GHQ/SCAP Records(RG 331)
Description of contents

THE NATIONAL ARCHIVES OF THE UNITED STATES

(1) Box no. 2084

(2) Folder title/number: (31)
Appendix C - Documents Relating to the New Constitution ofJapan

(3) Date: ?

(4) Subject:

Classification	Type of record
021	d

(5) Item description and comment:

(6) Reproduction: (Yes) No

(7) Film no. Sheet no.

APPENDIX C

DOCUMENTS RELATING TO THE NEW CONSTITUTION OF JAPAN

C:1

THE CONSTITUTION OF THE EMPIRE OF JAPAN

Chapter I

The Emperor

Article I. - The Empire of Japan shall be reigned over and governed by a line of Emperors unbroken for ages eternal.

Article II. - The Imperial Throne shall be succeeded to by Imperial male descendants, according to the provisions of the Imperial House Law.

Article III. - The Emperor is sacred and inviolable.

Article IV. - The Emperor is the head of the Empire, combining in Himself the rights of sovereignty, and exercises them, according to the provisions of the present Constitutions.

Article V. - The Emperor exercises the legislative power with the consent of the Imperial Diet.

Article VI. - The Emperor gives sanction to laws and orders them to be promulgated and executed.

Article VII. - The Emperor convokes the Imperial Diet, opens, closes and prorogues it, and dissolves the House of Representatives.

Article VIII. - The Emperor, in consequence of an urgent necessity to maintain public safety or to avert public calamities, issues, when the Imperial Diet is not sitting, Imperial Ordinances in the place of law.

Such Imperial Ordinances are to be laid before the Imperial Diet at its next session, and when the Diet does not approve the said Ordinances, the Government shall declare them to be invalid for the future.

Article IX. - The Emperor issues or causes to be issued, the Ordinances necessary for the carrying out of the laws, or for the maintenance of the public peace and order, and for the promotion of the welfare of the subjects. But

no Ordinance shall in any way alter any of the existing laws.

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

Article XI. - The Emperor has the supreme command of the Army and Navy.

Article XII. - The Emperor determines the organization and peace standing of the Army and Navy.

Article XIII. - The Emperor declares war, makes peace, and concludes treaties.

Article XIV. - The Emperor declares a state of siege.

The conditions and effects of a state of siege shall be determined by law.

Article XV. - The Emperor confers titles of nobility, rank, orders and other marks of honor.

Article XVI. - The Emperor orders amnesty, pardon, commutation of punishments and rehabilitation.

Article XVII. - A Regency shall be instituted in conformity with the provisions of the Imperial House Law.

The Regent shall exercise the powers appertaining to the Emperor in His name.

Chapter II

Rights and Duties of Subjects

Article XVIII. - The conditions necessary for being a Japanese subject shall be determined by law.

Article XIX. - Japanese subjects may, according to qualifications deter-

mined in laws or ordinances, be appointed to civil or military or any other public offices equally.

Article XX. - Japanese subjects are amenable to service in the Army or Navy, according to the provisions of law.

Article XXI. - Japanese subjects are amenable to the duty of paying taxes, according to the provisions of law.

Article XXII. - Japanese subjects shall have the liberty of abode and of changing the same within the limits of law.

Article XXIII. - No Japanese subject shall be arrested, detained, tried or punished, unless according to law.

Article XXIV. - No Japanese subject shall be deprived of his right of being tried by the judges determined by law.

Article XXV. - Except in the cases provided for in the law, the house of no Japanese subject shall be entered or searched without his consent.

Article XXVI. - Except in the cases mentioned in the law, the secrecy of the letters of every Japanese subject shall remain inviolate.

Article XXVII. - The right of property of every Japanese subject shall remain inviolate.

Measures necessary to be taken for the public benefit shall be provided for by law.

Article XXVIII. - Japanese subjects shall, within limits not prejudicial to peace and order, and not antagonistic to their duties as subjects, enjoy freedom of religious belief.

Article XXIX. - Japanese subjects shall, within the limits of law, enjoy the liberty of speech, writing, publication, public meetings and associations.

Article XXX. - Japanese subjects may present petitions, by observing the

proper forms of respect, and by complying with the rules specially provided for the same.

Article XXXI. - The provisions contained in the present Chapter shall not effect the exercise of the powers appertaining to the Emperor, in times of war or in cases of a national emergency.

Article XXXII. - Each and every one of the provisions contained in the preceding Articles of the present Chapter, that are not in conflict with the laws or the rules and discipline of the Army and Navy, shall apply to the offices and men of the Army and of the Navy.

Chapter III

The Imperial Diet

Article XXXIII. - The Imperial Diet shall consist of two Houses, a House of Peers and a House of Representatives.

Article XXXIV. - The House of Peers shall, in accordance with the Ordinance concerning the House of Peers, be composed of the members of the Imperial Family, of the orders of nobility, and of those persons who have been nominated thereto by the Emperor.

Article XXXV. - The House of Representatives shall be composed of Members elected by the people, according to the provisions of the Law of Election.

Article XXXVI. - No one can at one and the same time be a Member of both Houses.

Article XXXVII. - Every law requires the consent of the Imperial Diet.

Article XXXVIII. - Both Houses shall vote upon projects of law submitted to it by the Government, and may respectively initiate projects of law.

Article XXXIX. - A Bill, which has been rejected by either the one or the other of the two Houses, shall not be again brought in during the same session.

Article XL. - Both Houses can make representations to the Government, as to laws or upon any other subject. When, however, such representations are not accepted, they cannot be made a second time during the same session.

Article XLI. - The Imperial Diet shall be convoked every year.

Article XLII. - A session of the Imperial Diet shall last during three months. In case of necessity, the duration of a session may be prolonged by Imperial Order.

Article XLIII. - When urgent necessity arises, an extraordinary session may be convoked, in addition to the ordinary one.

The duration of an extraordinary session shall be determined by Imperial Order.

Article XLIV. - The opening, closing, prolongation of session and prorogation of the Imperial Diet, shall be effected simultaneously for both Houses.

In case the House of Representatives has been ordered to dissolve, the House of Peers shall at the same time be prorogued.

Article XLV. - When the House of Representatives has been ordered to dissolve, Members shall be caused by Imperial Order to be newly elected, and the new House shall be convoked within five months from the day of dissolution.

Article XLVI. - No debate can be opened and no vote can be taken in either House of the Imperial Diet, unless not less than one third of the whole number of the Members thereof is present.

Article XLVII. - Votes shall be taken in both Houses by absolute majority. In the case of a tie vote, the President shall have the casting vote.

Article XLVIII. - The deliberations of both Houses shall be held in public. The delibrations may, however, upon demand of the Government or by resolution of the House, be held in secret sitting.

Article XLIX. - Both Houses of the Imperial Diet may respectively present addresses to the Emperor.

Article L. - Both Houses may receive petitions presented by subjects.

Article LI. - Both Houses may enact, besides what is provided for in the present Constitution and in the Law of the Houses, rules necessary for the management of their internal affairs.

Article LII. - No Member of either House shall be held responsible outside the respective Houses, for any opinion uttered or for any vote given in the House. When, however, a Member himself has given publicity to his opinions by public speech, by documents in print or in writing, or by any other similar means, he shall, in the matter, be amenable to the general law.

Article LIII. - The Members of both Houses shall, during the session, be free from arrest, unless with the consent of the House, except in cases of flagrant delicts, or of offenses connected with a state of internal commotion or with a foreign trouble.

Article LIV. - The Ministers of State and the Delegates of the Government may, at any time, take seats and speak in either House.

Chapter IV

The Ministers of State and the Privy Council

Article LV. - The respective Ministers of State shall give their advice to the Emperor, and be responsible for it.

All Laws, Imperial Ordinances and Imperial Rescripts of whatever kind, that relate to the affairs of the State, require the counter-signature of a Minister of State.

Article LVI. - The Privy Councillors shall, in accordance with the provisions for the organization of the Privy Council, deliberate upon important matters of State, when they have been consulted by the Emperor.

Chapter V

The Judicature

Article LVII. - The Judicature shall be exercised by the Courts of Law according to law, in the name of the Emperor.

The organization of the Courts of Law shall be determined by law.

Article LVIII. - The judges shall be appointed from among those who possess proper qualifications according to law.

No judge shall be deprived of his position, unless by way of criminal sentence or disciplinary punishment.

Rules for disciplinary punishment shall be determined by law.

Article LIX. - Trials and judgments of a Court shall be conducted publicly. When, however, there exists any fear that such publicity may be prejudicial to peace and order, or to the maintenance of public morality, the public trial may be suspended by provision of law or by the decision of the Court of Law.

Article LX. - All Matters that fall within the competency of a special Court shall be specially provided for by law.

Article LXI. - No suit at law, which relates to rights alleged to have been infringed by the illegal measures of the administrative authorities, and which shall come within the competency of the Court of Administrative Litigation specially established by law, shall be taken cognisance of by a Court of Law.

Chapter VI

Finance

Article LXII. - The imposition of a new tax or the modification of the rates (of an existing one) shall be determined by law.

However, all such administrative fees or other revenue having the nature

DECLASSIFIED: E.O. 12958 SEC. 3(E) AND 3(B) OR (E) AND # 795 072

of compensation shall not fall within the category of the above clause.

The raising of national loans and the contracting of other liabilities to the charge of the National Treasury, except those that are provided in the Budget, shall require the consent of the Imperial Diet.

Article LXIII. - The taxes levied at present shall, in so far as they are not remodelled by a new law, be collected according to the old system.

Article LXIV. - The expenditure and revenue of the State require the consent of the Imperial Diet by means of an annual Budget.

Any and all expenditures overpassing the appropriations set forth in the Titles and Paragraphs of the Budget, or that are not provided for in the Budget, shall subsequently require the approbation of the Imperial Diet.

Article LXV. - The Budget shall be first laid before the House of Representatives.

Article LXVI. - The expenditures of the Imperial House shall be defrayed every year out of the National Treasury, according to the present fixed amount for the same, and shall not require the consent thereto of the Imperial Diet, except in case an increase thereof is found necessary.

Article LXVII. - Those already fixed expenditures based by the Constitution upon the powers appertaining to the Emperor, and such expenditures as may have arisen by the effect of law, or that appertain to the legal obligations of the Government, shall be neither rejected nor reduced by the Imperial Diet, without the concurrence of the Government.

Article LXVIII. - In order to meet special requirements, the Government may ask the consent of the Imperial Diet to a certain amount as a Continuing Expenditure Fund, for a previously fixed number of years.

Article LXIX. - In order to supply deficiencies, which are unavoidable, in the Budget, and to meet requirements unprovided for in the same, a Reserve

Fund shall be provided in the Budget.

Article LXX. - When the Imperial Diet cannot be convoked, owing to the external or internal condition of the country, in case of urgent need for the maintenance of public safety, the Government may take all necessary financial measures, by means of an Imperial Ordinance.

In the case mentioned in the preceding clause, the matter shall be submitted to the Imperial Diet at its next session, and its approbation shall be obtained thereto.

Article LXXI. - When the Imperial Diet has not voted on the Budget, or when the Budget has not been brought into actual existence, the Government shall carry out the Budget of the preceding year.

Article LXXII. - The final account of the expenditures and revenue of the State shall be verified and confirmed by the Board of Audit, and it shall be submitted by the Government to the Imperial Diet, together with the report of verification of the said Board.

The organization and competency of the Board of Audit shall be determined by law separately.

Chapter VII

Supplementary Rules

Article LXXIII. - When it has become necessary in future to amend the provisions of the present Constitution, a project to the effect shall be submitted to the Imperial Diet by Imperial Order.

In the above case, neither House can open the debate, unless not less than two-thirds of the whole number of Members are present, and no amendment can be passed, unless a majority of not less than two-thirds of the Members present is obtained.

Article LXXIV. - No modification of the Imperial House Law shall be required to be submitted to the deliberation of the Imperial Diet.

No provision of the present Constitution can be modified by the Imperial House Law.

Article LXXV. - No modification can be introduced into the Constitution, or into the Imperial House Law, during the time of a Regency.

Article LXXVI. - Existing legal enactments, such as laws, regulations, Ordinances, or by whatever names they may be called, shall, so far as they do not conflict with the present Contitution, continue in force.

All existing contracts or orders, that entail obligations upon the Government, and that are connected with expenditure, shall come within the scope of Art. LXVII.

PURSUANT TO THE DOCUMENTS SECT. 3(B) AND 3(D) OR (E) NARS, Date 7/25/72

THE IMPERIAL HOUSE LAW

Chapter I

Succession to the Imperial Throne

Article I. - The Imperial Throne of Japan shall be succeeded to by male descendants in the male line of Imperial Ancestors.

Article II. - The Imperial Throne shall be succeeded to by the Imperial eldest son.

Article III. - When there is no Imperial eldest son, the Imperial Throne shall be succeeded to by the Imperial eldest grandson. When there is neither Imperial eldest son nor any male descendant of his, it shall be succeeded to by the Imperial son next in age, and so on in every successive case.

Article IV. - For succession to the Imperial Throne by an Imperial descendant, the one of full blood shall have precedence over descendants of half blood. The succession to the Imperial Throne by the latter shall be limited to those cases only in which there is no Imperial descendant of full blood.

Article V. - When there is no Imperial descendant, the Imperial Throne shall be succeeded to by an Imperial brother and by his descendants.

Article VI. - When there is no such Imperial brother or descendant of his, the Imperial Throne shall be succeeded to by an Imperial uncle and his descendants.

Article VII. - When there is neither such Imperial uncle nor descendant of his, the Imperial Throne shall be succeeded to by the next nearest member among the rest of the Imperial Family.

Article VIII. - Among the Imperial brothers and the remoter Imperial relations, precedence shall be given, in the same degree, to the descendants of full blood, and to the elder over the younger.

Article IX. - When the Imperial heir is suffering from an incurable disease of mind or body, or when any other weighty cause exists, the order of succession may be changed in accordance with the foregoing provisions, with the advice of the Imperial Family Council and with that of the Privy Council.

Chapter II

Ascension and Coronation

Article X. - Upon the demise of the Emperor, the Imperial heir shall ascend the Throne and shall acquire the Divine Treasures of the Imperial Ancestors.

Article XI. - The ceremonies of Coronation shall be performed and a Grand Coronation Banquet (Dai josai) shall be held at Kyoto.

Article XII. - Upon an ascension to the Throne, a new era shall be inaugurated, and the name of it shall remain unchanged during the whole reign in agreement with the established rule of the 1st year of Meiji.

Chapter III.

Majority, Institution of Empress and of Heir-apparent

Article XIII. - The Emperor, the Kōtaishi, and the Kōtaison shall attain their majority at eighteen full years of age.

Article XIV. - Members of the Imperial Family, other than those mentioned in the preceding article, shall attain their majority at twenty full years of age.

Article XV. - The son of the Emperor who is Heir-apparent, shall be called "Kōtaishi." In case there is no Kōtaishi, the Imperial grandson who is Heir-apparent shall be called "Kōtaison."

Article XVI. - The Institution of Empress and that of Kōtaishi or of Kōtaison shall be proclaimed by an Imperial Rescript.

Chapter IV

Styles of Address

Article XVII. - The style of address for the Emperor, the Grand Empress Dowager, the Empress Dowager, and of the Empress shall be "His," or "Her," or "Your Majesty."

Article XVIII. - The Kōtaishi and his consort, the Kōtaison and his consort, the Imperial Princes and their consorts, and the princesses shall be styled "His," "Her," "Their," or "Your Highness" or "Highnesses."

Chapter V

Regency

Article XIX. - When the Emperor is a minor a Regency shall be instituted. When he is prevented by some permanent cause from personally governing, a Regency shall be instituted, with the advice of the Imperial Family Council and with that of the Privy Council.

Article XX. - The Regency shall be assumed by the Kōtaishi or the Kōtaison, being of full age of majority.

Article XXI. - When there is neither Kotaishi nor Kotaison, or when the Kōtaishi or Kōtaison has not yet arrived at his majority, the Regency shall be assumed in the following order:

1. An Imperial Prince or a Prince.
2. The Empress.
3. The Empress Dowager.
4. The Grand Empress Dowager.
5. An Imperial Princess or a Princess.

Article XXII. - In case the Regency shall be assumed from among the male members of the Imperial Family, it shall be done in agreement with the order

of succession to the Imperial Throne. The same shall apply to the case of female members of the Imperial Family.

Article XXIII. - A female member of the Imperial Family chosen to assume the Regency shall be exclusively one who has no consort.

Article XXIV. - When, on account of the minority of the nearest related member of the Imperial Family, or for some other cause, another member has to assume the Regency, the latter shall not, upon the arrival at majority of the above mentioned nearest related member, or upon the disappearance of the aforesaid cause, resign his or her post in favour of any person other than of the Kotaishi or of the Kotaison.

Article XXV. - When a Regent or one who should become such, is suffering from an incurable disease of mind or body, or when any other weighty cause exists therefor, the order of the Regency may be changed, with the advice of the Imperial Family Council and with that of the Privy Council.

Chapter VI

The Imperial Governor

Article XXVI. - When the Emperor is a minor, an Imperial Governor shall be appointed to take charge of his bringing up and of his education.

Article XXVII. - In case no Imperial Governor has been nominated in the will of the preceding Emperor, the Regent shall appoint one, with the advice of the Imperial Family Council and with that of the Privy Council.

Article XXVIII. - Neither the Regent nor any of his descendants can be appointed Imperial Governor.

Article XXIX. - The Imperial Governor cannot be removed from his post by the Regent, unless upon the advice of the Imperial Family Council and upon that of the Privy Council.

Chapter VII

The Imperial Family

Article XXX. - The term "Imperial Family" shall include the Grand Empress Dowager, the Empress Dowager, the Empress, the Kotaishi and his consort, the Kotaison and his consort, the Imperial Princes and their consorts, the Imperial Princesses, the Princesses and their consorts, and the Princesses.

Article XXXI. - From Imperial sons to Imperial great-great-grand-sons, Imperial male descendants shall be called Imperial Princes; and from Imperial daughters to Imperial great-great-grand-daughters Imperial female descendants shall be called Imperial Princesses. From the fifth generation downwards, male descendants shall be called Princes and females Princesses.

Article XXXII. - When the Imperial Throne is succeeded to by a member of a branch line, the title of Imperial Prince or Imperial Princess shall be specially granted to the Imperial brothers and sisters, being already Princes or Princesses.

Article XXXIII. - The births, namings, marriages, and deaths in the Imperial Family shall be announced by the Minister of the Imperial Household.

Article XXXIV. - Genealogical and other records relating to the matters mentioned in the preceding Article shall be kept in the Imperial archives.

Article XXXV. - The members of the Imperial Family shall be under the control of the Emperor.

Article XXXVI. - When a Regency is instituted, the Regent shall exercise the power of control referred to in the preceding Article.

Article XXXVII. - When a member, male or female, of the Imperial Family is a minor and has been bereft of his or her father, the officials of the Imperial Court shall be ordered to take charge of his or her bringing up and

education. In certain circumstances, the Emperor may either approve the guardian chosen by his or her parent, or may nominate one.

Article XXXVIII. - The guardian of a member of the Imperial Family must be himself a member thereof and of age.

Article XXXIX. - Marriages of members of the Imperial Family shall be restricted to the circle of the Family, or to certain noble families specially approved by Imperial Order.

Article XL. - Marriages of the members of the Imperial Family shall be subject to the sanction of the Emperor.

Article XLI. - The Imperial writs sanctioning the marriages of the members of the Imperial Family shall bear the countersignature of the Minister of the Imperial Household.

Article XLII. - No member of the Imperial Family can adopt any one as his son.

Article XLIII. - When a member of the Imperial Family wishes to travel beyond the boundaries of the Empire, he shall first obtain the sanction of the Emperor.

Article XLIV. - A female member of the Imperial Family, who has married a subject, shall be excluded from membership of the Imperial Family. However, she may be allowed, by the special grace of the Emperor, to retain her title of Imperial Princess or Princess, as the case may be.

Chapter VIII

Imperial Hereditary Estates

Article XLV. - No landed or other property, that has been fixed as the Imperial Hereditary Estates, shall be divided up and alienated.

Article XLVI. - The landed or other property to be included in the

Imperial Hereditary Estates shall be settled by Imperial writ with the advice of the Privy Council, and shall be announced by the Minister of the Imperial Household.

Chapter IX

Expenditures of the Imperial House

Article XLVII. - The expenditures of the Imperial House of all kinds shall be defrayed out of the National Treasury at a certain fixed amount.

Article XLVIII. - The estimates and audit of accounts of the expenditures of the Imperial House and all other rules of the kind, shall be regulated by the Finance Regulations of the Imperial House.

Chapter X

Litigations, Disciplinary Rules for the Members of the Imperial Family

Article XLIX. - Litigation between members of the Imperial Family shall be decided by judicial functionaries specially designated by the Emperor to the Department of the Imperial Household, and execution issued after Imperial sanction thereto has been obtained.

Article L. - Civil actions brought by private individuals against members of the Imperial Family shall be decided in the Court of Appeal in Tokyo. Members of the Imperial Family shall, however, be represented by attorneys, and no personal attendance in the Court shall be required of them.

Article LI. - No members of the Imperial Family can be arrested, or summoned before a Court of Law, unless the sanction of the Emperor has been first obtained thereto.

Article LII. - When a member of the Imperial Family has committed an act derogatory to his (or her) dignity, or when he has exhibited disloyalty to the

Imperial House, he shall, by way of disciplinary punishment and by order of the Emperor, be deprived of the whole or a part of the privileges belonging to him as a member of the Imperial Family, of shall be suspended therefrom.

Article LIII. - When a member of the Imperial Family acts in a way tending to the squandering of his (or her) property, he shall be pronounced incapable by the Emperor, prohibited from administering his property, and a manager shall be appointed therefor.

Article LIV. - The two foregoing Articles shall be enforced upon the advice of the Imperial Family Council.

Chapter XI

The Imperial Family Council

Article LV. - The Imperial Family Council shall be composed of the male members of the Imperial Family who have reached the age of majority. The Lord Keeper of the Privy Seal, the President of the Privy Council, the Minister of the Imperial Household, the Minister of State for Justice, and the President of the Court of Cassation shall be ordered to take part in the deliberations of the Council.

Article LVI. - The Emperor personally presides over the meetings of the Imperial Family Council, or directs one of the members of the Imperial Family to do so.

Chapter XII

Supplementary Rules

Article LVII. - Those of the present members of the Imperial Family of the fifth generation and downwards, who have already been invested with the title of Imperial Prince, shall retain the same as heretofore.

Article LVIII. - The order of succession to the Imperial Throne shall in

every case relate to the descendants of direct lineage. There shall be no admission to this line of succession to any one, as a consequence of his now being an adopted Imperial son, Koyushi or heir to a princely house.

Article LIX. - The grades of rank among the Imperial Princes and Princesses shall be abolished.

Article LX. - The family rank of Imperial Princes and all usages conflicting with the present law shall be abolished.

Article LXI. - The property, annual expenses, and all other rules concerning the members of the Imperial Family shall be specially determined.

Article LXII. - When in the future it shall become necessary either to amend or make addition to the present law, the matter shall be decided by the Emperor, with the advice of the Imperial Family Council and with that of the Privy Council.

Additional Rules

(Promulgated February 11, 1907)

Article I. - The Princes may be created peers, either by order of the Emperor or at their own wishes, with family names to be granted by the Emperor.

Article II. - The Princes may, with the sanction of the Emperor, become heirs of peers or be adopted as their sons with a view to becoming their heirs.

Article III. - The consorts, linsal descendants and their wives, of the Princes who have been excluded from membership of the Imperial Family for the reason stated in the two foregoing Articles are also excluded from membership in the Imperial Family as members of the families of the Princes who have become subjects. The rule does not, however, apply to those female members of the Imperial Family who have married other members of the

Imperial Family or their lineal descendants.

Article IV. - A member of the Imperial Family who has been deprived of the privileges belonging to him as a member of the Imperial Family may be excluded from membership of the Imperial Family and placed in the rank of subjects by order of the Emperor. The consort of a member of the Imperial Family who has been excluded from membership of the Imperial Family and placed in the rank of subjects in accordance with the foregoing Article is also excluded from membership of the Imperial Family and placed in the rank of subjects.

Article V. - In the cases mentioned in Arts. I, II, and IV (of the present additional rules), the matter shall be decided with the advice of the Imperial Family Council and that of the Privy Council.

Article VI. - Those members of the Imperial Family who have been excluded from membership of the Imperial Family cannot be reinstated as members of the Imperial Family.

Article VII. - Regulations pertaining to the legal status of the members of the Imperial Family and the limits of their competence, other than those provided for elsewhere in the present law, shall be defined separately. Regarding the affairs in which are involved the interests of a member of the Imperial Family and a subject or subjects and in which different regulations apply to the respective parties, such regulations shall apply.

Article VIII. - Those provisions of laws and ordinances designated as applicable to the members of the Imperial Family shall apply to them only in cases where no particular regulations are specifically provided for in the present law or such regulations as are issued in accordance with the present law.

Additional Rule

(Promulgated November 28, 1908)

A female member of the Imperial Family can marry a male member of Ozoku or Kozoku (former Royal Family of Korea).

Appendix I.

ORDINANCE CREATING AND REGULATING THE PRIVY COUNCIL

Whereas We deem it expedient to consult personages who have rendered signal services to the State, and to avail Ourselves of their valuable advice on matters of State, We hereby establish Our Privy Council, which shall henceforth be an institution of Our supreme counsel; and We hereby also give Our Sanction to the present Ordinance relating to the organization of the said Privy Council and to the Regulations of the business thereof, and order it to be promulgated.

(The Imperial Sign-Manual)

ORGANIZATION OF THE PRIVY COUNCIL

Chapter I

Constitution

I. The Privy Council shall be the place at which it will be the Emperor's pleasure to attend and there hold consultation on important matters of State.

II. The Privy Council shall be composed of a President, a Vice-President, twelve or more Councillors, a Secretary-General, and several Secretaries.

III. The President, Vice-President, and Councillors of the Privy Council shall be personally appointed by the Emperor. The Secretary-General shall be of Chokunin rank and the Secretaries of sōnin rank.

IV. No one who has not reached the fortieth year of his age shall be eligible to be appointed President, Vice-President or a Councillor of the Privy Council.

V. The President may cause some of the Secretaries to serve as his

confidential Secretaries, in addition to their duties of ordinary Secretaryship.

Chapter II

Functions

VI. The Privy Council shall hold deliberations, and present its opinions to the Emperor for his decision on the under-mentioned matters:-

1. Differences of opinion as to the interpretation of the Constitution, or of the laws appertaining thereto, and questions relating to the budget or other financial matters.

2. Drafts of amendments of the Constitution or of laws appertaining thereto.

3. Important Imperial Ordinances.

4. Drafts of new laws, and drafts for the abolition or amendment of existing laws; treaties with foreign countries, and the planning of administrative organizations.

5. Any other matters whatever, besides those mentioned above, touching important administrative or financial measures, upon which the opinion of the Privy Council has been specially required by order of the Emperor; and matters upon which the opinion of the Privy Council has to be taken, by reason of some special provision of law or ordinance.

VII. In Imperial Ordinances referred to in Section 3 of the preceding Article, a statement shall be made to the effect that the opinion of the Privy Council has been taken with regard to them.

VIII. Though the Privy Council is the Emperor's highest resort of counsel it shall not interfere with the executive.

Chapter III

Deliberations and Business

IX. The deliberations of the Privy Council cannot be opened unless ten or more Privy Councillors are present at the time.

X. The deliberations of the Privy Council shall be presided over by the President. When the President is prevented from doing so by unavoidable circumstances, the Vice-President shall preside over the deliberations; and in case the Vice-President is also prevented they shall be presided over by one of the Privy Councillors according to the order of their precedence.

XI. The Ministers of State shall be entitled by virtue of their office to sit in the Privy Council as Councillors, and shall have the right to vote. The Ministers of State may send their representatives to the deliberations of the Privy Council, who shall have the right to there make speeches and explanations, but such representatives shall not have the right to vote.

XII. Debates in the Privy Council shall be decided by a majority of the members present. In case of an equal division of votes the presiding official shall have the deciding vote.

XIII. The President shall have the supreme control of all the business of the Privy Council and shall sign every official document proceeding from the Council.

The Vice-President shall assist the President in the discharge of his duties.

XIV. The Secretary-General shall manage all ordinary business of the Privy Council, under the direction of the President, shall countersign every public document issuing from the Privy Council, shall investigate matters to be submitted to deliberation, shall prepare reports, and shall have a seat in the assembly during deliberations that he may offer needed

explanations, but he shall not have the power to vote.

The Secretaries shall take minutes of the proceedings, and shall assist the Secretary-General in the discharge of his duties. When the Secretary-General is prevented from discharging his duties, one of the Secretaries shall represent him therein.

In the minutes referred to in the preceding section, there shall be mentioned the names of those present at the proceedings, the essential points of the matters that have been under discussion, of questions that have been propounded and of replies that have been made thereto, and of decisions arrived at.

XV. Except in special cases, no deliberation can be opened unless reports of any investigation that may have been ordered have been prepared and forwarded to each member of the Privy Council together with the documents necessary for due deliberation.

The order of the day and reports are to be previously forwarded to the Ministers of State.

REGULATIONS FOR THE CONDUCT OF BUSINESS OF THE PRIVY COUNCIL

I. The Privy Council shall formulate its opinions on matters submitted to its deliberation by order of the Emperor.

II. The Privy Council cannot receive petitions, representations, or other communications from the Imperial Diet, from either House of the same, from any Government Office, or from any of His Majesty's private subjects whatever.

III. The Privy Council shall have official connection with the Cabinet and with the Ministers of State only, and officially shall not communicate or have any connection whatever with any of His Majesty's private subjects.

IV. The President of the Privy Council shall cause the Secretary-General thereof to investigate matters submitted to the Privy Council, and also to prepare reports on matters to be submitted to its deliberation.

In case the President deems it necessary he may undertake himself to prepare the above-mentioned reports, or he may appoint one or more of the Privy Councillors for the purpose.

V. Reports of investigations shall be forwarded to the President by the person charged with the preparation thereof.

In cases requiring expedition such reports may be made orally. In these cases the essential points of the matter reported upon shall be briefly stated in the record herein referred to in Article VIII.

VI. The President may fix the period within which reports of investigation shall be made. The reports shall be prepared with as much despatch as possible, and no procrastination is allowable.

The Cabinet may, in regard to matters of urgent importance, address communications of that nature to the Privy Council and may also fix the time of deliberation thereon.

VII. Copies of reports of investigations, together with copies of accompanying papers, shall be forwarded to each one of the members of the Privy Council, at least three days previous to the opening of the deliberations on the matters in question.

VIII. A record shall be kept in chronological order of the deliberations to be held. The matters to be inserted in the said record are:-

1. The nature of the matters to be deliberated upon.
2. The date of the forwarding of papers previous to the opening of the deliberations.
3. The date of actual deliberation, and so forth.

An order of the day, similar in form to the records mentioned in the preceding section, shall be prepared concerning each and every matter to be submitted to deliberation. The said order of the day shall be forwarded to each member of the Privy Council three days previous to the opening of the deliberations thereon. The forwarding of the said order of the day shall also be regarded as an order to personally attend at the deliberations in question.

IX. The days and hours of the deliberations of the Privy Council shall be fixed by the President. The Ministers of State may, however, request that the day and hour be changed.

X. The deliberations of the Privy Council shall be conducted by the President or the Vice-President in conformity with the following rules:-

The Secretary-General or the Secretaries shall briefly state the nature of the matter in hand, and shall explain the essential points upon which decisions are to be arrived at. Upon this members present shall be free to engage in debate on the subject, but none of them shall be allowed to speak without having first obtained the permission of the President. When the debate has concluded the President shall state the question and take the votes thereon, in the following order of members - first the Ministers of State present, second the Privy Councillors in their order of precedence.

The President shall also be free to take part in the debate.

The President shall declare the result of the vote.

XI. When a debate on any matter mentioned in the order of the day has not been concluded in one day it may be continued at another meeting. But in that case the formality mentioned above need not be repeated.

XII. Decisions arrived at in the Privy Council, by result of the vote

cast, shall be reduced to writing by the Secretary-General or the Secretaries, and that statement shall be submitted to the President. The said written decision shall have appended to it the reasons that conduced to it; and, in the case of highly important matters, a memorandum stating the essential points of the debate shall accompany it.

Members present who entertain an opinion opposed to the decision arrived at may request the recording of their votes, and of the reasons for their opinion, in the reports of the debates, in the documents stating the reasons for the opinion of the Privy Council, or in the memorandum stating the essential points of the debate.

XIII. The decision mentioned in the preceding article shall be presented to the Emperor, and at the same time a copy thereof shall be forwarded to the Minister President of State.

XIV. The reports of the debates of the Privy Council shall be signed by the President and the Secretary-General or the Secretaries present, in order to secure their accuracy and trustworthiness.

Appendix J.

I

IMPERIAL RESCRIPT ON FUNCTIONS OF THE CABINET

I. The Cabinet is composed of the various Ministers of State.

II. The Minister President of State stands at the head of the Ministers of State, reports affairs of State to the Sovereign, and in compliance with Imperial instructions, has general control over the various branches of the Administration.

III. The Minister President of State, should an occasion seem sufficiently important to demand such a course, has competence to give instructions to any branch of the Administration or to suspend its notifications, pending an expression of the Sovereign's will on the subject.

IV. All laws and all Imperial ordinances affecting the Administration as a whole, shall bear the countersignature of the Minister President as well as that of the Minister from whose Department they directly emanate. All Imperial ordinances affecting a special Department only shall be countersigned by the Minister of the Department alone.

V. The following matters shall be submitted for deliberation by the Cabinet:-

1. Drafts of laws, financial estimates, and settled accounts.
2. Treaties with foreign countries and all national questions of importance.
3. Ordinances relating to Administration, or to the carrying out of regulations and laws.
4. Disputes connected with the relative competence of Ministers of Departments.
5. Petitions from the people, handed down from the Throne or

submitted by the Imperial Diet.

6. Expenditures apart from the ordinary estimates.

7. Appointments of chokunin officials and of Prefects and Governors, as well as their promotions and removals.

In the addition to the above, any important matters connected with the duties of Ministers of Departments, and having relation to the higher branches of the Administration, shall also be submitted for deliberation by the Cabinet.

VI. Every Minister of a Department is competent to submit any matter whatsoever bearing on his functions for the consideration of the Cabinet through the Minister President.

VII. With the exception of military or naval affairs of grave importance which, having been reported directly to the Sovereign by the Chief of Staff, may have been submitted by His Majesty for the consideration of the Cabinet, the Ministers of State for War and the Navy shall report to the Minister President.

VIII. Should the Minister President be prevented from discharging his functions, they may be temporarily delegated to another Minister of State in conjunction with the latter's own duties.

IX. Should any Minister of State be prevented from discharging his functions, they may be delegated temporarily to another Minister of State in conjunction with the Latter's own duties, or another Minister may be appointed to discharge them.

X. In addition to the various Ministers of State, a Minister may be specially authorized to sit in the Cabinet.

Appendix K.

IMPERIAL ORDINANCE CONCERNING THE HOUSE OF PEERS

We, in accordance with the express provision of the Constitution of the Empire of Japan, hereby promulgate, with the advice of Our Privy Council, the present Ordinance concerning the House of Peers; as to the date of its being carried out, We shall issue a special order.

(His Imperial Majesty's Sign-Manual)

(Privy Seal)

Article I. - The House of Peers shall be composed of the following members:

1. The Members of the Imperial Family.
2. Princes and Marquises.
3. Counts, Viscounts and Barons who have been elected thereto by the members of their respective orders.
4. Persons who have been specially nominated by the Emperor, on account of meritorious services to the State, or of erudition.
5. Persons who have been elected, one Member for each Fu (City) and Ken (Prefecture), by and from among the taxpayers of the highest amount of direct national taxes on land, industry or trade therein, and who have afterwards been nominated thereto by the Emperor.

Article II. - The male members of the Imperial Family shall take seats in the House on reaching their majority.

Article III. - The members of the orders of Princes and of Marquises shall become members on reaching the age of full twenty-five years.

Article IV. - The members of the orders of Counts, Viscounts, and Barons, who after reaching the age of full twenty-five years, have been

elected by the members of their respective orders, shall become Members for a term of seven years. Rules for their election shall be specially determined by Imperial Ordinance.

The number of Members mentioned in the preceding clause shall not exceed one-fifth of the entire number of the respective orders of Counts, Viscounts, and Barons.

Article V. Any man above the age of full thirty years, who has been nominated by the Emperor as a Member on account of meritorious services to the State, or for erudition, shall be a life Member.

Article VI. - One Member shall be elected in each Fu and Ken from among and by the fifteen male inhabitants thereof above the age of full thirty years, paying therein the highest amount of direct national taxes on land, industry or trade. When the person thus elected receives his nomination from the Emperor, he shall become Member for a term of seven years. Rules for such election shall be specially determined by Imperial Ordinance.

Article VII. - The number of Members that have been nominated by the Emperor, for meritorious services to the State, or for erudition, or from among men paying the highest amount of direct national taxes on land, industry or trade in each Fu or Ken, shall not exceed the number of the Members having the title of nobility.

Article VIII. - The House of Peers shall, when consulted by the Emperor, pass vote upon rules concerning the privileges of the nobility.

Article IX. - The House of Peers decides upon the qualification of its Members and upon disputes concerning elections thereto. The rules for these decisions shall be resolved upon by the House of Peers and submitted to the Emperor for His Sanction.

Article X. - When a Member has been sentenced to confinement, or to any severe punishment, or has been declared bankrupt, he shall be expelled by Imperial Order.

With respect to the expulsion of a Member, as a disciplinary punishment in the House of Peers, the President shall report the facts to the Emperor for his decision.

Any Member that has been expelled shall be incapable of again becoming a Member, unless permission so to do has been granted by the Emperor.

Article XI. - The President and Vice-President shall be nominated by the Emperor, from among the Members, for a term of seven years.

If an elected Member is nominated President or Vice-President, he shall serve in that capacity for the term of his membership.

Article XII. - Every matter, other than what has been provided for in the present Imperial Ordinance, shall be dealt with according to the provisions of the Law of the Houses.

Article XIII. - When in the future any amendment or addition is to be made in the provisions of the present Imperial Ordinance, the matter shall be submitted to the vote of the House of Peers.

Appendix L.

LAW OF THE HOUSES OF THE DIET

Chapter I

Convocation, Organization and Opening of the Imperial Diet

Article I. - An Imperial Proclamation for the convocation of the Imperial Diet, fixing the date of its assembling, shall be issued at least forty days beforehand.

Article II. - The Members shall assemble in the Hall of their respective Houses, upon the day specified in the Imperial Proclamation of convocation.

Article III. - The President and Vice-President of the House of Representatives shall both of them be nominated by the Emperor, from among three candidates respectively elected by the House for each of those offices.

Until the nomination of the President and Vice-President, the functions of President shall be discharged by the Chief Secretary.

Article IV. - Each House shall divide the whole number of its Members into several Sections by lot, and in each section a Chief shall be elected by and from among the Members belonging thereto.

Article V. - Upon the organization of both Houses, the day for the opening of the Imperial Diet shall be fixed by Imperial Order, and the ceremony of opening shall be celebrated by the assembling of the Members of both Houses in the House of Peers.

Article VI. - On the occasion referred to in the preceding Article, the functions of President shall be exercised by the President of the House of Peers.

Chapter II

President, Secretaries and Expenses

Article VII. - There shall be in each House a President and a Vice-President.

Article VIII. - The term of office of the President and of the Vice-President of the House of Representatives, shall be the same as that of the membership thereof.

Article IX. - When the office of President or of Vice-President of the House of Representatives, has become vacant by the resignation of the occupant thereof or for any other reason, the term of office of the successor shall be in correspondence with that of his predecessor.

Article X. - The President of each House shall maintain order therein, regulate the debates and represent the House outside thereof.

Article XI. - The President of each House shall continue to assume the direction of the business of the House, during the interval that the Diet is not in session.

Article XII. - The President shall be entitled to attend and take part in the debates of both the Standing and of the Special Committees, but he shall have no vote therein.

Article XIII. - In each House, in the event of the disability of the President, he shall be represented in his functions by the Vice-President.

Article XIV. - In each House, in the event of the disability of both the President and of the Vice-President at the same time, a temporary President shall be elected to exercise the functions of President.

Article XV. - The President and the Vice-President of each House shall, upon the expiration of their term of office, continue to exercise their functions, until their successors have been nominated by the Emperor.

Article XVI. - In each House there shall be appointed a Chief Secretary and several Secretaries.

The Chief Secretary shall be of the Chokunin rank, and the Secretaries, of the Sōnin rank.

Article XVII. - The Chief Secretary shall, under the direction of the President, supervise the business of the Secretaries and append his signature to official documents.

The Secretaries shall compile the records of debates, make drafts of other documents and manage business generally.

Required functionaries other than Secretaries shall be appointed by the Chief Secretary.

Article XVIII. - The expenses of both Houses shall be defrayed out of the National Treasury.

Chapter III

The Annual Allowances to the President, Vice-President and Members

Article XIX. - The Presidents of the respective Houses shall receive each an annual allowance of five thousand yen and the Vice-Presidents, that of three thousand yen each; while such Members of the House of Peers as have been elected thereto, and such as have been nominated thereto by the Emperor, and the Members of the House of Representatives, shall each receive an annual allowance of two thousand yen. They shall also receive travelling expenses in accordance with regulations to be specially provided. Members, however, who do not comply with the summons of convocation, shall receive no annual allowance.

The Presidents, Vice-Presidents and Members shall be allowed to decline their respective annual allowance.

Members who are in the service of the Government shall receive no such annual allowances.

In the case mentioned in Article XXV, the Members concerned shall receive, in addition to the annual allowance mentioned in the first clause of the present Article, an allowance of not more than five yen per diem, in accordance with the schedule determined by the respective Houses.

Chapter IV

Committees

Article XX. - Committees shall be of three kinds, a Committee of the Whole House, and Standing and Special Committees.

The Committee of the Whole House is composed of the whole number of the Members of the House.

The Standing Committee shall be divided into several branches according to the requirements of business; and in order to engage in the examination of mattersfalling within its province, the several Sections shall, from among the Members of the House, respectively elect an equal number of members to the Standing Committeeship. The term of the Standing Committeeship shall last during a single session only.

The Special Committees shall be chosen by the House and specially entrusted with the examination of a certain particular matter.

Article XXI. - The Chairman of the Committee of the Whole House shall be elected for each session at the beginning of the same.

The Chariman of botho the Standing and Special Committees shall be respectively elected at the meetings of the Committees, by and from among the Members thereof.

Article XXII. - No debates can be opened nor can any resolution be passed by the Committee of the Whole House, unless more than one third

of the entire number of the Members of the House is present, or by either the Standing or by the Special Committee, unless more than one-half of the Members of the same is present.

Article XXIII. - No stranger, other than Members of the House, shall be admitted to the meetings of either the Standing or of the Special Committees. Members may also be excluded from such meetings by resolution of the respective Committees.

Article XXIV. - The Chairman of each Committee shall report to the House concerning the proceedings and results of the meetings of the Committees he presides.

Article XXV. - Each House may, at the request, or with the concurrence of the Government, cause a Committee to continue the examination of Bills during the interval when the Diet is not sitting.

Chapter V

Sittings

Article XXVI. - The President of each House shall determine the orders of the day and report the same to the House he presides.

In the orders of the day, the Bills brought in by the Government shall have precedence, except when the concurrence of the Government has been obtained to the contrary, in case of urgent necessity for debates.

Article XXVII. - A project of law shall be voted upon, after it has passed through three readings. But the process of three readings may be omitted, when such a course is demanded by the Government or by not less than ten members, and agreed to by a majority of not less than two-thirds of the Members present in the House.

Article XXVIII. - Bills brought in by the Government shall never be voted upon, without having been first submitted to the examination of a

Committee. But it may happen otherwise, when it is so demanded by the Government, in cases of urgent necessity.

Article XXIX. - When a Member moves to introduce a Bill or to make an amendment of a Bill, such motion shall not be made the subject of debate, unless it is supported by not less than twenty Members.

Article XXX. - The Government shall be at liberty at any time to either amend or withdraw any Bill which it has already brought in.

Article XXXI. - All Bills shall, through the medium of a Minister of State, be presented to the Emperor by the President of that House, in which the Bill has been last voted upon.

When, however, a Bill originating in either one of the Houses has been rejected in the other, the rule set forth in the second clause of Article LIV shall be followed.

Article XXXII. - Bills which, after having been passed by both Houses of the Diet and presented to the Emperor, may receive His Sanction, shall be promulgated before the next session of the Diet.

Chapter VI

Prorogation and Closing

Article XXXIII. - The Government may at any time order the prorogation of either House for a period of not more than fifteen days.

When either House again meets after the termination of the prorogation, the debates of the last meeting shall be continued.

Article XXXIV. - In case the House of Peers is ordered to prorogue on account of the dissolution of the House of Representatives, the rule set forth in the second clause of the preceding Article shall not apply.

Article XXXV. - Bills, representations and petitions, that have not been voted upon at the time of the closing of the Imperial Diet, shall not

be continued at the next session. It is, however, otherwise in the case mentioned in Article XXV.

Article XXXVI. - The closing of the Diet shall be effected in a joint meeting of both Houses, in accordance with Imperial Order.

Chapter VII

Secret Meetings

Article XXXVII. - In the following cases, the sittings of either House may be held with closed doors:-

1. Upon motion of either the President or of not less than ten Members and agreed to by the House.
2. Upon the demand of Government.

Article XXXVIII. - When a motion to go into secret sitting is made either by the President or by not less than ten Members, the President shall cause the strangers to withdraw from the House, and shall then proceed, without debate, to take votes upon the motion.

Article XXXIX. - The proceedings of a secret sitting shall not be made public.

Chapter VIII

The Passing of the Budget

Article XL. - When the Budget is brought into the House of Representatives by the Government, the Committee on the Budget shall finish the examination of the same, within fifteen days from the day on which it received it, and report thereon to the House.

Article XLI. - No motion for an amendment to the Budget can be made the subject of debate at a sitting of the House, unless it is supported by not less than thirty Members.

Chapter IX

The Ministers of State and the Delegates of the Government

Article XLII. - The Ministers of State and the Delegates of the Government shall be allowed at any time to speak. But the speech of no Member shall be interrupted thereby.

Article XLIII. - When a Bill has been referred in either House to a Committee, the Ministers of State and the Delegates of the Government may attend the meetings of the Committee and there express their opinions.

Article XLIV. - A Committee in meeting may, through the President, demand explanations from the Delegates of the Government.

Article XLV. - The Ministers of State and the Delegates of the Government, except such of them as are Members of the House, shall have no vote in the House.

Article XLVI. - When a meeting of either a Standing or of a Special Committee is to be held, the Chairman thereof shall every time report the fact to the Ministers of State and to the Delegates of the Government concerned in the matter to be considered.

Article XLVII. - The orders of the day and the notices relating to debates shall, simultaneously with the distribution thereof among the Members, be transmitted to the Ministers of State and to the Delegates of the Government.

Chapter X

Questions

Article XLVIII. - When a Member in either House desires to put a question to the Government, he shall be required to obtain the support of not less than thirty Members.

In putting such question, the Member proposing it shall draw up a

concise memorandum and present it to the President, duly signed by himself and his supporters.

Article XLIX. - The President shall transmit to the Government the memorandum on questions. A Minister of State shall then either immediately answer the questions, or fix the date for making such answer, and when he does not do so, he shall explictly state his reasons therefor.

Article L. - When an answer has been or has not been obtained from a Minister of State, any Member may move a representation concerning the affairs of the questions.

Chapter XI

Addresses to the Throne and Representations

Article LI. - When either House desires to present an address to the Emperor, it shall be presented by it in writing; or the President may be directed, as the representative of the House, to ask an audience of the Emperor, and present the same to Him.

The representations of either House to the Government shall be presented in writing.

Article LII. - No motion for such address and representation shall in either House be made the subject of debate, unless not less than thirty Members support it.

Chapter XII

The Relations of the Two Houses of the Diet to Each Other

Article LIII. - With the exception of the Budget, the Bills of the Government may be brought in either one of the Houses first, according to the convenience of the case.

Article LIV. - When a Government Bill has been passed in either House with or without amendment, it shall then be carried into the other House.

When the second House either concurs in or dissents from the vote of the first House, it shall, simultaneously with addressing the Emperor, report to the first House.

In case a Bill introduced by either House is rejected by the other House, the second House shall report the fact to the first House.

Article LV. - When either House makes amendments to a Bill carried into it from the other House, the Bill as amended shall be returned to the first House. When the first House agrees to the amendments, it shall, simultaneously with addressing the Emperor, report to the Second House. When, on the other hand, the first House does not agree to such amendments, it may demand a conference of the two Houses.

When either House demands a conference, the other House cannot refuse it.

Article LVI. - Both Houses shall elect an equal number, not more than ten, of Managers to meet in conference. When the Bill in question has been adjusted in the conference, the adjusted Bill shall be discussed first in that House, which has either received it from the Government or had initiated it, and the Bill is then carried to the other House.

No motion for amendments can be made to a Bill that has been adjusted in a conference.

Article LVII. - The Ministers of State, the Delegates of the Government and the Presidents of both Houses, are at liberty to attend a conference of the two Houses and to express their opinions thereat.

Article LVIII. - No strangers are allowed to be present at a conference of the two Houses.

Article LIX. - At a conference of the two Houses, vote shall be taken

by secret ballot. In the event of a tie vote, the Chairman shall have the casting vote.

Article LX. - The Managers from the two Houses shall separately elect one of themselves Chairman of the conference. The Chairman thus elected shall occupy the chair at alternate meetings of the conference. The Chairmanship of the first meeting shall be settled by the drawing of lots.

Article LXI. - All other regulations besides what is provided for in the present Chapter, as to any business in which both Houses are concerned, shall be determined by a conference of the two Houses.

Chapter XIII

Petitions

Article LXII. - All petitions addressed to either House by people shall be received through the medium of a Member.

Article LXIII. - Petitions shall be submitted, in either House, to the examination of the Committee on Petitions.

When the Committee on Petitions considers that a petition is not in conformity with the established rules, the President shall return it through the Member, through whose medium it was originally presented.

Article LXIV. - The Committee on Petitions shall compile a list in which shall be noted the essential points of each petition, and shall report once a week to the House.

When a debate of the House on the contents of a petition is demanded either by a special report of the Committee on Petitions, or by more than thirty Members of the House, either House shall proceed so to do.

Article LXV. - When either House passes a vote to entertain a petition, the petition shall then be sent to the Government, together with a memorial of the House thereon, and the House may, according to circum-

stances, demand a report thereon of the Government.

Article LXVI. - Neither House can receive a petition presented by a proxy, excepting when presented by a party recognized by law as a juridical person.

Article LXVII. - Neither House can receive petitions for amending the Constitution.

Article LXVIII. - Petitions shall be in the form and style of a prayer. No petition that is not entitled as such, or does not conform with the proper form and style, shall be received by either House.

Article LXIX. - Neither House can receive a petition that contains words of disrespect towards the Imperial Family or those of insult to the Government or the House.

Article LXX. - Neither House can receive petitions interfering with the administration of justice or with administrative litigation.

Article LXXI. - Both Houses shall separately receive petitions and shall not interfere each with the other in such matters.

Chapter XIV

The Relations between the Houses and the People, the Government Offices and the Local Assemblies

Article LXXII. - Neither House is allowed to issue notifications to the people.

Article LXXIII. - Neither House is allowed, for the prosecution of examinations, to summon persons or to despatch a Member for that purpose.

Article LXXIV. - When either House, for the purposes of examination, asks the Government for necessary reports or documents, the Government shall comply, provided such reports or documents do not relate to any secret matter.

Article LXXV. - Other than with the Ministers of State and the Delegates of the Government, neither House can hold any correspondence with any Government Office or with any Local Assembly.

Chapter XV

Retirement, and Objections to the Qualification of Members

Article LXXVI. - When a Member of the House of Representatives has been appointed a Member of the House of Peers, or has received an official appointment which by law disables him from being a Member, he shall be considered as retired.

Article LXXVII. - When a Member of the House of Representatives has lost any of the qualifications of eligibility mentioned in the Law of Election, he shall be considered as retired.

Article LXXVIII. - When an objection is raised in the House of Representatives as to the qualifications of any of its Members, a Special committee shall be appointed to examine into the matter, on a specified day, and the resolution of the House shall be taken upon the receipt of the report of the said Committee.

Article LXXIX. - Whenever, in a Court of Law, legal proceedings pertaining to an election suit have been commenced, the House of Representatives cannot institute enquiries on the same matter.

Article LXXX. - Until the disqualification of a Member has been proved, he shall not lose either his seat or his vote in the House. In debates relating to enquiries into his own qualifications, a Member, though at liberty to offer explanations, cannot take part in voting thereon.

Chapter XVI

Leave of Absence, Resignation and Substitutional Elections

Article LXXXI. - The President of either House shall have the power

to grant to Members a leave of absence for a period not exceeding a week. As to leave of absence for a period of more than a week, permission may be given by the House. No permission shall be given for a leave of absence for an unlimited period of time.

Article LXXXII. - No Member of either House can absent himself from the meetings of the House or of a Committee, without forwarding to the President a notice setting forth proper reasons therefor.

Article LXXXIII. - The House of Representatives shall have power to accept the resignation of a Member.

Article LXXXIV. - When, from any cause whatever, a vacancy occurs among the Members of the House of Representatives, the President shall report the fact to the Minister of State for Home Affairs, demanding a substitutional election.

Chapter XVII

Discipline and Police

Article LXXXV. - For the maintenance of discipline in either House during its session, the power of internal police shall be exercised by the President, in accordance with the present Law and such regulations as may be determined in the respective Houses.

Article LXXXVI. - Police officials required by either House shall be provided by the Government and put under the direction of the President.

Article LXXXVII. - When, during a meeting of the House, any Member infringes the present Law or the rules of debate, or in any way disturbs the order of the House, the President shall either warn him, stop him, or order him to retract his remarks. When he fails to obey the order of the President, the latter shall have the power either to prohibit him from speaking during the remainder of the meeting, or to order him to leave the Hall.

Article LXXXVIII. - When the House is in a state of excitement and it is found difficult to maintain order, the President shall have power either to suspend the meeting or close it for the day.

Article LXXXIX. - When any stranger disturbs the debate, the President may order him to leave the House, and in case of necessity, may cause him to be handed over to a police authority.

When the strangers' gallery is in a state of commotion, the President may order all strangers to leave the House.

Article XC. - When any person disturbs the order of the House, the Ministers of State, the Delegates of the Government and the Members may call the attention of the President thereto.

Article XCI. - In neither House shall the utterance of expressions or the making of speeches, implying disrespect to the Imperial House be allowed.

Article XCII. - In neither House shall the use of coarse language or personalities be allowed.

Article XCIII. - When any member has been vilified or insulted either in the House or at a meeting of a Committee, he shall appeal to the House and demand that proper measures be taken. There shall be no retaliation among Members.

Chapter XVIII

Disciplinary Punishments

Article XCIV. - Both Houses shall have the power to mete out disciplinary punishment to the respective Members.

Article XCV. - In each House there shall be instituted a Committee on Disciplinary Punishment for making enquiries into cases inviting disciplinary measures.

When a case for disciplinary punishment occurs, the President shall, in the first place, instruct the Committee to enquire into the matter, and shall deliver sentence after having submitted the case to the consideration of the House.

When a case for disciplinary punishment occurs at a meeting of a Committee or in a Section, the Chairman of the Committee or the Chief of the Section shall report the matter to the President and demand measures to be taken thereon.

Article XCVI. - Disciplinary punishments shall be as follows:-

1. Reprimands at an open meeting of the House.
2. Expression by the offender of a proper apology at an open meeting of the House.
3. Suspension of the offender from presence in the House for a certain length of time.
4. Expulsion.

In the House of Representatives, expulsion shall be decided upon by a majority vote of more than two-thirds of the Members present.

Article XCVII. - The House of Representatives shall have no power to deny a seat to a Member that has been expelled, when he shall have been re-elected.

Article XCVIII. - Any Member shall, with the support of not less than twenty Members, have the right to make a motion for the infliction of a disciplinary punishment.

A motion for a disciplinary punishment shall be made within three days from the commission of the offense.

Article XCIX. - When, for non-compliance, without substantial reasons, with the Imperial Proclamation of convocation within one week from the

date specified therein, or for absence without good reasons from the meetings of the House or of a Committee, or for having exceeded the period of his leave of absence, a Member has received a summons from the President and still persists in delaying his appearance without good grounds for so doing for one week after the receipt of the said summons, he shall, in the House of Peers, be suspended from taking his seat, and the matter shall be submitted to the Emperor for His decision. In the House of Representatives, such a Member shall be expelled therefrom.

C: 2

LIST OF MEMBERS OF SO-CALLED MATSUMOTO COMMITTEE

Position	Name	Principal position (at that time)	Career	Present position
Chairman	MATSUMOTO, Joji	State Minister without portfolio	1. Professor of Law, Tokyo Imperial University. 2. President, Board of Legislation. 3. Member, House of Peers. 4. Minister of Com. & Ind.	Lawyer
Advisor	MINOBE, Tatsukichi	Professor Emeritus, Tokyo Imp. University.	1. Professor of Law, Tokyo Imp. Univ. 2. Member, House of Peers. 3. Privy Councillor 4. Chairman, National Election Management Commission.	(Dead)
Advisor	SHIMIZU, Toru	Vice-Chairman, Privy Council.	1. Privy Councillor. 2. Vice-Chairman, Privy Council. 3. Chairman, Privy Council.	(Dead)
Advisor	NOMURA, Junji	Professor Emeritus, Tokyo Imp. Univ.	1. Professor of Law, Tokyo Imp. University.	None
Member	KAWAMURA, Matsuzo	Professor, Kyushu Imp. Univ.	1. Professor of Law, Tohoku Imp. Univ. 2. Professor of Law, Kyushu Imp. Univ. 3. Judge, Supreme Court	Judge, Supreme Court.

Member	KIYOMIYA, Shiro	Professor, Tohoku Imp. Univ.	1. Professor of Law, Keijo Imp. Univ. 2. Professor of Law, Tohoku Imp. Univ.	Professor, Tohoku Univ.
Member	MIYAZAWA, Toshiyoshi	Professor, Tokyo Imp. Univ.	1. Professor of Law, Tokyo Imp. Univ.	Professor, Tokyo Univ.
Member	KURAYASHI, Jiro	Chief Secretary, House of Peers	1. Secretary, House of Peers. 2. Chief Secretary, House of Peers. 3. Secretary General, House of Counsellors.	Secretary General, House of Counsellors.
Member	OKE, Makoto	Chief Secretary, House of Representatives.	1. Secretary, House of Representatives. 2. Chief Secretary, House of Rep. 3. Secretary General, House of Rep.	Secretary General, House of Representatives.
Member	NARAHASHI, Waturu	President, Board of Legislation	1. Lawyer. 2. Advisor of Tokyo City. 3. Member, House of Representatives. 4. President, Board of Legislation. 5. Chief Secretary of Cabinet.	Lawyer.
Member	ISHIGURO, Takeshige.	Chief Sec'y. Privy Council.	1. Sec'y., Ministry of Agriculture & Forestry. 2. Chief, Economic Rehabilitation Dept, Ministry of Agr. & For. 3. Governor, Yamagata Pref. 4. Director, Textile Bureau, Ministry of Com. & Ind. 5. Dir., Trade Board, same Ministry.	None

			6. Director, Price Board, same Ministry. 7. Vice-Minister of Agr. & Forestry. 8. Chief Sec'y. Privy Council. 9. President, Board of Legislation. 10. Member, House of Representatives.	
Member	MOROHASHI, Nobora	Chief Sec'y, Privy Council.	1. Secretary, Privy Council. 2. Chief Sec'y, Privy Council. 3. Member, House of Peers. 4. Chief, Legislative Dept., House of Representatives. 5. Auditor, Board of Audit.	Auditor, Board of Audit.
Member	IRIE, Toshio	Vice-President, Board of Legislation.	1. Councillor, Board of Legislation. 2. Vice-President, same Board. 3. President, same Board. 4. Member, House of Peers. 5. Senior Specialist, National Diet Library.	Senior Specialist, National Diet Library.
Member	SATO, Tatsuo	Councillor, Board of Legislation.	1. Councillor, Board of Legislation. 2. Vice-President, same Board. 3. President, same Board. 4. Legislative Assistant to the Attorney General.	Legislative Assistant to the Attorney General.

Member	OKUNO, Kenichi	Director, Civil Affairs Bureau, Ministry of Justice.	1. Judge. 2. Director, Civil Affairs Bureau, Ministry of Justice. 3. Litigation Assistant to the Attorney General.	Litigation Assistant to the Attorney General.
Member	NAKAMURA, Tateki	Director, Budget Bureau, Ministry of Finance.	1. Secretary Ministry of Finance. 2. Sec'y, Planning Board. 3. Sec'y, Ministry of Finance. 4. Navy Civilian Administrator General. 5. Director, Budget Bureau, Ministry of Finance.	None
Member	NODA, Uichi	Director, Budget Bureau, Ministry of Finance.	1. Sec'y, Ministry of Finance. 2. Director, Foreign Funds Bureau, Ministry of Finance. 3. Director, Budget Bureau, same Ministry. 4. Director General, Monopoly Bureau, same Ministry. 5. Vice-Minister of Finance.	Vice-Minister of Finance.

C: 3

[redacted]

(A) TENTATIVE REVISION OF THE CONSTITUTION

By Joji Matsumoto

(January 4, 1946)

(1. The present draft gives only the Articles that have been revised, or deleted.

Parts, amended or added, are underlined. Articles with no underlined part indicate that they are unchanged but for certain omission or omissions.

2. In order to facilitate comparison the original numbers for Articles are retained as far as possible, such numbers for additional Articles as XXX-ii or LV-ii are used simply for the purpose of indicating where they belong.

3. When all the Articles are properly renumbered by numbering up some and numbering down other, the entire text of the revised Constitution will consist of 75 Articles.)

Article IX. The Emperor is sybolized and inviolable.

Article VII. The Emperor convokes the Imperial Diet, opens, closes, and prorogues it.

The Emperor dissolves the House of Representatives; but he may not dissolve it ever again for the one and same reason.

Article VIII. The Emperor, in consequence of an urgent necessity to maintain public safety or to avert public calamities, issues, when the Imperial Diet is not sitting, Imperial Ordinances in the place of law. But in so doing, he shall consult the Diet Standing Committee in advance, according to the provisions of the Diet Law.

Such Imperial ordinances are to be laid before the Imperial Diet at its next session, and when the Diet does not approve the said ordinances, the government shall declare them to be invalid for the future.

Article IX. The Emperor issues or causes to be issued the orders necessary for executing the laws, or for accomplishing administrative aims. But no order shall in any way alter any of the existing laws.

Article XI. The Emperor has the supreme command of the armed forces. The organization and peace standing of the armed forces shall be determined by law.

Article XII. The Emperor declares war and makes peace, with the advice and approval of the Imperial Diet.

As regards the provision of the preceding paragraph, in the case of emergency when the conditions at home and abroad allow no time for convocation of the Imperial Diet, prior consultation with the Diet Standing Committee as provided by law shall suffice. But in such a case, the action shall be laid before the Imperial Diet for approval at its next session.

Article XIII. The Emperor concludes various treaties, provided that in order to conclude treaties such as concerns the matters that must be determined by law, or that may place a serious burden on the State Treasury, he shall obtain prior approval of the Imperial Diet.

As regards the above provision, in case of emergency similar to that mentioned in paragraph 2 of the preceding Article, the provision of the said Article shall apply.

Article XV. The Emperor awards honors.

Article XX. Japanese subjects are amenable to military service, according to the provisions of law.

Article XXVIII. Japanese subjects shall, within limits not prejudiced to peace and order, enjoy freedom of religious belief.

Article XXXI. All rights and liberties of Japanese subjects, besides those mentioned in the preceding several Articles, shall not be impaired in all circumstances except by law.

Article XXXII. Delete.

Article XXXIII. The Imperial Diet shall consist of two Houses, a House of Councillors and a House of Representatives.

Article XXXIV. The House of Councillors shall, in accordance with the provisions of the House of Councillors law, be composed of members elected, or appointed by the Emperor.

Article XXXIX. A Bill which, after having been passed three times in succession of the House of Representatives by majority of more than two-thirds, is sent to the House of Councillors shall be considered as approved by the Imperial Diet regardless of whether or not it is passed by the House of Councillors.

Article XLII. A session of the Imperial Diet shall last during a period, not less than three months, as is provided for by the Diet Law. In case of necessity the session may be prolonged by Imperial Order.

Article XLIII. When urgent necessity arises, an extraordinary session may be convoked, in addition to the ordinary session.

The duration of an extraordinary session shall be determined by Imperial Order.

The members of both Houses may, with the concurrence of more than one-third of the total members of their respective Houses, may apply for convocation of an extraordinary session.

Article XLIV. The opening, closing, prolongation of the Imperial Diet, shall be effected simultaneously by both Houses.

In case the House of Representatives has been ordered to dissolve, the House of Counsellors shall at the same time be closed.

Article XLV. When the House of Representatives has been ordered to dissolve, members shall be caused by Imperial Order to be newly elected, and the Imperial Diet shall be convoked within three months from the day of dissolution.

Article XLVIII. The deliberations of both Houses shall be held in public. The deliberations may, however, by decision of the respective Houses, be held in secret sitting.

Article LIII. Members of both Houses shall, during the session, be free from arrest, unless with the consent of the House, except in cases of flagrant delicts, or of offenses connected with internal commotion or foreign trouble. Any member who has been arrested prior to the session shall upon demand of the House be released for the duration of the session.

Article LV. The respective Ministers of State shall render assistance and advice to the Emperor, and be responsible to the Imperial Diet with respect to all affairs of the State.

All laws, Imperial Ordinances and Imperial Rescripts relating to the affairs of the State require the countersignature of a Minister of State. The same provision shall apply to those relating to the Supreme Command of the armed forces.

In case the House of Representatives has passed a vote of non-confidence against a Minister of State, he shall not remain in office except in the case the House has been dissolved.

Article LV-ii. The Cabinet shall be composed of the Ministers of State.

The organization of the Cabinet shall be determined by law.

Article LVI. The Privy Councillors shall deliberate upon important matters of State, when they have been consulted by the Emperor.

The organization of the Privy Council shall be determined by law.

Article LVII. The Judicature shall be exercised by the Courts of Law according to law, in the name of the Emperor.

The organization of the Courts of Law shall be determined by law.

All cases of administrative litigation shall be under the jurisdiction of the Courts of Law, as provided for separately by law.

Article LXI. Delete.

Article LXV. The Budget shall be first laid before the House of Representatives. A Budget passed by the House of Representatives shall not be amended by the House of Councillors for any increase thereof.

Article LXVI. The expenditures of the Inner Court of the Imperial House shall be defrayed every year out of the National Treasury, according to a fixed amount for the same, and shall not require the consent thereto of the Imperial Diet, except in case an increase thereof is found necessary.

Article LXVII. Such annual expenditures as may have arisen by the effect of law, or that appertain to the legal obligation of the Government, shall be neither rejected nor reduced by the Imperial Diet, without the concurrence of the Government.

Article LXIX. In order to supply deficiencies, which are unavoidable, in the Budget, and to meet requirements unprovided for in the same, a Reserve Fund shall be provided for.

In case any disbursement is to be made from the Budget to requirements unprovided for in the Budget, the Diet Standing Committee shall be consulted in advance according to the provisions of the Diet Law.

In case disbursements are to be made outside the Budget in order to supply deficiencies, which are unavoidable, in the Budget, or to meet requirements unprovided for in the same, the provisions of the preceding paragraph shall also apply.

Article LXX. In case of urgent need for the maintenance of public safety, the Government, when the Imperial Diet cannot be convoked owing to the external and internal condition of the country, may take all the necessary financial measures through an Imperial Ordinance, provided that the Diet Standing Committee shall be consulted in advance according to the provisions of the Diet Law.

In the case mentioned in the preceding paragraph, the matter shall be submitted to the Imperial Diet at its next session, and its approval thereon shall be obtained.

Article LXXI. When the Imperial Diet has not voted on the budget, or when the budget has not been brought into actual existence, the Government shall compile a provisional budget carried out according to the provisions of the Account Law, and carry it out until the regular budget is brought into existence.

In the case mentioned in the preceding paragraph, the Imperial Diet, if not in session, shall be speedily convoked, and the provisional Budget shall be submitted to it for approval.

Article LXXIII. When it has become necessary to amend the provisions of the present Constitution, a project to that effect shall be submitted to the Imperial Diet by Imperial order.

Members of both Houses may with the concurrence of not less than one half of the total members of their respective Houses, propose deliberation on the project.

In the case mentioned in the preceding two paragraphs, neither House may open the debate, unless not less than two-thirds of the whole number of members are present; and no amendment may be passed, unless a majority of not less than two-thirds of the members present is obtained.

The Emperor approves the amendments to the Constitution passed by the Imperial Diet, and orders the promulgation and enforcement thereof.

Article LXXIV. Delete.

Supplementary Rules

The orders currently in force, which specify matters to be determined by law under the provision of the present constitution, shall remain valid until they are repealed or revised.

Of the present amendments to the Constitutions, those under Articles VIII, XII, XIII, XXIII, XXIV, XXVIII, XLII, XLIV, LV-LX, LXI, LXII, LXV, LXVI, LXIX, LXX, and LXXI, shall not come into effect until the necessary laws and orders are promulgated and enforced, and the provisions of the old laws shall meanwhile remain in force.

456

C: 4.

[redacted]

(B) TENTATIVE REVISION OF THE CONSTITUTION

By Joji Matsumoto

GENERAL (Applicable to all Articles, including those marked "No revision.")
("Constitution of the Japanese Empire" shall read "Constitution of Japan.")
"The Japanese subjects" shall read "the Japanese people," "all Japanese or Japanese," depending on context; and "Japanese subject" shall read simply "Japanese".

Chapter 1. The Emperor.

ARTICLE I:

A

The Emperor of a line unbroken through ages eternal combines in himself the rights of sovereignty, which he exercises according to the provisions of this Constitution.

Delete ARTICLE IV.

B

Japan's sovereign rights are combined in the Emperor of a line unbroken through ages eternal, who exercises them in accordance with the provisions of this Constitution.

Delete ARTICLE IV.

C

Japan shall be a monarchy headed by the Emperor of a line unbroken through ages eternal.

Add
Article ___: The Emperor combines in himself the rights of sovereignty, and he exercises them according to the provisions of this Constitution.

D

Japan shall be reigned over and governed by the Emperor of a line unbroken through ages eternal.

457

Add
Article ___: The Emperor exercises the rights of sovereignty according to the provisions of this Constitution.

Delete ARTICLE II.

ARTICLE III.

A

The Emperor is responsible to none in exercising the rights of sovereignty.

Add Paragraph 2:
The person of Emperor is inviolable.

B

The Emperor is the head of the State; he is inviolable.

C

The person of the Emperor is inviolable.

ARTICLE IV: (See under ARTICLE I above)

ARTICLE V: No revision

ARTICLE VI: The Emperor gives sanction to laws, and orders them to be promulgated.

ARTICLE VII: The Emperor convokes the National Diet, and orders the opening, closing and prorogation thereof.
The Emperor orders the dissolution of the House of Representatives. But he may not order it dissolved again for the one and same reason.

ARTICLE VIII: The Emperor, in the case of an urgent necessity to maintain public safety or to avert public calamities, issues, when the National Diet is not sitting, Imperial Ordinances in the place of law by consulting the Diet Standing Committee.
Such Imperial Ordinances shall be laid before the National Diet at its next session; and when the Diet does not approve them, the government shall declare them to be invalid for the future.

ARTICLE IX: The Emperor issues, or causes to be issued, the Orders necessary for administrative purposes excepting on the matters which under this Constitution are to be determined by law. But no law may be altered by such Orders.

ARTICLE X: The Emperor appoints and dismisses officials of the government.

ARTICLE XI: Delete

ARTICLE XII: Delete

ARTICLE XIII: The Emperor concludes treaties. But the conclusion of such treaties as relate to the matters which under this Constitution are to be determined by law, or which impose serious obligations upon the State, he shall obtain the approval of the National Diet.

In the cases mentioned in the preceding Paragraph, where there exists an urgent necessity allowing no time for convocation of the Diet, consultation with the Diet Standing Committee shall suffice. In such a case, the treaty shall be submitted for approval to the National Diet at its next session.

A treaty takes the effect of law upon its promulgation.

ARTICLE XIV: Delete

ARTICLE XV: The Emperor awards honors.

ARTICLE XVI: No revision

ARTICLE XVII: No revision

Chapter 2. Rights and Duties of the People.

ARTICLE XVIII: No revision

ARTICLE XIX: All Japanese may, according to qualifications determined in laws and ordinances, join civil service equally.

ARTICLE XX: Delete

ARTICLE XXI: No revision

ARTICLE XXII: All Japanese have the liberty of abode and of changing the same.

Such restrictions as are necessary for public interests shall be fixed by law.

ARTICLE XXIII: No revision.

ARTICLE XXIV: No revision

ARTICLE XXV: The residence of all Japanese is inviolate. Such restrictions as are necessary for public interests shall be fixed by law.

ARTICLE XXVI: The secrecy of the letters of every Japanese is inviolate. Such restrictions as are necessary for public interests shall be fixed by law.

ARTICLE XXVII: No revision

ARTICLE XXVIII: All Japanese shall enjoy freedom of religious belief. Such restrictions as are necessary for public interests shall be fixed by law.

ARTICLE XXIX: All Japanese shall enjoy the liberty of speech, writing, publication, public meetings and associations. Such restrictions as are necessary for public interests shall be fixed by law.

ARTICLE XXX: All Japanese may present petitions according to the provisions of the law.

ARTICLE XXX-2: All Japanese have the right and the obligation to acquire education as provided for by law.

ARTICLE XXX-3: All Japanese have the right and the obligation to work, as provided for by law.

ARTICLE XXX-4: The liberties or rights of no Japanese, other than those mentioned in the present Chapter, shall be curtailed except as provided for by law.

ARTICLE XXXI: Delete

ARTICLE XXXII: Delete

Chapter 3. The National Diet

ARTICLE XXXIII: The National Diet shall consist of two Houses, a House of Representatives and a House of Councillors.

ARTICLE XXXIV:

A

The House of Representatives shall be composed of Members elected according to the principles of universal and equal suffrage and of direct and secret voting, as provided for by law.

B

The House of Representatives shall be composed of Members publicly elected according to the provisions of the law.

ARTICLE XXXV:

A

The House of Counsillors shall be composed of Members elected publicly, or appointed by the Emperor, according to occupational fields, geographical areas, and learning and experience, as provide for by law.

B

The House of Councillors shall be composed of Members elected publicly, or appointed by the Emperor, from among occupational and regional representatives and persons of learning and experience, as provided for by law.

C

The House of Councillors shall be composed of Members elected publicly, or appointed by the Emperor, as provided for by law.

ARTICLE XXXVI: No revision

ARTICLE XXXVII: No revision

ARTICLE XXXVIII: No revision

ARTICLE XXXIX: No revision

ARTICLE XXXIX-2: A Bill which has been approved in the House of Representatives three times in succession by a majority of more than two-thirds of the total members of the House, and transmitted to the House of Councillors, shall be considered as having been approved by the National Diet regardless of what action the House of Councillors may, or may not, take upon the bill.

ARTICLE XL: No revision

ARTICLE XLII: A session of the National Diet shall last not less than three months. The duration shall be fixed by law.

It may, if necessary, be prolonged by Imperial Order or by decision of the Diet.

ARTICLE LXXII: When urgent necessity arises, an extraordinary session may be convoked, in addition to the ordinary one.

Members of both Houses may, with the concurrence of more than one-third of the total members of their respective Houses, demand convocation of the Diet.

The duration of an extraordinary session shall be fixed by Imperial Order. It may, if necessary, be prolonged by Imperial Order, or by decision of the Diet.

ARTICLE LXIV: The opening, closing, prolongation of session and prorogation of the National Diet shall be effected simultaneously for both Houses.
In case the House of Representatives has been ordered to dissolve, the House of Councillors shall at the same time be closed.

ARTICLE XLV: When the House of Representatives has been ordered to dissolve, Members shall be caused by Imperial Order to be newly elected, and an extraordinary session shall be convoked within three months from the day of dissolution, unless an ordinary session is convoked within the period.

ARTICLE XLVI: No revision

ARTICLE XLVII: No revision

ARTICLE XLVIII: The Deliberations of both Houses shall be held in public. But they may, by resolution of the House, be held in secret sitting.

ARTICLE XLIX: No revision

ARTICLE L: No revision

ARTICLE LI: No revision

ARTICLE LII: No revision

ARTICLE LIII: No member of either Houses, shall, during a session, be arrested without the consent of his House, except in cases of flagrant delicts, or of offenses connected with a state of internal commotion or with a foreign trouble. Any member, who has been arrested prior to the session shall be set free, if so demanded by his House.

ARTICLE LIV: No revision

ARTICLE LIV-2: There shall be established in the National Diet a Standing Committee in accordance with the provisions of the Diet Law.

Chapter 4. The Ministers of State

ARTICLE LV: The respective Ministers of State shall give their advice to the Emperor, and be responsible for it.
All Laws, Imperial Ordinances and Imperial Rescripts that relates to the affairs of the State, require the counter-signature of a Minister of State.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NND # 798 072

(Add a third Paragraph)

A Minister of State, on whom the House of Representatives has passed a vote of non-confidence, shall not remain in office except in the case of a dissolution of the House.

ARTICLE LV-2: The Ministers of State compose the Cabinet.
The organization of the Cabinet shall be determined by law.

ARTICLE LVI: Delete

Chapter 5. The Judicature

ARTICLE LVII: No revision

ARTICLE LVIII: No revision

ARTICLE LIX: No revision

ARTICLE LX: No revision

ARTICLE LXI:

A

All suits at law relating to administrative matters shall come within the competency of the Courts, as provided for separately by law.

B

(Add a second paragraph to Article LVII)
All suits at law relating to administrative matters shall come within the competency of the Courts, as provided for separately by law.

Chapter 6. Finance

ARTICLE LXII: No revision

ARTICLE LXIII: No revision

ARTICLE LXV: First Paragraph: No revision
Add a second Paragraph:
No revision for an increase shall be made by the House of Counsillors on a budget transmitted by the House of Representatives.

ARTICLE LXVI: The Expenditures of the Inner Court of the Imperial House shall be defrayed every year out of the National Treasury, according to a fixed amount, and shall not require the approval of the Diet, except in case an increase thereof is found necessary.

ARTICLE LXVII: Delete the following passage:

"Those already fixed expenditures based by the Constitution upon the powers appertaining to the Emperor, and"

ARTICLE LXVIII: No revision

ARTICLE LXIX: (First Paragraph): No revision

Add the following Paragraphs:

(Second Paragraph):

In order to apply the Reserve Fund to necessary expenditures, that have arisen outside the Budget, the Diet Standing Committee shall be consulted.

(Third Paragraph)

When disbursements are made from the Reserve Fund, the approval of the Diet shall be obtained later.

ARTICLE LXX: (First Paragraph)

In case there has arisen urgent need for the maintenance of public safety, and when the National Diet cannot be convoked owing to the external or internal condition of the country, the government may, after consultation with the Diet Standing Committee, take all necessary financial measures by means of an Imperial Ordinance.

(Second Paragraph): No revision

ARTICLE LXXI:

A

(First Paragraph):

When the Budget has not been brought into actual existence the government shall draw up and execute a Provisional Budget for a period not exceeding three months and within the limit of the one-twelfth of the Budget for the Preceding year per month. In this case, the government shall speedily compile the Budget for the year excepting the items provided for in the Provisional Budget, and obtain the approval thereto of the Diet.

(Second Paragraph):

The Provisional Budget mentioned in the preceding Paragraph, shall be submitted to the Diet for approval.

B

(First Paragraph)

When the Budget has not been brought into actual existence before the commencement of the fiscal year, the government shall compile a Provisional Budget, as provided for in the Account Law, and execute the same until the Budget is brought into existence.

(Second Paragraph)
In the case mentioned in the preceding Paragraph, the National Diet, if not in session, shall be speedily convoked, and the Budget for the year submitted to it.

ARTICLE LXXII: No revision

Chapter 7. Supplementary Rules

ARTICLE LXXIII: (First Paragraph): No revision

(Second Paragraph):

Members of both houses may with the consurrence of more than one-third of the total members of their respective Houses submit a project for revision of this Constitution.

(Third Paragraph):

In the cases mentioned in the preceding two Paragraphs, neither House can open the debate, unless not less than two-thirds of the whole number of members are present, and no amendment can be passed unless a majority of not less than two-thirds of members present is obtained.

(Fourth Paragraph)

The Emperor gives sanction to amendments to the Constitution and causes the same to be promulgated.

ARTICLE LXXIV: No revision

ARTICLE LXXV: No revision

ARTICLE LXXVI: No revision

COPY

C: 5

THE TENTATIVE PLAN OF THE CONSTITUTIONAL PROBLEM INVESTIGATION COMMITTEE

Reported by the Newspaper MAINICHI

1 February 1946

The Constitution Investigation Committee held meetings more than twenty times under its chairmanship of State Minister Matsumoto since November last year. At those meetings every committeeman submitted his private plan for the revision of the constitution, which consisted of A plan and B plan, and debated on them. Consequently the draft was completed at the committee on 26 January and is to be decided at the plenary meeting on 2 February.

The Government is speeding up its decision to submit the draft of the revised constitution to the Allied Headquarters and the Far East Committee, and urgently introduced it to the extra ordinary Cabinet meeting with State Minister Matsumoto's explanation article by article on 30 January. Ministers expressed their opinions actively and debated on it at the extraordinary Cabinet meeting on 31 January.

466

CONSTITUTIONAL INVESTIGATION COMMITTEE PROVISIONAL DRAFT

CHAPTER I

THE EMPEROR

Article 1. Japan is a monarchy. "Absolute in light of remaining provisions."

Article 2. The Emperor is the monarch and exercises the rights of sovereignty according to provisions of present constitution.

Article 3. Imperial Throne shall be succeeded to by Imperial male descendants unbroken for ages eternal according to the provisions of the Imperial House Law.

Article 4. The Emperor assumes no responsibilities for his actions. (One possible rendition of this reads "The Emperor shall not be punished for his actions")

Article 5. (Same as present constitution) The Emperor exercises the legislative power with the consent of the Imperial Diet.

Leaves Emperor free to act without controls

Article 6. (Unchanged) The Emperor gives sanction to laws and orders them to be promulgated and executed.

Article 7. The Emperor shall convene the Diet and he shall order the opening, closing and prorogation of the Diet Session and he shall order the dissolution of the Diet.

Without control

Article 8. The Emperor in consequence of the need for the maintenance of public safety or to avoid public calamities, issues, with the approval of the Diet Deliberation Committee, Imperial Ordinances in place of law, and this Imperial Ordinance shall be submitted to the following Diet Session. If not approved by the Diet they shall become invalid for the future and this must be published (so as to inform) the public.

Article 9. The Emperor issues or causes to be issued ordinances necessary for carrying out of the law. However, he cannot order the change of a law.

Acts clearly as the Executive

Article 10. The Emperor determines the organization of all branches of administration and the salaries, appointments and dismissal of all civil officials. However, in special cases that apply to this constitution or other laws they will be determined by the respective articles (bearing thereon).

Absolute executive power

Article 11. (Deleted) This article stated that the Emperor has the supreme command of the Army and Navy.

Article 12. (Deleted) This article in the present constitution states that the Emperor determines the organization and peace standing of the Army and Navy.

Article 13. The Emperor concludes treaties but treaties which concern matters which must be regulated by law and treaties which place important responsibilities upon the state require the approval of the Diet.

No control by Cabinet

The Emperor orders the promulgation and execution of treaties.

Treaties become effective as laws with promulgation.

Article 14. (Deleted) This article states that the Emperor declares a state of siege.

Article 15. The Emperor confers marks of honor.

Executive Power

Article 16. (Unchanged) The Emperor orders amnesty, pardon, commutation of punishments and rehabilitation.

Article 17. (Unchanged) A Regency shall be instituted in conformity with the provisions of the Imperial House law.

The Regent shall exercise the powers appertaining to the Emperor in his name.

Chapter II
Rights and Duties of Subjects

Article 18. (Unchanged) the Conditions necessary for being a Japanese subject shall be determined by law.

Article 19. Japanese subjects are equal before the law. Japanese subjects may according to qualifications determined in laws and ordinances, be appointed to civil or any other public office without discrimination.

Article 20. Japanese subjects are eligible for honorary appointments and other public offices according to provisions of the law.

Article 21. (Unchanged) Japanese subjects are amenable to the duty of paying taxes, according to the provisions of law.

Article 22. Japanese subjects shall have the liberty of abode and of changing the same as well as the liberty of occupational choice.

Restrictions required for public welfare shall be determined by law.

Objections no right of ~~habeas corpus~~	Article 23.	(Unchanged) No Japanese subject shall be arrested, detained, tried or punished, unless according to law.
No protection for accused person	Article 24.	(Unchanged) No Japanese subject shall be deprived of his right of being tried by the judges determined by law.
	Article 25.	No Japanese subject shall have his residence invaded and the restriction necessary to maintain public peace shall be under the provisions of the law.
No guarantee of speedy trial	Article 26.	Any Japanese subject shall not be violated as regards privacy of personal correspondence, and the restrictions necessary to maintain public peace shall be under the provisions of the law.
No protection against forcible self incrimination	Article 27.	(Unchanged) The right of property of every Japanese subject shall remain inviolate. Measures necessary to be taken for the public benefit shall be provided for by law.
No protection to other persons then Japanese subjects	Article 28.	Every Japanese subject shall have freedom of religious belief and the restrictions necessary to maintain public peace shall be under the provisions of the law. The special privileges that every shrine has ever had shall be abolished.
All provisions are subject to being negated by "law" etc	Article 29.	Every Japanese subject shall have freedom of speech, writing, publishing, meeting and association and the restrictions necessary to maintain public peace shall be under the provisions of the law.
	Article 30.	Every Japanese subject shall be allowed to petition under the provisions of the law.
No absolute freedom of speech, religion, etc.		Every Japanese subject shall have a right and duty to receive education under the provisions of the law. Every Japanese subject shall have the right and duty of labor under the provisions of the law. Every Japanese subject shall not have his freedom and right invaded without recourse to law except on the matters mentioned in this chapter.
	Article 31.	(Related) States that the provisions contained in the present Chapter shall not affect the exercise of the powers appertaining to the Emperor, in times of war or in cases of national emergency.

Article 32. (Unchanged) Each and every one of the provisions contained in the preceding Articles of the present Chapter, that are not in conflict with the laws or the rules and discipline of the Army and Navy, shall apply to the offices and men of the Army and of the Navy.

Chapter III

The Imperial Diet

Article 33. The Imperial Diet shall consist of two Houses; the House of State Counsellors (Sangi in) and the House of Representatives.

Article 34. The House of State Counsellors shall be organized by the members elected by every local deliberative assembly and the members who are the representatives of various occupations under the provisions of the House of State Counsellors Law.

Article 35. The House of Representatives shall be organized by the members elected in accordance with the fundamental principles of liberty, equality, fairness and secrecy under the provisions of the Election Law. "with regulatory power vested in the Home Ministry.

Article 36. (Unchanged) No one can at one and the same time be a Member of both Houses.

Article 37. (Unchanged) Every law requires the consent of the Imperial Diet. "No provision for executive veto - may be a negative power when read with Article 40."

Article 38. (Unchanged) Both Houses shall vote upon projects of law submitted to it by the Government, and may respectively initiate projects of law.

Article 39. (Unchanged) A Bill, which has been rejected by either the one or the other of the two Houses, shall not be again brought indurring the same session.

Article 40. (Unchanged) Both Houses can make representations to the government as to laws or upon any other subject. When, however, such representations are not accepted, they cannot be made a second time during the same session.

Wholly inconsistent with Article 37

Article 41. (Unchanged) The Imperial Diet shall be convoked every year. indefinite

Article 42. The Imperial Diet shall have a session of three months. If necessary, the session shall be prolonged through an Imperial Ordinance or decision of each House.

Article 43. If extraordinarily and urgently necessary, in addition to a regular session, an extraordinary session shall be convoked.

+ 470

Amounts to a concurrent power with the Emperor to prolong session

Both Houses shall be allowed to ask convocation of an extraordinary session through agreement of more than one third of the members of each House. "merely right of petition"

The session of an extraordinary Diet shall be fixed by an Imperial ordinance.

If necessary, the session shall be prolonged through an Imperial ordinance or decision of each House.

rticle 44. (Unchanged) The opening, closing, prolongation of session and prorogation of the Imperial Diet, shall be effected simultaneously for both Houses.

No provision for dissolution of the Diet

If one House should be ordered to be dissolved the other one shall be naturally closed.

Article 45. If the House should be ordered to be dissolved, its members shall be immediately changed and an extraordinary session shall be convoked within three months from the day of dissolution

This rule, however, shall not be applicable when a regular session is convoked during that period.

One third constitutes quorum

Article 46. (Unchanged) No debate can be opened and no vote can be taken in either House of the Imperial Diet, unless not less than one third of the whole number of the Members thereof is present.

Article 47. (Unchanged) Votes shall be taken in both Houses by absolute majority. In the case of a tie vote, the President shall have the casting vote.

Article 48. ("Demand of the Government" is Deleted)
The deliberations of both Houses shall be held in public. The deliberations may, however, by resolution of the House, be held in secret sitting.

Article 49. (Unchanged) Both Houses of the Imperial Diet may respectively present addresses to the Emperor.

Article 50. (Unchanged) Both Houses may receive petitions presented by subjects.

Article 51. (Unchanged) Both Houses may enact, besides what is provided for in the present Constitution and in the law of the Houses, rules necessary for the management of their internal affairs.

rticle 52. (Unchanged) No Member of either House shall be held responsible outside the respective Houses, for any opinion

uttered or for any vote given in the House. When, however, a Member himself has given publicity to his opinions by public speech, by documents in print or in writing, or by any other similar means, he shall, in the matter, be amenable to the general law.

Article 53. The members of both Houses shall, during the session, be free from arrest, unless with the consent of the House, except in cases of flagrant delicts, or of offenses connected with a state of internal commotion or with a foreign trouble.

(Addition) Members arrested prior to opening of session may be released during the session when requested by the House.

Article 54. (Unchanged) The Ministers of State and the Delegates of the Government may, at any time, take seats and speak in either House.

{ The Investigation Committee of the Imperial Diet shall be established in the Imperial Diet under the provisions of the Parliamentary law.

The Investigation Committee of the Imperial Diet shall be organized by the members of both Houses.

Even if every committeeman should lose his post as a member of the Diet on account of the expiration of his term of office or dissolution, he shall continue his duty till the successor takes up his post.

Chapter IV

The Ministers of State and the Privy Council

Article 55. Every state minister shall give his advice to the Emperor and be responsible for him.

(Unchanged) All laws, Imperial Ordinances and Imperial Rescripts of whatever kind, that relate to the affairs of the State, require the counter-signature of a Minister of State.

Every state minister shall need the confidence of the Imperial Diet on his being in office.

Sets up an invinsibility of Ministers. Gives Emperor sole power to dissolve the Diet -

{ If one House should decide the want of confidence in any state minister, the government shall be allowed to petition to the Emperor to dissolve that House. However, if that House should decide the want of confidence in him again at the next session, that state minister shall retire from office.

Article 56. All the state ministers shall organize a cabinet.

The system and official powers shall be fixed by the law.

Chapter V

The Judicature

Article 57. (Unchanged) The Judicature shall be exercised by the Courts of Law according to law, in the name of the Emperor.

The organization of the Courts of Law shall be determined by law.

No safeguards for independent judiciary

Article 58. (Unchanged) The judges shall be appointed from among those who possess proper qualifications according to law.

No judge shall be deprived of his position, unless by way of criminal sentence or disciplinary punishment.

Rules for disciplinary punishment shall be determined by law.

Article 59. (Unchanged) Trials and judgments of a court shall be conducted publicly. When, however, there exists any fear that such publicity may be prejudicial to peace and order, or to the maintenance of public morality, the public trial may be suspended by provision of law or by the decision of the Court of Law.

Article 60. (Unchanged) All matters that fall within the competency of a special Court shall be specially provided for by law.

Article 61. Every law suit against any administrative government office for infringement on rights by illegal measures or any other law suits concerning administrative affairs shall fall under the jurisdiction of a judicial court.

Chapter VI

Finance

Article 62. (Unchanged) The imposition of a new tax or the modification of the rates (of an existing one) shall be determined by law.

However, all such administrative fees or other revenue having the nature of compensation shall not fall within the category of the above clause.

The raising of national loans and the contracting of other liabilities to the charge of the National Treasury, except those that are provided in the Budget, shall require the consent of the Imperial Diet.

Article 63. (Unchanged) The taxes levied at present shall, insofar as they are not remodelled by a new law, be collected according to the old system.

Article 64. (Unchanged) The expenditure and revenue of the State require the consent of the Imperial Diet by means of an Annual budget.

Any and all expenditures overpassing the appropriations set forth in the Titles and Paragraphs of the Budget, or that are not provided for in the Budget, shall subsequently require the approbation of the Imperial Diet.

Article 65. (Unchanged) The Budget shall be first laid before the House of Representative.

If the House of Representatives should renew or eliminate any article or item of the budget, the House of State Counsellors shall not be allowed to restore it.

Article 66. The expenses of the Imperial Court shall be paid out of the Treasury every year at the especially fixed ~~constant sum~~, and ~~approval of the Imperial Diet shall be unnecessary~~ except where the increase of the sum be necessary.

Article 67. "The determined annual expenditure based on constitutional sovereignty" is eliminated.

Article 68. (Unchanged) In order to meet special requirements, the Government may ask the consent of the Imperial Diet to a certain amount as a Continuing Expenditure Fund, for a previously fixed number of years.

Article 69. (Unchanged) In order to supply deficiencies, which are unavoidable, in the Budget, and to meet requirements unprovided for in the same, a Reserve Fund shall be provided in the Budget.

Where a reserve fund be appropriated for necessary expenditure other than by the budget, a debate at the Investigation Committee of the Imperial Diet shall be necessary.

If a reserve fund should be paid, it shall be necessary to ask approval of the Imperial Diet later.

Article 70. "Though the debate of the Investigation Committee of the Imperial Diet" is added after "If impossible."

Article 71. If the budget should fail to secure Parliamentary approval within the fiscal year, the government shall make a temporary budget with the period of 3 months within the limits of the budgets of the preceding fiscal year under the provision of the Financial law and enforce it. In the case of the preceding item if the Imperial Diet should be out of session, the government shall immediately convoke a session and submit the budget which is removed the part concerning the period of that fiscal year fixed in the preceding item. If the budget fixed in the preceding item should fail to secure Parliamentary approval within the period fixed in Item 1, the Government shall make and enforce a temporary budget according to Item 1. The rule of the preceding item shall be applicable correspondingly to this case.

Provision negatives the authority of the Diet to establish the budget

rticle 72. (Unchanged) The final account of the expenditures and revenue of the State shall be verified and confirmed by the Board of Audit, and it shall be submitted by the Government to the Imperial Diet, together with the report of verification of the said Board.

The organization and competency of the Board of Audit shall be determined by law separately.

Chapter VII

Supplementary Rules

rticle 73. (Unchanged) When it has become necessary in future to amend the provisions of the present Constitution, a project to the effect shall be submitted to the Imperial Diet by Imperial Order.

Leaves absolute power of constitutional revision in hands of the Emperor as he alone can submit proposed revisions to the Diet. Should it fail to pass measure the Emperor still has the power by Imperial Ordinance

The members of both Houses shall be allowed to propose a revision of the Constitution through agreement of more than one third of all the members of each House.

Both Houses shall not be allowed to debate on the revision of the constitution, if more than two thirds of the members of each House should not be present. Both Houses shall not be allowed to decide the revision if more than two thirds should not agree.

The Emperor shall sanction the revision of the constitution decided at the Imperial Diet and order its promulgation and enforcement.

Article 74. (Unchanged) No modification of the Imperial House law shall be required to be submitted to the deliberation of the Imperial Diet.

No provision of the present Constitution can be modified by the Imperial House Law.

Authority NND 968162 By [illegible] NARS, Date 12-18-75

Article 75. (Unchanged) No modification can be introduced into the Constitution, or into the Imperial House Law, during the time of a Regency.

Article 76. (Unchanged) Existing legal enactments, such as laws, regulations, Ordinances, or by whatever name they may be called, shall, so far as they do not conflict with the present Constitution, continue in force.

All existing contracts or orders, that entail obligations upon the Government, and that are connected with expenditure, shall come within the scope of Ar. LXVII.

C:b

[redacted]

GIST OF THE REVISION OF THE CONSTITUTION

CHAPTER I. THE EMPEROR.

1. Article 3 which now reads: "The Emperor is sacred and inviolable" shall be changed to: "The Emperor is supreme and inviolable".

2. A provision shall be made to preclude the dissolution of the House of Representatives provided for in Article 7 being ordered repeatedly for one and the same cause.

3. It shall be provided that the urgent Imperial Ordinances mentioned in Article 8 must, before being issued, be referred to the Permanent Committee of the Imperial Diet in accordance with the provisions of the Diet Law.

4. The part of Article 9 which now reads: "Ordinances necessary..... .....for the maintenance of public peace and order, and for the promotion of the welfare of the subjects" shall be changed to: "ordinances necessary for the attainment of the objects of administration". (Cf. No. 10 of Outline).

5. The part of Article 11 which now reads: "the Army and Navy" shall be changed to: "the armed forces"; and Article 12 shall be revised so as to provide that the organization and peace standing of the armed forces shall be determined by law. (Cf. No. 20 of Outline).

6. The provisions of Article 13 shall be revised so as to provide that the Imperial prerogative of making war and peace, and of concluding treaties concerning matters which must be determined by law or treaties which imposes a grave duty upon the state requires the consent of the Imperial Diet; but that where, by reason of circumstances internal or external, there exists a necessity of such urgent nature that it is impossible to await the convocation of the Imperial Diet, it shall be sufficient to refer such matters to the

Permanent Committee of the Imperial Diet. In such case a report shall duly be made to the Imperial Diet at its next session and its approval obtained thereto.

7. Article 15 which now reads: The Emperor confers titles of nobility, rank, orders and other marks of honor" shall be changed to: "The Emperor confers marks of honor".

CHAPTER II. RIGHTS AND DUTIES OF SUBJECTS.

8. The phrase "amenable to service in the Army or Navy" in Article 20 shall be changed to "amenable to service in the public interest".

9. Article 28 shall be revised so as to provide that Japanese subjects shall, within limits not prejudicial to peace and order, enjoy freedom of religious belief.

10. A provision shall be made to the effect that in addition to the cases mentioned in the present Chapter, no restrictions of whatever nature may be imposed upon the freedom and rights of Japanese subjects except by law.

11. The provisions of Article 31 concerning the emergency authority of the Emperor shall be deleted.

12. Article 32 containing provisions concerning military and naval personnel shall be deleted.

CHAPTER III. THE IMPERIAL DIET.

13. In Article 33 et seq., the term "the House of Peers" shall be changed to "the House of Senators".

14. Article 34 shall be revised so as to provide that the House of Senators shall be composed of members who have been elected thereto and of those who have been appointed thereto by the Emperor, in accordance with the Law concerning the House of Senators.

15. A provision shall be made to the effect that a draft law which has been passed by the House of Representatives three times in succession by at least a two-thirds majority of all its members, upon being submitted to the House of Senators, be deemed to have obtained the consent of the Imperial Diet irrespective of whether or not it is voted upon by the House of Senators.

16. The period of "three months" provided for in Article 42 as the duration of a session of the Imperial Diet shall be changed to "a period of not less than three months to be determined by the Law concerning the Imperial Diet".

17. The period "within five months" provided for in Article 45 as the period within which the House of Representatives is required to be convoked subsequent to its dissolution shall be changed to "within three months",

18. The proviso of Article 48 shall be revised so as to provide that the deliberations of either House may be held in secret session only in pursuance of a resolution of the House concerned.

19. A provision shall be made to the effect that a member of either House who has been arrested prior to the opening of the Imperial Diet session shall be released during such session if his release is demanded by the House to which he belongs.

CHAPTER IV. THE MINISTERS OF STATE AND THE PRIVY COUNCIL.

20. The first paragraph of Article 55 shall be revised so as to provide that the respective Ministers of State shall act in an advisory capacity to the Emperor and be responsible to the Imperial Diet, even as regards the supreme command of the armed forces.

21. A provision shall be made to the effect that when the House of Representatives has passed a vote of non-confidence against any Minister of State, such Minister may not remain in office except in cases where the House has been dissolved. (Cf. No. 2 of the Outline).

22. A provision shall be made to the effect that the Cabinet shall be made up of all the Ministers of State, and that the organization of the Cabinet shall be determined by law.

23. A provision shall be made to the effect that the organization of the Privy Council shall be determined by law.

CHAPTER V. THE JUDICATURE.

24. Article 61 shall be revised so as to provide that litigations involving administrative matters shall come within the jurisdiction of Courts of Law (i.e. rather than of Courts of Administrative Litigation) in accordance with other laws governing such matters.

CHAPTER VI. FINANCE.

25. A provision shall be made to the effect that the House of Senators may not effect an amendment which increases the amount of a budget already passed by the House of Representatives.

26. Article 66 shall be revised so as to provide that of the expenditures of the Imperial Household, the expenditures of the Imperial Court, and those only, shall be defrayed each year from the national treasury without the necessity of obtaining the consent of the Imperial Diet, except in cases where such expenditures are to be increased.

27. Article 67 shall be revised so as to provide that the Imperial Diet may, even without the concurrence of the Government, reject or reduce those expenditures already fixed which are based by the Constitution upon the powers appertaining to the Emperor.

28. A provision shall be made to the effect that in cases where a reserve fund is to be applied to defray any necessary expenditures not included in the budget, as well as where payments are to be made otherwise than out of a re-

serve fund to cover unavoidable deficiencies in the budget or to meet necessary expenditures not included in the budget, such cases shall be referred to the Permanent Committee of the Imperial Diet.

29. It shall be provided that the emergency financial measures provided for in Article 70 must be referred to the Permanent Committee of the Imperial Diet.

30. Article 71 shall be revised so as to provide that in cases where the budget has not been passed, the Government shall prepare a tentative budget in accordance with the provisions of the Finance Law and shall carry out such tentative budget pending the passage of the (regular) budget. If in such cases the Diet is not in session, the Government shall forthwith convoke the Diet and submit thereto for approval the tentative budget, together with the budget for that year.

CHAPTER VII. SUPPLEMENTARY RULES.

31. A provision shall be made to the effect that a member of either House may, with the concurrence of not less than one-half of all the members of the House to which he belongs, introduce a motion for revision of the Constitution.

32. A provision shall be made to the effect that the Emperor sanctions any constitutional revision passed by the Imperial Diet and orders its promulgation and enforcement.

33. Article 75 governing restrictions on the modification of the Constitution and of the Imperial House Law shall be deleted.

34. Provisions necessary for the enforcement of all the revised provisions of the Constitution above-mentioned shall be made.

GENERAL EXPLANATION OF THE CONSTITUTIONAL REVISION DRAFTED BY THE GOVERNMENT.

I. Paragraph 10 of the Potsdam Declaration contains the following statement: "The Japanese Government shall remove all obstacles to the revival and strengthening of democratic tendencies among the Japanese people. The freedom of speech, of religion, and of thought as well as respect for the fundamental human rights shall be established."

The Japanese Government, in order to comply with the purport of the said Declaration, addressed itself to the task of revising the Constitution, which was promulgated on 11th February, 1889, and has come down to this day without having undergone a single revision. The fundamental spirit of the present draft revision of the Constitution is therefore to render the Constitution more democratic and to facilitate complete attainment of the object of Paragraph 10 of the Potsdam Declaration above-mentioned.

II. In the task of drafting a revision of the Constitution on the basis of the fundamental spirit as mentioned in the preceding paragraph, the first problem encountered is the question as to whether the so-called "Emperor system" should be retained or abolished. Considering the fact that Japan has been reigned over by a line of Emperors unbroken from the very beginning of our national history, there is no room for doubt but that an overwhelming majority of our people are strongly desirous of retaining the system. That is the reason why the draft revision proposes to maintain a system wherein the Emperor exercises sovereign power, rather than to adopt a republican form of government with a president at its head, or so-called "presidential democracy".

However, the present draft revision stipulates first, that the authority

of the Emperor shall be greatly restricted, by requiring all important matters of state shall have the consent of the Imperial Diet (or of the Permanent Committee which represents the Diet, in unavoidable cases of urgency) (cf. Nos. 2 to 6, 11, 22, 23 and 27 to 30 of the Outline of the Draft Revision); second, that it is only with the advice of the Ministers of State that the Emperor may carry out the affairs of state, even as regards the supreme command of the people, and that the Ministers of State and the Cabinet of which they are members may not remain in their posts without the confidence and support of the House of Representatives (cf. Nos. 2 and 20 to 22 of the Outline). Under the Constitution thus revised, the sovereign power of the Emperor will be exercised through the Imperial Diet in the field of legislation; through the Cabinet, which is wholly based on the Diet, in the field of administration; and through independent Courts of Justice in the judicial sphere. In effect, we shall have a system similar to that of England wherein so-called "parliamentary democracy" has complete sway.

Such being the general purport of the present draft revision, it was decided to make no changes in the language of the fundamental provisions contained in Arts. 1 to 4; with the single exception that in Art. 3 which reads: "The Emperor is sacred and inviolable", the word "supreme" is substituted for "sacred"; for although the latter term was used in a considerable number of Constitutions of European countries during the 19th century, it is neither suitable nor desirable today in that it is suggestive on the divine origin and character of the Emperor and his sovereign power (cf. No. 3 of the Outline).

III. Although there are provisions in the laws currently in force which are calculated to afford considerable protection to the freedom of speech, of religion and of thought, as well as the fundamental human rights, of the

Japanese people, in practice not only were they not duly respected but at times were seriously infringed upon. Such a situation was due to the enactment of evil laws and the abuse of laws under governments with undemocratic tendencies. But under the present draft revision, with its provisions for the formation of a democratic government and the expansion of the powers of the Imperial Diet as explained above, it is certain that through the just application of laws justly enacted due respect for the freedom and human rights of Japanese subjects will be secured, in complete contrast to the situation that prevailed hitherto. The draft revision, moreover, provides for further safeguards, as follows:

Firstly, the provisions of the old Constitution which provided for the protection of the freedom and rights of the Japanese people tended to be merely enumerative, and hence was open to the interpretation that any freedom not specifically mentioned in such provisions, e.g. the freedom of carrying on a business, might be restricted otherwise than by law. In the draft revision, therefore, it is proposed to insert a general provision to the effect that in addition to the cases provided for in the relevant provisions of the old Constitution, no restrictions of whatever nature may be imposed upon the freedom and rights of Japanese subjects except by law (cf. No. 10 of the Outline).

Secondly, under the provisions of the old Constitution a Japanese subject whose right was infringed upon by an illegal measure taken by an administrative authority was not entitled to seek protection in an ordinary Court of Law but had to seek his remedy in a specially established Court of Litigation, with the result that his right was not always adequately protected; and in practice, cases were by no means rare where no protection was given at all owing to the denial of jurisdiction by both the ordinary Court of Law and the special Court of Litigation (negative conflict of competence). The draft revision therefore

provides that Courts of Administrative Litigation shall be abolished, and that cases involving administrative matters shall come under the jurisdiction of ordinary Courts of Law (cf. No. 24 of the Outline).

Thirdly, in addition to the above, revision of the provisions relating to administrative ordinances, revision of the provisions relating to freedom of religious thought and abolition of the provisions relating to the authority of the Emperor in cases of national emergency are proposed with a view to rendering even more sound the safeguards afforded to the freedom and rights of the Japanese people (cf. Nos. 4, 9 and 11 of the Outline).

Fourthly, the old Constitution contained provisions recognizing the existence of Peers as a special privileged class, as well as provisions recognizing special treatment for army or navy personnel. Under the draft revision all such provisions recognizing inequalities among the Japanese people will be either revised or abolished (cf. Nos. 7, 12 and 14 of the Outline).

IV. As already stated in Para. II above, the draft revision proposes to enlarge the powers of the Imperial Diet. To that end there are, in addition, revisions or insertions of new provisions concerning such matters as the duration of the Diet session, etc. (cf. Nos. 16 to 19 of the Outline).

The draft revision proposes also to modify the organization of the House of Peers by excluding the Imperial Princes and members of Nobility from membership and determining its organization by law instead of by ordinance, and also to change the nomenclature of the House, ie. to "House of Senators" (cf. Nos. 13 and 14 of the Outline). Moreover, the old system wherein the House of Peers had the same powers as the House of Representatives is to be modified so as to render the powers of the House of Senators merely subsidiary to those of the House of Representatives (cf. Nos. 15, 21 and 25 of the Outline). As a result of this revision our House of Representatives will come to occupy a position of super-

iority similar to that held by the House of Commons vis-a-vis the House of Lords in England.

The above revision of the provisions concerning the Imperial Diet, we believe, will make no small contribution to the strengthening of democratic tendencies in Japan.

V. Finally, a brief explanation of certain points in the draft revision not covered in the preceding paragraphs.

Firstly, the system of Privy Council was sometimes criticised on the ground that it was prone to hamper the operation of constitutional politics, the reason for the criticism being that the Privy Council which was in no way responsible to the Imperial Diet had certain important powers. However, under the draft revision, urgent ordinances or orders concerning emergency financial measures must be referred to the Permanent Committee of the Imperial Diet before they are issued, while conclusion of treaties is made subject to the approval of the Imperial Diet (cf. Nos. 3, 6 and 29 of the Outline). In respect of such important affairs of state, therefore, authority of the Privy Council will be excluded. And since, as a further check, the organization of the Privy Council is to be determined by law, the powers of Privy Councillors cannot but be greatly curtailed. And since the number of Privy Councillors will in all probability be reduced, the Privy Council will most likely be reduced to a politically harmless body (cf. No. 23 of the Outline). It is therefore not proposed, to abolish the body, especially as there is necessity for its retention for purposes of application of the Imperial House law and other laws.

Secondly, all the expenditures of the Imperial Household were hitherto defrayed according to a fixed amount without the necessity of obtaining the consent of the Imperial Diet. But under the draft revision, only the expenditures of the Imperial Court may be thus defrayed without the consent of the Diet (cf. No. 26 of the Outline).

Thirdly, the right of initiating constitutional revision which hitherto was vested solely in the Emperor is to be recognized also for members of the Imperial Diet (cf. No. 31 of the outline). This is the most important modification proposed by the present draft revision.

Fourthly, modification of the Constitution or of the Imperial House law was hitherto prohibited during the period of a Regency; but that prohibition is removed by the draft revision (cf. No. 33 of the Outline). This too is a point of considerable importance.

Proposed Revision of the Army and Navy Provisions in the Constitution

1. The words "army" and "navy" will be struck out of the Constitution and they will read simply "armed forces."

Even if the time should arrive when, upon completion of allied occupation, Japan is permitted to rearm, the armed forces would be of a very limited scope such as are necessary for the maintenance of peace and order in the country. Moreover, the nation on its own part should harbour no intention of having again any army or navy such as it had before. Accordingly it is proposed to drop the words "army" and "navy."

2. Under the old constitution the command of the armed services is not considered part of government affairs, and the armed forces, belonging directly to the Emperor, are placed outside the control of the government. This has led to the disastrous abuses of the past. Under the revised constitution the command of armed forces will be exercised solely through the assistance of the Cabinet responsible to the Diet and any State Minister will not be able to remain at his post, if a non-confidence resolution is adopted by the House of Representatives, there will be no danger that the armed command may be exercised against the will of the people.

3. Under the old constitution the organization and the strength of the armed forces are matters to be determined by Imperial prerogative. Under the new constitution those matters will be fixed by law, so that without the approval of the Diet not a single soldier can be added, nor a single regiment established.

4. The reason why it is considered advisable that such revisions should be made in the constitution at this time is that it will serve to provide a

definite basis as regards the status and character of the armed forces in case Japan is permitted to rearm, and also to prevent the die-hard elements from clinging to their wishful thinking that Japan might some day build up such army and navy as of old. If in conformity to the actual circumstances of today when there exist no armed forces, all provisions relating thereto are left out of the new constitution, it may encourage some people to cherish secretly such illusions as mentioned above. At the same time, it will entail, in case Japan is permitted to reestablish her armed services, the necessity of revising the Constitution once more, which in turn may give rise to all manner of dispute and controversy. Furthermore, it is thought that if Japan be permitted to join the United Nations Organisation, the need for rearmament might actually arise in order that she may fulfil her obligations under its charter.

COPY

[redacted]

C: 7

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

1 February 1946

MEMORANDUM FOR THE SUPREME COMMANDER.

SUBJECT: Constitutional Reform.

1. The question of constitutional reform of the Japanese governmental system is rapidly approaching a climax. Several proposed revisions of the Japanese constitution have been drafted by governmental and private committees. Constitutional reform may well be a cardinal issue in the coming election campaign.

In these circumstances, I have considered the extent of your power as Supreme Commander to deal with fundamental changes in the Japanese constitutional structure, either by approving or disapproving proposals made by the Japanese government or by issuing orders or directives to that government. In my opinion, in the absence of any policy decision by the Far Eastern Commission on the subject (which would, of course, be controlling), you have the same authority with reference to constitutional reform as you have with reference to any other matter of substance in the occupation and control of Japan.

2. You have authority from the Allied Powers to proceed with constitutional reform. In accordance with the agreement among the governments of the US, USSR, UK and China, the President of the United States designated you as Supreme Commander for the Allied Powers to "take such steps as you deem proper to effectuate the surrender terms". (Par. 5 of Designation). By the Instrument of Surrender, the Japanese Government accepted the provisions of the Potsdam Declaration. (Par. 1 of Instrument). The Potsdam Declaration requires the Japanese government to "remove all obstacles to the revival and strengthening of democratic tendencies among the Japanese people", and the establishment "in accordance with the freely expressed will of the Japanese people of a peacefully inclined and responsible government". (Pars. 10 and 12 of Declaration.)

To achieve this alteration in the nature of Japan's governmental institutions requires fundamental changes in the Japanese constitutional structure; and such alteration is essential to the execution of the Potsdam Declaration. Therefore, your authority to effectuate constitutional reform designed to develop a form of government responsible to the people is implicit in the terms of your designation by the Allied Powers as Supreme Commander for the purpose of enforcing the surrender terms.

3. You have authority from the Joint Chiefs of Staff to proceed with constitutional reform. The Joint Chiefs of Staff have directed that you "exercise your authority as you deem proper to carry out your mission." (Cable No. WX 60333 dated 7 September 1945). Your mission as set forth in the basic

490

occupation directive for Japan (JCS 1380/15) includes: (a) carrying out measures for "The strengthening of democratic tendencies and processes in governmental, economic and social institutions", (b) permitting and favoring "changes in the direction of modifying the feudal and authoritarian tendencies of the government," and (c) informing the Japanese that "they will be expected to develop a non-militaristic and democratic Japan", (Para. 3a, 3c, and 4c of Directive).

It is clear that you cannot accomplish these aspects of your mission without effecting fundamental changes in the Japanese constitutional structure. Since the development of a democratic Japan has been explicitly made a part of your mission, you have ample authority from the Joint Chiefs of Staff to approve or order constitutional reform designed to achieve the desired results.

4. Your authority to make policy decisions on constitutional reform continues substantially unimpaired until the Far Eastern Commission promulgates its own policy decisions on this subject. The Charter of the Allied Council for Japan requires you to consult and advise "with the Council in advance of orders on matters of substance" but your "decisions upon these matters shall be controlling", (Par. 5 of Charter). The sole limitation imposed upon your authority to effect constitutional reform exists in case a member of the Council disagrees with a proposed order "regarding the implementation of policy decisions of the Far Eastern Commission on questions concerning fundamental changes in the Japanese constitutional structure" (Par. 6 of Charter). In such event your order would be referred to the F.E.C. to determine whether it properly implemented the F.E.C. policy decision.

In the absence of any F.E.C. policy decision, however, there is no restriction upon your executive authority except (a) insofar as the obligation for advance consultation with the Allied Council limits the manner in which your authority is exercised, and (b) insofar as the F.E.C. may review any action you may take. Under its charter, the F.E.C. may, at the request of any member, review any directive issued to you or any action taken by you. (Par. II, A, 2, of Charter). Similarly, no directive may be issued to you by the Joint Chiefs of Staff or any other agency of the United States Government "dealing with fundamental changes in the Japanese constitutional structure" without "the attainment of agreement in the Far Eastern Commission", (Par III, 3). Neither of these provisions, however, precludes your taking action pursuant to existing directives to approve or direct constitutional reform.

5. Should the F.E.C. eventually promulgate a policy directive involving changes in the constitutional structure, your decision in the issuance of directives (orders) thereon would not be controlling if any member of the Allied Council for Japan objected. It is my opinion that the word "order" in the charter of the Allied Council is used in the sense of compulsion and would not embrace a mere approval by you of constitutional reform measures submitted to you by the Japanese government, although your action in approving the same would be subject to review by the F.E.C. under the general review authority of its charter.

6. To recapitulate, I am of the opinion (a) that you now have the unrestricted authority to take any action you deem proper in effecting changes in the Japanese constitutional structure -- the only possible restriction being upon action taken by you to expel removal of the Emperor, in which case you

are required to consult with the Joint Chiefs of Staff; (b) should the F.E.C. issue a policy directive dealing with the matter of constitutional reform, then and in such event the issuance of any constitutional reform directive (order) upon the Japanese government would be subject to objection by any member of the Allied Council for Japan and your decision would not be controlling.

7. The above opinion represents the composite view of all officers of the Government Section who have examined this question.

COURTNEY WHITNEY
Brigadier General, U.S. Army
Chief, Government Section.

TOKYO

C:8

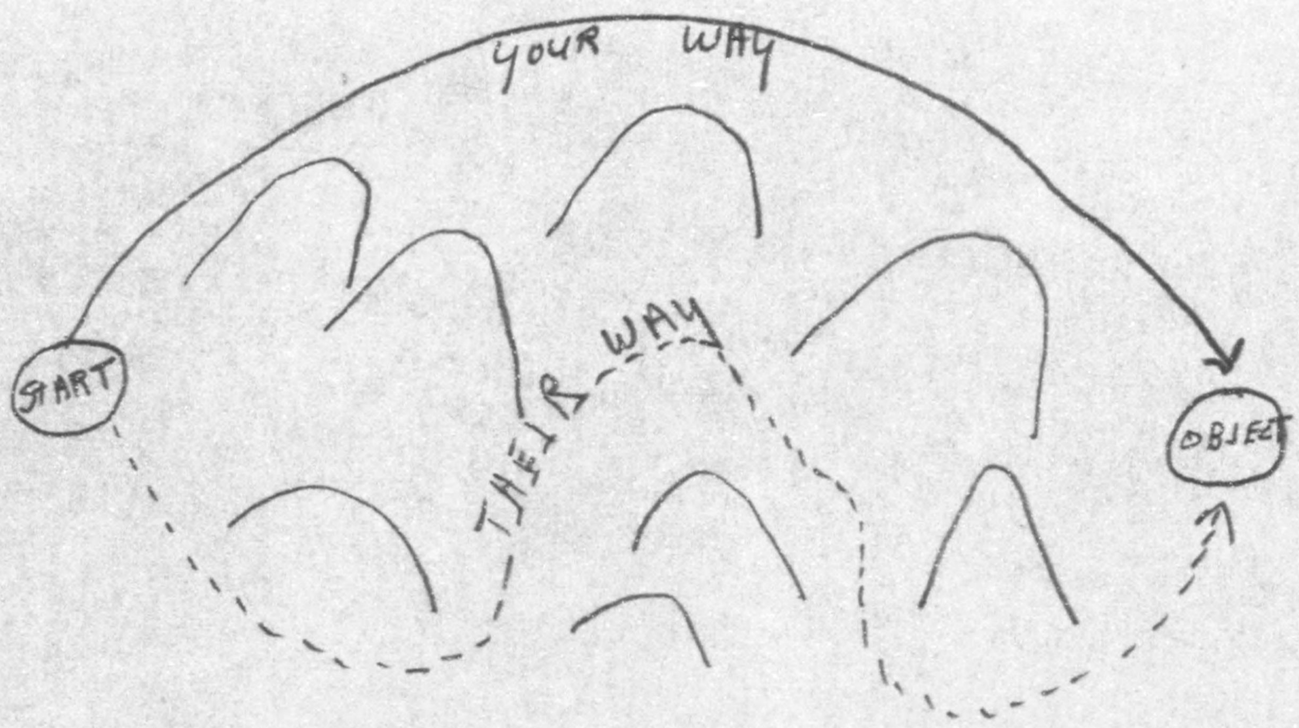
February 15th, 1946.

Brig. General C. Whitney,
The Government Section,
G. H. Q.
Tokyo.

My dear General,

As you seemed to have been a little interested in my few remarks, when I ran into you at the G. H. Q. building yesterday, I venture to write you, at random, more of my impressions about the way your draft was received by Dr. Matsumoto and others in the Cabinet.

I must say your draft was more than a little shock to them. Dr. Matsumoto was quite a socialist in his young days and still is a whole hearted liberal. Notwithstanding the doctor's qualifications (none could survive his term of a law professorship, the leading one at that !, if easily shocked and surprised !) your draft came as a great surprise. He realizes that the object of your draft and his "revision" is one and the same in spirit. He is as anxious as you are, if not more as after all this is his country, that this country should be placed on a constitutional and democratic basis once for all as he has always deplored the unconstitutionality of the nation. He and his colleagues feel that yours and theirs aim at the same destination but there is this great difference in the routes chosen. Your way is so American in the way that it is straight and direct. Their way must be Japanese in the way that it is round about, twisted and narrow. Your way may be called an Airway and their way Jeep way over bumpy roads. (I know the roads are bumpy!) Dr. Matsumoto described his impressions as under:-



493

I think I appreciate your standpoint well and I must confess I have a great admiration for it as I have for so many things American. I still am an ardent admirer of Lindbergh's flight across the "uncharted" Atlantic, for the first time and unaided. But Alas! Lindberghs are so rare and far between even in America. I do not know if we ever had one in this country.

At the same time, I see their viewpoint too. Theirs is not a party government. They have no means of knowing how much they can count on the support of the people. They see the papers every day and read about extreme leftish outbursts. But on the other hand, they know only too well a great majority of the people are enthusiastically opposed to communism and devotedly for the Emperor. They are afraid that any revision presented in a "drastic" form will only be jeered out of the House, thereby accomplishing nothing. They feel that they must approach it carefully and slowly. They still vividly remember the days of party politics in this country. Granted the parties were often short sighted and corrupt but what they then considered "democratic principle" prevailed everywhere. All over the country, the soldiers were very much locked down on and the fever attained such a height finally that no officer ever dared to ride a street car with his sabre dangling on. The budgets were cut down left and right on armaments. Sure enough, the acute reactions set in and the militarism you know so much about appeared on the scene. They fear that too complete a reform all at once would only invite too extreme a reaction and they are most anxious to avoid it.

I think they are all unanimous in the feeling that once the right to initiate revisions is invested in the House, and not in the Emperor, the battle is nearly won and succeeding governments could revise it as much as they wished according to the will of the people.

I am afraid I have already accelerated the paper shortage by writing this rumble but I know you will forgive me for my shortcoming for which my late father is also partly responsible!

Most sincerely yours,

Jiro Shimura

494

DRAFT CONSITUTION OF JAPAN
(4 March 1946)

CHAPTER 1

THE EMPEROR

Article 1. 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 2. The Imperial Throne shall be dynastic and succeeded to in accordance with the Imperial House Law.

Article 3. The advice of theCabinet shall be required for all acts of theEmperor in matters of state, and the Cabinet shall be responsible therefor.

Article 4. 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 a part of his functions as may be provided by law.

Article 5. 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 6. TheEmperor shall appoint the Prime Minister as resolved by theDiet.

Article 7. The Emperor, with the advice of theCabinet, 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 theDiet.
Dissolution of the House ofRepresentatives.
Proclamation of general elections.
Appointment and dismissal of Ministers ofState, Ambassadors, and other officials as provided for by law.