

FEC-101/47RESTRICTEDFEC-101/4710 Apr '1 1947FAR EASTERN COMMISSIONDRAFT LAW IMPLEMENTING JAPANESE CONSTITUTION: BILL
FOR PROVISIONAL AMENDMENTS OF THE CRIMINAL
PROCEDURE CODE

(References: Art. 31, FEC-087/14;
FEC-101/24 / Court Organization Law]
FEC-101/37 / Procurator's Office Bill]

Note by the Secretary General

1. The enclosure, a draft law entitled "Bill for Provisional Amendments of the Criminal Procedure Code", implementing Art. 31 of the new Japanese Constitution, was received from the Supreme Commander for the Allied Powers, and is circulated by the United States Representative for the consideration of the Far Eastern Commission and referred to COMMITTEE NO. 3: CONSTITUTIONAL AND LEGAL REFORM.

2. No information is available as to the date on which the enclosed draft law was introduced into the Japanese Diet. According to information from the Supreme Commander, however, the enclosure has been approved by the 92nd Japanese Diet and was forwarded to Washington on 28 March 1947. The enclosure was filed with the Far Eastern Commission Secretariat on 8 April 1947.

3. The enclosure is a verbatim copy of the original draft law translation received from the Supreme Commander. The Japanese text of the enclosure will be circulated as soon as reproduction facilities permit.

NELSON T. JOHNSON
Secretary General

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RESTRICTEDE N C L O S U R EDRAFT LAW IMPLEMENTING JAPANESE CONSTITUTION: BILL
FOR PROVISIONAL AMENDMENTS OF THE CRIMINAL
PROCEDURE CODE

Article 1. The purpose of this law is to provide temporary modifications of the Code of Criminal Procedure, pursuant to the enforcement of the Constitution of Japan.

Article 2. The Code of Criminal Procedure must be interpreted in accordance with the Constitution of Japan, the Court Organization Law and the Procurator's Act.

Article 3. A suspect, when his or her person has been subjected to restraints, may select counsel. In such case the provisions of Article 39 Paragraph 2 of the Code of Criminal Procedure shall apply mutatis mutandis.

Article 4. When an accused, because of poverty or other reason is unable to select counsel, the court must provide counsel on behalf of the accused upon his request.

Article 5. Decisions other than judgements may be rendered by an Assistant Judge.

Article 6. An accused or suspect who has been taken into custody must be informed immediately of the essential facts concerning the crime (for which he is apprehended) and also that he may select legal counsel.

Upon demand the reason for a detention must be stated immediately in open court in the presence of the accused or the suspect and his legal counsel.

Article 7. A public procurator or a judicial police officer may not issue a warrant of arrest or detention.

A public procurator or a judicial police officer may not seize, search, or inspect without the warrant of a judge. However, this shall not apply in cases in which they arrest a criminal in flagrante delicto or in which they execute a warrant of arrest or detention.

A public procurator or a judicial police officer may not order expert evidence which requires an examination of the body of a person, an autopsy, or an act of destruction of an object.

Article 8. The following rules govern the issuance of warrants of arrest and detention and the commencement of public action.

- a. When there are reasonable grounds to suspect that a crime has been committed by a suspect, a public procurator or a judicial police official may arrest him upon obtaining a warrant of a judge.
- b. When there are sufficient grounds to suspect the commission of a crime punishable by death, penal servitude or imprisonment for life or a period up to three years or longer, and if in addition because of great urgency a warrant of arrest cannot be obtained

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beforehand from a judge, a public procurator or a judicial police official may, upon the statement of the reasons therefore, apprehend a suspect. In such cases, the procedure shall be followed of requesting immediately a warrant of arrest from a judge. If a warrant of arrest is not issued the suspect must be released immediately.

- c. In the case of a person apprehended in flagrante delicto, a warrant of detention must be requested from a judge by a procurator without delay, and in any event within the limitations of time imposed by Articles 127 and 128 of the Code of Criminal Procedure. These time limitations must run from the time of physical apprehension. In case unavoidable circumstances prevent judicial police officials or public procurators from complying with the time limitations herein set forth, a judge may, upon a proper showing of facts, rule that the unavoidable circumstances have justified the delay involved. If a warrant of detention is not issued, the person apprehended must be released immediately.
- d. A warrant of detention may be issued at the time of a warrant of arrest in the case of an apprehension according to the provisions of paragraph "b" of this Article. In the cases of apprehensions according to the provisions of both paragraphs "a" and "b" of this Article, a warrant of detention must be requested from a judge by a procurator without delay, and in any event within the limitations of time set by paragraph "c" of this Article. If such a warrant is not issued, the person apprehended must be released immediately.
- e. In all cases set forth in subparagraph "a", "b", "c" and "d" of this Article or any case of arrest whatsoever the public procurator shall bring public action as promptly as possible under the circumstances. If no public action has been commenced within 10 days after a warrant of detention was requested, the suspect must be released.

Article 9. Preliminary examinations shall not be conducted.

Article 10. No person shall be compelled to testify against himself. Confession made under compulsion, torture or threat, or after prolonged arrest or detention shall not be admitted in evidence.

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

Article 11. Public procurators and counsel may, on the day of public trial, examine the accused, witnesses, expert witnesses, interpreters or translators, by notifying the presiding judge.

The accused may, on the day of public trial, examine the co-accused, witnesses, expert witnesses, and interpreters or translators, by notifying the presiding judge.

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Article 12. If requested by the accused, documents which contain the testimony of witnesses or persons other than the accused, or documents which are to be substituted for the above-mentioned ones, may not be used as evidence unless the accused is, at the time of the public trial, afforded an opportunity to examine the persons who have given such testimony or drawn up such documents. However, when it is impossible or extremely difficult to provide such opportunities to the accused, the court may utilize such documents with proper regard for their limitations and the constitutional rights of the accused.

Article 13. Jokoku appeals may be taken to the Supreme Court against second or first instance judgments rendered by the High Court, and to the High Court against the second instance judgements rendered by the District Court.

The provisions of Articles 412 to 414 inclusive, of the Code of Criminal Procedure shall not be applied.

Article 14. In cases provided for in any item of Article 16 of the Code of Criminal Procedure, a Jokoku appeal may be taken to the High Court against a judgement in the first instance rendered by the Summary Court, or to the Supreme Court against a judgement in the first instance rendered by the District Court without going through the procedure of retrial. (Koso).

Article 15. When a High Court is the Appellate Court in Jokoku appeals it must, whenever there are causes prescribed by the Supreme Court, transfer cases to the Supreme Court by means of a ruling.

Article 16. Facts shall not be determined by an Appellate Court in the case of a Jokoku appeal.

Article 17. Jokoku appeals to the Supreme Court may again be taken against judgements of the High Court which are rendered in cases of Jokoku appeals only on the ground that an improper adjudication is made in the judgement to the effect that a law, ordinance, regulation or official act is or is not constitutional. However, this shall not apply to judgements which remand or transfer cases.

A form of appeal from a judgment, usually limited to a review of issues of law.

Jokoku appeals provided in the preceding paragraph shall not have the effect of preventing a judgement from becoming binding. However, the Supreme Court may, by a ruling, suspend the execution of a penalty when the Jokoku appeal provided in the preceding paragraph has been taken.

Article 18. A complaint may specially be made to the Supreme Court against those rulings or orders from which no recourse is possible under the Code of Criminal Procedure, but only on the ground that the ruling or order contained an improper adjudication to the effect that a law, order, regulation or official act is or is not constitutional. A Complaint provided in the preceding paragraph shall be made within five days.

Article 19. In connection with criminal investigations and the execution of warrants, those provisions relating to judicial police officers shall apply mutatis mutandis to administrative secretaries in a public procurator's office.

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Article 20. The provisions of the Code of Criminal Procedure concerning renewal of procedure shall not be applied to the disadvantage of the accused.

Article 21. The provisions of other statutes or ordinances which are contrary to the provisions of this law shall not be applied.

Supplemental Provision

This law shall come into force from the effective date of the enforcement of the Constitution of Japan.

This law shall expire as of 1 January 1948.

The provisions of Article 12, insofar as they concern trials which are pending in a court, shall not apply to documents whose examination has been completed before the effective date of this law.

Jokoku appeal may, according to the provisions of the Code of Criminal Procedure, be taken against judgements which have been rendered on the basis of oral arguments before the effective date of this law.

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DRAFT LAW IMPLEMENTING JAPANESE CONSTITUTION:
BILL FOR PROVISIONAL AMENDMENTS OF THE CIVIL PROCEDURE CODE
(References: Chap. 3, FEC-087/14;
FEC-101/24 /Court Organization Law/)

Note by the Secretary General

1. The enclosure, a draft law entitled "Bill for Provisional Amendments of the Civil Procedure Code", implementing Chapter 3 of the new Japanese Constitution, was received from the Supreme Commander for the Allied Powers, and is circulated herewith by the United States Representative for the consideration of the Far Eastern Commission, and referred to COMMITTEE NO. 3: CONSTITUTIONAL AND LEGAL REFORM.

2. The enclosure was approved by the 92nd Japanese Diet and was forwarded to Washington on 28 March 1947 and filed with the Far Eastern Commission Secretariat on 8 April 1947.

3. The enclosure is a verbatim copy of the original draft law translation received from the Supreme Commander. The Japanese text of the enclosure will be circulated as soon as reproduction facilities permit.

NELSON T. JOHNSON
Secretary General

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E N C L O S U R E

DRAFT LAW IMPLEMENTING JAPANESE CONSTITUTION:
BILL FOR PROVISIONAL AMENDMENTS OF THE CIVIL PROCEDURE CODE

Article 1. The purpose of this law is to provide temporary measures with respect to the Code of Civil Procedure pursuant to the enforcement of the Constitution of Japan.

Article 2. The Code of Civil Procedure shall be interpreted so as to conform with the spirit of the Constitution of Japan and the Court Organization Law.

Article 3. Decisions (saiban) other than judgements (hanketsu) may be made by an Assistant Judge alone.

Article 4. A Jokoku¹ appeal may be taken to the Supreme Court from a final judgement in the second instance or in the first instance rendered by a high Court and to the High Court from a final judgement in the second instance rendered by a District Court.

When the parties have agreed that the right of Jokoku appeal is reserved, and that a koso² appeal will not be taken from a final judgement in the first instance, a Jokoku appeal may be taken directly to the High Court from a judgement of a Summary Court and to the Supreme Court from a judgement of a District Court.

Article 5. When a High Court is the Appellate Court in a Jokoku appeal it must, in cases specified by the Supreme Court, transfer such case to the Supreme Court by means of a ruling.

Article 6. A (further) Jokoku appeal may also be taken to the Supreme Court from a final judgement rendered by a High Court in a Jokoku appeal but only on the ground that an improper adjudication is made in the said judgement to the effect that a law, ordinance, order, regulation or official act is, or is not, constitutional.

A Jokoku appeal mentioned in the preceding paragraph shall not have the effect of preventing the judgement concerned from becoming final and conclusive. However, Supreme Court may, if a Jokoku appeal mentioned in the preceding paragraph has been taken, order a stay of execution.

Article 7. A complaint (Kokoku)³ may be taken to the Supreme Court from a ruling or an order from which a protest is not possible in accordance with the provisions of the Code of Civil Procedure, but only on the ground that an improper adjudication is made in the said ruling or order to the effect that a law, ordinance, order, regulation or official act is, or is not, constitutional.

The period for lodging of a complaint mentioned in the preceding paragraph shall be five days.

Article 8. An action for the annulment or alteration of any illegal act done by an administrative office must be brought within six months from the day on which the party concerned became cognizant that such act was done, except as otherwise provided in other laws (laws enacted prior to March 1, 1947, are not included). However, such an action cannot be brought if three years have passed from the day on which such act was done.

1. A form of appeal from a judgement usually limited to a review of issues of law.
2. A form of appeal from a judgement which normally results in a trial de novo.
3. An appeal from a ruling or an order.

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Supplementary Provisions

This law shall come into force as from the day of the enforcement of the Constitution of Japan.

This law shall lose its effect on and from the 1st of January 1948.

A Jokoku appeal may be taken to the Supreme Court from a final judgement of the Tokyo High Court in those cases in which a decision or hearing is based on the provisions of the Court Organization Enforcement Law. (This excludes cases pending in the Tokyo Appellate Court at the time of the enforcement of the said law) but only on the ground that an improper adjudication is made in the judgement to the effect that a law, ordinance, regulation, or official disposition is, or is not, contrary to the Constitution.

The provisions of Article 6, Paragraph 2 shall apply with the necessary modifications to the appeal mentioned in the preceding paragraph.

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DRAFT LAW IMPLEMENTING THE JAPANESE CONSTITUTION:
ANTI-TRUST BILL--BILL FOR PROHIBITION OF PRIVATE
MONOPOLY AND PRESERVATION OF FAIR TRADE
(Reference: Art. 39, FEC-087/14)

Note by the Secretary General

1. The enclosure, a draft law entitled "Anti-Trust Bill--Bill for Prohibition of Private Monopoly and Preservation of Fair Trade", implementing Article 39 of the Japanese Constitution was received from the Supreme Commander for the Allied Powers, and is circulated herewith by the United States Representative for the consideration of the Far Eastern Commission and referred to COMMITTEE NO. 3: CONSTITUTIONAL AND LEGAL REFORM.

2. The enclosed draft law was introduced into the 92nd Japanese Diet on 24 March 1947, was forwarded to Washington on 29 March and was filed with the Far Eastern Commission Secretariat on 8 April 1947. According to information received from the Supreme Commander, the enclosed draft law was approved by the 92nd Japanese Diet on 30 March 1947.

3. The enclosure is a verbatim copy of the original draft law translation received from the Supreme Commander. The Japanese text will be circulated as soon as it becomes available.

NELSON T. JOHNSON
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RESTRICTEDE N C L O S U R EANTI-TRUST BILL--BILL FOR PROHIBITION OF PRIVATE
MONOPOLY AND PRESERVATION OF FAIR TRADE

CHAPTER 1. GENERAL RULES

Article 1. This law, by prohibiting private monopolization, unreasonable restraints of trade and unfair methods of competition, by preventing excessive concentration of power over enterprises, and by excluding undue restrictions of production, sale, price, technology, etc., through combinations and agreements etc., and all other unreasonable restraints of business activities, aims to promote free and fair competition, to stimulate the initiative of entrepreneurs, to encourage business activities of enterprises, to heighten the levels of employment and national income and, thereby, to promote the democratic and wholesome development of national economy as well as to assure the interest of the general consumer.

Article 2. The term "entrepreneur" as used in this law shall mean a person, natural or juridical, who operates a commercial, industrial, financial or any other business enterprise.

The term "competition" or "competitor" as used in this law shall include potential competition or potential competitor.

The term "private monopolization" as used in this law shall mean such business activities by which an entrepreneur, individually, or by combination, conspiracy or any other manner, excludes or controls the business activities of other entrepreneurs so that they thereby cause, contrary to the public interest, a substantial restraint of competition in any particular field of trade.

The term "unreasonable restraint of trade" as used in this law shall mean such business activities by which an entrepreneur, by contract, agreement or any other manner, in conjunction with other entrepreneurs, mutually restricts or carries on their business activities so that they thereby cause, contrary to the public interest, a substantial restraint of competition in any particular field of trade.

The term "undue substantial disparities in bargaining power" as used in this law shall mean such substantial disparities in bargaining power which, when they exist between an entrepreneur and his competitors, the superior bargaining power of said entrepreneur is not justified on technological grounds, and whereby the said substantial disparities in bargaining power are of such extent as to render private monopolization possible for any one of the following reasons:

1. because an entrepreneur controls the business in such particular field of trade or controls the materials used therein to such extent as to render it extremely difficult for another entrepreneur to start new enterprise.

2. because an entrepreneur controls production in a particular field of trade to such extent as to render it extremely difficult for another entrepreneur actually to compete.

3. because an entrepreneur restrains or restricts very much free competition to such extent as to render private monopolization possible.

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The term "unfair methods of competition" as used this law shall mean such methods of competition which come under any one of the following items.

1. unwarranted refusal to receive from or to supply to other entrepreneurs commodities, funds and other economic benefits.

2. Supplying of commodities, funds and other economic benefits at unduly discriminative prices.

3. Supplying of commodities, funds and other economic benefits at unduly low prices.

4. Inducing or coercing, unreasonably, customers of a competitor to deal with oneself by means of offering benefits or of threatening disadvantages.

5. trading with another party on condition that said party shall, without good cause, refuse acceptance of supply of commodities, funds and other economic benefits from a competitor of oneself.

6. Supplying of commodities, funds and other economic benefits to another party on such conditions that shall unduly restrain transactions between said party and his suppliers of commodities, funds and other economic benefits or customers, or on condition that the appointment of officers (hereinafter referring to directors, unlimited partner who is the executive, auditor or person similar thereto manager of chief of the main or branch office) of the company of said party shall be subject to prior approval in part of oneself.

7. methods of competition other than those stipulated by the preceding items which are contrary to the public interest and which are designated by the Fair Trade Commission in accordance with such procedure as provided for by Article 71 and Article 72.

CHAPTER II. PRIVATE MONOPOLIZATION AND UNREASONABLE RESTRAINTS OF TRADE.

Article 3. No entrepreneur shall effect a private monopolization nor shall he undertake any unreasonable restraint of trade.

Article 4. No entrepreneur shall participate, in any one of the following types of concerted activities.

1. establishment, stabilization or enhancement of prices.
2. restrictions of volume of production or that of sales.
3. restrictions on technology, products, markets or customers.
4. restrictions on construction or expansion of facilities or on adoption of new technology or methods of production.

The provisions of the preceding paragraph shall not apply in case the effects of such concerted activities on competition within a particular field of trade is negligible.

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Article 5. No entrepreneur shall establish, organize or become a party or member of juridical person or any other organization which controls distribution of all or part of materials or products by methods of exclusive purchase or sale or which undertakes the allocation of all or part of materials or product.

Article 6. No entrepreneur shall participate in an international agreement or an international contract with a foreign entrepreneur or participate in an agreement or contract on foreign trade with a domestic entrepreneur with regard to any one of the following items.

1. anything which comes under any of the items of Article 4, paragraph 1.

2. An agreement or a contract relating to restrictions on exchange of scientific or technological knowledge or information necessary for business activities.

The provisions of the preceding paragraph shall not apply in case the effects of such agreement or contract on competition in any particular field of international or domestic trade is negligible.

Any entrepreneur, when contemplating participation in or entrance into an international agreement or international agreement with a foreign entrepreneur or into an agreement or contract on foreign trade with a domestic entrepreneur, which agreement or contract shall continue for a considerable period of time (excluding such where the delivery of the object due to one transaction takes a considerable period of time), shall file an application with the Fair Trade Commission and shall receive its permission.

In such a case as provided for by the preceding paragraph, an entrepreneur shall not participate in nor enter into said agreement or contract for a period of thirty (30) days from the day of filing said application.

Article 7. In case there exists any act which comprises a private monopolization or an unreasonable restraint or trade, the Fair Trade Commission may order the entrepreneur concerned, in accordance with the procedure as provided for in Section 2 of Chapter 8, to cease such act, to transfer a part of his business, or to take any other necessary measures for eliminating private monopolization or unreasonable restraint of trade.

CHAPTER III UNDUE SUBSTANTIAL DISPARITIES IN BARGAINING POWER

Article 8. When undue substantial disparities in bargaining power exist, the Fair Trade Commission may order the entrepreneur concerned, in accordance with the procedure as provided for in Section 2 of Chapter 8, to transfer a part of this business facilities, or to take any other necessary measures for eliminating said substantial disparities in bargaining power.

In issuing an order prescribed in the preceding paragraph, the Fair Trade Commission shall give special consideration to the following items with respect to the entrepreneur concerned.

1. capital, reserves, and other aspects of the assets.

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2. income and expenditures, and other aspects of operation.
3. composition of officers and directors.
4. location of factories, work yards and offices and other locational conditions.
5. aspects of business facilities and equipment.
6. existence or non-existence of patents, and other details thereof as well as other technological features.
7. capacity for and aspects of production and sales, etc.
8. capacity for and aspects of obtaining funds and materials, etc.
9. relations with other entrepreneurs through investments and other means.
10. comparisons with competitors on all points enumerated in the above items.

CHAPTER IV. STOCK HOLDINGS, MULTIPLE DIRECTORATES,
MERGERS, AND TRANSFER OF WHOLE BUSINESS

Article 9. The establishment of holding company is hereby prohibited. The term "holding company" as used in the preceding paragraph shall mean a company whose principle business is to control, by holding stock (including partnership shares hereinafter the same) the business activities of another company.

Article 10. Any company whose business is other than financial (the definition of which shall be banking, trust, insurance, mutual financing or securities businesses:, hereinafter the same) shall not acquire stocks (excluding stocks without voting rights:, hereinafter the same) of another company.

The provisions of the preceding Paragraph shall not apply to such a case where the Fair Trade Commission deems, when it receives application for ownership of all of the stocks of a company which comes under all of the following conditions from a company (excluding one principally engaged in buying and selling of goods) that it does not constitute a substantial restraint of competition in any particular field of trade and thereby is not contrary to the public interest.

1. a company which stands in continuous close relation with regard to the supply of the raw materials, semi-finished products, accessory parts, by products, waste material or goods or other economic benefits necessary for its business activities, a company which stands in relation of utilization of patent invention, or model utility.

In addition to the case prescribed in the preceding paragraph, in case a company desiring to acquire stock (in case of acquisition of stock of an existing company, the company which desires to acquire stock and the company issuing the stock) has explained the fact that such acquisition of stock complies with the conditions contained in the following items, the provisions of the preceding paragraph shall apply if it complies with other conditions prescribed in said paragraph although it will not own all of stock of said company.

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1. acquisition of stock issued to raise necessary funds.
2. acquisition of stock issued because funds could not be raised by other means than the issue of stock.
3. acquisition of stock is not due to unfair methods of competition.
4. acquisition of stock of a company which does not own stock of another company.
5. acquisition of stock of a company whose stock is not owned by a company standing in competition with the company which desires to acquire the stock, provided that, with regard to acquisition of stock of a company whose principal business is the purchase and sale of commodities, the foregoing shall apply only in case a company other than the company which desires to acquire stock does not own such stock.

Article 11. Any company whose business is financial shall not own stocks in a company with which it is competing and which operates in the same field of financial business.

No company whose business is financial and whose total assets (excluding unpaid-up capital stock, unpaid-up partnership shares or claim rights against unpaid-up fixed funds) exceeds five million yen (¥5,000,000) shall acquire stock of another company in case by so doing it holds in excess of five percent (5%) of the total issued stock of said company.

The provisions of the preceding two paragraphs shall not apply to such a case coming under any one of the following items.

1. In case of ownership of stocks by a company engaged in the securities business in the normal course of its business.
2. In case of ownership of stocks by a company other than one engaged in the securities business and whose business is financial by underwriting for the purpose of public sale.
3. In case of ownership of stocks acceptance of a security trust wherein the trustor is the beneficiary and only when the trustor exercises the voting right.

In case of ownership of such stocks as coming under Item 1 or Item 2, of the preceding paragraph said ownership of stocks for a period in excess of one (1) year from the date of acquisition of said stocks shall be limited to such a case where previous permission of the Fair Trade Commission has been obtained.

Article 12. No company shall own debentures (excluding bank financing debentures of another company in case by so doing it holds in excess of the amount equivalent to twenty-five percent (25%) of the capital (the definition of which shall be total capital stock, total amount of partnership shares, aggregate amount of total capital stock and total amount of partnership shares, or total fixed funds) of said company.

The provisions of paragraph 3 and paragraph 4 of the preceding Article shall apply mutatis mutandis to such a case as provided for by the preceding paragraph. In this case, "stocks" shall be read as "debentures".

Article 13. No officer or an employee (the definition of which shall be a person other than an officer in continuous service of a company in business) of a company shall hold concurrently a position as an officer in another company in any one of the following cases.

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1. in case both of the companies are in competition with one another.

2. in case one fourth (1/4) or more of the officers of either of the two companies are holding concurrently positions as officers in a third company.

No officer of a company shall, in any case, hold a position of an officer in a company in four (4) or more companies.

No person shall own stock in two or more companies in competition with one another when the effect of such ownership will substantially restrain competition in any particular fields of trade and thereby is contrary to the public interest.

No officer of a company may acquire stock of another company engaged in competition with said company.

Article 14. Any person who contemplates owning stock of two or more companies in competition with one another in excess of ten percent (10%) of the issued stock of said companies shall receive the permission of the Fair Trade Commission.

Article 15. No company shall effect a merger without permission of the Fair Trade Commission.

The Fair Trade Commission, in case it receives an application for permission provided for by the preceding paragraph, shall not grant permission when the said merger falls under any one of the following items and is deemed to be contrary to the public interest.

1. in case the merger does not contribute to the rationalization of production, supply or management.

2. in case substantial disparities in bargaining power will arise due to the merger.

3. in case the merger may cause a substantial restraint of competition in any particular field of trade.

4. in case the merger has been coerced by unfair methods of trade.

Article 16. No company shall without receiving permission of the Fair Trade Commission, receive transfer of the whole or part of the business of another company, rent the whole of the business of another company, receive entrustment of the management of another company, or enter into a contract which provides for a joint profit and loss account with another company.

The provisions of paragraph 2 of the preceding Article shall apply mutatis mutandis to such a case as provided for in the preceding paragraph provided that "merger" shall be read as "act".

Article 17. No act, in whatever form or manner, shall be committed to evade such prohibitions or restrictions as provided for by Article 9 to the preceding Article inclusive.

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CHAPTER V UNFAIR METHODS OF COMPETITION

Article 19. No entrepreneur shall employ unfair methods of competition.

Article 20. In case there exists an act in violation of the preceding Article, the Fair Trade Commission may order the cessation of said act in accordance with the procedure provided for by Section 2 of Chapter 8.

CHAPTER VI EXCEPTIONS

Article 21. The provisions of this law shall not apply to such business activities relating to production, sale or supply of those operating railroad electricity, gas and other enterprises whose business constitutes, by the very nature of said business, a monopoly.

Article 22. The provisions of this law, in case a special law exists for a certain enterprise, shall not apply to such legitimate acts of an entrepreneur as are executed in accordance with the provisions of said law or order under said law.

Such special law as mentioned in the preceding paragraph shall be stipulated by separate law.

Article 23. The provisions of this law shall not apply to such an act as recognized to be within the execution of rights under the copy-right law, the Patent Law, the Model Utility Law, the Design Law and the Trade-mark Law.

Article 24. The provisions of this law shall not apply to an association (including federation of associations which conforms with each of the following qualifications and which, moreover, has been established in accordance with the provisions of separate law. Provided that the foregoing shall not apply to such a case where there is employment of unfair methods of competition or a restraint of competition in any particular field of trade resulting in an undue enhancement of price.

1. the purpose shall be mutual-aid among small-scale entrepreneurs or consumers.
2. establishment shall be voluntary and participation and withdrawal of members shall be at will.
3. each member shall possess an equal voting right.
4. the distribution of profit or loss shall be determined in case of distribution of profits among members is practised, such limits be set by laws, orders or articles of association.

CHAPTER VII INDEMNIFICATION OF DAMAGES

Article 25. An entrepreneur, who has effected private monopolization or undertaken unreasonable restraints of trade or who has employed unfair methods of competition shall be liable for indemnification of damages caused by said act to the party who suffered damages.

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An entrepreneur shall not be exempted from the liability prescribed in the preceding paragraph by certification of the non-existence of wilfulness or negligence on his part.

Article 26. The right to claim indemnification of damages as provided for by the preceding Article may not be exercised at court until the decision under the provisions of Article 48, paragraph 3 or Article 52 has been declared final and conclusive.

The right stipulated in the preceding paragraph shall be barred by limitations after the elapse of three (3) years from the day the decision in said paragraph has become final and conclusive.

CHAPTER VIII THE FAIR TRADE COMMISSION

Section 1. Organization and Powers

Article 27. In order to ensure proper operation of this law, there shall be established a Fair Trade Commission.

The Fair Trade Commission shall be under the jurisdiction of the Prime Minister.

Article 28. The Commissioners of the Fair Trade Commission shall perform their functions independently.

Article 29. The Fair Trade Commission shall be composed of seven (7) Commissioners.

The Commissioners shall be appointed by the Prime Minister with the consent of the House of Representatives from among persons whose age is thirty-five (35) years old and who are of learning and experience in legal or economic fields.

The commissioners shall be civil service officials.

Article 30. The term of office for the commissioners shall be five (5) years. The term of office for a commissioner who has been appointed to fill a vacancy shall be the remainder of the term of office for his predecessor.

A commissioner may be reappointed.

A commissioner shall retire from office upon reaching the age of sixty-five (65) years.

Measures to be taken when a commissioner finishes his term of office or when a vacancy occurs during the period of time that the Diet is in recess or the House of Representatives is dissolved, shall be provided for by separate order.

Article 31. A commissioner shall not be removed, against his will, from office during his tenure of office except in such case coming under any one of the following items.

1. when he has been declared legally incompetent or quasi-incompetent.
2. when he has been dismissed from civil service by judgment.
3. when he has been sentenced for a violation of the provision of this law.

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4. when he has been sentenced to a criminal penalty heavier than imprisonment.

5. when the Fair Trade Commission has decided that he is incapable of discharging his duties on account of physical or mental disabilities.

Article 32. With respect to such a case as provided for by Item 1 or Item 3 to Item 5 inclusive of the preceding article, the Prime Minister shall remove from office the commissioner involved.

Article 33. The Prime Minister shall appoint a Chairman of the Fair Trade Commission from among the commissioners.

The Chairman shall preside over the affairs of the Fair Trade Commission and represent it.

The Fair Trade Commission shall select in advance a person from among the commissioners who will act in place of the Chairman in case he is incapacitated.

The Chairman and other commissioners may attend the meetings of the Holding Company Liquidation Commission or those of the Securities Coordinating Liquidation Committee and express their views.

Article 34. Meetings of the Fair Trade Commission shall not be opened nor decisions be made without the attendance of the Chairman and three (3) or more of the commissioners.

The proceedings of the Fair Trade Commission shall be decided by a majority vote. In case the votes are evenly divided, the Chairman shall have the power to decide.

Decisions of the Fair Trade Commission with respect to the provisions of Item 5 of Article 31 shall be made notwithstanding the provisions of the preceding paragraph with the unanimous concurrence of all the commissioners except that of the commissioner involved.

Article 35. In order to execute the business of the Fair Trade Commission, a staff office shall be established and attached to it, and necessary personnel shall be maintained.

Personnel provided for in the preceding paragraph shall be civil service officials.

Public prosecutors, attorneys practising at the time of appointment and those qualified to become attorneys shall be included in the personnel as provided for by Paragraph 1.

Duties of public prosecutors included in the personnel shall be confined to criminal offenses in violation of the provisions of this law.

Article 36. Emoluments of the Chairman, other commissioners and personnel shall be prescribed by separate order.

Emoluments of the Chairman, and other commissioners shall not be reduced in amount against the will of the recipients during their tenure of office.

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Article 37. The Chairman and other commissioners as well as such personnel of the Fair Trade Commission as designated by separate order shall not engage in the following activities.

1. to become a member of the Diet or that of an assembly of ordinary local public bodies or to engage actively in political activities.

2. to engage in any other remunerative duties except in such case as permitted by the Prime Minister.

3. to engage in commerce or any other occupation for pecuniary gain.

Article 38. Persons provided for in the preceding Article shall not express their views to the public on the existence or non-existence of facts pertaining to a case, or on the application of law to a case. However, the foregoing shall not apply where provided for in this law and to publication of conclusion reached in critical studies on this law.

Article 39. The Chairman and other commissioners and personnel of the Fair Trade Commission or persons who have held such positions in the Fair Trade Commission shall not divulge or make surreptitious use of trade secrets of entrepreneurs, which they may have acquired in course of execution of their duties.

Article 40. The Fair Trade Commission may if necessary for the performance of its functions, order government offices, juridical persons established by special law or ordinance, entrepreneurs or organizations of entrepreneurs, or their personnel to appear before the Fair Trade Commission or may require them to submit necessary reports, information or data.

Article 41. The Fair Trade Commission, if necessary for the performance of its functions, entrust courts and other government offices, juridical persons established by special law or ordinance, educational institutions, entrepreneurs or organizations of entrepreneurs, or their personnel or persons of learning and experience with the work of compiling necessary reports or research.

Article 42. The Fair Trade Commission may, if necessary for the performance of its functions, hold public hearings and obtain views of the general public.

Article 43. The Fair Trade Commission may, in order to ensure proper operation of this law, make public necessary matters with the exception of the trade secrets of entrepreneurs.

Article 44. The Fair Trade Commission shall submit to the Diet, through the Prime Minister, its views on matters necessary to attain the purpose of this law.

Section 2. Procedure

Article 45. Any person may, when he considers that a violation of the provisions of this law exists, report said fact in the Fair Trade Commission and demand necessary measures to be taken.

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In case such a report as provided for by the preceding paragraph is received, the Fair Trade Commission shall make necessary investigations with respect to the case.

Article 46. The Fair Trade Commission may, in order to conduct necessary investigations with regard to a case, take the following measures.

1. summon and question persons connected with a case or witnesses, or cause them to submit their views or reports.
2. summon experts and cause them to give expert testimony.
3. order persons possessing accounting books, documents, and other matters to submit the same, and detain any submitted matter.
4. conduct spot inspections of any place of business or other necessary places of the persons connected with a case and examine conditions of business operation, accounting books, and other matters.

The Fair Trade Commission may, in case it deems it to be proper, cause such of its personnel as prescribed by separate order to take such measures as provided for by the preceding paragraph.

In case a spot investigation is to be conducted by said personnel in accordance with the provisions of preceding paragraph, they shall be required to carry with them a warrant.

Article 47. The Fair Trade Commission shall, when necessary investigation of a case has been made, make a record of the gist thereof and, in case any measures as provided for in the preceding Article have been taken, specifically set forth plainly any result thereof.

Article 48. The Fair Trade Commission may when it deems that an entrepreneur has effected a private monopolization or has undertaken an unreasonable restraint of trade or has employed unfair methods of competition, or when it deems that undue substantial disparities in bargaining power exist, recommend said entrepreneur to take suitable measures.

In case a recommendation has been made pursuant to the provisions of the preceding paragraph, the entrepreneur shall notify the Fair Trade Commission whether or not he will accept with the recommendation.

In case the entrepreneur has accepted the recommendation, the Fair Trade Commission may pass a decision along the lines of the recommendation without having hearing proceedings.

Article 49. With respect to any case coming under the paragraph 1 of the preceding Article, the Fair Trade Commission may, in case it deems that to put the case to the procedure of a hearing would be in the public interest, open proceedings to hear the said case in a hearing.

The procedure of a hearing shall commence from the time a notice of decision to open proceedings of a hearing is sent to an entrepreneur.

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Article 50. The notice of decision to open proceedings of hearing shall state the essential points of the case and the date and place of hearing as well as the fact that the entrepreneur is required to attend.

The date of the hearing shall be fixed on a day later than thirty (30) days after the day that the notice of decision to open proceedings of a hearing is sent.

Article 51. An entrepreneur shall without delay, upon receipt of the delivery of the submit its defence against it to the Fair Trade Commission.

Article 52. An entrepreneur or his agent may, in the hearing, state its reasons why an order of the Fair Trade Commission to take measures in the particular case pursuant to the provisions of Article 7, paragraph 1 of Article 8 or Article 20 could be unjust, submit supporting evidence, demand of the Fair Trade Commission to interrogate necessary witnesses, to order expert testimony of experts, to order holders of accounting books and other goods to submit them or to make necessary spot investigation and examine aspects of operation and property, accounting books and other records, or interrogate witnesses or experts who have been ordered to attend the hearing by the Fair Trade Commission.

An entrepreneur may appoint an attorney or other appropriate as his agent.

Article 53. All hearings shall be open. However, in case it is deemed necessary to protect the trade secrets of an entrepreneur or necessary in the public interest, a hearing may be closed to the general public.

A stenographer shall attend all hearings to record the statements made.

Article 54. The Fair Trade Commission shall, when it is deemed, after a hearing, than an entrepreneur has effected private monopolization, has undertaken an unreasonable restraint of trade, or has employed unfair methods of competition or that substantial disparities in bargaining power exist, by a decision, order the party connected with the case to take such measures as provided for by Article 7, Paragraph 1 of Article 8 or Article 20.

Article 55. Decisions shall be made by a meeting of the Chairman and other commissioners.

The provisions of Paragraph 1 and Paragraph 2 of Article 34 shall apply mutatis mutandis to such a meeting as provided for in the preceding paragraph.

Article 56. Meetings of the Fair Trade Commission shall not be opened to the public.

Article 57. Decisions shall be rendered in writing together with such finding of fact made by the Fair Trade Commission and application of law thereto, and the Chairman and the commissioners attending the meeting shall sign them and affirm their seals thereto.

The minority opinion may be attached to the written decision.

Article 58. Decisions shall take effect from the time copies thereof are served upon the entrepreneur.

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Article 59. The Fair Trade Commission may, if deemed necessary, on its own authority, require a third party interested in the result of the decision to participate in the proceedings for a decision as a party. Provided that it shall previously interrogate the entrepreneur and said third party.

Article 60. Any government office or public organization concerned with a case may, if deemed necessary in the public interest, participate in the proceedings for a decision as a party.

Article 61. Any government office or public organization concerned with a case may, in order to protect the public interest, express its views to the Fair Trade Commission.

Article 62. In case the Fair Trade Commission orders the cessation of a violating act or any other measures to be taken in accordance with the provisions of Article 54, the party may stay execution of said order until said decision becomes final and conclusive by depositing such bond or security as fixed by the Fair Trade Commission.

Court action as provided by the preceding paragraph shall be executed in accordance with the Simplified Litigation Procedure Law.

Article 63. In case a party posts bond in accordance with the provisions of paragraph 1 of the preceding Article and when such a decision as provided for by Paragraph 1 of the preceding Article becomes final and conclusive, the court may, upon representation by the Fair Trade Commission, confiscation the whole or a part of such bond or security as posted.

The provisions of paragraph 2 of the preceding Article shall apply mutatis mutandis to the court action stipulated in the preceding paragraph.

Article 64. The Fair Trade Commission may, after it has rendered a decision in accordance with the provisions of Article 57, if deemed specially necessary, take such measures as provided for by Article 46, or may have its personnel take said measures.

Article 65. The Fair Trade Commission shall, when it receives an application for permission or approval in accordance with the provisions of Paragraph 3 of Article 6, Paragraph 2 or 3 of Article 10, paragraph 4 of Article 11, (including where it is applied mutatis mutandis in Paragraph 2 of Article 12), Paragraph 2 of Article 14, Paragraph 1 of Article 15, or Paragraph 1 of Article 16, and when it deems said application to be without grounds, dismiss said application by a decision. The provisions of Paragraph 2 of Article 45 shall apply mutatis mutandis to such a case as provided for in the preceding Paragraph.

Article 66. The Fair Trade Commission may, with respect to an application for permission or approval as provided for by the preceding Article, revoke by a decision after hearing said permission or approval when conditions for said permission or approval have ceased to exist or have changed.

The Fair Trade Commission may, when certain facts serving as the basis for a decision have ceased to exist or have undergone a change due to changes in economic conditions and other reasons, and when it becomes apparent that further support of said decision is unreasonable as well as contrary to the public interest, revoke or modify its decision by separate decision after a hearing.

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Article 67. The Court may, if deemed of urgent necessity, upon complaint of the Fair Trade Commission order an entrepreneur temporarily to cease an act suspected of private monopolization, unreasonable restraints of trade and unfair methods of competition or may revoke or modify said order.

The provisions of paragraph 2 of the Article 62 shall apply mutatis mutandis to the court action stipulated in the preceding paragraph.

Article 68. Any entrepreneur may, by depositing such guaranty or security as fixed by the Court, stay execution of an order as provided by Paragraph 1 of the preceding article.

The provisions of Article 63 shall apply mutatis mutandis to confiscation of such deposits as provided for by the preceding Paragraph.

Article 69. An interested party may demand to the Fair Trade Commission perusal or copying of the records of a case or may ask the Fair Trade Commission for the original, copy of abridged copy of the decision.

Article 70. Necessary matters with respect to procedure for investigation and hearing of the Fair Trade Commission and deposits prescribed in Paragraph 1 of Article 62 and Paragraph 1 of Article 68 other than those provided for in this law shall be prescribed by separate order.

Section 5. Miscellaneous Provisions

Article 71. When the Fair Trade Commission designated unfair methods of competition in accordance with the provisions of Item 7 of Paragraph 6 of Article 2, it shall hear the views of such entrepreneurs as operating the same line competition it is about to designate, and hold a public hearing to obtain the views of the general public and there upon draw up a tentative plan for designation which will be published and shall make the designation after giving due consideration to the objections of the entrepreneur to such plan.

Article 72. Designation of unfair methods of competition in accordance with the provisions of Item 7 of Paragraph 6 of Article 2 shall be executed by public notice.

Such designation as provided for in the preceding paragraph shall come into effect thirty (30) days after the date of its public notice.

Article 73. The Fair Trade Commission shall, if it considers that a violation of the provisions this law exists, file an accusation with the Public Procurator-General.

In case disposition has been made not to prosecute a case which is the subject of such accusation as provided for in the preceding paragraph, the Public Procurator-General shall without delay submit, through the Minister of Justice, a written report, stating the said fact as well as reasons therefor, to the Prime Minister.

Article 74. In case the Public Procurator-General considers that a violation of the provisions of this law exist, he may notify the Fair Trade Commission of this fact and obtain an investigation and a report on the results thereof.

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Article 75. Witnesses or experts who have been ordered to appear to give expert testimony in a hearing in accordance with the provisions of Paragraph 1, Item 1 or Item 2, or Paragraph 2 of Article 4 may claim such travelling expenses and allowances as provided for by separate order.

Article 76. The Fair Trade Commission may with respect to its internal and to its procedure for cases, establish separate regulations.

CHAPTER IX. LEGAL SUITS

Article 77. Any person having objection to a decision of the Fair Trade Commission may institute a suit for revocation or modification of such decision before the Court. Provided the foregoing shall not apply when thirty (30) days have elapsed since the day on which the decision has become effective.

In suits instituted under the preceding paragraph, the Fair Trade Commission shall be the defendant.

Article 78. In case a suit is received by the Court, it shall without delay call on the Fair Trade Commission for transmission of the records of the case concerned. (including testimonies of parties, concerned with a case, witnesses or experts and stenographic records and everything else that be used as evidence in court).

Article 79. Institution of a suit as provided for by Paragraph 1 of Article 77 shall not suspend the execution of a decision of the Fair Trade Commission. Provided that the Court may, if deemed necessary, at any time, upon complaint from the interested party or on its own authority, order suspension of execution of the whole or a part of a decision of the Fair Trade Commission, or may revoke or modify such Court action.

Article 80. Finding of facts made by the Fair Trade Commission, when substantial evidence exists to prove said finding, shall be binding on the Court.

Whether such substantial evidence as provided for in the preceding paragraph exists or not shall be judged by the court.

Article 81. A party may plead to the court to submit new evidence only in such a case as coming under any one of the following.

1. in case the Fair Trade Commission failed to take cognizance of without good cause, said evidence.

2. in case, at a hearing of the Fair Trade Commission, it was impossible to submit said evidence, without negligence on part of the party.

In either of the two cases provided for by both items of preceding paragraph, the party shall bear burden of showing good cause for reasons thereof.

In case the court deems it that a necessity for examining such evidence as provided for in the preceding paragraph exists, it shall return the case back to the Fair Trade Commission and order it to take suitable measures after examining said evidence.

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Article 82. The Court may revoke or modify any decision of the Fair Trade Commission when it comes under any one of the following items.

1. in case the facts upon which the decision is based are not supported by substantial evidence.
2. in case the decision is contrary to law.
3. in case the contents of the decision are arbitrary or unjust.

Article 83. The Court may, when it deems that a decision should be modified, return the case to the Fair Trade Commission indicating the modifications to be made.

Article 84. When a suit for indemnification of damage has been filed in accordance with the provisions of Article 25, the Court shall without delay notify the Fair Trade Commission of said fact together with the bill of suit, and shall obtain the opinion of the Fair Trade Commission with respect to the amount of damages caused by said violation.

In case a claim for indemnification of damages in accordance with the provisions of Article 24 is being filed in Court in order to off-set a cross or counter claim, the provisions of the preceding paragraph shall be applied *mutatis mutandis*.

Article 85. Jurisdiction of primary trials of any suit coming under any one of the following items shall rest with the Tokyo High Court.

1. a suit in concerns with a decision of the Fair Trade Commission.
2. a suit in concern with indemnification of damages as provided for by Article 25.
3. a suit in concern with an offense as provided for by Article 89 and Article 90.

Article 86. Any case provided for by Paragraph 1 of Article 62, Paragraph 1 of Article 63, (including such a case where said provisions are applied *mutatis mutandis* in Paragraph 2 of Article 68), Paragraph 1 of Article 67 and Article 97 shall become the exclusive jurisdiction of the Tokyo High Court.

Article 87. A panel of judges invested with the jurisdiction to hear exclusively all suit cases under Article 85 and such cases as provided for by the preceding Article shall be established within the Tokyo High Court.

The number of judges of the panel provided for in the preceding paragraph shall be five (5).

Article 88. No appeal shall be allowed against court proceedings in such cases as provided for in the preceding Article except on grounds that an undue judgement was made during said Court proceedings as to whether any law, order, regulations or disposition was in conformity with the Constitution.

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CHAPTER X. PENALTIES

Article 89. Any person who, in violation of the provision of Article 3, effects a private monopolization or undertakes an unreasonable restraint of trade shall be punished by a penal servitude for not more than three (3) years or by a fine not more than fifty thousand (50,000) yen.

Any attempted offense of the preceding paragraph shall be punished.

Article 90. Any person coming under either of the following items shall be punished by a penal servitude for not more than two (2) years or by a fine not more than thirty thousand (30,000) yen.

1. one who, in violation of the provisions of paragraph 1 of Article 4, undertook a concerted action.

2. one who, in violation of the provisions of Article 5, establishes or organizes a juridical person or other organization or participates in such organization.

3. one who, in violation of the provisions of Paragraph 1 of Article 6, participated in an agreement or entered into a contract.

4. one who, in violation of the provisions of Article 19 has employed unfair methods of trade.

5. one who fails to abide by such a decision as provided for by Article 54 after it became final and conclusive.

Article 91. Any person coming under any one of the following items shall be punished by a penal servitude for not more than one (1) year or by a fine not more than twenty thousand (20,000) yen.

1. one who, in violation of the provisions of Paragraph 3 or Paragraph 4 of Article 6, participated in an agreement or entered into a contract.

2. one who establishes a holding company in violation of the provisions of Paragraph 1 of Article 9.

3. one who acquired or owned stock in violation of the provisions of Paragraph 1 of Article 10 or Paragraph 1, Paragraph 2, or Paragraph 4 of Article 11.

4. one who owned debentures in violation of the provisions of Paragraph 1 of Article 12 or Paragraph 4 of Article 11 applied mutatis mutandis pursuant to the provisions of paragraph 2 of Article 12.

5. one who assumed a position as an officer of a company in violation of the provisions of Article 13.

6. one who acquired stock in violation of the provisions of Article 14.

7. one who, in violation of the provisions of Article 16, received transfer of the whole or a part of the business of another company, leased the whole business of another company, received entrustment of management or the whole business or joint profit and loss account with another company.

8. one who violated the provisions of Article 17.

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Article 92. Any person guilty of any of the offenses prescribed in the preceding three (3) Articles may, according to the circumstances, be punished by both penal servitude and fine.

Article 93. Any person who has violated the provisions of Article 39 shall be punished by a penal servitude for not more than one (1) year or a fine not more than five thousand (5,000) yen.

Article 94. Any person who refuses, obstructs or evades such inspection as provided for by the provisions of Item 4 of Paragraph 1 or Paragraph 2 of Article 45 shall be punished by a penal servitude for not more than six (6) months or by a fine not more than one thousand (1,000) yen.

Article 95. When a representative of a juridical person or an agent, an employee, or any other person in the service of a juridical person or of an individual has committed a violation as provided for by Article 89, Article 90, Item 1 to Item 4 inclusive as well as Item 8 to Item inclusive of Article 91, or Article 94 with respect to the business or property of said juridical person or individual, not only shall the offender be punished but said juridical person or individual shall also be punished by such fine as provided for by the respective Articles.

Article 96. Any offense under Article 89 or Article 90 shall be considered after filing of an accusation by the Fair Trade Commission.

Such accusation as provided for in the preceding paragraph shall be made in writing.

The Fair Trade Commission may, when filing such accusation as provided for in paragraph 1, in case it deems that such a sentence as provided for in Item 1 of Paragraph 1 of Article 100 is called for with respect to an offense in said accusation, state said fact in such written accusation as provided for in the preceding paragraph.

Such accusation as provided for by Paragraph 1 may not be revoked after institution of public prosecution.

Article 97. Anyone who has violated a decision given under Article 54 shall be liable to a non-criminal fine for not more than fifty thousand (50,000) yen. Provided that the foregoing shall not apply when said act should be punished by criminal penalty.

Article 98. Any person who has violated a decision given under Paragraph 1 of Article 67 shall be liable to a non-criminal fine for not more than thirty thousand (30,000) yen.

Article 99. Any person coming under any of the following items shall be liable to a non-criminal fine for not more than five hundred yen (500).

1. one who, in violation of measures taken by the Fair Trade Commission in accordance with the provisions of Article 40, failed to appear, failed to submit reports, information or data, or submitted false reports, information or data.

2. one who, in violation of measures taken against the parties, concerned with the case and witnesses in accordance with the provisions of Item 1 of Paragraph 1 or Paragraph 2 of Article 46, failed to appear, does not give testimony, gave false testimony, or failed to submit reports or submitted false reports.

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3. one who, in violation of measures taken against an expert in accordance with the provisions of Item 2 of Paragraph 1 or Paragraph 2, Article 45, failed to appear, failed to give expert testimony or gave false expert testimony.

4. one who, in violation of measures taken against a holder of goods in accordance with the provisions of Item 3 of Paragraph 1 or Paragraph 2 of Article 45, failed to submit such goods.

Article 100. In such a case coming under Article 89 or Article 90, the Court may, according to circumstances, render the following sentences at the same time as when the verdict is given. Provided that such a sentence as coming under Item 1 shall be issued only when such patent right, or licensed right for patented invention belongs to said offender.

1. sentence to effect that said patent right or license right for patented invention shall be revoked.

2. sentence to the effect that becoming a party to a contract with the Government shall be prohibited for a period of not less than six (6) months and not more than three (3) years after the date when the verdict becomes final and conclusive.

In case a verdict including such a sentence as provided for by Item 1 of the preceding paragraph becomes final and conclusive, the Court shall transmit a copy of the verdict to the President of the Bureau of Patents and Standards.

The President of the Bureau of Patents and Standards shall when he receives such a transmission as provided for by the preceding Paragraph, revoke the patent under said patent rights or revoke said license right for patented invention.

Supplementary Provisions

Article 101. The date for enforcement of this law shall be fixed by separate order for each provision.

Article 102. Any contract which actually exists at the time for the enforcement of each provision of this law and which is in violation of said provision shall become null and void as from the date for enforcement of said provision.

Article 103. The provisions of this law shall not apply to such an act executed by an entrepreneur in accordance with the reorganization plan as provided for by the Enterprises Reconstruction and Reorganization Law or with the reorganization plan as provided for by the Financial Institutions Reconstruction and Reorganization Law.

Article 104. The disposition of any juridical person or other organization actually existing at the time for enforcement of the provisions of Article 5 and undertaking control of distribution of the whole or a part of materials and products by method of exclusive purchase or sale, or undertakes allocation of the whole or a part of materials and products shall be provided for by separate order.

Article 105. Disposition of a holding company actually existing at the time for the enforcement of this law shall be provided for by separate order.

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Article 106. The provisions of Article 9, Article 10, Article 12, Paragraph 1 and Paragraph 2 of Article 14, the preceding Article, Article 107 and Article 110 shall not apply to the North-east Development Co., Ltd (the Tohoku Kogyo Kabushiki Kaisha).

Article 107. Disposition of stocks or debentures owned by a company other than one whose business is financial, at the time for enforcement of the provisions of Article 10 or Article 12 in violation of said provisions shall be provided for by separate order.

Article 108. Disposition of stocks or debentures owned by a company whose business is financial at the time for enforcement of the provisions of Article 11 or Article 12 in violation of said provisions shall be provided for by separate order.

Article 109. Any person holding concurrently positions as an officer of a company at the time for enforcement of the provisions of Article 13 in violation of the provisions of Paragraph 1 of said Article shall resign from all except any one of such positions within a period of ninety (90) days of the date for enforcement of said Article .

Any person holding positions as an officer in four (4) or more companies on the date for enforcement of the provisions of Article 13 shall resign from all except any three (3) of such positions within a period of ninety (90) days of the date for enforcement of said article.

Article 110. Disposition of stocks actually owned in violation of the provisions of Article 14 at the time for enforcement of said article shall be provided for by separate order.

Article 111. Any person coming under any one of the following items shall be punished by a penal servitude for not more than one (1) year or by a fine not more than five thousand (5,000) yen.

1. one who violated the provisions of Article 109.
2. one who violated an order given in accordance with the provisions of Article 104, Article 105, Article 107, Article 108, or the preceding article.

Article 112. In case a representative of a juridical person, or an agent, an employee, or any other person in service of a juridical person or of an individual violates the provisions of Item 2 of the preceding article with respect to the business or property of said juridical person or individual, not only shall the offender be punished but said juridical person or said individual shall also be punished by such fine as provided for in the preceding article.

Article 113. Terms of office for the initial commissioners of the Fair Trade Commission shall be one (1) year for one (1) commissioner, two (2) years for two (2) commissioners, three (3) years for one (1) commissioner, four (4) years for two (2) commissioners and five (5) years for one (1) commissioner in accordance with such appointments as the Prime Minister may make.

*mm*FEC-101/50RESTRICTEDFEC-101/5010 April 1947FAR EASTERN COMMISSIONCORRECTION TO DRAFT LAW IMPLEMENTING JAPANESE CONSTITUTION:
CORRECTION TO THE BILL FOR PARTIAL AMENDMENTS TO THE
LOCAL TAXATION LAW(References: Art. 30, FEC-087/14;
FEC-101/42)Note by the Secretary General

1. The enclosure, entitled "Correction to the Bill for the Partial Amendments to the Local Tax Law", was received from the Supreme Commander for the Allied Powers, and is circulated herewith by the United States Representative for the consideration of the Far Eastern Commission and referred to COMMITTEE NO. 3: CONSTITUTIONAL AND LEGAL REFORM.

2. The enclosure indicates corrections to be entered in the "Bill for the Partial Amendments to the Local Tax Law", circulated on 4 April 1947 as FEC-101/42. The enclosure was forwarded to Washington on 28 March 1947 and was filed with the Far Eastern Commission Secretariat on 8 April 1947.

3. The enclosure is a verbatim copy of the original document (except for editor's notes, indicated in parentheses) received from the Supreme Commander. The Japanese text of the enclosure will be circulated as it becomes available.

NELSON T. JOHNSON
Secretary General

FEC-101/50

RESTRICTEDE N C L O S U R ECORRECTION TO DRAFT LAW IMPLEMENTING JAPANESE CONSTITUTION:
CORRECTION TO THE BILL FOR PARTIAL AMENDMENTS TO THE
LOCAL TAXATION LAW

In the provisions of Paragraph 1, Article XLVIII to be amended,

"9. Radio Tax" shall be deleted, and No. 10 and every No. below 10 shall be advanced respectively. (Editor's Note: cf. p. 3., FEC-101/42)

Paragraph 3, Article LI shall be deleted, and Paragraph 4, Article LI shall read Paragraph 3, Article LI. (Editor's Note: cf. p. 7, FEC-101/42)

In Article LVII, "S. Surtax on radio Tax" shall be deleted, and No. 9 and every No. below 9 shall be advanced respectively. (Editor's note: cf. p. 7, FEC-101/42)