implement the policy adopted by the Far Eastern Commission on 6 December 1946 under the provisions of Paragraph II, A, 1, of its terms of reference, has been received from the State, War and Navy Departments for transmission to you for your guidance in accordance with Paragraph III, 1, of those terms of reference:

"1. The terms of the policy decision contained in FEC-034/41 (Provisions for the Review of a New Japanese Constitution, approved on 17 October 1946 and forwarded to the Supreme Commander for the Allied Powers on 26 October 1946, Serial #62) should be formally communicated to the Government of Japan.

"2. The time and manner of public announcement of this policy decision are still being considered by the Far Eastern Commission."

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ADDRESS OFFICIAL COMMUNICATIONS TO
THE SECRETARY OF STATE
WASHINGTON, D. C.



DEPARTMENT OF STATE
WASHINGTON

CONFIDENTIAL

DEC 16 1946

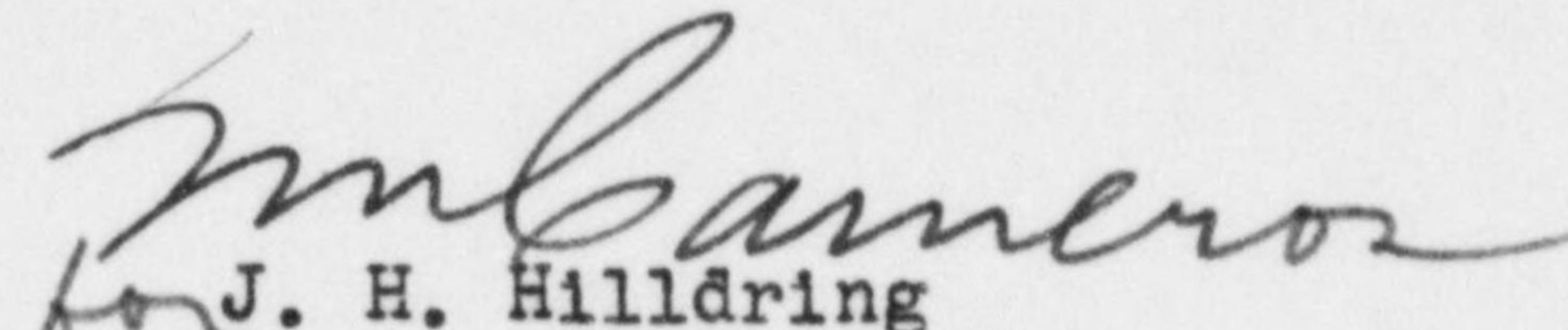
In reply refer to
JA

MEMORANDUM FOR THE SECRETARY, SWNCC

Subject: Draft Directive Regarding Issuance of the
Policy Decision on Review of the Japanese
Constitution.

There is enclosed a draft directive prepared on the basis of a policy decision unanimously approved at the 37th meeting of the Far Eastern Commission on December 12, 1946, under the provisions of paragraph II, A, 1, of its terms of reference.

It is requested that the enclosed directive be forwarded to the Joint Chiefs of Staff for transmission to General MacArthur for his guidance in accordance with paragraph III, I, of the terms of reference of the Far Eastern Commission. It is assumed that if the Joint Chiefs of Staff have any question regarding the draft directive they will refer the matter to the State Department for clarification before transmitting a directive on the subject.


for J. H. Hilldring
Assistant Secretary

Enclosure:

Draft Directive



E N C L O S U R E

DRAFT DIRECTIVE REGARDING ISSUANCE OF THE
POLICY DECISION ON REVIEW
OF THE JAPANESE CONSTITUTION

The following directive, prepared by the State Department to implement the policy adopted by the Far Eastern Commission on 6 December 1946 under the provisions of Paragraph II, A, 1, of its terms of reference, has been received from the State, War and Navy Departments for transmission to you for your guidance in accordance with Paragraph III, 1, of those terms of reference:

"1. The terms of the policy decision contained in FEC-031/41 (Provisions for the Review of a New Japanese Constitution, approved on 17 October 1946 and forwarded to the Supreme Commander for the Allied Powers on 28 October 1946, Serial #62) should be formally communicated to the Government of Japan.

"2. The time and manner of public announcement of this policy decision are still being considered by the Far Eastern Commission."

THE JOINT CHIEFS OF STAFF
WASHINGTON 25, D. C.

CONFIDENTIAL

SM-7255
19 December 1946


MEMORANDUM FOR THE STATE-WAR-NAVY COORDINATING COMMITTEE:

Subject: Draft Directive Regarding Issuance
of the Policy Decision on Review
of the Japanese Constitution.

Reference: SWN-4986.

On 18 December 1946 the Joint Chiefs of Staff,
perceiving no objection from a military point of view,
dispatched the message contained in the Enclosure to
SWN-4986 to the Supreme Commander for the Allied Powers
as WAR 87951, copy of which is enclosed for information.

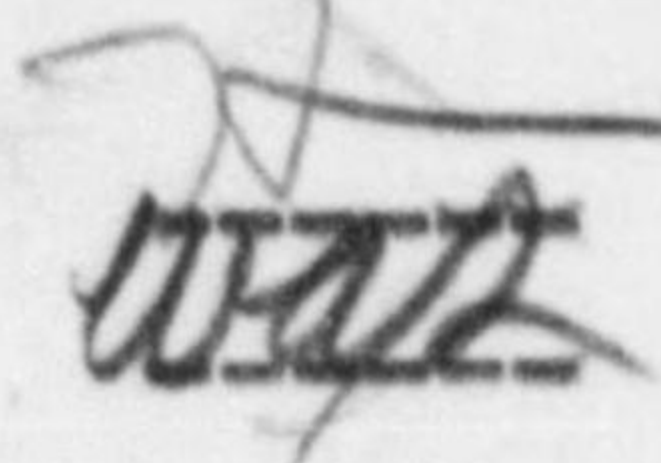
For the Joint Chiefs of Staff:


A. J. McFARLAND,
Colonel, U. S. Army,
Secretary.

Enclosure.
WAR 87951 (December 1946) - Copy No. 47.

SWNCC SECRETARIAT

- State Member
- Army Member
- Navy Member
- Ass't State Member
- Ass't Army Member
- Ass't Navy Member
- Executive Secretary
- Ass't Exec. Secretary
- State Adm. Assistant
- Army Adm. Assistant
- Navy Adm. Assistant
- File



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CONFIDENTIAL

PARAPHRASE NOT REQUIRED. HANDLE AS CONFIDENTIAL CORRESPONDENCE
PER PARAS 51i and 60a (4) AR 380-5

Joint Chiefs of Staff
Capt W G Lalor USN 77500

18 December 1946

Supreme Commander for the Allied Powers, Tokyo, Japan

Nr: WAR 87951

To MacArthur from the Joint Chiefs of Staff.

The following directive, prepared by the State Department to implement the policy adopted by the Far Eastern Commission on 6 December 1946 under the provisions of paragraph II, A, 1, of its terms of reference, has been received from the State, War and Navy Departments for transmission to you for your guidance in accordance with Paragraph III, 1, of those terms of reference:

"DIRECTIVE REGARDING ISSUANCE OF THE POLICY DECISION
ON REVIEW OF THE JAPANESE CONSTITUTION."

1. The terms of the policy decision contained in FEC-034/41 (provisions for the review of a new Japanese Constitution, approved on 17 October 1946 and forwarded to the Supreme Commander for the Allied Powers on 28 October 1946, serial number 62) should be formally communicated to the Government of Japan.

2. The time and manner of public announcement of this policy decision are still being considered by the Far Eastern Commission."

End

ORIGINATOR: JCS
DISTRIBUTION: AAF, Adm Leahy, ASW, CAD, ID, Adm Nimitz,
P&O, CSA

CM OUT 87951

(Dec 46)

DTG 181701Z mec

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COPY NO.

47

THE MAKING OF AN EXACT COPY OF THIS MESSAGE IS FORBIDDEN

*Special Meeting
4 December 1946*

3. PUBLICITY FOR REVIEW BY THE FAR EASTERN COMMISSION OF
A NEW JAPANESE CONSTITUTION: STATEMENT BY THE UNITED
STATES GOVERNMENT

After some discussion, the Representatives agreed that
the problem should be discussed further by the members of SWNCC.

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VFF:bjh

SWN-4886
7 November 1946

MEMORANDUM FOR THE SECRETARY OF STATE:
(Attention: Mr. J. K. Penfield - FK)

Subject: Consultation on Directive Regarding
Provisions for Review of a New
Japanese Constitution

At the request of the Joint Chiefs of Staff,
the attached message from the Supreme Commander for
the Allied Powers, correcting JM IN 129 previously
furnished by SWN-4873, is forwarded to the State Depart-
ment for transmittal to the Chairman of the Far Eastern
Commission.

For the State-War-Navy Coordinating Committee:

H. W. MOSELEY,
Secretary

Enclosure

CONFIDENTIAL

COPY FOR SWNCC FILE

THE JOINT CHIEFS OF STAFF
WASHINGTON 25, D. C.

SM-7047
7 November 1946

CONFIDENTIAL

MEMORANDUM FOR THE STATE-WAR-NAVY COORDINATING COMMITTEE:

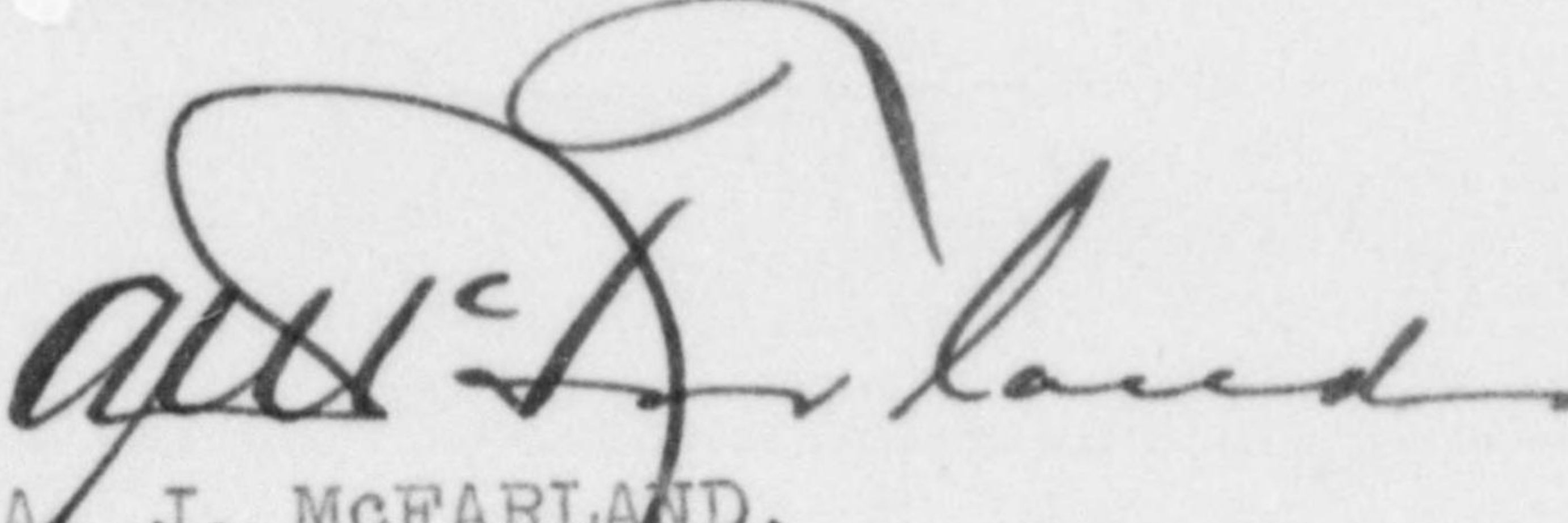
Subject: Consultation on Directive
Regarding Provisions for Review
of a New Japanese Constitution.

References: a. SM-7003.
b. CM-IN 129 (1 Nov 46).

Enclosure: CM-IN 1097 (6 Nov 46) Copy No. 47.

CM-IN 1097, from the Supreme Commander for the Allied Powers correcting CM-IN 129 furnished by SM-7003, is forwarded for the State Department for transmittal to the chairman of the Far Eastern Commission.

For the Joint Chiefs of Staff:


A. J. MCFARLAND,
Colonel, U. S. Army,
Secretary.

3313
NOV 7 1946



CONFIDENTIAL

CONFIDENTIAL

VFF:bjh

SWN-4873
4 November 1946

MEMORANDUM FOR THE SECRETARY OF STATE:
(Attention: Mr. J. K. Penfield - FE)

Subject: Consultation on Directive Regarding
Provisions for Review of a New
Japanese Constitution

At the request of the Joint Chiefs of Staff, the
attached message from the Supreme Commander for the
Allied Powers is forwarded to the State Department for
transmittal to the Chairman of the Far Eastern
Commission.

For the State-War-Navy Coordinating Committee:

R. W. MOSELEY,
Secretary

Enclosure

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COPY FOR SWNCC FILE

ADDRESS OFFICIAL COMMUNICATIONS TO
THE SECRETARY OF STATE
WASHINGTON 25, D. C.

DEPARTMENT OF STATE
WASHINGTON

NOV 5 1946



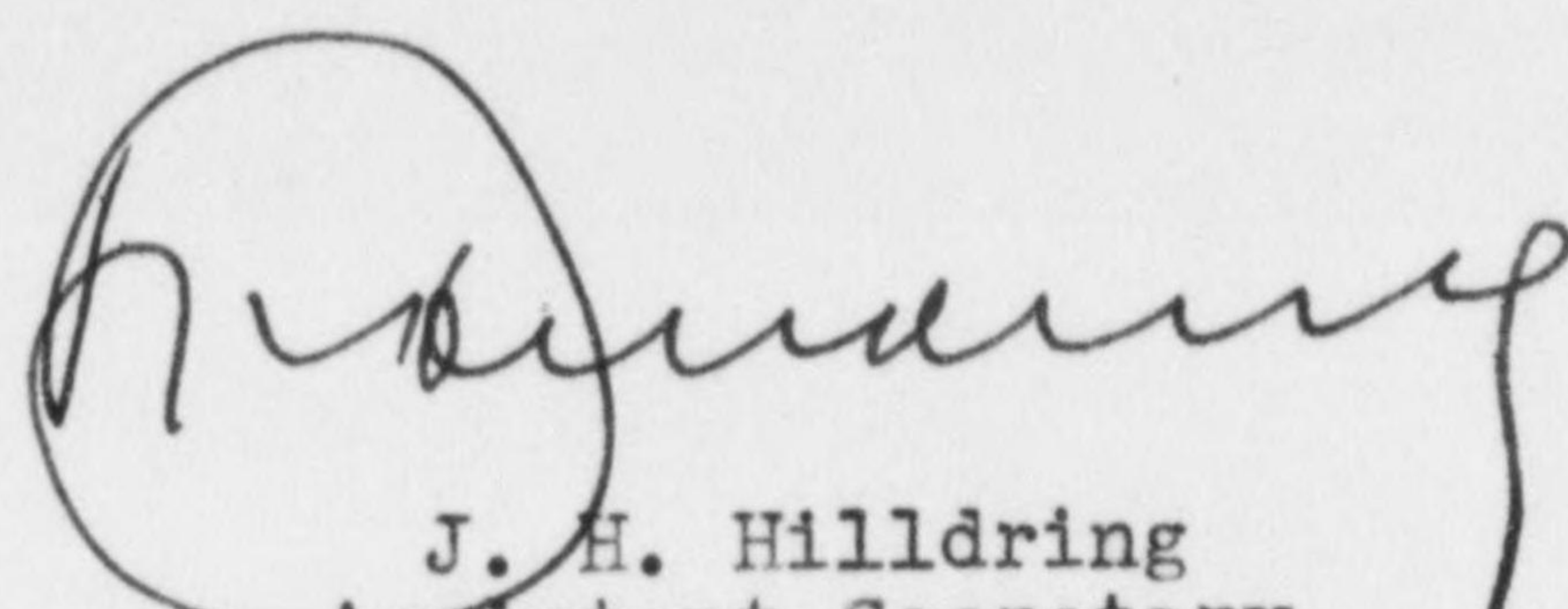
November 4, 1946 3309

CONFIDENTIAL

MEMORANDUM FOR THE SECRETARY, SWNCC

Subject: SWN-4854, October 25, 1946 Concerning
Transmission of Messages Dated
October 10 and 18 for Transmittal to
the Far Eastern Commission.

In reference to the transmittal of a copy of a message to SCAP dated October 10 which contains comment by the Department of State and the Chairman of FEC on a directive regarding further policies relating to a new Japanese Constitution, as this message was of an explanatory nature and was drafted at the instigation of the Department of State and the United States Member of FEC and was not requested by FEC, it is considered unwise to transmit copies of this message to the FEC. Consequently, copy No. 1 of the message to SCAP dated October 10 and forwarded in your memorandum, SWN-4854, of October 25, 1946 is returned herewith. Copies No. 2 and 3 have been retained for the Department of State files.


J. H. Hilldring
Assistant Secretary

Enclosure:

Copy No. 1 of message
to SCAP.

"B"

4873

THE JOINT CHIEFS OF STAFF
WASHINGTON 25, D. C.

SM-7003
1 November 1946

CONFIDENTIAL

MEMORANDUM FOR THE STATE-WAR-NAVY COORDINATING COMMITTEE:

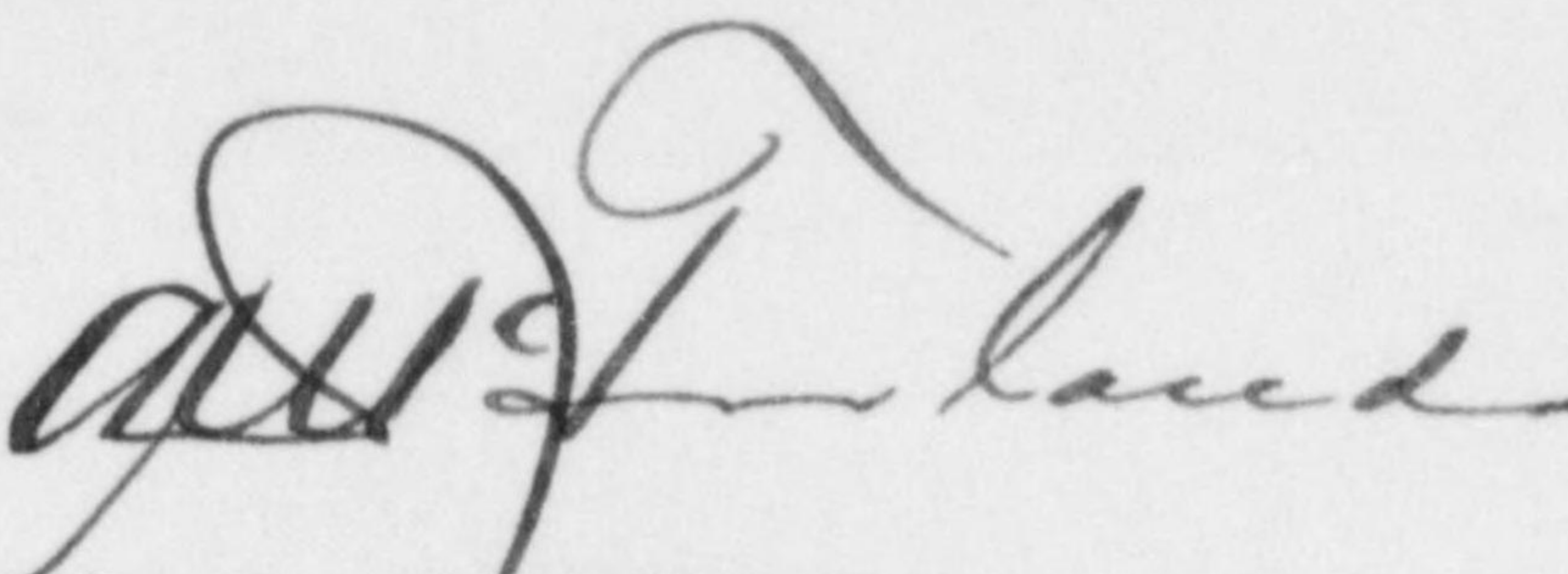
Subject: Consultation on Directive Regarding Provisions for Review of a New Japanese Constitution.

References: a SWN-4855.
b WAR 84214 (29 Oct 46).

Enclosure: CM-IN-129 (1 Nov 46) Copy No. 44.

CM-IN-129 (1 Nov 46) from the Supreme Commander for the Allied Powers in reply to WAR 84214 is forwarded for the State Department for transmittal to the Chairman of the Far Eastern Commission.

For the Joint Chiefs of Staff:


A. J. McFARLAND,
Colonel, U. S. Army, NOV 1 1946
Secretary.



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CONFIDENTIAL



"B" M



THE JOINT CHIEFS OF STAFF
WASHINGTON 25, D. C.

CONFIDENTIAL

SM-6970
30 October 1946

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MEMORANDUM FOR THE STATE-WAR-NAVY COORDINATING COMMITTEE:

Subject: Communication from the Chairman of the Far Eastern Commission for Transmittal to the Supreme Commander for the Allied Powers.

Reference: SWN-4855.

Pursuant to the request contained in SWN-4855, the Joint Chiefs of Staff on 29 October 1946 dispatched the message in the enclosure thereto to the Supreme Commander for the Allied Powers as WAR 84214, copy of which is enclosed for information.

SWNCC SECRETARIAT

- State Member
- Army Member
- Navy Member
- Ass't State Member
- Ass't Army Member
- Ass't Navy Member
- Executive Secretary
- Ass't Exec. Secretary
- State Adm. Assistant
- Army Adm. Assistant
- Navy Adm. Assistant
- File

For the Joint Chiefs of Staff:

A. J. McFarland
A. J. McFARLAND,
Colonel, U. S. Army,
Secretary.

Enclosure.
WAR 84214 (October 1946) - Copy No. 47.



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CONFIDENTIAL

PARAPHRASE NOT REQUIRED. HANDLE AS CONFIDENTIAL CORRESPONDENCE
PER PARAS 51 (1) and 60 (a). AR 380-5.

Joint Chiefs of Staff
Capt. W. G. Lalor, U.S.N.,
W.D. Ext. 77500.

29 October 1946

SCAP, Tokyo, Japan.

Number: WAR 84214

To MacArthur from the Joint Chiefs of Staff.

The following communication by the Chairman of the Far Eastern Commission was received from the State, War, and Navy Departments for transmittal to you.

COMMUNICATION BEGINS:

"Before the policy decision regarding provisions for the review of a new Japanese constitution (directive forwarded to the Supreme Commander for the Allied Powers as WAR 84180, October 28, 1946) was formally approved by the Far Eastern Commission on October 17, 1946, Ambassador Makin, Australian representative on the Far Eastern Commission, stated with reference to the announcement of the policy decision that the Australian view was that the announcement should take place immediately following its adoption. However, Mr. Makin agreed that the Supreme Commander should be consulted on the question of publication. Sir Carl Berendsen, the New Zealand representative, expressed general agreement with the views of Mr. Makin.

"The U.S. Member made the formal statement to the effect that the U.S. was prepared to agree to the policy decision 'provided that the Commission at some subsequent meeting and after obtaining the view of the Supreme Commander will consider a time and manner of issuance of the policy decision embodied in the paper.'

CM-OUT-84214 (Oct 46)

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CONFIDENTIAL

Number: WAR 84214

Page - 2.

"General McCoy moved and Mr. Makin seconded the motion that the Commission adopt the policy decision regarding provisions for the review of a new Japanese constitution with the understanding that the chairman be authorized to consult with the Supreme Commander to determine his views regarding the time and manner of issuance of the policy decision and that after the Supreme Commander's views had been received the Commission would reconsider the time and manner of such issuance. The motion was carried unanimously.

"In accordance with the above, the views of the Supreme Commander are requested as to the time and manner of the issuance of the policy decision regarding provisions for the review of a new Japanese constitution."

END OF COMMUNICATION.

End.

ORIGINATOR: JCS

DISTRIBUTION: S/W (Mr Rusk)
AAF
Admiral Leahy
ASW
CAD
ID
Admiral Nimitz
P & O
CSA

CM-OUT-84214 (Oct 46)

DTG: 291729Z

Jjf

CONFIDENTIAL

COPY NO.

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HWK:do

SWN-4856
28 October 1946

MEMORANDUM FOR THE SECRETARY, JOINT CHIEFS OF STAFF:

Subject: Draft Directive Regarding Provisions
for the Review of a New Japanese
Constitution.

There is enclosed a draft directive prepared on the basis of a policy decision unanimously approved at the 30th Meeting of the Far Eastern Commission on October 17, 1946, under the provisions of paragraph II, A, 1, of its Terms of Reference. It will be noted that this policy decision is quoted verbatim in the enclosed draft directive.

It is requested that the Joint Chiefs of Staff transmit the enclosed directive to General MacArthur for his guidance in accordance with paragraph III, 1, of the Terms of Reference of the Far Eastern Commission. It is assumed that if the Joint Chiefs of Staff have any question regarding the draft directive they will refer the matter to the State Department for clarification before transmitting a directive on the subject.

For the State-War-Navy Coordinating Committee:

H. W. MOSELEY,
Secretary

Enclosure

COPY FOR SWNCC FILE

COPY

DRAFT DIRECTIVE REGARDING PROVISIONS
FOR THE REVIEW OF A NEW JAPANESE CONSTITUTION

The following directive, prepared by the State Department to implement the policy adopted by the Far Eastern Commission on 17 October 1946 under the provisions of Paragraph II, A, 1, of its Terms of Reference, has been received from the State, War, and Navy Departments for transmission to you for your guidance in accordance with Paragraph III, 1, of those Terms of Reference:

"1. The new constitution, which will in due season after promulgation become the legal successor of the present constitution with such changes as have been made or may be made as a result of consideration and policy decision of the Far Eastern Commission, shall be subject to further review by the Diet and the Far Eastern Commission in terms of the following paragraph.

"2. In order that the Japanese people may have an opportunity, after the new constitution goes into effect, to reconsider it in the light of the experience of its working, and in order that the Far Eastern Commission may satisfy itself that the constitution fulfills the terms of the Potsdam Declaration and other controlling documents, the Commission decides as a matter of policy that, not sooner than one year and not later than two years after it goes into effect, the situation with respect to the new constitution should be reviewed by the Diet. Without prejudice to the continuing jurisdiction of the Far Eastern Commission at any time, the Commission shall also review the constitution within this same period. The Far Eastern Commission, in determining whether the Japanese constitution is an expression of the free will of the Japanese people, may require a referendum or some other appropriate procedure for ascertaining Japanese opinion with respect to the constitution."

CONFIDENTIAL

HWK:do

SWN-4855
26 October 1946

MEMORANDUM FOR THE SECRETARY, JOINT CHIEFS OF STAFF:

Subject: Communication from the Chairman of the Far Eastern Commission for Transmittal to the Supreme Commander for the Allied Powers.

The Far Eastern Commission, acting under paragraph VI of its Terms of Reference which provides that the Commission "may make such arrangements through the Chairman as may be practicable for consultation with the Supreme Commander for the Allied Powers" requested its Chairman on October 17, 1946, to consult with the Supreme Commander for the Allied Powers regarding the time and manner of issuance of the policy decision on the provisions for the Review of a New Japanese Constitution.

There is enclosed a draft consultative message on this subject.

It is requested that the Joint Chiefs of Staff transmit the enclosed message to the Supreme Commander for the Allied Powers.

For the State-War-Navy Coordinating Committee:

H. W. NOSELEY,
Secretary

Enclosure

CONFIDENTIAL

COPY FOR SWHCC FILE

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ENCLOSUREREQUEST FOR CONSULTATION WITH THE SUPREME COMMANDER
FOR THE ALLIED POWERS REGARDING PROVISIONS FOR THE
REVIEW OF A NEW JAPANESE CONSTITUTION

* * * *

Before the policy decision regarding Provisions for the Review of a New Japanese Constitution (directive forwarded to the Supreme Commander for the Allied Powers as War ___) was formally approved by the Far Eastern Commission on October 17, 1946, Ambassador Makin, Australian Representative on the Far Eastern Commission, stated with reference to the announcement of the policy decision that the Australian view was that the announcement should take place immediately following its adoption. However, Mr. Makin agreed that the Supreme Commander should be consulted on the question of publication. Sir Carl Berendsen, the New Zealand Representative, expressed general agreement with the views of Mr. Makin.

The U. S. Member made the formal statement to the effect that the U. S. was prepared to agree to the policy decision "provided that the Commission at some subsequent meeting and after obtaining the view of the Supreme Commander will consider a time and manner of issuance of the policy decision embodied in the paper."

General McCoy moved and Mr. Makin seconded the motion that the Commission adopt the policy decision regarding Provisions for the Review of a New Japanese Constitution with the understanding that the Chairman be authorized to consult with the Supreme Commander to determine his views regarding the time and manner of issuance of the policy decision and that after the Supreme Commander's views had been received the Commission would reconsider the time and manner of such issuance. The motion was carried unanimously.

In accordance with the above, the views of the Supreme Commander are requested as to the time and manner of the issuance of the policy decision regarding Provisions for the Review of a New Japanese Constitution.

CONFIDENTIAL

ADDRESS OFFICIAL COMMUNICATIONS TO
THE SECRETARY OF STATE
WASHINGTON, D. C.

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DEPARTMENT OF STATE
WASHINGTON

October 24, 1946

MEMORANDUM FOR THE SECRETARY, SWNCC

Subject: Draft Directive Regarding Provisions
For the Review of a New Japanese
Constitution.

There is enclosed a draft directive prepared on the basis of a policy decision unanimously approved at the 30th meeting of the Far Eastern Commission on October 17, 1946, under the provisions of paragraph II, A, 1, of its Terms of Reference. It will be noted that this policy decision is quoted verbatim in the enclosed draft directive.

It is requested that the enclosed directive be forwarded to the Joint Chiefs of Staff for transmission to General MacArthur for his guidance in accordance with paragraph III, 1, of the Terms of Reference of the Far Eastern Commission. It is assumed that if the Joint Chiefs of Staff have any question regarding the draft directive they will refer the matter to the State Department for clarification before transmitting a directive on the subject.

[Handwritten signature]
J. H. Hilldring
Assistant Secretary

Enclosure:

Draft Directive.

DRAFT DIRECTIVE REGARDING PROVISIONS
FOR THE REVIEW OF A NEW JAPANESE CONSTITUTION

The following directive, prepared by the State Department to implement the policy adopted by the Far Eastern Commission on 17 October 1946 under the provisions of Paragraph II, A, 1, of its Terms of Reference, has been received from the State, War, and Navy Departments for transmission to you for your guidance in accordance with Paragraph III, 1, of those Terms of Reference:

"1. The new constitution, which will in due season after promulgation become the legal successor of the present constitution with such changes as have been made or may be made as a result of consideration and policy decision of the Far Eastern Commission, shall be subject to further review by the Diet and the Far Eastern Commission in terms of the following paragraph.

"2. In order that the Japanese people may have an opportunity, after the new constitution goes into effect, to reconsider it in the light of the experience of its working, and in order that the Far Eastern Commission may satisfy itself that the constitution fulfills the terms of the Potsdam Declaration and other controlling documents, the Commission decides as a matter of policy that, not sooner than one year and not later than two years after it goes into effect, the situation with respect to the new constitution should be reviewed by the Diet. Without prejudice to the continuing jurisdiction of the Far Eastern Commission at any time, the Commission shall also review the constitution within this same period. The Far Eastern Commission, in determining whether the Japanese constitution is an expression of the free will of the Japanese people, may require a referendum or some other appropriate procedure for ascertaining Japanese opinion with respect to the constitution."

ADDRESS OFFICIAL COMMUNICATIONS TO
THE SECRETARY OF STATE
WASHINGTON 25, D. C.

DEPARTMENT OF STATE
WASHINGTON

0.10
Constitution
J-



October 24, 1946

CONFIDENTIAL

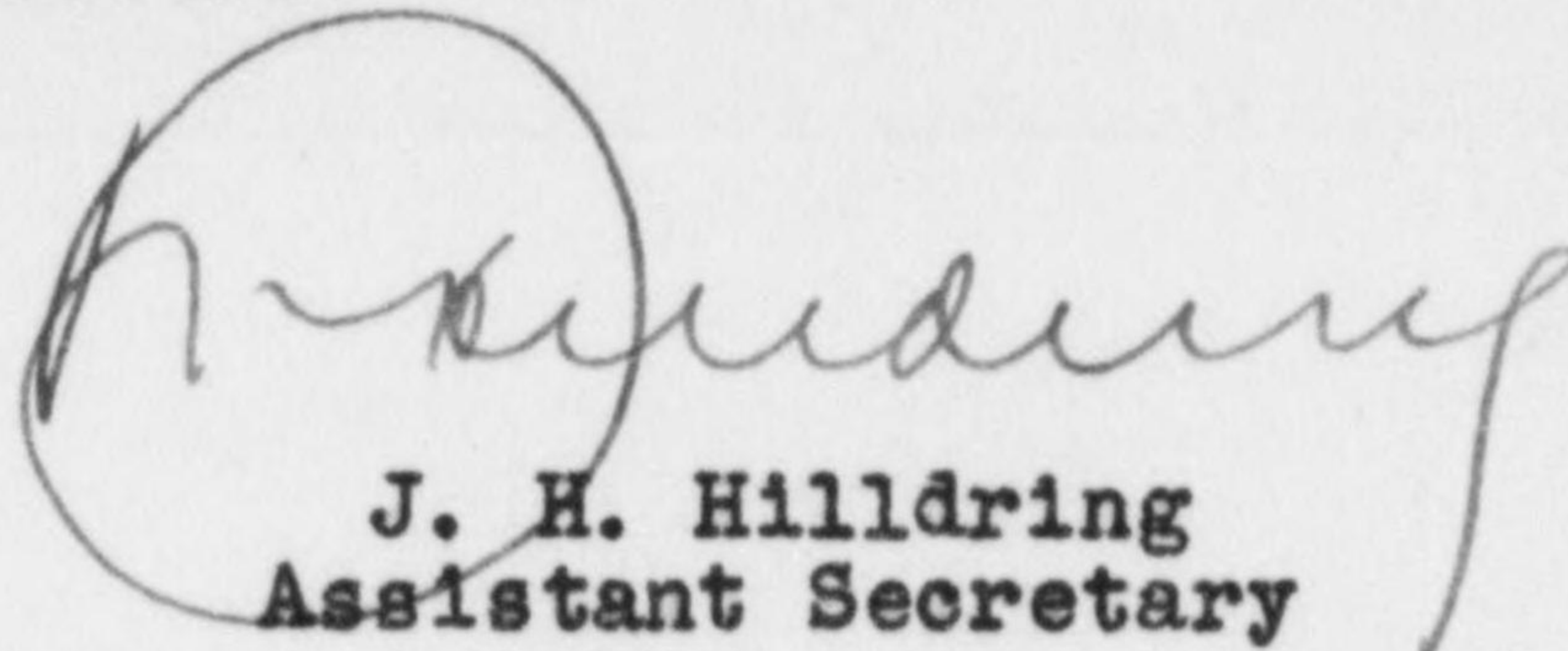
MEMORANDUM FOR THE SECRETARY, SWNCC

Subject: Communication from the Chairman of the Far Eastern Commission for Transmittal to the Supreme Commander for the Allied Powers.

The Far Eastern Commission, acting under paragraph VI of its Terms of Reference which provides that the Commission "may make such arrangements through the Chairman as may be practicable for consultation with the Supreme Commander for the Allied Powers" requested its Chairman on October 17, 1946, to consult with the Supreme Commander for the Allied Powers regarding the time and manner of issuance of the policy decision on the Provisions for the Review of a New Japanese Constitution.

There is enclosed a draft consultative message on this subject.

It is requested that the enclosure be forwarded to the Joint Chiefs of Staff for transmission to the Supreme Commander for the Allied Powers.


J. H. Hilldring
Assistant Secretary

Enclosure:

Draft Message.

E N C L O S U R EREQUEST FOR CONSULTATION WITH THE SUPREME COMMANDER
FOR THE ALLIED POWERS REGARDING PROVISIONS FOR THE
REVIEW OF A NEW JAPANESE CONSTITUTION

* * * *

Before the policy decision regarding Provisions for the Review of a New Japanese Constitution (directive forwarded to the Supreme Commander for the Allied Powers as War ___) was formally approved by the Far Eastern Commission on October 17, 1946, Ambassador Makin, Australian Representative on the Far Eastern Commission, stated with reference to the announcement of the policy decision that the Australian view was that the announcement should take place immediately following its adoption. However, Mr. Makin agreed that the Supreme Commander should be consulted on the question of publication. Sir Carl Berendsen, the New Zealand Representative, expressed general agreement with the views of Mr. Makin.

The U. S. member made the formal statement to the effect that the U. S. was prepared to agree to the policy decision "provided that the Commission at some subsequent meeting and after obtaining the view of the Supreme Commander will consider a time and manner of issuance of the policy decision embodied in the paper."

General McCoy moved and Mr. Makin seconded the motion that the Commission adopt the policy decision regarding Provisions for the Review of a New Japanese Constitution with the understanding that the Chairman be authorized to consult with the Supreme Commander to determine his views regarding the time and manner of issuance of the policy decision and that after the Supreme Commander's views had been received the Commission would reconsider the time and manner of such issuance. The motion was carried unanimously.

In accordance with the above, the views of the Supreme Commander are requested as to the time and manner of the issuance of the policy decision regarding Provisions for the Review of a New Japanese Constitution.

OCT 12 1946



THE JOINT CHIEFS OF STAFF
WASHINGTON 25, D. C.

8275

CONFIDENTIAL

010.4
Japanese Constitution

SM-6871
11 October 1946

MEMORANDUM FOR THE STATE-WAR-NAVY COORDINATING COMMITTEE:

Subject: Opinion of The Department of State and the Chairman of the Far Eastern Commission on Directive Relative to Further Policies Relating to a New Japanese Constitution.

Reference: SWN-4810.

Pursuant to the request contained in SWN-4810, the Joint Chiefs of Staff, on 10 October 1946, dispatched the message in the enclosure thereto to the Supreme Commander for the Allied Powers as WAR 82771, copy of which is enclosed for information.

For the Joint Chiefs of Staff:

A. J. McFarland
A. J. McFARLAND,
Colonel, U.S. Army,
Secretary.

Enclosure.
WAR 82771 (October 1946) - Copy No. 47.

SWNCC SECRETARIAT

- State Member
- Army Member
- Navy Member
- Ass't State Member
- Ass't Army Member
- Ass't Navy Member
- Executive Secretary
- Ass't Exec. Secretary
- State Adm. Assistant
- Army Adm. Assistant
- Navy Adm. Assistant
- File

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CONFIDENTIAL

WAR DEPARTMENT
CLASSIFIED MESSAGE CENTER
OUTGOING CLASSIFIED MESSAGE

CONFIDENTIAL

PARAPHRASE NOT REQUIRED. HANDLE AS CONFIDENTIAL
CORRESPONDENCE PER PARAS 51 (1) and 60 (a). AR 380-5

Joint Chiefs of Staff
Capt W G Lalor USN 77500

10 October 1946

Supreme Commander for the Allied Powers, Tokyo, Japan

Nr: WAR 82771

To MacArthur from the Joint Chiefs of Staff.

Following message has been received from the State, War and Navy Departments with request from the State Department that it be forwarded to you for your information:

"It is the opinion of the Department of State and the Chairman of the Far Eastern Commission that the directive sent to you in WCL 20693, 10 October based on a policy decision of the Far Eastern Commission taken at its meeting of 25 September does not require any specific action by you. However, it has been forwarded to you as a directive in view of the obligation of the United States Government under Paragraph III, 1, of the terms of reference of the Commission.

You will note that the Far Eastern Commission reaffirms its previous decision that all cabinet ministers should be civilians. The Commission had been informed of your action in persuading the Japanese Government to amend the constitution accordingly and therefore it was clear that no further action was necessary. However, the United States member saw no objection to the Commission's going on record as reaffirming its previous decision.

With regard to the decision that the House of Councilors should not have predominance over the House of Representatives, you will note that the only action the Commission contemplates

CM OUT 82771

(Oct 46)

CONFIDENTIAL

47

COPY NO.

THE MAKING OF AN EXACT COPY OF THIS MESSAGE IS FORBIDDEN

WAR DEPARTMENT
CLASSIFIED MESSAGE CENTER
OUTGOING CLASSIFIED MESSAGE

CONFIDENTIAL

Nr: WAR 82771

10 October 1946

Page 2

in this matter is to scrutinize the implementing legislation. Consequently, it is the opinion of the Department of State and the Chairman of the Far Eastern Commission that no action by you is required other than supplying the Commission with texts of such legislation when they are submitted to the Diet."

End of message.

End

ORIGINATOR: JCS

DISTRIBUTION: AAF, Adm Leahy, ASW, CAD, ID, Adm Nimitz, P&O, CSA

CM OUT 82771

(Oct 46)

DTG 102133Z mec

CONFIDENTIAL

COPY NO.

THE MAKING OF AN EXACT COPY OF THIS MESSAGE IS FORBIDDEN

OCT 19 1946

THE JOINT CHIEFS OF STAFF
WASHINGTON 25, D. C.



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Directives

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SM-6870
11 October 1946

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MEMORANDUM FOR THE STATE-WAR-NAVY COORDINATING COMMITTEE:

Subject: Directive Relative to Further Policies Relating to a New Japanese Constitution.

Reference: SWN-4809.

On 11 October 1946, the Joint Chiefs of Staff perceiving no military objection to the draft directive in the enclosure to SWN-4809, dispatched it to the Supreme Commander for the Allied Powers as WCL 20693, copy of which is enclosed for information.

For the Joint Chiefs of Staff:

A. J. McFarland
A. J. McFARLAND,
Colonel, U.S. Army,
Secretary.

Enclosure:
WCL 20693 (October 1946)

SWNCC SECRETARIAT

- State Member
- Army Member
- Navy Member
- Ass't State Member
- Ass't Army Member
- Ass't Navy Member
- Executive Secretary
- Ass't Exec. Secretary
- State Adm. Assistant
- Army Adm. Assistant
- Navy Adm. Assistant
- File

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**WAR DEPARTMENT
CLASSIFIED MESSAGE CENTER
OUTGOING CLEAR MESSAGE**

Joint Chiefs of Staff
W G Lelor Capt USN Executive
Secretary JCS

10 October 1946.

Supreme Commander for the Allied Powers, Tokyo, Japan

FR: WCL 20693

To MacArthur from the Joint Chiefs of Staff.

The following directive, prepared by the State Department to implement the policy adopted by the Far Eastern Commission on 25 September 1946 under the provisions of Paragraph II, A, 1, of its terms of reference, has been received from the State, War, and Navy Departments for transmission to you for guidance in accordance with Paragraph III, 1, of those terms of reference:

"The Far Eastern Commission reaffirms its previous decision, taken in FEC-031/19, (directive serial number 54) basic principles for a new Japanese Constitution, that all cabinet ministers should be civilians, and further decides as a matter of policy that the House of Councilors should not have any predominance over the House of Representatives. The Commission considers essential its continuing right to scrutinize the implementing legislation very carefully to insure that such predominance is not established."

End of message.

NOTE: MC OUT 25073 (Jul 45)

End

ORIGINATOR: JCS

DISTRIBUTION: AAF, Adm Leahy, ASW, CAD, ID, Adm Nimitz, P&O, CSA

MC OUT 20693

(Oct 46)

DTG 102021Z Oct 46

CONFIDENTIAL

HWK:bjh

BWN-4810
8 October 1946

MEMORANDUM FOR THE SECRETARY, JOINT CHIEFS OF STAFF:

Subject: Opinion of the Department of State and the Chairman of the Far Eastern Commission on Directive Relative to Further Policies Relating to a New Japanese Constitution.

With reference to the draft directive prepared on the basis of a policy decision unanimously approved at the 28th meeting of the Far Eastern Commission on September 25, 1946, relative to Further Policies Relating to a New Japanese Constitution and forwarded to the Secretary, Joint Chiefs of Staff as the enclosure to BWN-4809, the Department of State has requested that the enclosed message be transmitted to the Supreme Commander for the Allied Powers for his information.

For the State-War-Navy Coordinating Committee:

A. D. REID,
Secretary

Enclosure
Draft Message

COPY FOR SWNCC FILE

CONFIDENTIAL

CONFIDENTIAL

DRAFT MESSAGE TO SCAP

It is the opinion of the Department of State and the Chairman of the Far Eastern Commission that the directive sent to you in WAR based on a policy decision of the Far Eastern Commission taken at its meeting of September 25 does not require any specific action by you. However, it has been forwarded to you as a directive in view of the obligation of the United States Government under paragraph III, 1, of the terms of reference of the Commission.

You will note that the Far Eastern Commission reaffirms its previous decision that all cabinet ministers should be civilians. The Commission had been informed of your action in persuading the Japanese Government to amend the Constitution accordingly and therefore it was clear that no further action was necessary. However, the United States member saw no objection to the Commission's going on record as reaffirming its previous decision.

With regard to the decision that the House of Councillors should not have predominance over the House of Representatives, you will note that the only action the Commission contemplates in this matter is to scrutinize the implementing legislation. Consequently, it is the opinion of the Department of State and the Chairman of the Far Eastern Commission that no action by you is required other than supplying the Commission with texts of such legislation when they are submitted to the Diet.

CONFIDENTIAL

SWN-4809
8 October 1946

HWK:do

MEMORANDUM FOR THE SECRETARY, JOINT CHIEFS OF STAFF:

**Subject: Directive Relative to Further Policies
Relating to a New Japanese Constitution.**

There is enclosed a draft directive prepared on the basis of a policy decision unanimously approved at the 23rd meeting of the Far Eastern Commission on September 25, 1946, under the provisions of paragraph II, A, 1, of its terms of reference. It will be noted that the policy decision is quoted verbatim in the enclosed draft directive.

It is requested that the Joint Chiefs of Staff transmit the enclosed directive to General MacArthur for his guidance in accordance with paragraph III, 1, of the terms of reference of the Far Eastern Commission. It is assumed that if the Joint Chiefs of Staff have any question regarding the draft directive they will refer the matter to the State Department for clarification before transmitting a directive on the subject.

FOR the State-War-Navy Coordinating Committee:

**A. D. REID,
Secretary**

**Enclosure
Draft Directive**

COPY FOR SWNCC FILE

[COPY

DRAFT DIRECTIVE FROM JCS TO SCAP
RELATIVE TO FURTHER POLICIES RELATING
TO A NEW JAPANESE CONSTITUTION

The following directive, prepared by the State Department to implement the policy adopted by the Far Eastern Commission on 25 September 1946 under the provisions of Paragraph II, A, 1, of its terms of reference, has been received from the State, War, and Navy Departments for transmission to you for guidance in accordance with Paragraph III, 1, of those terms of reference:

"The Far Eastern Commission reaffirms its previous decision, taken in FEG-031/19, [Directive Serial No. 54] basic principles for a New Japanese Constitution, that all cabinet ministers should be civilians, and further decides as a matter of policy that the House of Councilors should not have any predominance over the House of Representatives. The Commission considers essential its continuing right to scrutinize the implementing legislation very carefully to insure that such predominance is not established."

THE JOINT CHIEFS OF STAFF
WASHINGTON 25, D. C.

*Japanese
Constitution*

SM-6845
7 October 1946

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MEMORANDUM FOR THE STATE-WAR-NAVY COORDINATING COMMITTEE:

Subject: Amendments to New Constitution
for Japan.

Enclosure: MC-IN-52490 (7 Oct 46).

The enclosed message from the Commander in Chief,
American Forces, Pacific is forwarded for transmittal to
the Secretary of State for his information.

For the Joint Chiefs of Staff:

A. J. McFarland
A. J. MCFARLAND,
Colonel, U. S. Army,
Secretary.

OCT - 8 1946



3285

WAR DEPARTMENT
CLASSIFIED MESSAGE CENTER
INCOMING CLEAR MESSAGE

*attach
JCS memo
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OPERATIONAL PRIORITY

From: CINCASFPAC Tokyo Japan
To: War Department for WARGOS JCS info copy to Mr Petersen
Nr: Z 20663 7 October 1946

The House of Peers on 6 October by standing vote of 298 to 2 passed proposed new constitution for Japan with following amendments and revisions:

1. There are few minor changes in Japanese text of preamble, but they are stylistic changes only which do not alter English translation.

2. Article 15 is revised to read: "The people have the inalienable right to choose their public officials and to dismiss them."

"All public officials are servants of the whole community and not of any special group."

"Universal adult suffrage is guaranteed with regard to the election of public officials."

"In all elections, secrecy of the ballot shall be preserved inviolate, nor shall any voter be answerable, publicly or privately, for the choice he has made."

3. Article 59 is revised to read: "A bill becomes a law on passage by both houses, except as otherwise provided by the Constitution."

"A bill which is passed by the House of Representatives, and upon which the House of Councillors makes a decision

MC-IN-52490 (7 Oct 46)

SWNCC

UNCLASSIFIED

WAR DEPARTMENT
CLASSIFIED MESSAGE CENTER
INCOMING CLEAR MESSAGE

OPERATIONAL PRIORITY

Page 2

From: CINCAPAC Tokyo Japan

NR: Z 20363

7 October 1946

different from that of the House of Representatives becomes a law when passed a second time by the House of Representatives by a majority of 2/3 or more of the members present."

"The provision of the preceding paragraph does not preclude the House of Representatives from calling for the meeting of a Joint Committee of both houses, as provided for by law."

"Failure by the House of Councillors to take final action within 60 days after receipt of a bill passed by the House of Representatives, time in recess excepted, may be determined by the House of Representatives to constitute a rejection."

4. Article 66 is revised to read:

"The cabinet shall consist of the Prime Minister, who shall be its head, and other ministers of state as provided for by law."

"The Prime Minister and other ministers of state shall be civilians."

"The cabinet, in the exercise of executive power, shall be collectively responsible to the Diet".

House of Representatives this date by standing vote of 342 to 5 adopted new version with amendments approved by upper house. Prior to this final action by House of Repre-

MC-IN-52490 (7 Oct 46)

UNCLASSIFIED

WAR DEPARTMENT
CLASSIFIED MESSAGE CENTER
INCOMING CLEAR MESSAGE

OPERATIONAL PRIORITY

Page 3

From: CIRCAPPAC Tokyo Japan

Nrs: Z 20563

7 October 1946

representative members of Lower house constitution committee had deliberated of all changes adopted by House of Peers."

This ends all legislative action on constitution.

Action by Privy Council and date of promulgation will be reported. Promulgation not expected prior to 20 October.

End.

ACTION: JCS

INFO : ASF
Admiral Leahy
ASW
C2D
Admiral Nimitz
ID
P 3 O
CBA

WC-IV-52490 (7 Oct 46) REF: 070951Z JIF

UNCLASSIFIED

ADDRESS OFFICIAL COMMUNICATIONS TO
THE SECRETARY OF STATE
WASHINGTON 25, D. C.

DEPARTMENT OF STATE
WASHINGTON



MEMORANDUM FOR THE SECRETARY, SWNCC

Subject: Directive Relative to Further Policies Relating
to a New Japanese Constitution.

There is enclosed a draft directive prepared on the basis of a policy decision unanimously approved at the 28th meeting of the Far Eastern Commission on September 25, 1946, under the provisions of paragraph II, A, 1, of its terms of reference. It will be noted that the policy decision is quoted verbatim in the enclosed draft directive.

It is requested that the enclosed directive be forwarded to the Joint Chiefs of Staff for transmission to General MacArthur for his guidance in accordance with paragraph III, 1, of the terms of reference of the Far Eastern Commission. It is assumed that if the Joint Chiefs of Staff have any question regarding the draft directive they will refer the matter to the State Department for clarification before transmitting a directive on the subject.

For Ernest A. Gross
J. H. Hilldring
Assistant Secretary

Enclosure:

Draft Directive

OCT - 8 1946



DRAFT DIRECTIVE FROM JCS TO SCAP
RELATIVE TO FURTHER POLICIES RELATING
TO A NEW JAPANESE CONSTITUTION

The following directive, prepared by the State Department to implement the policy adopted by the Far Eastern Commission on 25 September 1946 under the provisions of Paragraph II, A, 1, of its terms of reference, has been received from the State, War, and Navy Departments for transmission to you for guidance in accordance with Paragraph III, 1, of those terms of reference:

"The Far Eastern Commission reaffirms its previous decision, taken in FEC-031/19, Directive Serial No. 54 Basic Principles for a New Japanese Constitution, that all cabinet ministers should be civilians, and further decides as a matter of policy that the House of Councilors should not have any predominance over the House of Representatives. The Commission considers essential its continuing right to scrutinize the implementing legislation very carefully to insure that such predominance is not established."

*at. 1
Const-Japan*

HWK:bjh

SWN-4807
8 October 1946

MEMORANDUM FOR THE SECRETARY OF STATE:

Subject: Amendments to New Constitution
for Japan.

Reference: HC-IN-52480
(7 Oct 46).

At the request of the Joint Chiefs of Staff,
the enclosed message from the Commander in Chief,
American Forces, Pacific is forwarded to the
Secretary of State for his information.

For the State-War-Navy Coordinating Committee:

J. H. HILLDRING,
Chairman

Enclosure

COPY FOR SWNCC FILE

ADDRESS OFFICIAL COMMUNICATIONS TO
THE SECRETARY OF STATE
WASHINGTON 25, D. C.

DEPARTMENT OF STATE
WASHINGTON



MEMORANDUM FOR THE SECRETARY, SWNCC

Subject: Opinion of United States Government and the
Chairman of the Far Eastern Commission on
Directive Relative to Further Policies
Relating to a New Japanese Constitution.

With reference to the draft directive prepared on
the basis of a policy decision unanimously approved at
the 28th meeting of the Far Eastern Commission on
September 25, 1946, relative to Further Policies
Relating to a New Japanese Constitution and forwarded
to the Secretary, SWNCC, it is requested that the en-
closed message be forwarded to the Joint Chiefs of Staff
for transmission to the Supreme Commander for the Allied
Powers for his information.

for Ernest A. Gross
J. H. Hilldring
Assistant Secretary

Enclosure:

Draft Message to the
Supreme Commander for
the Allied Powers

DRAFT MESSAGE TO SCAP

Department of State

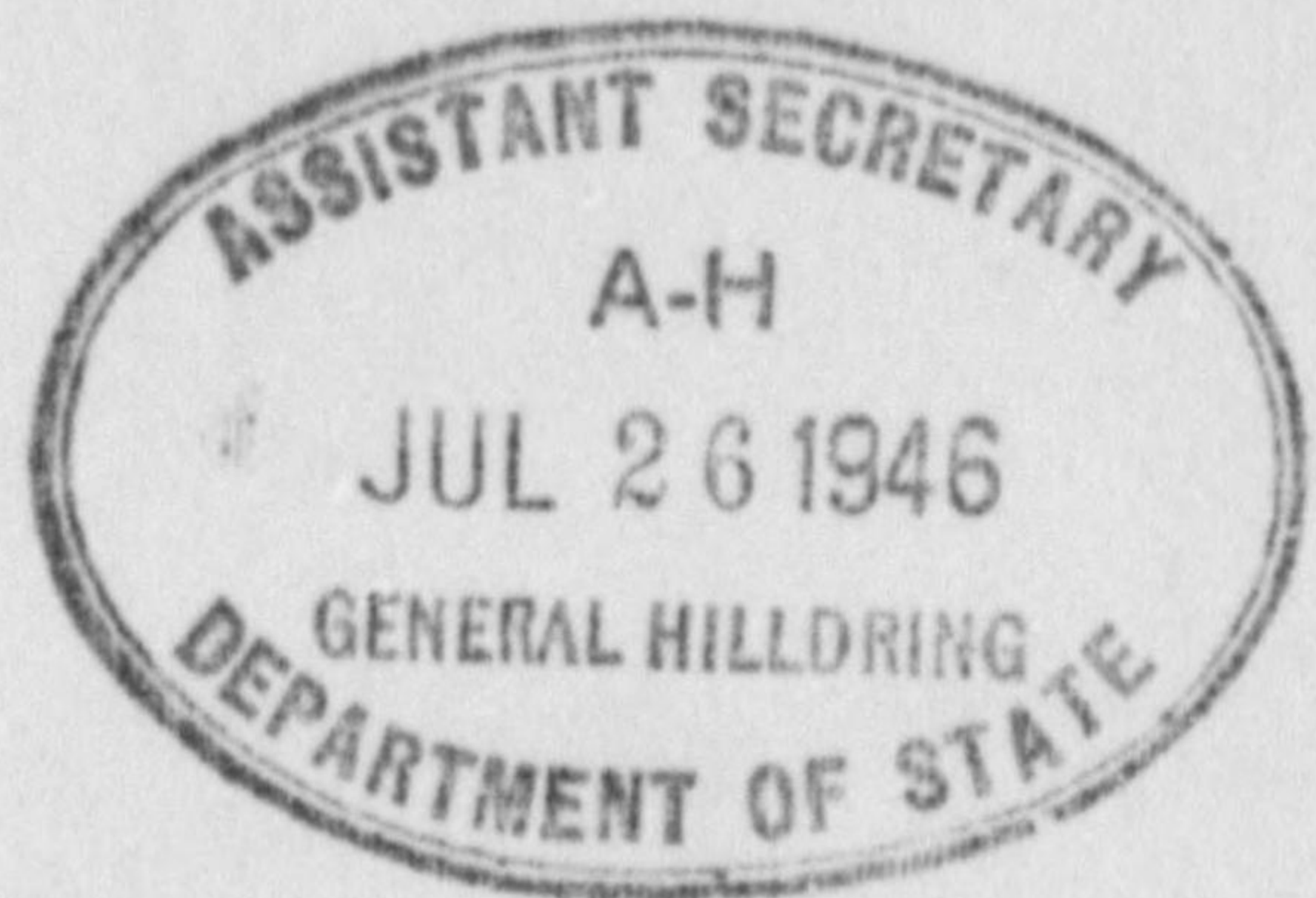
It is the opinion of the ~~United States Government~~ and the Chairman of the Far Eastern Commission that the directive sent to you in WAR based on a policy decision of the Far Eastern Commission taken at its meeting of September 25 does not require any specific action by you. However, it has been forwarded to you as a directive in view of the obligation of the United States Government under paragraph III, 1, of the terms of reference of the Commission.

member
You will note that the Far Eastern Commission reaffirms its previous decision that all cabinet ministers should be civilians. The Commission had been informed of your action in persuading the Japanese Government to amend the Constitution accordingly and therefore it was clear that no further action was necessary. However, the United States delegate saw no objection to the Commission's going on record as reaffirming its previous decision.

With regard to the decision that the House of Councilors should not have predominance over the House of Representatives, you will note that the only action the Commission contemplates in this matter is to scrutinize the implementing legislation. Consequently, it is the opinion of the ~~United States Government~~ and the Chairman of the Far Eastern Commission that no action by you is required other than supplying the Commission with texts of such legislation when they are submitted to the Diet.

Department of State

FAR EASTERN COMMISSION
2516 MASSACHUSETTS AVENUE, N. W.
WASHINGTON 8, D. C.



25 July 1946

010-1
Japanese
Cont - 1

The Honorable James F. Byrnes
Secretary of State
Washington, D. C.

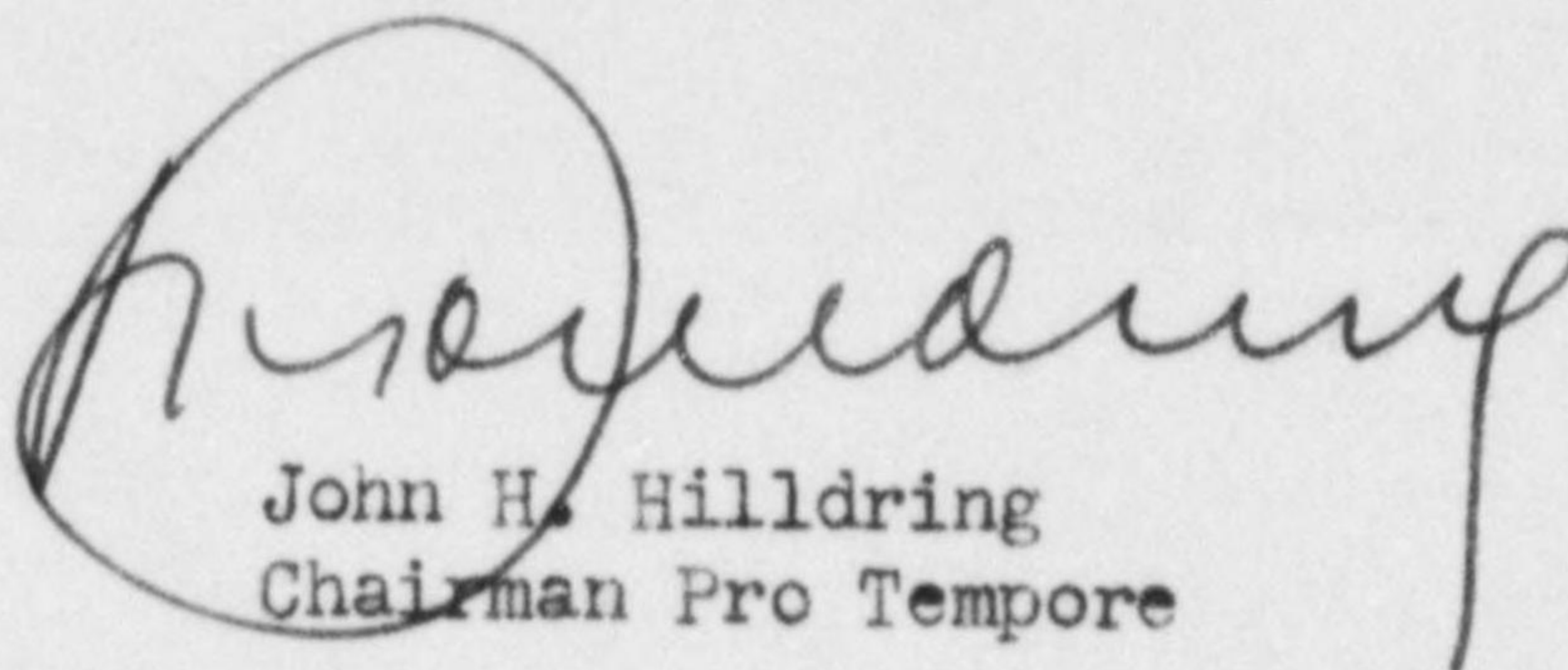
My dear Mr. Secretary:

The Terms of Reference of the Far Eastern Commission provide that the Commission "may make such arrangements through the chairman as may be practicable for consultation with the Supreme Commander for the Allied Powers."

At the 21st meeting of the Far Eastern Commission at its headquarters, 2516 Massachusetts Avenue, Northwest, Washington, D. C., on 25 July 1946, the enclosed request for consultation with the Supreme Commander for the Allied Powers on the text of the Constitution was unanimously adopted by the Commission.

As Chairman Pro Tempore of the Far Eastern Commission, I am forwarding this request to you for transmission to the Supreme Commander.

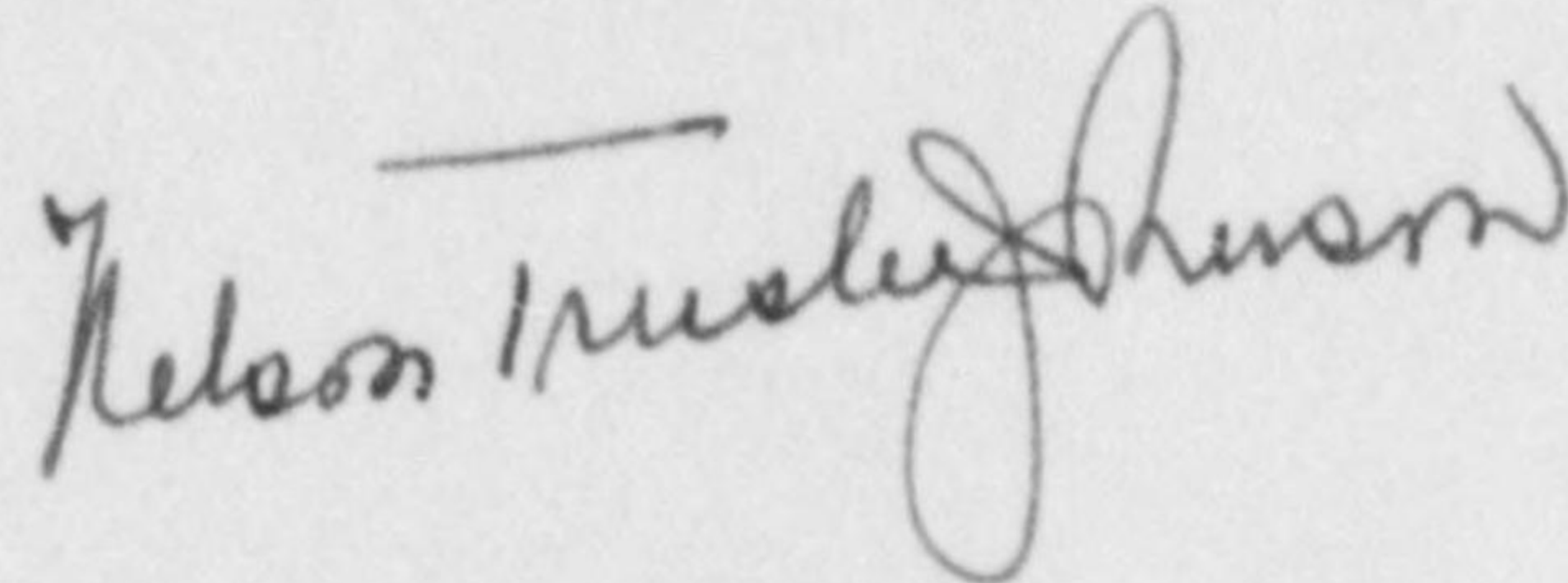
Respectfully yours,


John H. Hilldring
Chairman Pro Tempore

Enclosure

FAR EASTERN COMMISSION
2516 MASSACHUSETTS AVENUE, N. W.
WASHINGTON 8, D. C.

The attached text of a document
unanimously adopted at the 21st meeting of
the Far Eastern Commission, held at 2516 Massa-
chusetts Avenue, Northwest, Washington, D. C.,
on 25 July 1946, has been compared with the
official text and is hereby certified to be
correct.



Nelson T. Johnson
Secretary General

Washington, D. C.
25 July 1946

ENCLOSURECONSULTATION WITH THE SUPREME COMMANDER FOR THE ALLIED
POWERS ON THE TEXT OF THE CONSTITUTION

The Far Eastern Commission requests the Chairman of the Commission to arrange for consultation between the Commission and the Supreme Commander for the Allied Powers regarding the fulfillment by the draft of the new Japanese constitution of the principles contained in the Potsdam Declaration and in the Commission's policy decision concerning the constitution, FEC 031/19. To facilitate this consultation the Commission requests the Chairman to convey to the Supreme Commander the substance of the following communication and to state to him that the Commission would greatly appreciate his views on the questions raised therein.

1. The Far Eastern Commission is making a preliminary study of the draft of the new Japanese constitution (MI 003/1), which is now before the Diet, to determine whether the present draft satisfies the criteria established by the Commission in its statement of policy on basic principles and by the Potsdam Declaration and other controlling documents. Any comments which the Supreme Commander may wish to make on the points raised in this preliminary study would be most helpful to the Commission's work.

2. In the course of this preliminary study doubts have arisen as to whether in certain respects the draft constitution satisfies the criteria established by the Commission in its statement of policy on basic principles (FEC 031/19). The following examples may be cited:

(a) Cabinet. FEC 031/19 provides that a majority of the Ministers of State, including the Prime Minister, shall be selected from the Diet. The draft constitution does not now provide for this principle of selection.

(b) Suffrage. FEC 031/19 provides that the Japanese Government be "based upon universal adult suffrage." It appears doubtful whether the draft constitution makes adequate provision in this respect. While Article XXXIX states that "both Houses shall consist of elected members, representative of all the people", it is a question whether this provision is sufficiently specific to

fulfill

fulfill the requirement of FEC 031/19. Furthermore, it might be pointed out that, though it is provided in Article XL of the draft constitution that in respect of the qualifications of electors for both Houses there should be no discrimination because of race, creed, sex, social status, or family origin, the door is apparently left open for discrimination on such grounds as age, education, property, or income.

(c) Sovereignty. FEC 031/19 provides that "the Japanese Constitution should recognize that sovereign power resides in the people." The Commission is considering whether the draft constitution fulfills this requirement and has been confronted with a number of opposing views. The draft constitution provides in the Preamble: "We, the Japanese people....do proclaim the sovereignty of the people's will." Aside from the question as to whether this clause adequately meets the provision of FEC 031/19, legal opinion has been presented to the Commission to the effect that a preamble is merely a declaratory and explanatory statement, the function of which is not to confer power and whose provisions are not a source of obligation. The United States Supreme Court has so held with respect to the Preamble of the United States Constitution. The legal position in Japan is more obscure, as it is impossible to draw a satisfactory conclusion on the basis of the Preamble of the Meiji Constitution because it has had the force of an Imperial edict.

Article I also contains a reference to sovereignty. It reads: "The Emperor shall be the symbol of the state and of the unity of the people, deriving his position from the sovereign will of the people." It is doubtful whether this article, which deals with the status of the Emperor, adequately fulfills the provisions in the basic principles regarding sovereignty.

To avoid all doubts on both points, it has been suggested that it should be clearly stated in the body of the constitution that "sovereign power resides in the people." The Commission would value the Supreme Commander's view.

3. The further question arises as to whether the draft constitution accords with the Potsdam Declaration.

(a) The draft constitution leaves several important matters to be enacted in subsequent laws, a situation which makes it difficult to determine the full implication of the articles concerned. Examples are the Imperial House Law (Articles II and V), the composition and methods of election of the two Houses (Chapter IV), and the joint committees of both Houses (Articles LVI, LVII and LXIII). The Commission realizes that many of these matters may properly be left for detailed determination by subsequent legislation. It queries,

however,

Enclosure

however, whether it would not better accord with the Potsdam Declaration to include in the constitution the basic provisions governing some of these matters, such as the composition of the House of Councilors.

(b) The Commission would raise the query whether Article LIV of the draft constitution should not set out clearly the grounds on which a member of the Diet may be expelled, in order to prevent this article from being used to exclude representatives of minority groups.

(c) In regard to Article LXIII, the Commission queries whether the selection of a Prime Minister should not be a matter for the House of Representatives alone, rather than for both Houses. This procedure would accord with practice in other democratic governments where the executive is responsible to the legislature, and would seem to follow naturally from Article LXV.

Enclosure

DEPARTMENT OF STATE
ASSISTANT SECRETARY

July 26, 1946

MEMO FOR DEPT. OF STATE
JUL 26 1946
DEPARTMENT OF STATE
*Handwritten: Memo for Secy of State
26 July 46
HD*

JA - Mr. Borton

I was told by FEC boys to deliver this to you after the General signed it, for implementation.

W. M. Cameron
Warde M. Cameron
Executive Assistant
A-H

TOP SECRET

574
28C-16

SWN-4315
20 May 1946

VFF:aj

MEMORANDUM FOR THE SECRETARY OF STATE:

Subject: Transmittal of Message from the
Supreme Commander for the Allied
Powers.

Reference: SWN-4284.

Reference is made to SWN-4284 dated 13 May 1946 which transmitted a copy of G-60006 from General MacArthur to the Joint Chiefs of Staff, and in which it was stated that an answer to this message had been forwarded to the Joint Chiefs of Staff for transmittal to General MacArthur.

Attached is a copy of a message received from the Supreme Commander for the Allied Powers in reply to the message referred to in paragraph 2 of the above reference.

For the State-War-Navy Coordinating Committee:

JOHN H. HILLDRING,
State Department Member

Enclosure:
Copy of GI-IN-4170 (18 May 46)

TOP SECRET

COPY FOR SWNCC FILE

TOP SECRET
TOP SECRET

From: Supreme Commander for the Allied Powers

To: Joint Chiefs of Staff

Nr: S 6114

18 May 1946

The question of not sending an officer to represent me before the Far Eastern Commission is not one dictated by decision but because it is factually impossible. I have no one competent to act as my deputy in such broad matters. These questions are handled here by me personally and there is no other officer who could discuss them with authority and cable full knowledge of the facts. In this connection, I do not believe that my lack of key personnel is fully comprehended. There is no reason why I cannot give the Commission radiographic or written information in full detail in answer to any questions which may be up for clarification, as I have previously stated. It would be the means of placing before the Commission, in a fully authoritative manner, my personal views on any subject which might be under consideration. This was the purpose of my S 60606 which you advise has not yet been delivered to the Commission. It should fully solve the problem if the sole purpose underlying the Commission's request is to secure factual information and the views of the Supreme Commander for the Allied Powers (SCAP). If, however, more basic issues are involved, it would seem advisable that the defense of the American position should not be undertaken merely by SCAP from Tokyo but primarily by the American Government in Washington.

End

GM-IN-4170

(18 May 46)

TOP SECRET



THE JOINT CHIEFS OF STAFF
WASHINGTON 25, D. C.

TOP SECRET

SM-5783
20 May 1946

MEMORANDUM FOR THE STATE-WAR-NAVY COORDINATING COMMITTEE:

Subject: Transmittal of Message from the
Supreme Commander for the Allied
Powers.

Reference: SWN-4282 dated 13 May 1946.

There is transmitted herewith the enclosed message,
received from the Supreme Commander for the Allied Powers
in reply to the message to him from the State-War-Navy Coor-
dinating Committee contained in SWN-4282.

MAY 20 1946

For the Joint Chiefs of Staff:



A. J. McFarland
A. J. McFARLAND,
Colonel, U.S. Army,
Secretary.

STATE WAR & NAVY COORDINATING
COMMITTEE

SWNCC SECRETARIAT

Enclosure.

- State Member *W*
- Army Member *W*
- Navy Member *W*
- Ass't State Member *W*
- Ass't Army Member *W*
- Ass't Navy Member *W*
- Executive Secretary -----
- Ass't Exec. Secretary -----
- State Adm. Assistant -----
- Army Adm. Assistant -----
- Navy Adm. Assistant -----
- File -----

TOP SECRET

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From: Supreme Commander for the Allied Powers

To: Joint Chiefs of Staff

Nr: C 6114

18 May 1946

The question of not sending an officer to represent me before the Far Eastern Commission is not one dictated by decision but because it is factually impossible. I have no one competent to act as my deputy in such broad matters. These questions are handled here by me personally and there is no other officer who could discuss them with authority and cable full knowledge of the facts. In this connection, I do not believe that my lack of key personnel is fully comprehended. There is no reason why I cannot give the Commission radiographic or written information in full detail in answer to any questions which may be up for clarification, as I have previously stated. It would be the means of placing before the Commission, in a fully authoritative manner, my personal views on any subject which might be under consideration. This was the purpose of my C 60606 which you advise has not yet been delivered to the Commission. It should fully solve the problem if the sole purpose underlying the Commission's request is to secure factual information and the views of the Supreme Commander for the Allied Powers (SCAP). If, however, more basic issues are involved, it would seem advisable that the defense of the American position should not be undertaken merely by SCAP from Tokyo but primarily by the American Government in Washington.

End

CM-IN-4170

(18 May 46)

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VFF:bjh

SWN-4282
13 May 1946

MEMORANDUM FOR THE SECRETARY, JOINT CHIEFS OF STAFF:

Subject: Transmittal of Message to the Supreme
Commander for the Allied Powers.

References: a. SWN-4160 dtd 17 Apr 46
b. SWN-4161 dtd 17 Apr 46
c. SM-5719 dtd 11 May 46

At its 40th Meeting the State-War-Navy Coordinating Committee agreed to dispatch the following message to General MacArthur through the Joint Chiefs of Staff, in answer to his C-60606 of 4 May 1946:

"URAD C 60606 of 4 May has not been transmitted to the Far Eastern Commission. It is appreciated that your personal interest in the problem of constitutional reform in Japan makes it extremely difficult for you to find an officer in a position to express in detail your views on that subject. It is also realized that it is difficult for you to release, even for a very limited period, one of your key officers for liaison purposes with the Far Eastern Commission. It is also recognized that the political situation is so fluid that a comprehensive understanding of it cannot be achieved easily. Furthermore, the U.S. Government is in complete agreement with your statement that 'a more profitable relationship between SCAP and the Commission is largely dependent upon a better appreciation of the related responsibilities of each in the administration of the occupation.'

"Such differences of opinion as now exist between most of the governments represented on the Commission and SCAP concerning these 'related responsibilities' will be of continued embarrassment not only to this Government but also to you, and it is believed that these differences could be greatly

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minimized if a senior officer of your staff who enjoys your personal confidence is given an opportunity to express directly and at length to the Commission your views not only on the immediate problems of the Constitution but also on the broader question of the responsibilities of SCAP and of the Commission. The despatch of such an officer to Washington at this time would also enable your representative to obtain a clearer picture of the views of the Commission in regard to these same matters. It is believed that such personal contacts will be of great assistance to all concerned and are of a special importance at the present time. It is urged that you again seriously consider the request of the Commission as outlined in WCL 37090."

It is therefore requested that the above message be dispatched to General MacArthur.

The communication enclosed with reference g has been transmitted to the Department of State but has not been transmitted to the Far Eastern Commission.

For the State-War-Navy Coordinating Committee:

A. D. REID,
Secretary

TOP SECRET

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F.E.C.
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(check)

Minutes of 40th Meeting - 9 May 1946
7. FEC REQUEST FOR SCAP LIAISON OFFICER

GENERAL HILLDRING submitted for the consideration of the Committee as a matter of urgency a proposed message to General MacArthur. After some discussion it was amended to read as follows:

"URAD 60606 of 4 May has not been transmitted to the FEC. It is appreciated that your personal interest in the problem of constitutional reform in Japan makes it extremely difficult for you to find an officer in a position to express in detail your views on that subject. It is also realized that it is difficult for you to release, even for a very limited period, one of your key officers for liaison purposes with the Far Eastern Commission. It is also recognized that the political situation is so fluid that a comprehensive understanding of it cannot be achieved easily. Furthermore, the U. S. Government is in complete

agreement with your statement that 'a more profitable relationship between SCAP and the Commission is largely dependent upon a better appreciation of the related responsibilities of each in the administration of the occupation.'"

"Such differences of opinion as now exist between most of the governments represented on the Commission and SCAP concerning these 'related responsibilities' will be of continued embarrassment not only to this Government but also to you, and it is believed that these differences could be greatly minimized if a senior officer of your staff who enjoys your personal confidence is given an opportunity to express directly and at length to the Commission your views not only on the immediate problems of the Constitution but also on the broader question of the responsibilities of SCAP and of the Commission. The despatch of such an officer to Washington at this time would also enable your representative to obtain a clearer picture of the views of the Commission in regard to these same matters. It is believed that such personal contacts will be of great assistance to all concerned and are of a special importance at the present time. It is urged that you again seriously consider the request of the Commission as outlined in WCL 37080."

After further discussion, THE COMMITTEE agreed to approve the message as amended above.

ADDRESS OFFICIAL COMMUNICATIONS TO
THE SECRETARY OF STATE
WASHINGTON, D. C.



DEPARTMENT OF STATE
WASHINGTON

File

MEMORANDUM FROM THE STATE
DEPARTMENT MEMBER OF SWNCC

It is requested that the Committee consider as a matter of urgency, the attached proposed telegram to General MacArthur from the United States Government.

J. H. Hilldring

J. H. Hilldring
State Department Member
State-War-Navy Coordinating Committee

MAY 9 1948



Attachment.

Proposed telegram to
General MacArthur.



TOP SECRET

PROPOSED TELEGRAM TO GENERAL MACARTHUR FROM UNITED STATES GOVERNMENT

URAD 60606 of 4 May has not been transmitted to FEC. This Government appreciates the fact that your personal interest in the problem of constitutional reform in Japan makes it extremely difficult for you to find an officer in a position to express in detail your views on that subject. This Government also realizes the difficulties inherent in the release, even for a very limited period, of one of your key officers for liaison purposes with the Far Eastern Commission. It is also recognized that the political situation is so fluid that a comprehensive understanding of it cannot be achieved easily. Furthermore, this Government is in complete agreement with your statement that "a more profitable relationship between SCAP and the Commission is largely dependent upon a better appreciation of the related responsibilities of each in the administration of the occupation".

Such differences of opinion as now exist between most of the governments represented on the Commission and SCAP concerning these "related responsibilities" will be of continued embarrassment not only to this Government but also to you, and it is believed that these

-2-

differences could be greatly minimized if a senior officer of your staff who enjoys your personal confidence is given an opportunity to express directly and at length to the Commission your views not only on the immediate problems of the Constitution but also on the broader question of the responsibilities of SCAP and of the Commission. The despatch of such an officer to Washington at this time, even for a short period, would also enable your representative to obtain a clearer picture of the views of the Commission in regard to these same matters. This Government believes that such personal contacts will be of great assistance to all concerned and are of a special importance at the present time, and consequently urges that you again seriously consider the request of the Commission as outlined in WCL 37080.

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HWK: bz
SWN-4284
13 May 1946

MEMORANDUM FOR THE SECRETARY OF STATE:

**Subject: Transmittal of Communication from the
Supreme Commander for the Allied Powers
to the Far Eastern Commission.**

The enclosed communication from the Supreme Commander for the Allied Powers was forwarded to the State-War-Navy Coordinating Committee by the Joint Chiefs of Staff for transmittal to the Far Eastern Commission through the Department of State.

In this connection, attention is invited to the Minutes of the 40th SWNCC Meeting, in which the Committee agreed to transmit the message in Item 7 thereof to the Joint Chiefs of Staff for transmittal to General MacArthur. This message has been forwarded to the Joint Chiefs of Staff for transmittal to General MacArthur, and indicates that the attached communication will not be forwarded to the Far Eastern Commission. For this reason it is furnished for information only.

For the State-War-Navy Coordinating Committee:

**J. H. HILLDRING,
State Department Member**

**Enclosure:
Copy of message fr Gen.
MacArthur to JCS
(C 60806, 4 May 46) ✓**

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COPY FOR SWNCC FILE

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THE JOINT CHIEFS OF STAFF
WASHINGTON 25, D. C.

SWNCC SECRETARIAT

- State Member
- Army Member
- Navy Member
- Ass't State Member
- Ass't Navy Member
- Ass't Army Member
- Executive Secretary
- Ass't Exec. Secretary
- State Adm. Assistant
- Army Adm. Assistant
- Navy Adm. Assistant
- File

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SM-5719
11 May 1946

MEMORANDUM FOR THE STATE-WAR-NAVY COORDINATING COMMITTEE:

Subject: Transmittal of Communication from the Supreme Commander for the Allied Powers to the Far Eastern Commission

It is requested that the enclosed communication from the Supreme Commander for the Allied Powers, replying to the memorandums from the Far Eastern Commission enclosed with SWN 4160 and 4161 of 17 April 1946, be forwarded to the Department of State for transmittal to the Far Eastern Commission.

For the Joint Chiefs of Staff:

For *W.P.*
A. J. McFARLAND,
Colonel, U.S. Army,
Secretary.

MAY 13 1946

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STATE WAR & NAVY COORDINATING
COMMITTEE

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From: MacArthur

To: Joint Chiefs of Staff

Nr: C 60606

4 May 1946

I am in full agreement with the need for a closer working arrangement and understanding between the Supreme Commander for the Allied Powers (SCAP) and the Commission and stand ready to do everything in my power to such end. I do not believe, however, that the dispatch of an officer from my staff to confer with the Commission would provide a solution to the problem. In the first place, as Supreme Commander I have given my personal attention to the matter of constitutional reform, and there is no other officer in position to express in detail my views on that subject. In the second place, my key officer personnel situation has become so critical, due to the rapid demobilization of officer personnel, that the release of a key officer for such purpose could not be effected without impairment to the Command. Furthermore, the situation here is a fluid one, necessitating constant on-the-ground observation to permit a comprehensive understanding of it from day to day. SCAP is engaged in constant operations involving immediate rather than long range action. A more profitable relationship between SCAP and the Commission is largely dependent upon a better appreciation of the related responsibilities of each in the administration of the occupation. I believed this could be foreseen when the Commission was in Tokyo, but the great distances involved rendered it utterly impossible for the Commission effectively to achieve more than the development of broad guiding policies, leaving to the full discretion of the Supreme Commander the timing and method of their implementation. Such was the relationship envisaged at Moscow when the agreement was reached and such had been the previous relationship between the American Government in Washington and SCAP.

TOP SECRET

With respect to the matter of constitutional reform, perhaps a review of the evaluation of the Government's draft would be helpful to you in your understanding of the present situation. In compliance with my basic directive from the Joint Chiefs of Staff, as oriented from the principles stated at Potsdam and embodied in the surrender terms, I instructed the Higashi-Kuni Cabinet last September to draft a plan for revision of the constitution of Japan with the view of its democratization to permit development of the type of a government and society required by the Potsdam Declaration. When the Shidehara Cabinet assumed office, it acquired full responsibility in this matter. During that early period and subsequently until the Government's draft constitution was formulated, I held frequent personal conferences with state ministers with the view of their understanding of and acquiescence in the enlightened principles which of necessity would guide the revision to bring it within Allied general policy as interpreted in more specific form by the American Government. During that early period, the Political Adviser, upon instruction from the State Department, additionally held conferences with Japanese political leaders. On October 17th the Allied policy was further interpreted in instructions to the Political Adviser from the Secretary of State of the United States contained in radio Svc 5477, reading in part: "there should be assurance that the Japanese Constitution is amended to provide for government responsibility to an electorate based upon wide representative suffrage. Provision should be made that executive branch of government derive its authority from and be responsible to the electorate or to a fully representative legislative body. If Emperor institution is not retained constitutional safeguards against that institution will obviously not be required but provision should be made for (1) complete control by an elected congress of financial

TOP SECRET

and budget council. (2) Guarantee of fundamental civil rights to all persons within Japanese jurisdiction, not to Japanese only, and (3) action by Head of State only pursuant to authority expressly delegated to him. If Emperor is retained, following safeguards in addition to those enumerated above would be necessary: (1) A cabinet to advise and assist the Emperor should be chosen with advice and consent of and responsible to representative legislative body, (2) no veto over legislative measures should be exercised by other bodies such as House of Peers or Privy Council, (3) Emperor should be required to initiate amendments to constitution recommended by Cabinet and approved by legislative body, (4) legislative body should be permitted to meet at will, and (5) any ministers for armed forces which may be permitted in future should be civilians and all special privileges of direct access to Throne by military should be eliminated. We concur in general in the review summarized in your CA-53137 October 11th and desire that you continue your discussions and keep Department informed."

Again in SWNCC 228 dated 7th January 1946 the United States laid down still more detailed policy rules, concluding that:

"A. The Supreme Commander should indicate to the Japanese authorities that the Japanese governmental system should be reformed to accomplish the following general objectives: (1) A government responsible to an electorate based upon wide representative suffrage; (2) An executive branch of government deriving its authority from and responsible to the electorate or to a fully representative body; (3) A legislative body, fully representative of the electorate, with full power to reduce, increase or reject any items in the budget or to suggest new items; (4) No budget shall

TOP SECRET

become effective without the express approval of the legislative body; (5) Guarantee of fundamental civil rights to Japanese subjects and to all persons within Japanese jurisdiction; (6) The popular election or local appointment of as many of the prefectural officials as practicable; (7) The drafting and adoption of constitutional amendment or of a constitution in a manner which will express the free will of the Japanese people.

"B. Though the ultimate form of government in Japan is to be established by the freely expressed will of the Japanese people, the retention of the Emperor institution in its present form is not considered consistent with the foregoing general objectives.

"C. If the Japanese people decide that the Emperor institution is not to be retained, constitutional safeguards against the institution will obviously not be required but the Supreme Commander should indicate to the Japanese that the constitution should be amended to conform to the objectives listed in A above and to include specific provision: (1) That any other bodies shall possess only a temporary veto power over legislative measures, including constitutional amendments approved by the representative legislative body, and that such body shall have sole authority over financial measures; (2) That the ministers of state or the members of a cabinet should in all cases be civilians; (3) That the legislative body may meet at will.

"D. The Japanese should be encouraged to abolish the Emperor institution or to reform it along more democratic lines. If the Japanese decide to retain the institution of the Emperor, however, the Supreme Commander should also indicate to the Japanese authorities that the following safeguards in addition to those enumerated in A and C above would be necessary: (1) That the ministers of state, chosen with

TOP SECRET

the advice and consent of the representative legislative body, shall form a cabinet collectively responsible to the legislative body; (2) That when a cabinet loses the confidence of the representative legislative body, it must either resign or appeal to the electorate; (3) The Emperor shall act in all important matters only on the advice of the Cabinet; (4) The Emperor shall be deprived of all military authority such as that provided in articles 11, 12, 13, and 14 of chapter 1 of the Constitution; (5) The Cabinet shall advise and assist the Emperor; (6) The entire income of the Imperial household shall be turned into the public treasury and the expenses of the Imperial household shall be appropriated by the legislature in the annual budget."

Finally at culmination, about the middle of February, when a number of drafts had been discussed at length and the question had reached a state of intense universal consideration, the Cabinet at the Government's request joined in almost constant conference with SCAP's Government Section from which discussions finally emerged the Government draft. It thus will be seen that I have acted meticulously in accord with the instructions received from the United States Government, and been guided throughout by its policies in assisting the Japanese Government and Government and people in the development of constitutional reform.

It has been my purpose, in conformity with the principles laid down at Potsdam as developed in aforesaid American policy, to take no formal action on any constitutional reform finally adopted by the Japanese people if it reasonably conforms to existing Allied policy, in order to avoid any implication which might arise, even from the formality of approval by the Allied powers, that such reform resulted from Allied pressure. Such policy and its purpose was clearly stated in SWNCC 228,

TOP SECRET

reading in part as follows: paragraph 5 "Only as a last resort should the Supreme Commander order the Japanese Government to effect the above listed reforms, as the knowledge that they had been imposed by the Allies would materially reduce the possibility of their acceptance and support by the Japanese people for the future"; conclusions, paragraph 4 A (7): "The drafting and adoption of constitutional amendments or of a constitution in a manner which will express the free will of the Japanese people;" and Appendix "B", paragraph (7): "Only as a last resort should a formal instruction be issued to the Japanese Government specifying in detail the reforms to be effected". The only policy decision thus far handed down by the Far Eastern Commission in the matter of constitutional reform had the effect of reversing this all-important policy provision by its requirement of the formality of its approval as a prerequisite to the final adoption of any constitutional reform by the Japanese people. The purpose underlying such requirement is not clear, but its effect is capable of doing immeasurable harm to the occupation as it will undoubtedly prejudice many Japanese people against the instrument itself, who will look upon it as a thing forced upon Japan at the point of Allied bayonets, however admirable its purposes and noble its aims. It will completely negative the expressed purpose underlying aforestated policy that the drafting and adoption of a constitution be done "in a manner which will express the free will of the Japanese people." There can be no free will when the threat of disapproval by the Allied powers overhangs all deliberation, discussion and debate on the constitutional issue. My own personal approval of the Government draft, evolved from joint studies between the Japanese Government and SCAP Headquarters, was designed merely to give moral support and encouragement to the liberal forces struggling in Japan for reform against

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tradition, prejudice and reaction. It was given by me in direct compliance with my American policy directive to encourage the establishment of democratic processes in Japan in implementation of the requirement of the Potsdam declaration that the "Japanese Government shall remove all obstacles to the revival and strengthening of democratic tendencies among the Japanese people," and because the suggested draft embodied all the principles theretofore enumerated as a guide to constitutional reform. It did not commit the Allied powers in any way or even the Supreme Commander himself except on general principles nor did it restrict in any way or degree the freedom of discussion and action by the Japanese Government and people upon the issues involved. This was fully understood by both the Japanese Government and people as eloquently demonstrated by the subsequent public discussion still in progress which has occupied large sections of the Japanese daily press.

The Far Eastern Commission, by its terms of reference, is a policy making body with no executive powers, functions or responsibilities in the administration of Japan, which are reserved exclusively to the Supreme Commander. While it has the right of review of any action taken by the Supreme Commander which involves its own "policy decisions within its jurisdiction", it is not empowered, in my belief, to require prior approval of any action taken either by the Supreme Commander or the Japanese Government to implement, fulfill or enforce the terms of surrender. It thus far has formulated no action setting up "policies, principles and standards" to govern in the revision of the Japanese constitution. It has not given the slightest indication of whether it concurs or nonconcurs with the stated American policy, other than that contained in its apparent reversal of American policy designed to maintain the voluntary character of Japanese action on constitution reform. Approval or disapproval of acts of the

TOP SECRET

Japanese Government as a prerequisite to their validity is a function wholly executive in character. For the Far Eastern Commission to assert such power seems a clear violation of the terms of the Moscow agreement and the interpretation of the American Government thereof, as publicly stated by the Secretary of State. To the contrary, it appears patently clear that the function of the Far Eastern Commission in the matter of constitution reform for Japan is limited to the formulation of guiding policy within the framework of the Potsdam declaration and the surrender terms. In the absence of any such policy statement from the Far Eastern Commission, the Supreme Commander is clearly unrestricted his authority to proceed in the implementation of the Potsdam Declaration and surrender terms as he interprets them or may be guided by developed American policy in point. In this matter speed is of the essence due to the fact, too readily lost sight of, that the Japanese people are now subject to their present wholly undemocratic constitution and will remain subject thereto so long as reform is delayed. Such delay, furthermore, but serves the interests of those who would much prefer that such reforms be not instituted at all.

It is too early to forecast either the course or time-table of legislative action, once the Government's draft constitution is formally submitted to the Diet, nor is it known whether any further procedure, such as by constitutional convention or plebiscite, will be determined upon for direct ratification by the people. I personally believe that provision for such direct ratification, however, is both unnecessary and undesirable. It would be cumbersome, and involve further protracted delay, with little likelihood of beneficial result. The new constitution is now being evolved on an entirely voluntary basis by the Japanese Government and people; the Government's draft was squarely before the electorate throughout

TOP SECRET

the recent elevation campaign; it has been and is being fully discussed in all circles and through all media, and its final form is still problematical. The Diet, which will act upon it as required by the existing constitution, is composed of a membership elected with the express view of acting upon it. The important thing is to encourage the people, by their own voluntary action and method, to establish the reforms sought under Allied policy, and to do so as quickly as possible; thereafter further refinement is always within the people's right, with such leadership or direction as we may determine should be extended.

All political parties and various private groups and individuals have proposed constitutions and constitutional provisions. Such proposals have, throughout the election campaign, been widely disseminated and debated in the vernacular press and radio, and all were considered, as were the existing constitutions of nearly all of the free peoples of the earth, in the development of the Government's draft. As I stated when I indicated my approval thereof, it constitutes a realistic compromise between the several divergent political faiths. The consideration by the people of the constitutional question has been thoroughly democratic, and when it emerges in final form it will probably have been the most freely discussed and considered constitution in history. As well over 95 per cent of the Japanese people are clearly disposed to retain the Imperial institution, while free discussion thereon has been encouraged, no effort has been made to persuade them to abolish the same. Such action would do violence to the spirit of the Potsdam Declaration which left this matter to the free will of the Japanese people. The drastic reformation of the Imperial institution along democratic lines, with its survival rendered subject to the people's will as proposed in the Government's draft, bespeaks the encouragement SCAP has given this reform.

TOP SECRET

The Commission could render no better service to the cause of democracy than to permit the Japanese Government and people, as I propose to do, to proceed unshackled, unhindered, and in complete freedom to work out their constitutional reforms, examining the situation only after action thereon has been completed to determine that the results achieved meet Allied standards.

I strongly urge the Commission to reorient itself from consideration of the past, to meet those great issues on which policies have not yet been determined; to accept the proposition that the sweeping measures which the United States of necessity alone has taken, with all attendant hazards, risks and costs, in the occupation of Japan have been within the spirit of Allied purposes, and are now matters which have been largely accomplished and upon all of which action is proceeding in accordance with determined policies; to proceed at once to decide policies to govern in the solution of the remaining vital problems, foremost of which involve reparations and the position which Japan is to occupy in the post-war world, on the solution of which rests the entire question of Japan's internal economic and social reconstruction; and, in full mutual confidence and friendly spirit, to work closely and constructively with the Supreme Commander in serving the common purpose. Thereby, and thereby alone, may the objective of the Moscow agreement, in constituting the Commission as an agency to shape Allied policy for the guidance of the Supreme Commander in the discharge of his executive responsibilities, be fully and harmoniously reached. For my part, the Commission may be assured that I as Supreme Commander will make available to it copies of all special and periodic reports covering the administration of Japan, and any other special information which it may from time to time specifically desire, and do everything else reasonable within my power to facilitate discharge of the Commission's responsibility in the over-all task to which the Allied nations jointly are committed.



THE JOINT CHIEFS OF STAFF
WASHINGTON 25, D. C.

3 Procedure
Misc.
(Cross)



SWNCC SECRETARIAT

RESTRICTED
SM-5625
30 April 1946

- State Member
- Army Member
- Navy Member
- Ass't State Member
- Ass't Navy Member
- Ass't Army Member
- Executive Secretary
- Ass't Exec. Secretary
- State Adm. Assistant
- Army Adm. Assistant
- Navy Adm. Assistant
- File

MEMORANDUM FOR THE STATE-WAR-NAVY COORDINATING COMMITTEE:

Subject: Consultation between Far Eastern Commission and the Supreme Commander for the Allied Powers on Progress of Occupation of Japan.

Reference: SWN-4161.

On 29 April 1946 the Joint Chiefs of Staff dispatched, with minor changes, the enclosure to the reference memorandum, to the Supreme Commander for the Allied Powers as WCL 37120, a copy of which is enclosed for information.

For the Joint Chiefs of Staff:

A. J. McFARLAND,
Brigadier General, U.S. Army,
Secretary.

Enclosure:
WCL 37120 (Apr 46)

MAY 1 1946

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STATE-WAR-NAVY COORDINATING COMMITTEE

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WAR DEPARTMENT
CLASSIFIED MESSAGE CENTER
OUTGOING CLEAR MESSAGE

Joint Chiefs of Staff
W D Ext 77500
Col C R Peck, Inf

29 April 1946

CINCAFPAC Command Tokyo, Japan

Number: WCL 37120

To MacArthur from the Joint Chiefs of Staff

The following message from the chairman, Far Eastern Commission, has been received from the State, War and Navy Departments for transmission to SCAP under the provisions of the final sentence of paragraph VI, one, of the Commission's terms of reference:

"The Far Eastern Commission has requested its chairman to consult with the Supreme Commander for the Allied Powers with a view to bringing to his attention its belief that it will be assisted in its task of formulating policy if arrangements could be made whereby at all stages the Commission will be fully acquainted with the progress already made by the Supreme Commander for the Allied Powers in achieving the objectives of the occupation in the several fields of administration, and with the work which remains to be done and the problems to be met in each field, and if the Commission could be given timely information in general of the plans of the Supreme Commander for the Allied Powers for future action in each section of his headquarters, with the considerations affecting the relative urgency with which the various matters should be attended to, and with the trend of events in Japan in so far as this affects policies now being formulated.

The Far Eastern Commission expressed the belief that it will also be to the mutual advantage of the Supreme Commander for the Allied Powers and the Commission if the Supreme Commander is kept informed of the progress of the work carried on by the Commission and its several committees.

The chairman of the Commission desires that the above be transmitted to the Supreme Commander for his information

MC-OUT-37120

(Apr 46)

UNCLASSIFIED

WAR DEPARTMENT
CLASSIFIED MESSAGE CENTER
OUTGOING CLEAR MESSAGE

Number: WCL 37120

Page 2

and possible comment. The chairman of the Commission also desires to inform the Supreme Commander that the Secretariat of the Commission is now in consultation with the War Department with a view to making the most suitable arrangements for keeping the Supreme Commander informed of the progress of the work of the Commission and its several committees."

End

ORIGINATOR: JC/S
DISTRIBUTION: Adm Leahy
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MC-OUT-37120

(Apr 46)

DTG 292200Z

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THE JOINT CHIEFS OF STAFF
WASHINGTON 25, D. C.

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SWNCC SECRETARIAT

State Member
Army Member
Navy Member
Ass't State Member
Ass't Navy Member
Ass't Army Member
Executive Secretary
Ass't Exec. Secretary
State Adm. Assistant
Army Adm. Assistant
Navy Adm. Assistant
File

RESTRICTED

SM-5623

30 April 1946

MEMORANDUM FOR THE STATE-WAR-NAVY COORDINATING COMMITTEE:

Subject: Consultation between Far Eastern Commission and the Supreme Commander for the Allied Powers on Japanese Constitutional Reform.

Reference: SWN-4160.

On 29 April 1946 the Joint Chiefs of Staff dispatched, with minor changes, the contents of the enclosure to the reference memorandum to the Supreme Commander for the Allied Powers as WCL 37080, a copy of which is enclosed for information.

For the Joint Chiefs of Staff:

A. J. McFARLAND,
Brigadier General, U.S. Army,
Secretary.

Enclosure:
WCL 37080 (Apr 46)

MAY 1 1946



STATE WAR & NAVY COORDINATING
COMMITTEE

RESTRICTED

WAR DEPARTMENT
CLASSIFIED MESSAGE CENTER
OUTGOING CLEAR MESSAGE

Joint Chiefs of Staff
Brig Gen A J McFarland
WD Ext 77500

29 April 1946

CINCAPPAC Tokyo Japan

Number: WOL 37080

To MacArthur from the Joint Chiefs of Staff.

The following message from the Chairman, Far Eastern Commission, has been received from the State, War and Navy Departments for transmission to SCAP under the provisions of the final sentence of paragraph VI, 1, of the Commission's Terms of Reference:

"The Far Eastern Commission has unanimously requested its Chairman to consult with the Supreme Commander for the Allied Powers with a view to having him send a member of his staff to Washington to confer with the Commission in connection with the Commission's current study of Japanese Constitutional Reform and of the basic principles which should determine its approval of any specific constitutional draft.

Any officer selected by the Supreme Commander for this purpose should not only be familiar with the subject of Japanese Constitutional Reform in general, but should also be prepared to discuss with the Commission the views and plans of the Supreme Commander's Headquarters in these matters and should be informed about the current developments within the Japanese Government and among the Japanese People on the subject of a New Constitution.

The Commission, in its concern that any Constitution adopted by the Japanese should embody the 'Freely expressed will of the Japanese People', is particularly interested in the procedures by which it is contemplated a New Constitution will be adopted--whether, for example, by the Diet, by a Constitutional Convention, or by a Plebiscite. The Commission

MC OUT 37080

(Apr 46)

UNCLASSIFIED

WAR DEPARTMENT
CLASSIFIED MESSAGE CENTER
OUTGOING CLEAR MESSAGE

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29 April 1946

Page 2.

is also very much interested in the extent to which the Japanese people have actually participated in discussions concerning the adoption of a New Constitution - for example, to what extent they have been informed about other Constitutional Drafts than the one proposed by the Cabinet; what evidence they have shown of applying Democratic principles in considering a new proposed Constitution; and in what manner they have been encouraged to abolish the Imperial Institution or to reform it along Democratic lines.

The Commission would, of course, profit greatly if the officer selected were also in a position to communicate the Supreme Commander's own views on these matters."

End

ORIGINATOR : JCS

DISTRIBUTION : ASF, Adm Leahy, CG AAF, OPD, G-2, GAD,
Adm Nimitz, C of S

MC OUT 37080

(APR 46)

DTG 291853Z 46

UNCLASSIFIED

VFF:bjh

BWN-4161
17 April 1946

MEMORANDUM FOR THE SECRETARY, JOINT CHIEFS OF STAFF:

Subject: Communication from Chairman of Far Eastern Commission for transmittal to the Supreme Commander for the Allied Powers

It is requested that the content of the enclosure be transmitted to the Supreme Commander for the Allied Powers by the Joint Chiefs of Staff in response to the following request from the Department of State:

"The Far Eastern Commission, acting under paragraph VI-1 of its Terms of Reference, which provides that the Commission 'may make such arrangements through the chairman as may be practicable for consultation with the Supreme Commander for the Allied Powers', requested its chairman on 10 April 1946 to consult with the Supreme Commander for the Allied Powers on the matter contained in the enclosure. The chairman of the Commission has requested the Secretary of State to have the information in the attached enclosure transmitted to the Supreme Commander for the Allied Powers for his information, guidance and possible comment. It will be noted that no reference has been made in the enclosure to the chairman's request that the message be transmitted for the Supreme Commander's 'guidance' as the use of this word might indicate that the message is intended as a directive rather than as a consultative message from the chairman.

It is requested that the attached enclosure be forwarded to the Joint Chiefs of Staff for transmission to the Supreme Commander for the Allied Powers."

For the State-War-Navy Coordinating Committee:

A. D. REID,
Secretary

Enclosure

COPY FOR SWNCC FILE

69

ENCLOSURE

The Far Eastern Commission has requested its chairman to consult with the Supreme Commander for the Allied Powers with a view to bringing to his attention its belief that it will be assisted in its task of formulating policy if arrangements could be made whereby at all stages the Commission will be fully acquainted with the progress already made by the Supreme Commander for the Allied Powers in achieving the objectives of the occupation in the several fields of administration, and with the work which remains to be done and the problems to be met in each field, and if the Commission could be given timely information in general of the plans of the Supreme Commander for the Allied Powers for future action in each section of his Headquarters, with the considerations affecting the relative urgency with which the various matters should be attended to, and with the trend of events in Japan insofar as this affects policies now being formulated.

The Far Eastern Commission expressed the belief that it will also be to the mutual advantage of the Supreme Commander for the Allied Powers and the Commission if the Supreme Commander is kept informed of the progress of the work carried on by the Commission and its several Committees.

The chairman of the Commission desires that the above be transmitted to the Supreme Commander for his information and possible comment. The chairman of the Commission also desires to inform the Supreme Commander that the Secretariat of the Commission is now in consultation with the War Department with a view to making the most suitable arrangements for keeping the Supreme Commander informed of the progress of the work of the Commission and its several Committees.

VFF:bjh

BWH-4160
17 April 1946

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Enclosure

File

(69)

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Any officer selected by the Supreme Commander for this purpose should not only be familiar with the subject of Japanese constitutional reform in general, but should also be prepared to discuss with the Commission the views and plans of the Supreme Commander's Headquarters in these matters and should be informed about the current developments within the Japanese Government and among the Japanese people on the subject of a new constitution.

The Commission, in its concern that any constitution adopted by the Japanese should embody the "freely expressed will of the Japanese people", is particularly interested in the procedures by which it is contemplated a new constitution will be adopted - whether, for example, by the Diet, by a constitutional convention, or by a plebiscite. The Commission is also very much interested in the extent to which the Japanese people have actually participated in discussions concerning the adoption of a new constitution - for example, to what extent they have been informed about other constitutional drafts than the one proposed by the Cabinet; what evidence they have shown of applying democratic principles in considering a new proposed constitution; and in what manner they have been encouraged to abolish the imperial institution or to reform it along democratic lines.

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4161

ADDRESS OFFICIAL COMMUNICATIONS TO
THE SECRETARY OF STATE
WASHINGTON, D. C.



DEPARTMENT OF STATE
WASHINGTON

MEMORANDUM FROM THE STATE
DEPARTMENT MEMBER OF SWNCC

Communication from Chairman of Far Eastern
Commission for transmittal to the Supreme
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APR 16 1946

J. H. Milldring

J. H. Milldring
State Department Member
State-War-Navy Coordinating Committee



Attachment.



STATE WAR & NAVY COORDINATING
COMMITTEE

69

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4160

ADDRESS OFFICIAL COMMUNICATIONS TO
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WASHINGTON, D. C.



DEPARTMENT OF STATE
WASHINGTON

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DEPARTMENT MEMBER OF SWNCC

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State Department Member
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APR 16 1946

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69

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CONSTITUTION OF JAPAN

We, the Japanese people, acting through our duly elected representatives in the National Diet, determined that we shall secure for ourselves and our posterity the fruits of peaceful cooperation with all nations and the blessings of liberty throughout this land, and resolved that never again shall we be visited with the horrors of war through the action of government, do proclaim the sovereignty of the people's will and do ordain and establish this Constitution, founded upon the universal principle that government is a sacred trust the authority for which is derived from the people, the powers of which are exercised by the representatives of the people, and the benefits of which are enjoyed by the people; and we reject and revoke all constitutions, laws, ordinances, and rescripts in conflict herewith.

Desiring peace for all time and fully conscious of the high ideals controlling human relationship now stirring mankind, we have determined to rely for our security and survival upon the justice and good faith of the peace-loving peoples of the world. We desire to occupy an honored place in an international society designed and dedicated to the preservation of peace, and the banishment of tyranny and slavery, oppression and intolerance, for all time from the earth. We recognize and acknowledge that all peoples have the right to live in peace, free from fear and want.

We hold that no people is responsible to itself alone, but that laws of political morality are universal; and that obedience to such laws is incumbent upon all peoples who would sustain their own sovereignty and justify their sovereign relationship with other peoples.

To these high principles and purposes we, the Japanese People, pledge our national honor, determined will and full resources.

CHAPTER I

THE EMPEROR

Article I. The Emperor shall be the symbol of the state and of the unity of the people, deriving his position from the sovereign will of the people.

Article II. The Imperial Throne shall be dynastic and succeeded to in accordance with the Imperial House Law passed by the Diet.

Article III. The advice and approval of the Cabinet shall be required for all acts of the Emperor in matters of state, and the Cabinet shall be responsible therefor.

Article IV. The Emperor shall perform only such state functions as are provided for in this constitution. Never shall he have powers related to government.

The Emperor may delegate his functions as may be provided by law.

Article V. When, in accordance with the Imperial House Law, a regency is established, the Regent shall exercise his functions in the Emperor's name. In this case, paragraph one of the preceding article will be applicable.

Article VI. The Emperor shall appoint the Prime Minister as designated by the Diet.

Article VII. The Emperor, with the advice and approval of the Cabinet, shall perform the following functions of state on behalf of the people:

Promulgation of amendments of the constitution, laws, cabinet orders and treaties.

Convocation of the Diet.

Dissolution of the House of Representatives.

Proclamation of general elections.

Attestation of the appointment and dismissal of Ministers of State, Ambassadors, and other officials as provided for by law.

Attestation of general and special amnesty, commutation of punishment, reprieve, and restoration of rights.

Awarding of honors.

Receiving foreign ambassadors and ministers.

Performance of ceremonial functions.

Article VIII. No property can be given to, or received by, the Imperial House, and no receipts and disbursements can be made thereby, without the authorization of the Diet.

CHAPTER 2

RENUNCIATION OF WAR

Article IX. War, as a sovereign right of the nation, and the threat or use of force, is forever renounced as a means of settling disputes with other nations.

The maintenance of land, sea, and air forces, as well as other war potential, will never be authorized. The right of belligerency of the state will not be recognized.

CHAPTER 3

RIGHTS AND DUTIES OF THE PEOPLE

Article X. The people shall not be prevented from enjoying any of the fundamental human rights. These fundamental human rights guaranteed to the people by this constitution shall be conferred upon the people of this and future generations as eternal and inviolate rights.

Article XI. The enjoyment of the freedoms and rights guaranteed to the people by this constitution shall be maintained by the eternal vigilance of the people, and the people shall refrain from any abuse of these freedoms and rights and shall always be responsible for utilizing them for the public welfare.

Article XII. All of the people shall be respected as individuals, and their right to life, liberty, and the pursuit of happiness shall, within the limits of the public welfare, be the supreme consideration in legislation and in governmental affairs.

Article XIII. All natural persons are equal under the law and there shall be no discrimination in political, economic, or social relations because of race, creed, sex, social status, or family origin. No right of peerage shall from this time forth embody within itself any national or civic power of government, nor shall peerage extend beyond the lives of those now in being. No privilege shall accompany any award of honor, decoration or any distinction; nor shall any such award be valid beyond the lifetime of the individual, who now holds or hereafter may receive it.

Article XIV. The people have the inalienable right to choose their public officials and to dismiss them.

All public officials are servants of the whole community and not of any special group.

In all elections, secrecy of the ballot shall be preserved inviolate, nor shall any voter be answerable, publicly or privately, for the choice he has made.

Article XV. Every person has the right of peaceful petition for the redress of damage and other matters, for the removal of public officials and for the enactment, repeal or amendment of laws, ordinances or regulations; nor shall any person be in any way discriminated against for sponsoring such a petition.

Article XVI. No person shall be held in bondage of any kind. Involuntary servitude, except as punishment for crime, is prohibited.

Article XVII. Freedom of thought and conscience shall be held inviolable.

Article XVIII. Freedom of religion is guaranteed to all. No religious organization shall receive any privilege from the State, nor exercise any political authority.

No person shall be compelled to take part in any religious act, celebration, rite, or practice.

The State and its organs shall refrain from religious education or any other religious activity.

Article XIX. Freedom of assembly, association, speech, and press and all other forms of expression are guaranteed. No censorship shall be maintained, nor shall the secrecy of any means of communication be violated.

Article XX. Every person shall have freedom to choose and change his residence and to choose his occupation to the extent that it does not interfere with the public welfare.

Freedom of all persons to move to a foreign country and to divest themselves of their nationality shall be inviolate.

Article XXI. Academic freedom is guaranteed.

Article XXII. Marriage shall be based only on the mutual consent of both sexes and it shall be maintained through mutual cooperation, with the equal rights of husband and wife as a basis. Laws shall be enacted considering choice of spouse, property rights, inheritance, choice of domicile, divorce and other matters pertaining to marriage and the family from the standpoint of individual dignity and the essential equality of the sexes.

Article XXIII. In all spheres of life, laws shall be designed for the promotion and extension of social welfare and security, and of public health, freedom, justice and democracy.

Article XXIV. Every person shall have the right to receive an equal education corresponding to his ability, as provided by law.

Every person shall be obligated to insure that all of the children under his protection receive elementary education. Such education shall be free.

Article XXV. All persons have the right to work. Standards for working conditions, wages and hours shall be fixed by law. The exploitation of children shall be prohibited.

Article XXVI. The right of workers to organize and to bargain and act collectively is guaranteed.

Article XXVII. The right to own property is inviolable, but property rights shall be defined by law, in conformity with the public welfare. Private property may be taken for public use upon just compensation therefor.

Article XXVIII. No person shall be apprehended except upon warrant issued by a competent judicial officer which specifies the offense with which the person is charged, unless he is apprehended while committing a crime.

Article XXIX. No person shall be arrested or detained without being at once informed of the charges against him or without the immediate privilege of counsel; he shall not be detained without adequate cause; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel.

Article XXX. No person shall be deprived of life or liberty, nor shall any criminal penalty be imposed, except according to procedure established by the Diet, nor shall any person be denied the right of access to the courts.

Article XXXI. The right of the people to be secure in their persons, homes, papers and effects against entries, searches and seizures shall not be impaired except upon warrant issued only for probable cause, and particularly describing the place to be searched and the person or things to be seized.

Each search or seizure shall be made upon separate warrant issued for the purpose by a competent judicial officer.

Article XXXII. The infliction of torture by any public officer and cruel punishments are absolutely forbidden.

Article XXXIII. In all criminal cases the accused shall enjoy the right to a speedy and public trial by an impartial tribunal.

He shall be permitted full opportunity to examine all witnesses, and he shall have the right of compulsory process for obtaining witnesses on his behalf at public expense.

At all times the accused shall have the assistance of competent counsel who shall, if the accused be unable to secure the same by his own efforts, be assigned to his use by the government. No person shall be placed in double jeopardy for the same crime.

Article XXXIV. No person shall be compelled to testify against himself.

No confession shall be admitted in evidence if made under compulsion, torture or threat, or after prolonged arrest or detention.

No person shall be convicted or punished in cases where the only proof against him is his own confession.

Article XXXV. No person shall be held criminally liable for an act which was lawful at the time it was committed, or of which he has been acquitted.

CHAPTER 4

THE DIET

Article XXXVI. The Diet shall be the highest organ of state power, and shall be the sole law-making authority of the State.

Article XXXVII. The Diet shall consist of two houses, namely the House of Representatives and the House of Councillors.

Article XXXVIII. Both Houses shall consist of elected members, representative of all the people.

The number of the members of each House shall be fixed by law.

Article XXXIX. The qualifications of electors and members for both Houses shall be fixed by law. However, there shall be no discrimination because of sex, race, religion, or social status.

Article XL. The term of office of members of the House of Representatives shall be 4 years. However, the term may be terminated before the full term is up, by dissolution of the House of Representatives.

Article XLI. Matters pertaining to the method of election of members of both Houses, electoral districts, and method of voting, shall be fixed by law.

Article XLII. The term of office of the members of the House of Councillors shall be six years, except for half the members serving in the first term. Election for half the members shall take place every three years.

Article XLIII. No person shall be permitted to be a member of both Houses simultaneously.

Article XLIV. Members of both Houses shall receive appropriate annual payment from the national treasury in accordance with the law.

Article XLV. Except in cases provided by law, members of both Houses shall be exempt from arrest while the Diet is in session. Any member arrested before the opening of the session shall be freed during the term of the session upon demand of his House.

Article XLVI. Members of both Houses shall not be held liable outside the House for speeches, debates, or votes cast inside the House.

Article XLVII. The Diet shall be convoked at least once per year.