## GHQ/SCAP Records(RG 331)
## Description of contents

THE NATIONAL ARCHIVES OF THE UNITED STATES

(1) Box no. 2083

(2) Folder title/number: (25)
Appendix H: 39-42

(3) Date: ?

(4) Subject:

| Classification | Type of record |
|---|---|
| 021 | d |

(5) Item description and comment:

(6) Reproduction: ~~Yes~~ No

(7) Film no. Sheet no.

H.'39

# THE HABEAS CORPUS ACT
(Law No. 199; July 30, 1948)

Article 1. In accordance with the principle of the Japanese Constitution which guarantees the fundamental human rights, this law aims at the rapid and easy recovery by the judicial court of the freedom of the person which is illegally restrained.

Article 2. A person whose freedom of action is restrained without the proper legal procedure may apply for its recovery in accordance with the provisions of this law.

Any person may present the preceding application on behalf of the person who is held under such restraint.

Article 3. The application mentioned in the preceding Article shall be made by an attorney on behalf of the restrained person. However, in cases where there exists extraordinary circumstances, it can be made by the applicant himself.

Article 4. The application provided for in Article 2 may be presented in writing or orally to the High Court or District Court which has the jurisdiction over the district where the restrained, the restrainer or the applicant resides.

Article 5. Such application in writing shall contain the following items specifically, and it shall be offered with necessary materials for presumptive proof.

1. Name of the restrained.
2. Purport of the request.
3. Fact of detention.
4. Restrainer known.
5. Place of detention known.

1033

Article 6. The Law Court must make decision without delay on the request under Article 2.

Article 7. The Court may, in cases where the application lacks requisite vindications or necessary presumptive proof, dismiss it by decision.

Article 8. Upon receipt of the application provided for in Article 2, the Court may, by request of the applicant or through its authority, transfer the case to another Court considered to have competent jurisdiction.

Article 9. The Court may, except the cases prescribed in the preceding two Articles, immediately make the necessary inquiry, in order to prepare for investigations at the time of trial, into the reason for the restraint and other matters by conducting a hearing on the statement made by the restrained, the applicant and their attorneys and other interested parties.

The Court may cause the members of the collegiate to make the preliminary inquiry mentioned in the preceding paragraph.

Article 10. In case of necessity, the Court may release, in order to release the restrained person temporarily by its decision either under oath that the restrained shall present himself at any time when summoned or on the conditions deemed proper or may otherwise take appropriate steps prior to conducting the trial provided for in Article 16.

In the case where the restrained person under the preceding Article shall not present himself, he may be arrested.

Article 11. The Court may dismiss the application for such releases without any proceeding for trial, when it has become evident through the preliminary inquiry that there exists no ground justifying the said application.

Article When the court makes the decision under the preceding Paragraph, it

shall rescind the disposal carried out before under Article 10 and, causing the restrained to present himself, hand him to the restrainer.

Article 12. Except in case of Article 7 or Paragraph 1 of the preceding Article, the Court shall designate a certain date and place and summon for trial the applicant or his attorney, the restrained person and the restrainer.

While issuing a habeas corpus warrant to the restrainer to cause the person so restrained to appear at the designated date and place provided for in the preceding paragraph, the Court shall direct him to submit a written answer concerning the date, place of and the reason for such restraint, by the day of trial in the preceding paragraph.

In the warrant mentioned in the preceding paragraph, the fact that if the restrainer does not obey the said warrant, he may be placed under arrest or taken into custody until he obeys the order he shall be liable to a fine not exceeding ¥500 for each day's delay shall be explicitly stated.

There shall be a period of three days between the forwarding of the said warrant and the day of trial. However, the trial shall be held within one week from the date under which the request under Article 2 was made. This period may be shortened or prolonged, as the case may be.

Article 13. The order mentioned in the preceding Article shall be notified to the Court which has issued the warrant concerning the restraint and to the Procurator.

The Judges of the Court and the Procurator mentioned in the preceding paragraph may present themselves on the day of trial.

Article 14. The investigations on the day of trial shall be conducted

at an open court attended by the restrained person, the restrainer, the applicant and his attorney.

When there is no such attorney, the Court shall select one from among the qualified lawyers.

The attorneys under the preceding paragraph may request for travelling expenses, daily allowances, hotel expenses and compensation.

Article 15. On the day of trial, the Court, upon hearing the statement of the application, its ground, and the reply of the restrainer, shall conduct investigations on materials for presumptive proof.

The restrainer shall clarify the reasons for detention.

Article 16. If the Court, upon investigations, finds such application groundless, it shall dismiss it by decision, and hand over to the restrainer the person so detained.

In case of the preceding paragraph, the provisions of Article 11, paragraph 2 shall apply.

In cases where the application is based on sufficient ground, the court shall forthwith release the person under restraint.

Article 17. In the trial provided for in Article 7, Article 11, paragraph 1, and in the preceding Article, the Court may saddle the restrainer or the applicant with the entire costs spent in the procedure, or a part thereof.

Article 18. In cases where the restrainer refuses to obey the order mentioned in Article 12, Paragraph 2, the Court may arrest him or keep him in custody until he obeys the order, and impose on him a fine not exceeding ¥500 per day during the period of such refusal.

Article 19. The restrainer, if notified by the person under restraint that he requests the benefit of an attorney on his behalf, shall immediately notify the request to the attorney whom he may nominate.

Article 20. The Court which has received the application provided for in Article 2, or the Court to which such application has been forwarded shall immediately notify the Supreme Court of the case and report to it on the progress and results of the steps taken in connection therewith.

Article 21. In regard to the decision made by the lower Court, an appeal may be made to the Supreme Court within 3 days.

Article 22. The Supreme Court, if it finds such steps necessary, may cause the Lower Court to transfer the pending case, irrespective of the stage of its proceedings, and may directly review it.

The Supreme Court, under the circumstances mentioned in the preceding paragraph, may nullify or alter the decision or verdict pronounced by the lower court.

Article 23. The Supreme Court may decide on necessary rules governing such application, examination, trial and other matters.

Article 24. Judgements which were passed according to other laws and are unfavourable to the restrained shall be invalid to the extent they conflict with this law.

Article 25. Those who have been relieved by this law shall not be restrained for the same ground without the judgement of the court.

Article 26. Any one who under-takes to remove or hide the restrained or contrives his escape, or who commits an act which may nullify the relief prescribed by this Law, or who deliberately makes incorrect entries in the

written answer mentioned in Article 12, paragraph 2, shall be liable to penal servitude of less than 2 years or a fine not exceeding ¥50,000.

Supplementary Regulation.

This law shall take effect after the lapse of 60 days counting from the date of its promulgation.

H: 40

# NATIONAL GOVERNMENT ORGANIZATION LAW
(Law No. 120, July 5, 1948)

Article 1. (General Provisions) The object of this Law is to regulate the national government organization which is necessary for the efficient prosecution of national administrative affairs by establishing standards for the organization of administrative organs under the control and jurisdiction of the Cabinet.

Article 2. The national government organization shall, under the control and jurisdiction of the Cabinet, be systematically constituted of a system of administrative organs having a well-defined scope of authority and responsibility and specific functions for which they are responsible.

The national administrative organs shall, under the control and jurisdiction of the Cabinet, maintain liaison with one another so that they may consummate their administrative functions as an organic whole.

Article 3. (Establishment and Abolition of Administrative Organs, their Specific Functions, etc.) The national government organization shall be determined by this Law.

For the purpose of administrative organization the national administrative organs shall be comprised of an Office on ministerial level, Ministry, Commission or Agency. The establishment or abolition of such administrative organs shall be provided for by separate law.

Commissions and Agencies shall be those set up as independent organizations of the Prime Minister's Office, the Attorney General's Office or each Ministry.

Administrative organs set up as provided for in paragraph 2 shall be enumerated in the Appendix to this Law.

Article 4. The scope of authority and responsibility of administrative organs referred to in the preceding Article and specific functions for which they are responsible shall be provided for by separate law.

Article 5. (Heads of Administrative Organs) The head of the Prime Minister's Office, the Attorney General's Office, and each Ministry shall be, respectively, the Prime Minister, the Attorney General and a Minister of each Ministry (to be hereinafter referred to as "each Minister"), who, as a competent Minister referred to in the Cabinet Law, shall have charge and control of their respective administrative affairs.

The Attorney General shall be appointed by the Prime Minister from among persons most fitted for the post. He shall be a Minister of State.

Ministers of various Ministries shall be appointed by the Prime Minister from among Ministers of State. This shall not, however, preclude the Prime Minister from assuming in person any of those posts.

Article 6. The head of a Commission shall be Chairman, and of an Agency, Director.

Article 7. (Internal Subdivisions and Organs) For the purpose of administering their respective specific functions, an Office on ministerial level, and Ministry shall have internal subdivisions enumerated below:

Secretariat

Bureaus

Sections

For the purpose of administering their respective specific functions an Agency shall, as a rule, have internal subdivisions enumerated below:

Secretariat

Divisions

Sections

Of the subdivisions referred to in the preceding two paragraphs, the establishment of the Secretariat, Bureau and Division, and the scope of affairs under their respective charge shall be provided for by law, while the creation of Section and its scope of the affairs under its respective charge shall be determined by each Minister or the head of independent organization within the limits of the pertinent law. However, in the case of creating Section budgetary procedure shall be accompanied therewith.

The Commission shall have a Secretariat. The provisions of the preceding two paragraphs shall apply correspondingly to the internal organization of the Secretariat.

Article 8. In addition to the internal subdivisions referrred to in the preceding Article, in case there is spegial necessity

within the scope of specific functions as provided for by law, Councils or Committees (to be taken to embrace all those of an advisory or investigational nature, etc. other than Commissions provided for in Article 3), Experimental Stations or Laboratories, Research Institutes, Educational Facilities, Medical Facilities and other organs may be set up as provided for by law.

In case the organs referred to in the preceding paragraph are to be established in local areas, the same shall be subject to the provision of Article 156 of the Local Autonomy Law (Law No. 67 of 1947).

Article 9. In case it is necessary to make them administer its specific functions, each administrative organ referred to in Article 3 may, as provided for by law, establish local branch offices.

Article 10. (Authority and Responsibility of the Heads of Administrative Organs) Each Minister, a Chairman of each Commission, or Director of each Agency shall preside over the affairs of his organ and control and supervise its personnel in regard to the performance of their duties.

Article 11. When each Minister deems it necessary to enact, amend, or abrogate any law or cabinet order in respect to administrative affairs under his charge, he shall submit a draft to the Prime Minister and ask for a cabinet conference.

Article 12. Each Minister may issue an ordinance for his respective office (an ordinance of the Prime Minister's Office, an ordinance of the Attorney General's Office or a ministerial ordinance) for the purpose of implementing any law or cabinet order in respect

to administrative affairs under his charge or as specially authorized by law or cabinet order.

The head of an independent organization may submit to the respective competent Minister a draft of the ordinance referred to in the preceding paragraph in respect to the affairs under the jurisdiction of his organ and ask for its issuance.

Unless authorized by law, no penal clause nor any provision which imposes obligations or restricts rights of individuals may be included in the ordinance referred to in the preceding two paragraphs.

Article 13. The head of each independent organization may, as provided for by separate law, issue on his own accord rules and special orders other than cabinet orders or the orders as prescribed in paragraph 1 of the preceding Article.

The provision of paragraph 3 of the preceding Article shall apply correspondingly to the orders referred to in the preceding paragraph.

Article 14. In case it is necessary to make any public announcement in respect to the affairs under the jurisdiction of his organ, each Minister or the head of each independent organization may issue a notification.

For the purpose of giving orders or conveying directions in respect to the affairs under the jurisdiction of his organ, each Minister or the head of each independent organization may issue instructions or circular notices to the organizations and personnel under his jurisdiction consistent with the provisions of the National Public Service Law (Law No. 120 of 1947) and rules issued thereunder.

Article 15. With respect to affairs under his charge, each Minister may direct and supervise the heads of local public entities in respect to national administrative affairs which they execute as provided for in Article 150 of the Local Autonomy Law. If the control or execution of national affairs that falls within the sphere of competence of the governor of the metropolis, district or urban or rural prefecture in his capacity as a national official is deemed to be contrary to the provisions of law or order or to the action of each competent Minister, or if he is negligent in the control or execution of such national affairs, each competent Minister may, as provided for in Article 146 of the Local Autonomy Law, order matters which such governor is to be compelled to carry out, ask for a trial by a law court, or proceed, after court determination, execute the matters involved on behalf of the said governor, or the Prime Minister may remove him from office as provided for in the same Article.

In case the removal from office has been effected under the provision of the preceding paragraph, the Prime Minister shall take steps to announce the reasons for such action and to make them known to the residents of the said metropolis, district or urban or rural prefecture, as provided for by cabinet order.

Article 16. If an ordinance of an Office on ministerial level, or ministerial ordinance, or an order or direction issued by each Minister to the head of a local public entity or his other act on the basis of his authority for directing and supervising the latter

as provided for in the preceding Article is deemed to be contrary to the primary object of local autonomy, the said head of a local public entity may make due representation to that effect to the Prime Minister. In such a case, if the representation is deemed to be well-founded on reason, the Prime Minister shall make investigation within thirty days, direct the Minister involved or take such other steps as may be considered justified; and in case the Prime Minister finds that the representation is not justified, he shall notify the head of the local public entity concerned with the reasons therefor.

The representation referred to in the preceding paragraph shall not thereby affect the validity of an order, direction, or other act of the Minister concerned.

Article 17. (Positions in Administrative Organs) Each Ministry shall have one Vice-Minister, which position shall be in the special government service.

The Vice-Minister shall assist the Minister participate in the formation of policies and program planning, regulate the ministerial affairs, and shall act for the Minister in his absence.

Article 18. The Prime Minister's Office shall have two Confidential Secretaries, and the Attorney General's Office and various Ministries shall each have one Confidential Secretary.

Confidential Secretaries shall deal with confidential matters under orders of the respective Minister or temporarily assist in the affairs of any subdivision by his order.

Article 19. The fixed number of positions for each administrative organ shall be provided for by law.

Article 20. Each administrative organ referred to in Article 3 shall, as a rule and in conformity with its internal subdivisions as specified in Article 7, have the following positions as the respective head thereof:

Chiefs of Bureau

Chiefs of Division

Chiefs of Section

The scope of specific functions and the authority and responsibility involved in the positions referred to in the preceding paragraph shall be classified in accordance with the provisions of the National Public Service Law.

Article 21. (Special Provision for Administrative Organ of Government Enterprises) In regard to an administrative organ of government enterprises, the same may be otherwise provided for specifically by law regardless of the provisions of Article 7 and of the preceding Article.

Article 22. ("Kodan") The public corporation "Kodan" shall be deemed administrative organ of the national government, whose establishment or abolition shall be provided for by separate law.

"Kodan" shall be enumerated in the Appendix to this Law.

Supplementary Provisions:

Article 23. The present Law shall come into force on and after January 1, 1949. However, the provision of Article 27 shall come into force as from the day of its promulgation.

Article 24. In addition to administrative organs referred to in paragraph 2 of Article 3, in case there is special necessity, a Board with the Prime Minister as its head may be set up provisionally as provided for by separate law.

Unless otherwise prescribed by law, the provisions in this law concerning an Office on ministerial level and a Ministry shall apply correspondingly to a Board.

Article 25. Of the provisions of Article 19, those on positions shall become applicable from such a date as the position classification plan is determined and becomes effective under the National Public Service Law, and until that date the types of personnel for administrative organs and the specific matters for which they are responsible shall, unless otherwise provided for by law or cabinet order, be in accordance with the Common Rules concerning Personnel heretofore in force, and those on their fixed number shall come into force as from January 1, 1949.

Until the date as specified in the preceding paragraph, Vice-Ministers shall be first class officials, and Confidential Secretaries shall be second class officials, while Directors of an Ageney, unless otherwise prescribed, shall be first class officials.

Article 26. Necessary details for implementing this law shall be provided for by cabinet order unless otherwise prescribed.

Article 27. The Appendix to this law provided for in paragraph 4 of Article 3 and in paragraph 2 of Article 22 shall be consolidated and attached only after the laws as required under the provisions of Article 3 and Article 22 are enacted, but not later than January 1, 1949.

E: 41

# THE LAW FOR THE INQUEST OF PROSECUTION

(Law No. 147, July 6, 1948)

## Chapter I

### General Provisions

Article 1. For the purpose of proper and fair execution of the right of public action by reflecting the popular will, the Inquest of Prosecution shall be established in the area where the District Court, or its Branch are situated, as fixed by cabinet order. However, the number of Inquests shall not be less than 200, provided that there shall be no District Court area without at least one Inquest.

The name and territorial jurisdiction of the Inquest of Prosecution shall be fixed by cabinet order.

Article 2. The Inquest of Prosecution shall be in charge of the following matters:

(1) Matters concerning the examination of whether or not the disposition of non-prosecution made by a public procurator was proper.

(2) Matters concerning making proposals and giving advice in regard to the improvement of prosecution affairs.

The Inquest of Prosecution shall conduct the examination mentioned in item (1) of the preceding paragraph, upon application made by the person who has lodged an accusation or complaint, who has made a request regarding the case to be received upon request, or who has been injured by crime.

The Inquest of Prosecution may conduct the examination mentioned in item (1) of paragraph 1 ex-officio, based upon the materials which the Inquest has come to know by itself, when a decision to such effect has been made by a majority of the meeting of the Inquest.

1048

Article 3. The Inquest of Prosecution shall be independent in the exercise of its authority.

Article 4. The Inquest of Prosecution shall consist of 11 members selected by lot from among voters for the members of the House of Representatives within the territorial jurisdiction of the Inquest in question.

## Chapter II

### Members of Inquest and Organization of Inquest

Article 5. The following persons may not become members of the Inquest:

(1) Any person who has not graduated from the primary school, except those who have knowledge equivalent to that which a person would have if he had graduated from the primary school.

(2) Any person who was adjudged bankrupt and has not yet been rehabilitated.

(3) Any person who is deaf, dumb, or blind.

(4) Any person sentenced with penalty not lighter than penal servitude or imprisonment without hard labor for one year.

Article 6. The following persons may not assume the post of the member of the Inquest:

(1) Emperor, Empress, Grand Empress Dowager, Empress Dowager, and Imperial Heir.

(2) Minister of State.

(3) Judge

(4) Public Procurator

(5) Auditor of the Board of Audit

(6) Secretary-General of the Supreme Court, private secretary to the President of the Supreme Court, Instructor of Judicial Research and

Training Institute, Research Official of Court, Secretary of Court, Technical Official of Court, Marshal and Bailiff.

(7) Juvenile Court Judge, Juvenile Investigator (HOGOSHI) and Clerk of Juvenile Court.

(8) Official of the Attorney-General's Office.

(9) Private Secretary to the Public Procurator-General, Secretary of Public Procurator's Office, Technical Official of Public Procurator's Office and other personnel of Public Procurator's Office.

(10) Secretary of Inquest of Prosecution.

(11) Member of the National Public Safety Commission, member of the Prefectural Public Safety Commission, member of the City, Town and Village Public Safety Commission, member of the Special Ward Public Safety Commission and police official.

(12) Person who discharges the duties of judicial police official.

(13) Prison official.

(14) Economic Investigator.

(15) Tax-collector, customs-officer, official of the Monopoly Bureau.

(16) Person who engages in the enterprises such as mail, telegram, telephone, railway or tramway, and mariners.

(17) Prefectural Governor and head of city, town or village.

(18) Lawyer and patent agent.

(19) Public notary and judicial scrivener.

Article 7. In the following case the member of the Inquest shall be excluded from the exercise of his functions:

(1) If he himself is the suspect or injured party;

(2) If he is or was a relative of the suspect or injured party;

(3) If he is the legal representative, supervisor of guardianship or curator of the suspect or injured party;

(4) If he lives in the house of the suspect or injured party or is an employee of the latter;

(5) If he has lodged an accusation or made a request regarding the case;

(6) If he has become a witness or expert witness regarding the case;

(7) If he has became a representative or counsel of the suspect regarding the case;

(8) If he has discharged his duties as a public procurator or judicial police official regarding the case.

Article 8. The following person may decline the post of the member of the Inquest:

(1) Person who is not less than 60 years old;

(2) Member of the Diet or of assemblies of local public entity. However, this shall apply only during the term of the session of the Diet or such assemblies;

(3) Official of the Diet, government official (Kanri), local official (Kori), teacher;

(4) Student;

(5) Person who has obtained from the Inquest the approval of declining the post on account of serious illness, travelling overseas and other unavoidable reasons.

Article 9. The chief of the Secretariat of Inquest shall allot the number of candidates for the members of the Inquest to cities, towns and

villages which are located in the territorial jurisdiction of the Inquest in question on and before the 20th of December every year and shall inform the Election Administration Committee of city, town or village to that effect.

Candidates for the members of the Inquest shall be divided in four panels (the first panel to the fourth panel) by each Inquest and the number of persons contained in each panel shall be 100.

Article 10. The Election Administration Committee of city, town or village, when it has received the information mentioned in the preceding Article, shall select by lot, from among the Election List of the House of Representatives, the multiple number of eligible persons for the candidates for members of the Inquest belonging respectively to the first panel to the fourth panel inclusive, the number of which has been allotted in accordance with the provisions of the same article, and after the investigation of qualification as the members of the Inquest, the said Committee shall select by lot, from among the qualified expected persons, the candidates for members of the Inquest belonging to respectively to the first panel to the fourth panel inclusive.

As the result of investigation based on the preceding paragraph, in case the qualified eligible persons come short of the numbers of candidates for members of the Inquest, the provision of the preceding paragraph shall apply mutatis mutandis until the vacancy is filled.

The Election Administration Committee of city, town or village shall give notice of the place where and the date when the selection by lot shall be conducted at least 5 days prior to the day on which the selection by lot

is to be conducted according to the provisions of Paragraph 1 or 2.

In case the selection by lot is to be conducted according to the provisions of Paragraph 1 or 2, those who have suffrage for members of the House of Representatives may be present thereat, but at least 5 persons must be present.

The Election Administration Committee of city, town or village shall make up a list of the candidates for the members of the Inquest in which the names, addresses and dates of birth are entered of the candidates for the members of the Inquest selected according to the provisions of Paragraphs 1 and 2.

Article 11. The Election Administration Committee of city, town or village shall send the list of candidates for the members of the Inquest on and before the 15th of January to the Secretariat of Inquest which has jurisdiction over it.

The Election Administration Committee of city, town or village shall notify the persons entered in the list of candidates for the members of the Inquest to that effect and shall publicly announce the full name of such persons.

Article 12. If any of the candidates has died, lost the right to vote for the members of the House of Representatives or fallen under any of the items of Art. 5 or 6, after the list of candidates for the members of the Inquest was sent in accordance with the provisions of the preceding Article, the Election Administration Committee of city, town or village shall, without delay, notify to that effect the Secretariat of Inquest having the jurisdiction over it.

Article 13. The chief of the Secretariat of Inquest shall select by lot; five members of the Inquest and supplementary members respectively from among the first panel of candidates on the 31st of January every year; six each of them from among the second panel of candidates on the 30th of April; five each of them from among the third panel of candidates on the 31st of July; six each of them from among the fourth panel of candidates on the 31st of October.

If the date mentioned in the preceding paragraph falls on Sunday, the selection by lot mentioned in the preceding paragraph shall be conducted on the previous day.

The selection by lot mentioned in the first paragraph shall be conducted in the presence of a judge of District Court, a public procurator of District Public Procurator's Office and an official of city, village or town concerned. In this case, the above persons present shall certify the selection of members and supplementary members of the Inquest.

Article 14. The term of office of the members and supplementary members of the Inquest shall be respectively six months.

Article 15. Every time when the members and supplementary members of the Inquest have been selected in accordance with the provisions of Article 13, Paragraph 1, the meeting of the Inquest shall be held and the chairman of the Inquest shall be elected by mutual vote. In the above case, until the chairman is elected by mutual vote, the chief of Secretariat of Inquest shall perform his duties.

The chairman of the Inquest shall be the president of the meeting of the Inquest, shall administer the affairs of the Inquest and shall direct

and supervise the Secretaries of Inquest.

The term of office of the chairman shall end at the time when the next selection is conducted in accordance with the provisions of Paragraph 1 of Article 15.

The provisions of Paragraph 1 shall mutatis mutandis apply to the case where the post of the chairman is vacant or he is suspended from discharging his duties.

Excepting the case mentioned in the preceding paragraph, if the chairman is hindered from discharging his duties, other member of the Inquest shall temporarily discharge the duties of the chairman in an order previously fixed by the Inquest.

Article 16. The chief of the District Court of a judge serving in its Branch shall, prior to the opening of the meeting of Inquest mentioned in the first paragraph of the preceding Article, give an advice regarding the knowledge necessary for the members and supplementary members of the Inquest, and have them take an oath.

The oath shall be administered in a written oath.

The written oath shall read: "I hereby swear that I will discharge the duties fairly and faithfully according to my conscience."

The chief of the District Court or judge serving in its Branch shall stand up and read the written oath aloud and cause the members and supplementary members of the Inquest to sign and seal it.

Article 17. Any member of the Inquest shall, if he has been indicted on the charge of an offense punishable with penalty not lighter than imprisonment without hard labor, be suspended from discharging his duties

until the judgment becomes irrevocable.

Article 18. In case the post of any member of the Inquest has become vacant or such person has been suspended from discharging his duties, the chairman of the Inquest shall select by lot a member to fill that vacancy from among the supplementary members.

The selection by lot mentioned in the preceding paragraph shall be conducted in the presence of a Secretary of Inquest.

## Chapter III

## Secretariat of Inquest and Secretary of Inquest

Article 19. There shall be a Secretariat in each Inquest of Prosecution.

Article 20. There shall be 600 Secretaries of Inquest in all the Inquest of Prosecution.

The Secretaries of Inquest shall be appointed by the Supreme Court from among 2nd or 3rd class Court Secretaries, and the Inquest in which they are to serve shall be determined by each District Court as fixed by the Supreme Court.

The Supreme Court shall appoint one of the Secretaries of Inquest to the chief of the Secretariat of each Inquest.

The chief of the Secretariat of Inquest and other Secretaries of Inquest shall take charge of the business of the Inquest under the direction and supervision of the chairman.

## Chapter IV

## The Meeting of Inquest

Article 21. The Inquest of Prosecution shall open its meeting on the 15th day of March, June, September and December in each year.

The chairman of the Inquest may convene the meeting at any time if he deems it especially necessary.

The provisions of Article 13, Paragraph 2, shall mutatis mutandis apply to the case mentioned in Paragraph 1.

Article 22. The letter of convocation of the meeting of Inquest shall be issued by the chairman to all the members and supplementary members of the Inquest.

Article 23. The letter of convocation to the members and supplementary members of the Inquest shall state the date and place of presence and the fact that they may be punished with non-penal fine if they do not comply with the request of presence.

Article 24. The members and supplementary members of the Inquest may not assume their duties at the date of the meeting in question, in case they are unable to comply with the convocation because of illness or other unavoidable causes. In such case, the reason therefor shall be explained in writing.

Article 25. The Inquest of Prosecution may not hold its meeting and make decisions unless all its members are present.

In case any member of the Inquest is not present at the date of meeting or in case a decision of exclusion has been made in accordance with the provision of Article 24, the chairman shall select by lot a person who is to temporarily discharge the duties of the member from among the supplementary members.

The provisions of Article 13, Paragraph 2, shall mutatis mutandis apply to the case mentioned in the preceding paragraph.

Article 26. The meeting of the Inquest shall not be open to the public.

Article 27. The matters taken up by the Inquest shall be decided by a majority of its members. However, agreement of not less than eight of the members is necessary in order to make a decision to the effect that it is proper to prosecute the case.

Article 28. The record of meeting shall be made up regarding the matters taken up by the meeting of the Inquest.

The record of meeting shall be made up by the Secretaries of Inquest.

Article 29. Travelling expenses, daily allowances and expenses for lodging shall be paid to the members and supplementary members of the Inquest as fixed by cabinet order. However, the amount of these expenses and allowances shall not be less than those paid to witnesses, in accordance with the provisions of the Law concerning the Costs for Criminal Procedure and the Law for Temporary Measures relating to the Costs of Action and others.

## Chapter V

## Application for Examination

Article 30. The person who has lodged an accusation or complaint, who has made a request regarding the case to be received upon request, or who has been injured by crime, when such person is not satisfied with the disposition of non-prosecution made by a public procurator, may make an application for examination as to whether or not the disposition is proper to the Inquest of Prosecution having jurisdiction over the area where the Public Procurator's Office to which the public procurator concerned belongs is situated. However, this shall not apply to the case provided for in item 4 of Article 16 of the Court Organization Law and the case connected with the

crimes violating the provisions of the Law concerning the Prohibition of Private Monopoly and the Methods of Preserving Fair Trade.

Article 31. The application for the examination shall be made in writing and the reason therefor shall be clearly indicated.

Article 32. When a decision has been rendered by the Inquest as to whether or not the disposition of non-prosecution made by a public procurator was proper, the application for further examination of the same case may not be made.

## Chapter VI

## Proceedings for Examination

Article 33. The order of examination upon application shall be that of application therefor. However, the chairman may change the order if he considers it especially urgent.

The order of examination ex-officio shall be determined by the chairman.

Article 34. The chairman shall notify the members of the Inquest of the name, occupation and domicile of suspected person and ask them whether or not there exists any reason for exclusion from discharging his duties.

The member of the Inquest, when he deems there exists any reason for exclusion, shall state to that effect.

The meeting of the Inquest shall, when it deems there exists any reason for exclusion, make a decision of exclusion.

Article 35. The public procurator shall, when he is requested by the Inquest, present materials necessary for examination or shall be present at the meeting and state his opinion.

DECLASSIFIED AUTH BY: 14652 SEC. 3(E) AND 3(B) OR (E) NNDC # 78-072

Article 36. The Inquest may inquire of public offices or organizations public or private and request for report on necessary matters.

Article 37. The Inquest of Prosecution may call the person who made the application for examination or witnesses, and examine them.

The Inquest of Prosecution may, in case a witness does not comply with such call, request the Summary Court having jurisdiction over the area where the Inquest in question is located to summon the witness.

The Court shall, when the request mentioned in the preceding paragraph has been made, issue a writ of summons.

To the summons mentioned in the preceding paragraph the Code of Criminal Procedure shall apply mutatis mutandis.

Article 38. The Inquest of Prosecution may request the presence of the person deemed proper and ask technical advice regarding laws and other matters.

Article 39. Travelling expenses, daily allowances and expenses for lodging shall be paid, as fixed by cabinet order, to the witness and the person whowas asked to give his advice in accordance with the provisions of the preceding Article. However, the amount of these expenses and allowances shall not be less than those paid to witnesses, in accordance with the provisions of the Law concerning the Costs for Criminal Procedure and the Law for Temporary Measures relating to the Costs of Action and others.

Article 40. The Inquest of Prosecution shall, when it has made a decision as a result of examination, make the finding in writing with reasons attached, send their copies to the Chief of the District Public Procurator's Office who directs and supervises the public procurator in question and to the Committee for Examination of Qualification of Public Procurators,

put up the gist of findings on the bulletin board of the Secretariat of Inquest concerned during seven days after such decision has been made, and, in addition, in case a person made an application according to the provisions of Article 30, he shall be notified the gist of findings of the case he applied therewith.

Article 41. The Chief of the District Public Procurator's Office shall, in case a copy of the findings has been sent to him in accordance with the provisions of the preceding Article, take into consideration the findings and shall take proceedings for an indictment, if he deems a public action should be instituted.

## Chapter VII

## Proposal and Advice

Article 42. The Inquest of Prosecution may, at any time, make proposals and give advice to the Chief of the District Public Procurator's Office regarding the improvement of prosecution affairs.

## Chapter VIII

## Penal Regulations

Article 45. In the following cases, any member and supplementary member of the Inquest shall be liable to a non-penal fine not higher than 10,000 yen.

(1) If he does not comply with the convocation without good reason.

(2) If he has refused to take oath.

The same shall apply to the case where a witness who has been summoned in

accordance with the provisions of Article 37, Paragraph 3, does not comply with the summons without good reason.

Article 44. If any member of the Inquest has disclosed the proceedings of the meeting, the opinion of each member or the number of opinions, such person is liable to a fine not exceeding 10,000 yen.

If the matters mentioned in the preceding paragraph appear in the newspaper and other publications, editor and publisher in the case of newspaper and writer and publisher in the case of other publications shall be liable to a fine not exceeding 20,000 yen.

Article 45. Any person who has solicited any member of the Inquest to misuse or abuse his position regarding the duties provided for in Article 2, Paragraph 1, Item (1), shall be liable to penal servitude for a period not more than one year or a fine not exceeding 20,000 yen.

## Chapter IX

## Supplementary Rules

Article 46. The expenses for the Inquest of Prosecution shall be appropriated as part of the expenses for Courts in the national budget.

Article 47. In the case of the city prescribed in Article 155, Paragraph 2, of the Local Autonomy Law, the provisions regarding the city in this law shall apply to the ward (KU).

Article 48. Provisions necessary for the enforcement of this Law shall be provided for by cabinet order.

## Supplementary Provisions

This Law shall come into force as from the day of its promulgation.

The first selection of members and supplementary members of the Inquest after this law comes into effect shall be conducted on the 31st of January 1949. In the above case, the number of members and supplementary members of the Inquest shall be respectively 11, and the term of office of 6 out of each 11 members or supplementary members shall be three months and that of 5 shall be six months, as fixed by lot on the occasion of the selection of members and supplementary members of the Inquest in question.

In Article 4 of the Law concerning the Total Number of Court Officials (Law no. 64 of 1947)

"full time service 697 2nd class
full time service 4071 3rd class"

shall be read as

"full time service 759 2nd class
full time service 4609 3rd class".

H.42

# CODE OF CRIMINAL PROCEDURE

(Law 131, July 5, 1948)

Book I - General Provisions

| | | |
|---|---|---|
| Chapter | I | Jurisdiction of Courts |
| " | II | Exclusion and Challenge of Court Officials |
| " | III | Litigation Capacity |
| " | IV | Defence by Counsel and Assistance by Relatives |
| " | V | Decision |
| " | VI | Documents and Service |
| " | VII | Periods of Time |
| " | VIII | Summons, Production and Detention of the Accused |
| " | IX | Seizure and Search |
| " | X | Evidence by Inspection |
| " | XI | Examination of Witness |
| " | XII | Expert Evidence |
| " | XIII | Interpretation and Translation |
| " | XIV | Preservation of Evidence |
| " | XV | Costs of Trial |

Book II - First Instance

| | | |
|---|---|---|
| Chapter | I | Inquiry and Investigation |
| " | II | Public Action |
| " | III | Public Trial |
| Section | I | Preparations and Procedure of Public Trial |
| " | II | Evidence |
| " | III | Decision in Public Trial |

Book III - Appeal

| | | |
|---|---|---|
| Chapter | I | General Provision |
| " | II | Kogo appeal |
| " | III | Jokoku appeal |
| " | IV | Kokoku appeal |

Book IV - Reopening of Procedure

Book V - Extraordinary Appeal

Book VI - Summary Procedure

Book VII - Execution of Decision

Code of Criminal Procedure

Article 1. The purpose of this law is, regarding criminal cases, to clarify the true facts of cases and to apply and realize criminal laws and ordinances fairly and speedily, while thoroughly accomplishing the maintenance of public welfare and security of fundamental human rights of individuals.

## Book I

## General Provisions

### Chapter I

### Jurisdiction of Courts

(redacted)

Article 2. The territorial jurisdiction of courts shall be determined by the place of offense, or the place of domicile or residence of the accused or by the place where the accused is at present.

In respect to an offense committed on board a Japanese vessel while outside Japanese territory, the question shall, in addition to the places mentioned in the preceding paragraph, be determined also by the place of home port of such vessel, or the place where the vessel has lain at anchor subsequent to the committal of the offense.

Article 3, When several cases falling under the material jurisdiction of different courts are connected with each other, a higher court may exercise jurisdiction over all of them conjointly.

When the cases under the special jurisdiction of a High Court and other cases are connected with each other, the High Court may exercise jurisdiction over all of them conjointly.

Article 4. If, in the event of several connected cases falling under the material jurisdiction of different courts pending in a higher court, there is any case which such court considers unnecessary to adjudicate conjointly with the rest, it may,

by a ruling, transfer the same to a lower court having jurisdiction over it.

Article 5. When several connected cases are severally pending in a higher court and a lower court, the higher court may, by a ruling, adjudicate conjointly also upon the case falling under the jurisdiction of the lower court.

When the cases under the special jurisdiction of a High Court are pending in a High Court, and other cases connected with the above-mentioned cases are pending in an inferior court, the High Court may, by a ruling, adjudicate conjointly also upon the cases falling under the jurisdiction of the inferior court.

Article 6. When several cases falling under the territorial jurisdiction of different courts are connected with each other, a court which has jurisdiction over one of them may exercise jurisdiction over the others also. However, the court may not exercise jurisdiction over the cases which fall under the jurisdiction of specific court in accordance with the provisions of other laws.

Article 7. If, when several cases subject to different territorial jurisdictions which are connected with each other are pending in one court, there is any case which such court considers unnecessary to adjudicate conjointly with the rest, it may, by a ruling, transfer the same to another court having jurisdiction over it.

Article 8. When several cases which are mutually connected are pending severally in different courts which are identical in respect to material jurisdiction each court may, on the motion of a public procurator or the accused, decide by a ruling that they shall be combined in one court.

If, in the case of the preceding paragraph, the rulings of the several courts do not agree, the higher court immediately above all of such court may, upon the request of a public procurator or the accused, decide by a ruling that the cases be combined in one court.

Article 9. Two or more cases are (mutually) connected:

(1) Where several offenses have been committed by one person;

(2) Where several persons have conjointly committed an identical offense or several separate offenses;

(3) Where each of several persons acting in collusion, has committed a separate offense.

The offense of harbouring an offender, destruction of evidence, perjury, false expert evidence or interpretation and relating to illgotten (stolen) goods on the one hand, and the offense of the principal offender on the other, shall be deemed to have been committed conjointly.

Article 10. When one and the same case is pending in several courts differing in respect to their material jurisdiction, it shall be adjudicated upon by a higher court.

The higher court may, on the motion of a public procurator or the accused, require, by a ruling, the lower court having jurisdiction over the case to adjudicate upon it.

Article 11. When one and the same case is pending in several courts which are identical in respect to material jurisdiction, it shall be adjudicated upon by the court by which the public action was first received.

The higher court immediately above all of such courts may, on the motion of a procurator or the accused, require, by a ruling, the case to be adjudicated upon by another court by which a public action was received later.

Article 12. When it is necessary for the purpose of discovering facts, a court may exercise its functions even outside the district under its jurisdiction.

The provisions of the preceding paragraph shall apply mutatis mutandis to commissioned judges.

Article 13. Proceedings in an action shall not lose their effect by reason of the court's lack of jurisdiction over it.

Article 14. In case of urgency, a court may, even when it has no jurisdiction, adopt such measures as may be necessary for discovering facts.

The provisions of the preceding paragraph shall apply mutatis mutandis to commissioned judges.

Article 15. In the following cases a public procurator shall move the higher court immediately above all the courts of first instance concerned to designate the court which shall have jurisdiction:

(1) When the competent court can not be determined by reason of the district boundaries of the court not being clearly defined;

(2) When there is no other court having jurisdiction over a case in respect to which a judgment declaring a certain court to have no jurisdiction has become binding.

Article 16. When there is no court having jurisdiction by law, or when it is impossible to ascertain such court, the Procurator-General shall move the Supreme Court to designate the court which shall have jurisdiction.

Article 17. In the following cases, a public procurator shall move the next immediately higher court to effect a change of jurisdiction (change of venue):-

(1) When for a legal reason, or owing to special circumstances, the competent court is unable to exercise judicial power;

(2) When, owing to the popular sentiment of the district, the circumstances of the action, or other circumstances, there is fear that impartiality of trial cannot be maintained.

In the case contemplated in each item of the preceding paragraph, the accused also may move for a change of jurisdiction (change of venue).

Article 18. When, owing to the nature of the offense, the popular sentiment of the district or any other circumstance, there is apprehension that the public peace would be disturbed, if the case were to be tried by the court having jurisdiction over it, the Procurator-General shall move the Supreme Court to transfer the case to another court.

Article 19. When it deems necessary, a court, either upon the request of the accused or public procurator or ex-officio, may, by means of a ruling, transfer a case to another competent court having concurrent material jurisdiction.

The ruling of transfer may not be made after the taking of evidence regarding the case has been commenced.

Only in cases of rights being seriously impaired as a result of the ruling transferring or refusing to transfer a case, an immediate complaint may be taken by offering presumptive proof of such grounds.

## Chapter II

## Exclusion and Challenge of Court Officials

([redacted])

Article 20. In the following cases a judge is excluded from the exercise of his functions:

(1) If he himself is the injured party;

(2) If he is or was a relative (prescribed by the Art. 725 Civil Code) to the accused or the injured party;

(3) If he is the legal representative, supervisor of guardianship or curator of the accused or the injured party;

(4) If he has acted as witness or an expert witness in the case;

(5) If he has acted as the representative, counsel or assistant of the accused in the case;

(6) If he has exercised the functions of a public procurator, or a judicial police officer in the case;

(7) If he has participated in the ruling mentioned in Article 266, Item 2, in a summary order, in the decision by the court below or in the original judgment of the case which has been sent back, or transferred by virtue of Art. 398-400, 412 or 413, or in the investigations which form the basis of such decisions. But this shall not apply if he participated as a requisitioned judge.

Article 21. In case a judge is to be excluded from the exercise of his functions, or where there is apprehension that he may give a partial judgment, he may be challenged by a public procurator or the accused.

Counsel may make a motion for challenge for the benefit of the accused, but not against the clearly expressed intention of the latter.

Article 22. After a demand or a statement has been made in the case, no judge may any longer be challenged on the ground of there being apprehension that he might give a partial judgment, but this shall not apply if the party was unaware of the existence of a ground for challenge, or if such ground came into existence subsequently (to such demand or statement).

Article 23. When a judge who is a member of a collegiate court has been challenged, the court to which such judge belongs shall render a ruling thereon. If the court in such case is a District Court, the ruling shall be rendered by a collegiate court (i.e., by the court sitting in joint session).

When a sole judge of a District Court has been challenged the ruling must be rendered by a collegiate court of the court to which such judge belongs, and when a judge of a Summary Court has been challenged, by a collegiate court of the competent District Court; but if the judge who has been challenged finds (admits) the motion for challenge to be well-founded, the ruling shall be deemed to have been made.

The judge who has been challenged may take no part in the ruling mentioned in the two preceding paragraphs.

When the court is unable to render such a ruling in consequence of the withdrawal of the judge challenged, the ruling shall be rendered by the next immediately higher court.

Article 24. A motion for challenge which has clearly been made merely for the purpose of delaying the action shall be dismissed by a ruling. In such case, the provisions of Para. 3 of the preceding article shall not apply. The same shall apply also when a motion for challenge has been made in contravention of the provisions of Art. 22 or the procedure fixed by the rule of court.

In the case of the preceding paragraph, a commissioned judge, a sole judge of a District Court, or a judge of a Summary Court, who has been challenged, may render a judgment dismissing the motion for challenge.

Article 25. Against a ruling by which a motion for challenge is dismissed, immediate complaint may be filed.

Article 26. With the exception of the provisions of Art. 20, No. 7, the provisions of this Chapter shall apply mutatis mutandis to court clerks.

The ruling shall be rendered by the court to which the court clerk belongs, but the judgment to dismiss the motion for challenge in the case mentioned in Art. 24, Para. 1, may be rendered by the commissioned judge to whom the court clerk is attached.

## Chapter III.

## Litigation Capacity

(Subheading)

Article 27. When the accused or the suspect is a juridical person, it shall be represented by its authorized representative in regard to acts of procedure.

Even when a juridical person is represented by two or more persons conjointly, it shall be represented by each of them severally in respect of acts of procedure.

Article 28. If, where the case involves an offense to which the provisions of Arts. 39 to 41 of the Criminal Code do not apply, the accused or the suspect is devoid of mental capacity, he shall be represented by his legal representative (when there exist two persons who exercise parental power, each of them. The same shall apply hereinafter.) in regard to acts of procedure.

Article 29. When there is no person to represent the accused in accordance with the provisions of the two preceding articles, a special representative shall be appointed by the court by the request of a public procurator or ex-officio.

The same shall apply when there is no person to represent the suspect in accordance with the provisions of the two preceding articles and such request is made by a public procurator, a judicial police officer, or a person interested.

The special representative shall exercise his functions as such until there is another person to do acts of procedure as the representative of the accused or the suspect.

## Chapter IV

## Defense by Counsel and Assistance

## by Relatives ([redacted])

Article 30. The accused or the suspect may appoint a counsel at any time.

The legal representative, curator, spouse, lineal relatives, brother or sister of the accused or the suspect may independently appoint a counsel (for the accused or the suspect).

Article 31. Counsel shall be appointed from among advocates.

In the Summary Court or District Court, counsel may be appointed from among persons who are not advocates with the permission of the court. However, this shall apply, in the District Court, only in cases where there is another counsel, appointed from among advocates.

Article 32: Appointment of counsel effected prior to the institution of the public action shall have its effect also in the first instance.

Appointment of counsel after the institution of the public action shall be effected for each instance of the trial.

Article 33. In case there are several defense counsels for the accused, the chief counsel must be appointed as prescribed by the Rules of Court.

Article 34. The powers and functions of the chief defense counsel as mentioned in the preceding Article shall be provided by the Rules of Court.

Article 35. The court may restrict the number of defense counsel of the accused or the suspect according as prescribed by the Rules of Court; however, as regards the defense counsel of the accused, this shall apply only where there are special circumstances.

Article 36. Where the accused is unable to appoint his counsel by reason of poverty or other reasons, the court shall assign a counsel on behalf of the accused in accordance with his request. But this shall not apply where counsel has been appointed for him by some person other than the accused.

Article 37. If the accused is not represented by counsel, the court may, of its own motion, assign a counsel to him in the following cases:

(1) Where the accused is a minor;

(2) Where the accused is not less than seventy years of age;

(3) Where the accused is deaf or mute;

(4) Where the accused is suspected to be mentally unsound or feeble-minded;

(5) Where it is deemed necessary for any other reasons.

Article 38. The counsel to be assigned by a court or a presiding judge in accordance with this law shall be selected from among advocates.

The counsel appointed by state in accordance with the provisions of the preceding paragraph shall be entitled to demand travelling expenses, daily allowance, charge for lodging and fees.

Article 39. The suspect or accused placed under restraint in any way may, without having any official watchman present, have an interview with his defense counsel or any other person who is going to be his counsel, upon request of the person who is entitled to select defense counsel (in case where a person other than professional defense lawyer is going to be selected as a defense counsel, this shall apply only after the permission prescribed in paragraph 2, Article 31 has been obtained), and may deliver or receive any documents or any other things.

With regards to the interview and delivery or receipt of things, measures may be provided by Law or Ordinance (including the Rule of Court the same shall apply hereinafter), which are necessary for preventing the escape of the suspect or accused, the destruction or alteration of evidence, or the delivery or receipt of those things which may hinder the safe custody of the suspect or accused.

The public procurator, secretary of public procurator's office or judicial police official (this includes both judicial police officer and constable. The same shall apply hereinafter) may, when it is necessary for investigation, designate the date, place and time of interview and delivery or receipt of things mentioned in Para. 1 only prior to the institution of the public action, provided that such designation does not unreasonably hold the suspect in check when he exercises his rights for the defense.

Article 40. Subsequent to the institution of the public action, a counsel may, in a court, inspect or copy documents and articles of evidance relating to the action; but he must obtain the permission of the presiding judge in order to copy any article of evidence.

Article 41. Defense counsel may undertake the acts of procedure in his name, which are provided in this law.

Article 42. The legal representative, curator, spouse, lineal relatives, brother or sister of the accused may at any time become an assistant.

Any person who desires to act as an assistant to the accused shall notify the court to that effect in respect of each instance of the trial.

Except as otherwise provided in this law, an assistant may take such acts of procedure as the accused is entitled to do, in so far as acts are not against the clearly expressed will of the accused.

## Chapter V

## Decision

(redacted)

Article 43: Except as otherwise provided in this law, judgments (han-ketsu) shall be based on the oral proceedings.

A ruling (Kettei) or an order (Meirei) shall not necessarily be based upon oral proceedings.

In making a ruling or an order, the court may, whenever necessary, make examination of facts.

The examination mentioned in the preceding paragraph may be assigned to a member of a collegiate court concerned, or a judge of a District Court or of Summary Court may be requisitioned to undertake it.

Article 44: A decision shall be accompanied by the reason therefor.

In the case of a ruling or an order against which no appeal is allowed, reasons therefor may be dispensed with, with the exception of the ruling against which objection may be raised in accordance with Art. 428, Para. 2.

Article 45. Decision other than jusgment may be rendered by an assistant judge alone.

Article 46. The accused or any other person interested in the suit may, at his own cost, demand the delivery of a copy of or extracts from the document of decision or the protocol in which the decision is entered.

## Chapter VI

## Documents and Service

([redacted])

Article 47. No document relating to an action shall be made public prior to the opening of the trial. However, this shall not apply when it is deemed proper on account of the necessity of public interest and other reasons.

Article 48. A protocol of the trial shall be prepared in respect to the proceddings taking place on the dates for the trial.

The protocol of the trial shall contain important matters concerning the trial held on the dates therefor, as prescribed by the Rules of Court.

The protocol of the public trial must be completed in good order as quickly as possible after each date for trial, at the latest, on or before the pronouncement of judgment; however, this shall not apply to the protocol of the public trial where the judgment is pronounced.

Article 49. If the accused has no counsel, he may examine the protocol of the trial, as prescribed by the Rules of Court. And if the accused is blind or cannot read himself, he may ask the protocol to be read aloud to him.

Article 50. In case where the protocol of the trial was not completed in good order before the date for the next session of the trial, a court clerk shall, upon request of a public procurator, the accused or defense counsel, inform of the outlines of testimony given by witnesses on the date for the last session, either on or before the date for the next session. In this case, if the public procurator, the accused or defense counsel who made the request raised an objection as to the accuracy of the outlines of testimony given by witnesses, a statement of such objection shall be entered in the protocol.

In case where the protocol of the trail held in the absence of the accused and his defense counsel was not arranged in good order before the date for the next session,

a court clerk shall inform the accused or his counsel who appears either on or before the date for the next session, of the essential happenings which took place on the date for the last session.

Article 51. Public Procurator, the accused or defense counsel may raise objection as to the accuracy of the protocol of trial which, if raised at all, must be entered into the protocol.

The objection as mentioned in the preceding paragraph must be raised, at latest, before expiration of the term of fourteen days after the last date for public trial of each instance; however, as regards the protocol of the public trial where the judgment is pronounced, objections may be raised (as to their accuracies) within the term fourteen days after the completion of each protocols.

Article 52. Proceedings on the date of trial which are written in the protocol of the trial can be proved only by the protocol of the trial.

Article 53. Any person may examine the record of the trail after the conclusion of a criminal case. However, this shall not apply in case the examination interfers with the preservation of the record of the trial or with the business of a court or a public procurator's office.

Any record of the trial either for a case whose proceedings were closed to the public or whose examination is prohibited to the public because it is considered improper, may not be examined, regardless of the provisions of the preceding paragraph, unless they are the parties interested in the case or they have due reason for its examination and have obtained the special permission of the custodian of the record of the trial.

In respect to the cases as prescribed by the proviso of Para. 2 of Art. 82 of the Constitution of Japan, the examination of the records of such cases may not be prohibited.

Matters concerning the preservation of records and charges for examination of records shall be provided by other law.

Article 54. Except as otherwise provided by the Rules of Court, the provisions concerning the Civil Procedure (excluding the provisions regarding service by publication) shall apply mutatis mutandis to the service of documents.

## Chapter VII

## Periods of Time

(Section)

Article 55. In the calculation of periods, those that are calculated by hours shall begin to run immediately, while in the calculation of those that are calculated by days, months or years, the first day shall not be included; but the first day of a period of prescription shall be counted as one day irrespective of the number of hours involved.

Months and years shall be calculated in accordance with the calendar.

If the last day of a period falls on Sunday, the 1st, 2nd or 4th of January, the 29th, 30th or 31st of December, or a day designated as a general holiday, such day shall not be included in the calculation, but this shall not apply to the case of a period of prescription.

Article 56. A legal period may be extended, as fixed by the rule of court, in accordance with the distance between the place of comicile, residence of office of the person who is required to do the act of procedure and the locality of the court or the public procurator's office, and the conveniency in respect to communication and traffic.

The provision of the preceding paragraph shall not apply to the period within a recourse against a judgment which has been pronounced must be made.

## Chapter VIII

## Summons, Production and Detention

## of the Accused [redacted].

Article 57. A court may summon the accused giving a reasonable notice in advance which shall be provided by the Rules of Court.

Article 58. A court may produce the accused in the following cases:

(1) If he has no fixed dwelling,

(2) If he fails to, or if there is apprehension that he would fail to, comply with the request of summon without good reason.

Article 59. The accused who has been produced shall be released within twenty-four hours from the time when he was brought to court. However, this shall not apply when a warrant of detention is issued within the said period.

Article 60. The court may detain the accused when there is reasonable ground enough to suspect that he has committed a crime and the case falls under any one of the following items:

(1) Where the accused has no fixed dwelling;

(2) Where there is reasonable ground enough to suspect that the accused may destroy evidence;

(3) Where the accused escaped or there is reasonable ground enough to suspect that he may escape.

The term of detention shall not exceed two months after the day of the institution of public action. Where there is special necessity for continuing further detention, the term may be renewed every last day of one month period by means of a ruling with a statement of the concrete reasons for the renewal. However, the renewal of the detention term may be rendered only once except in the cases which fall under Item 1 and 3 to 5, Art. 89.

In respect to a case involving a fine not exceeding five hundred yen, detention or minor fine, the first paragraph of this Article shall apply only where the accused has no fixed dwelling.

Article 61. The accused may not be placed under detention until after the court has informed the accused of the charge and has heard the statement regarding it. But this shall not apply to cases where the accused has taken flight.

Article 62. The summons production or detention of the accused shall be effected by issuing a writ of summons or a warrant of production or of detention.

Article 63. A writ of summons shall contain the name and dwelling of the accused; the name of crime; the date, time and place for appearance; a statement that a warrant of production may be issued in case he fails to appear without good reason; as well as other matters as prescribed by the rules of the court; and the signature and seal of the presiding judge or commissioned judge issuing the writ.

Article 64. A warrant of production or of detention shall contain the name and dwelling of the accused; the name of crime; essential facts concerning the public action; place where to bring him or prison where to detain him; effective period and a statement that the warrant shall not be executed after the lapse of such period and shall be returned to the court of issuance; the date issued, as well as such other matters as prescribed by the rules of the court; and the signature and seal of the presiding judge or commissioned judge issuing the warrant.

In case the name of the accused is uncertain, he may be identified by the description of his face, build, or other features specifying him.

In case the dwelling of the accused is uncertain, it shall not have to be stated.

Article 65. Writs of summons shall be served:

If the accused has filed a document stating that he will appear on a day fixed for hearing, or if court orders the accused, who appears on a date for hearing, to appear on the next date for hearing, it shall have the same effect as service of a

writ of summons. In case, however, appearance has been orally ordered, the fact shall be entered in the protocol.

The accused who is detained in a prison near the Court may be summoned by means of a notification addressed to the prison authorities.

In such a case a writ of summons shall be deemed to have been served when the accused has received the notification from the prison authorities.

Article 66. A court may requisition a judge of a District Court or a Summary Court of the place where the accused is at present to produce the accused.

The requisitioned judge may in turn requisition a judge of another District Court or Summary Court, who is authorized to accept such requisition.

If the requisitioned judge has himself no authority over the matter under requisition, he may transfer the requisition to a judge of another District Court or Summary Court who is authorized to accept such requisition.

The judge who has received or been transferred such requisition shall issue a warrant of production.

The provisions of Article 64 shall apply mutatis mutandis to the warrant of production mentioned in the preceding paragraph. In this case, the warrant shall contain a statement that it is issued under requisition.

Article 67. The judge who has issued a warrant of production under commission in the case of the preceding article shall within twenty-four hours from the time when the accused was brought, make an inquiry as to whether no mistake has been made as to his identity.

If there has been no mistake as to the identity of the accused, he shall be promptly and directly delivered to the court designated. In such case, the judge who has issued the warrant of production under commission shall specify a time limit within which the accused shall be brought before the court designated.

Article 68. The court may, in case of necessity, order the accused to appear at, or be accompanied to, any place designated by him. If, in such case, the accused fails to comply with such order without good reason, he may be produced to such place. In such case the period specified in Article 59 shall be calculated from the time when the accused was produced to the said place.

Article 69. In case of urgency, a presiding judge may take the measures provided for in Articles 57 to 62, Articles 65, 66 and preceding article inclusive, or cause a member of his collegiate court to do so.

Article 70. A warrant of production or of detention shall be executed by a secretary of a public procurator's office or a judicial police official under the direction of a procurator; but in case of urgency the execution may be directed by a presiding judge, a commissioned judge, or a judge of a District Court or of a Summary Court.

A warrant of detention issued against the accused who is in prison shall be executed by prison officers under the directions of a procurator.

Article 71. A secretary of a public procurator's office or a judicial police official may, in case of necessity, execute a warrant of production outside his district, or have it executed by a secretary of a public procurator's office or a judicial police officer on the spot.

Article 72. When the present whereabouts of the accused is unknown, a presiding judge may commission the chief of High Procurator's Office to carry out an investigation.

The chief of High Procurator's Office who has received such commission shall cause the procurator within his districts to follow the procedure for the investigation and the execution of the warrant of production.

Article 73. In executing a warrant of production, it shall be shown to the accused, who shall be brought as promptly as possible and directly before the court or

any other place designated. In the case of a warrant of production mentioned in Article 66, Para. 4, the accused shall be brought before the judge who issued the warrant.

In executing a warrant of detention, it shall be shown to the accused, who shall be taken as promptly as possible and directly to the prison designated.

Even if no warrant of production or detention is possessed, when the matters require urgency, the warrant may be executed after the accused has been informed of the essential facts concerning the public action and of the fact that the warrant has been issued, notwithstanding the preceding two paragraphs. However, the warrant shall be shown as sooh as possible.

Article 74. When the accused against whom a warrant of production or of detention has been executed, is to be sent under guard, he may, in case of necessity, be provisionally detained in the nearest prison.

Article 75. In case the accused against whom a warrant of production has been executed has been brought, he may, if necessary be detained in prison.

Article 76. In case the accused has been produced, he shall immediately be informed of the gist of the indictment and of the fact of his being entitled to select a counsel, and also of his right to assignment of counsel on his behalf by the court in case he is unable to secure counsel by his own efforts because of poverty or other reasons. However, if the accused already has a counsel, it shall suffice to inform him only of the gist of the indictment.

A member of a collegiate court or the court clerk may be caused to take the measure mentioned in the preceding paragraph.

In the casewhere a warrant of production was issued in accordance with Article 66, Para. 4, the measure mentioned in the first paragraph shall be taken by a requisitioned judge, but the court clerk may be caused to do so.

Article 77. In order to detain the accused excepting the case where the detention follows production or arrest, the accused shall be informed of the fact that he may select a counsel and also of his right to assignment of counsel on his behalf by the court in case he is unable to secure counsel by his own efforts because of poverty or other reasons. However, this shall not apply in case the accused already has a counsel.

In the case of the proviso of Article 61, the accused shall be informed of the gist of the indictment in addition to the fact provided in the preceding paragraph, immediately after he has been detailed. However, if the accused already has a counsel, it shall suffice to inform him only of the gist of the facts of public action.

The provision of Para. 2 of the preceding Article shall apply mutatis mutandis to the measures mentioned in the two preceding paragraphs.

Article 78. The accused who has been produced or detained may apply to a court or to chief prison officer or his substitute, for the appointment of counsel, designating an advocate or a Bar Association. But this shall not apply if the accused already has a counsel.

A court, a chief prison officer or his substitute which has received such application shall give notice of such fact to the advocate or the Bar Association designated by the accused, without delay. In case the accused in making the application mentioned in the preceding paragraph has designated two or more advocates or Bar Association, it shall suffice to give the notice to one of them.

Article 79. When the accused has been detained the counsel shall be notified of such fact. If he has no counsel, such notice shall be given to whomever is designated by him from among his legal representative, curator, spouse, lineal relatives, brother and sister.

Article 80. An accused who is under detention may, in so far as laws and ordinances permit, see persons other than those provided in Article 39, Para. 1 or deliver to them

or receive from them documents or other things. The same shall apply to an accused who is in prison in consequence of a warrant of production.

Article 81. When there is apprehension of his taking flight, or of his destroying evidence of his guilt a court may forbid an accused who is under detention to see the persons other than those mentioned in Article 39, Para. 1, examine documents and other things he may deliver to or receive from them, forbid him to deliver or receive them; or seize them. But he may not be forbidden to receive food; nor may such food be seized.

Article 82. An accused who is under detention may request a court to indicate the reason for his detention.

The counsel, legal representative, curator, spouse, lineal relative, brother or sister of the accused under detention, or other interested person may make the request mentioned in the preceding paragraph.

The request mentioned in the two preceding paragraphs shall lose its effect when the release on bail, or suspension of execution of detention has been effected, when detention has been rescinded, or when a warrant of detention has lost its effect.

Article 83. The proceedings of indication shall be held in open court.

The court shall be opened in the presence of judges and court clerks.

The court may not be opened if the accused and his counsel do not appear. However, this shall not apply to the case, regarding the appearance of the accused, where the accused is unable to appear by such unavoidable reasons as illness and there is no objection on the part of the accused, and to the case, regarding the appearance of his counsel, where there is no objection on the part of the accused.

Article 84. In the court a presiding judge shall give notification of the reasons for detention.

The accused, his counsel and the other person who made the request may state their opinions as well as a public procurator.

Article 85. The proceedings of indication may be effected by the members constituting a collegiate body.

Article 86. In case there are two or more requests mentioned in Article 82 in respect to one and same detention, the procedure relating to indication shall be taken as for the first request. The other requests shall be dismissed, by a ruling, after the procedure of indication has been completed.

Article 87. When the grounds or necessity of detention have ceased to exist, the court shall, upon the request of a public procurator, accused under the detention or his defense counsel, legal representatives, curator, spouse, lineal relatives or brothers and sisters, or ex-officio, by ruling rescind the detention.

Provision of Article 82, Para. 3 shall apply mutatis mutandis to the request mentioned in the preceding paragraph.

Article 88. The accused under detention or his counsel, legal representative, curator, spouse, lineal relatives, brothers or sisters may request release on bail.

Provision of Article 82, Para. 3 shall apply mutatis mutandis to the request mentioned in the preceding paragraph.

Article 89. When request for release on bail has been made, it must be allowed except in the following cases:

(1) Where the accused is charged with a crime punishable with death penalty or penal servitude or imprisonment for an indeterminate period;

(2) Where the accused was previously convicted of an offense punishable by death penalty or penal servitude or imprisonment for an indeterminate period or for maximum period of more than ten years;

(3) Where the accused is an habitual offender of an offense punishable by a maximum penalty of penal servitude or imprisonment for a period of three years or more;

(4) Where there is a reasonable cause to suspect that the accused may destroy evidences;

(5) Where the name and dwelling of the accused is unknown.

Article 90. A court may, if it deems it proper, permit release on bail ex-officio.

Article 91. When detention by warrant of detention has been effected for an unreasonably long period, the court shall, by a ruling, rescind the detention or allow the release on bail upon request made by the person mentioned in Article 88, or ex-officio.

Provision of Article 82, Para. 3 shall apply mutatis mutandis to the request in accordance with the preceding paragraph.

Article 92. A court shall hear the opinion of a public procurator before it renders a ruling to allow release on bail or to reject the request therefor.

Article 93. Where release on bail is granted, the amount of the bail money shall be fixed.

The bail money shall be fixed by the court, at an amount sufficient and adequate to insure the presence of the accused, taking into consideration the nature and circumstances of the offense, weight of evidence against the accused, his financial ability to give bail and his character.

When release on bail is granted, restriction may be imposed on the place of residence of the accused, or any other conditions which are considered proper may be imposed.

Article 94. A ruling granting release on bail may not be executed before the bail money has been paid in.

A court may permit a person other than the person demanding bail to pay in the bail money.

A court may permit negotiable securities, or a written undertaking produced by a person other than the accused, whom the court recognized as the proper person, to be substituted for the bail money.

Article 95. A court may, by a ruling, if it deems it proper, suspend the execution of the detention with entrusting the accused under detention to the charge of a

relative, a protective institution, or any other person, or restricting the place of residence of the accused.

Article 96. When the accused has taken flight or there is a reasonable apprehension of his doing so, when he fails to appear without good reason when summoned, when there is an apprehension of his destroying evidence of guilt or when he has infringed the restriction imposed upon his place of residence or the other conditions fixed by the court, the court may rescind by a ruling release on bail or the suspension of execution or detention.

In case the release on bail is rescinded the court may, by a ruling, confiscate the whole or a part of the bail money.

When a person released on bail against whom a penal sentence has been given and the judgment has become finally binding, has failed, without good reason, to appear when called before the court for execution, or has taken flight, the court shall, on the motion of a procurator, by a ruling, confiscate the whole or a part of the bail money.

Article 97. In case the detention is to be rescinded, or release on bail, or suspension of the execution of detention is to be effected or rescinded, in connection with a case respecting which the period for appeal has not expired, and the appeal of which has not yet been instituted, a ruling necessary for the purpose shall be rendered by the court of original instance.

The court which is to render the ruling mentioned in the preceding paragraph, in connection with the case regarding which an appeal is pending and the record of the proceedings has not reached the court of appeal, shall be determined by the rule of court.

The provisions of the preceding two paragraphs shall mutatis mutandis apply to the case where the indication of reason for detention is to be made.

Article 98. Where the release on bail or the suspension of execution of detention is rescinded (by ruling), or the term of the suspension (of the execution of detention) expires, the accused must be put in confinement, under the direction of the Public Procurator, by the Secretary of the Public Procurator's Office, Judicial Police Officials or the Prison Officer who shall show the accused the copy of the warrant of detention, or the copy of the written ruling which has rescinded the release on bail or the suspension of execution of detention or which had fixed the term of the suspension.

## Chapter IX

## Seizure and Search

Article 99. When it is necessary, a court may seize any articles which it believes should be used as evidence, or liable to confiscation, except as otherwise provided (in this and other laws).

A court may designate articles to be seized and order the owner, possessor or custodian thereof to produce such articles.

Article 100. A court may seize or cause to be produced postal matters or papers relating to telegrams, dispatched by or to the accused, which are in the custody or possession of a government office or of any other person transacting communication business.

Postal matters or papers relating to telegrams other than those mentioned in the preceding paragraph, which are in the custody or possession of a government office or of any other person transacting communication business, may be seized or caused to be produced, only when there are circumstances which warrant their being considered to be connected with the case in hand.

When any disposition has been effected under the provisions of the two preceding paragraphs, notice of such fact shall be given to the sender or to the addressee. But this shall not apply if there is apprehension that such notification may obstruct the trial.

Article 101. Articles which have been dropped or left behind by the accused or any other person, or which have been voluntarily produced by their owner, possessor or custodian, may be retained.

Article 102. A court may, when it deems necessary, search the person, effects or dwelling or any other place of the accused.

The person, effects or dwelling or any other place of a person other than the accused may be searched only when there are circumstances which warrant belief that there are articles liable to seizure there.

Article 103. If, in respect to articles held in the custody or possession of a person who is or was a public official, such person or the public office to which he belongs declares that they relate to an official secret, such articles may only be seized with the consent of the competent supervisory office. But such office may not refuse to give such consent except in cases where compliance would be prejudicial to important interests of the State.

Article 104. If the declaration mentioned in the preceding article has been made, by the following persons, the seizure shall not be effected without the consent of the House in the case of a person mentioned in No. 1 and without the consent of the Cabinet in the case of a person mentioned in No. 2:

1. Person who is or was a member of the House of Representatives or the House of Councillors;

2. Person who is or was Prime Minister or a Minister of State.

In the case of the preceding paragraph, the House of Representatives, the House of Councillors or the Cabinet may not refuse to give such consent except in case where compliance would be prejudicial to important interests of the State.

Article 105. A person who is, or was, a doctor, dentist, midwife, nurse, advocate, patent agent, notary public or a religious functionary may refuse seizure of articles held in his custody or possession in consequence of a mandate he has received

in professional lines and which relates to secrets of other persons. But this shall not apply if the principal has consented to such seizure, or if the refusal of seizure is deemed as nothing but an abuse of right intended merely for the interest of the accused when he is not a principal or if there exist any special circumstances which shall be provided by the Rules of Court.

Article 106. A warrant of seizure or of search shall be issued in case seizure or search is to be effected elsewhere than in open court.

Article 107. A warrant of seizure or search shall contain the name of the accused and offense; articles to be seized or place, body or articles to be searched; effective period; and a statement that the execution of warrant shall not be commenced in any way after the lapse of such period and shall be returned to the court of issuance; and the date of issuance as well as such other matters as prescribed by the Rules of Court; and the signature and seal of the presiding judge.

The provisions of Para. 2 of Article 64 shall apply mutatis mutandis to the warrant of seizure or search mentioned in the preceding paragraph.

Article 108. A warrant of seizure or of search shall be executed by a secretary of a public procurator's office or a judicial police official or constable under the direction of a public procurator.

However, in cases where the court feels it is necessary to protect the interests of the accused, the presiding judge may direct that the warrant be executed by the court clerk or a judicial police official.

In the execution of a warrant of seizure or of search, the court may give such instructions in writing as it considers proper to an execution.

The instructions mentioned in the preceding paragraph may be caused to be made by a member of a collegiate court.

The provisions of Art. 71 shall apply mutatis mutandis to the execution of a warrant of seizure or of search.

Article 109. In the execution of a warrant of seizure or of search, a secretary of a public procurator's office or a court clerk may, if necessary, ask a judicial police official for assistance.

Article 110. A warrant of seizure or of search shall be shown to the person against whom the measure is taken.

Article 111. In the execution of a warrant of seizure or of search, locks may be removed or seals opened, or any other necessary measures taken. The same shall apply to the seizure or search effected in open court.

The disposition mentioned in the preceding paragraph may be conducted in regard to the seized articles.

Article 112. During the execution of a warrant of seizure or of search, any person whosoever may be forbidden to enter or leave the place without permission.

Any person who does not comply with the prohibition of the preceding paragraph may be forced to withdraw or be placed under guard until the execution is completed.

Article 113. A public procurator, accused or his counsel may be present when the warrant of seizure or of search is being executed. However, this shall not apply to an accused under detention.

The person who executed a warrant of seizure or of search shall inform, in advance, the persons who may be present in accordance with the provisions of the preceding paragraph, of the date and time and the place of the execution. However, this shall not apply to the case where a person who is entitled to be present at the execution clearly expresses his will in advance, to the court or a judge, not to be present there and to the case where urgency is required.

In the execution of a warrant of seizure or of search, the court may, if necessary, cause the accused to be present.

Article 114. In case a warrant of seizure or of search is to be executed in a public office, a head of such office or a person acting for him, shall be notified

of the fact and caused to be present when the disposition is being effected.

Where, apart from cases governed by the provisions of the preceding paragraph, a warrant of seizure or of search is to be executed in the dwelling of a person or in premises, buildings or vessels guarded by persons, the occupant or keeper or persons acting for the same shall be caused to be present. If such persons are not available, a neighbor or an official of local public entities shall be caused to be present.

Article 115. When a warrant of search is executed on the person of a woman, another woman of full age shall be required to be present. But this shall not apply in cases of urgency.

Article 116. Before sunrise and after sunset the dwelling of a person or premises, buildings or vessels guarded by persons, may not be entered for the purpose of the execution of a warrant of seizure or of search unless the warrant includes a statement that it is to be executed even at night.

In case the execution of a warrant of seizure or of search was commenced before sunset, the disposition may be continued even after sunset.

Article 117. The restriction provided for in Para. 1 of the preceding article need not be observed in respect to the execution of a warrant of seizure or of search in the following:

(1) Places which are considered to be habitually used for gambling, lotteries or acts prejudicial to good morals;

(2) Inns, restaurants or other places to which the public has access even at night-time; but only during the hours when they are open to the public.

Article 118. When it is necessary in case the execution of a warrant of seizure or of search is suspended, the place concerned may be closed or the guard may be set for it until the execution is completed.

Article 119. When a search has been made without discovering any piece of evidence or articles liable to confiscation, a certificate to that effect shall be delivered, on his demand, to the person who has been subject to such search.

Article 120. In case of seizure, an inventory of the property taken shall be given to the owner, possessor or custodian of the property, or in his absence, to the person who represents him.

Article 121. In respect to articles seized which cannot be conveniently transported or held in custody, either a custodian may be appointed or the owner or some other person may be asked to assume custody thereof, if he gives consent to it.

Articles seized may be destroyed or thrown away if there is apprehension of their causing danger.

The person who executed a warrant of seizure also may effect the dispositions mentioned in the preceding two paragraphs unless otherwise directed by a court.

Article 122. If there is apprehension that any articles seized which are liable to confiscation may be lost, destroyed or damaged, or if they are inconvenient to hold in custody, they may be sold by court and the proceeds held in the custody.

Article 123. Any articles seized which it is unnecessary to retain shall, by a ruling, be restored without awaiting the completion of the case.

On the demand of the owner, holder, custodian or party who has produced them, articles under seizure may be temporarily restored, by a ruling.

The opinion of a procurator and the accused or his counsel shall be heard before the rulings mentioned in the two preceding paragraphs are rendered.

Article 124. Ill-gotten goods seized, which it is unnecessary to retain shall, after hearing the opinion of a procurator and the accused or his counsel, be restored to the injured party, by a ruling without awaiting the completion of the case, but only when there are obvious reasons for restoring them to the injured party.

The provisions of the preceding paragraph shall not prevent any person interested from asserting his right by means of civil proceedings.

Article 125. A member of a collegiate court may be caused to effect seizure or search, or a judge of a District Court or a Summary Court at the place where such seizure or search is to be effected may be requisitioned to do so.

A requisitioned judge may in turn requisition another judge of a District Court or a Summary Court who has authority to act under such requisition.

If the requisitioned judge has himself no authority over the matter under requisition, he may transfer the requisition to a judge of another District Court or Summary Court, who is authorized to accept such requisition.

As regards seizure or search effected by a commissioned judge or a requisitioned judge the provisions relating to seizure or search effected by a court shall apply mutatis mutandis. But notice mentioned in Article 100, Para. 3 shall be given by a court.

Article 126. Where it is necessary for the purpose of execution of a warrant of production or of detention, a secretary of a public procurator's office or judicial police official may enter the dwelling of a person or the premises, buildings or vessels guarded by persons, for search of the accused.

In the above case a warrant of search is not necessary.

Article 127. The provisions of Articles 111, 112, 114 and 118 shall apply mutatis mutandis to search effected by a secretary of a public procurator's office, or a judicial police official in pursuance of the provisions of the preceding article. But in cases of urgency, the provisions of Article 114, Para. 2 need not be complied with.

## Chapter X

## Evidence by Inspection

Article 128. If it is necessary for the purpose of discovering truth, a court may effect an inspection of evidence.

Article 129. By way of inspection, an examination of the person, dissection of a corpse, opening of a grave, destruction of things or any other necessary disposition may be effected.

Article 130. Before sunrise and after sunset, the dwellings of a person or premises, buildings or vessels guarded by persons may be entered for the purpose of inspection only with the consent of the occupant or the keepers or persons acting for them. But this shall not apply when there is apprehension that the object of inspection might not be attained after sunrise.

Inspection commenced before sunset may be continued even after sunset.

In the places mentioned in Art. 117, the restriction specified in Para. 1 need not be observed.

Article 131. In case of examining the person, sex, condition of health and other circumstances of him must be taken into consideration and every measure must be taken, especially in the choice of the method, not to damage his reputation.

In case the person of a woman is examined, a doctor or another woman of full age shall be caused to be present.

Article 132. The court may summon persons other than the accused either to the court or to other place designated for the purpose of examining the person.

Article 133. In case any one who is summoned in accordance with the preceding Article does not appear without due reasons, the court may, by means of a ruling, impose him a non-penal fine not exceeding five thousand yen and at the same time order to compensate for the expenses resulting from his non-appearance.

An immediate kokoku appeal may be made against the ruling of the preceding paragraph.

Article 134. In case any one is summoned in accordance with Article 132 and does not appear without due reasons, he may be punished with a fine not exceeding five thousand yen or a detention.

Both fine and detention may be imposed according to the circumstances on him who has committed the offense of the preceding paragraph.

Article 135. Any person who does not obey the summons in accordance with Article 132 may be summoned again or produced by a warrant of production.

Article 136. Articles 62, 63, and 65 shall apply mutatis mutandis to the summons under the provisions of Article 132 and the preceding article, while Articles 62, 64, 66, 67, 70, 71 and Para. 1 of Article 73 to the production under the preceding article.

Article 137. In case where the accused or one other than the accused refuses the examination of the person without due reason, he shall be imposed a non-penal fine not exceeding five thousand yen by means of a ruling, and moreover may be ordered to compensate for the expenses resulting from such refusal.

An immediate kokoku appeal may be filed against the ruling mentioned in the preceding paragraph.

Article 138. Any person who refuses the examination of the person without due reason shall be punished with a fine not exceeding five thousand yen or a detention.

Any person who has committed the offense mentioned in the preceding paragraph may be punished with both fine and detention according to the circumstances.

Article 139. In case the court deems it ineffective to impose a non-penal fine or penalty upon one who refuses the examination of person, it may examine the person regardless of his refusal.

Article 140. Before punishing with non-penal fine by virtue of Article 137, or before carrying out examination of the person by virtue of the preceding Article, court shall hear the opinion (as to the necessity therefor), and also make a reasen-

able effort to ascertain the objections thereto of the individual who is to be examined.

Article 141. A judicial police official may, if necessary, be caused to assist in the inspection.

Article 142. The provisions of Articles 112-114, 118 and 125 shall apply mutatis mutandis to inspection.

## Chapter XI

## Examination of Witnesses

Article 143. Except as otherwise provided in this law, the Court may examine any person whomsoever as a witness.

Article 144. If, in respect to facts of which a person who is, or was, a public officer has obtained knowledge, either such person himself, or the public office to which he belongs or belonged, declares that they relate to official secrets, he may not be examined as a witness except with the consent of the competent supervisory office. But such office may not refuse to give such consent except in cases where compliance would be prejudicial to important interests of the State.

Article 145. When the declaration mentioned in the preceding article has been made by the following person, they shall not be examined as witnesses without the consent of the House in the case of a person mentioned in No. 1 and of the Cabinet in the case of a person mentioned in No. 2:

(1) Person who is or was a member of the House of Representatives or the House of Councillors;

(2) Person who is, or was, a Prime Minister or Minister of State.

In the case of the preceding paragraph, the House of Representatives, the House of Councillors or the Cabinet may not refuse to give such consent except in cases where compliance would be prejudicial to important interests of the State.

Article 146. One may refuse to answer any question which may tend to incriminate himself or herself.

Article 147. Any witness may refuse to answer any question which may tend to incriminate the following persons:

(1) The spouse, a relative by blood within the third degree of relationship or a relative by affinity within the second degree of relationship of the witness, or a person who was in any of such relationships to the witness;

(2) The guardian, supervisor of guardianship or curator of the accused.

(3) A person of whom the accused is guardian, supervisor of guardianship or curator.

Article 148. Even though a witness may be in one of the relationships mentioned in the foregoing paragraph to one or more of co-defendants or co-offenders, he may not refuse to answer as regards matters which concern only the rest of the co-defendants or co-offenders.

Article 149. A person who is, or was, a doctor, dentist, midwife, nurse, advocate, patent agent, notary public or a religious functionary may refuse testimony in respect to facts of which he has obtained knowledge in consequence of mandate he has received in professional lines and which relates to the secrets of other persons. But this shall not apply if the principal has consented, or if the refusal of testimony is deemed as nothing but an abuse of right intended merely for the interest of the accused when he is not a principal, or if there exist any special circumstances which shall be provided by the Rules of Court.

Article 150. If a witness who has been summoned fails to appear without good reason he may, by a ruling, be sentenced to a non-criminal fine not exceeding five thousand yen, and may, moreover, be ordered to make good the expenses arising from his non-appearance.

Immediate kokoku appeal may be filed against the ruling mentioned in the preceding paragraph.

Article 151. If a person who has been summoned as a witness fails to appear without good reason, he shall be liable to a fine not exceeding five thousand yen or detention.

In a case mentioned in the preceding paragraph, both fine and detention may be imposed according to the gravity and circumstances of the offense.

Article 152. A witness who does not respond to the summons may be summoned again or produced under a warrant of production.

Article 153. The provisions of Articles 62, 63 and 65 shall apply mutatis mutandis to summons of witness. The provisions of Articles 62, 64, 66, 67, 70, 71 and 73, Para. 1, shall apply mutatis mutandis to the production of witness.

Article 154. Witness should always be duly sworn except as otherwise provided in this law.

Article 155. A witness who cannot understand what an oath is shall be examined without being sworn.

Even though a witness mentioned in the preceding paragraph has taken oath (by mistake), it shall not prevent his testimony from being valid evidence.

Article 156. A witness may be caused to state inferences which he has drawn from facts which he has actually experienced.

The statement mentioned in the preceding paragraph shall not lose its validity as testimony even if it partakes of the nature of expert evidence.

Article 157. A procurator, the accused or his counsel may be present at the examination of a witness.

Notice of the date and place of the examination of a witness shall be given in advance to the persons who are entitled by virtue of the preceding paragraph to be present at the examination. However, this shall not apply if a person who is entitled to be present at the examination clearly expresses his will in advance, to the court, not to be present there.

When the persons mentioned in the first paragraph are present at the examination of a witness, they may, upon notifying a presiding judge, examine a witness.

Article 158. The court may summon for examination a witness to any place other than in court or examine him at the place where he is, after hearing the opinion of a public procurator and accused or his counsel, if it thinks it proper after having taken into consideration the importance of the witness, his age, vocation, health, the gravity of the offense and other special circumstances of the case.

In advance to the examination of a witness provided by the preceding paragraph, the court shall give the Public Procurator, the accused and his defense counsel an opportunity to know what questions are going to be asked of the witness by the Court.

Public procurator, the accused, or defense counsel may respectively add their own questions to the questions mentioned in the preceding paragraph, which he may request the court to ask of the witness.

Article 159. The court shall give the public procurator, the accused, or the defense counsel an opportunity to know what a witness has testified to, if the public procurator, the accused, or the defense counsel was not present at the examination of the witness prescribed by the foregoing Article.

In case the testimony of a witness mentioned in the preceding paragraph contains a new and unexpected disadvantage to the accused, he or his defense counsel may again request the court to re-examine the witness as regards matters which he or his defense counsel thinks necessary for the defense.

The court may dismiss the request mentioned in the preceding paragraph, if it thinks that the request is not a reasonable one.

Article 160. If a witness refuses to be sworn in or to testify without good reason he may, by a ruling, be sentenced to a non-criminal fine not exceeding five thousand yen and may, moreover, be ordered to make good the expenses arising from such refusal.

Immediate kokoku appeal may be filed against the ruling mentioned in the preceding paragraph.

Article 161. Any person who refuses to be sworn or to testify without good reason shall be liable to a fine not exceeding five thousand yen or detention.

In a case mentioned in the preceding paragraph, both fine and detention may be imposed according to the gravity and circumstances of the offense.

Article 162. A court may, by ruling, when it is necessary, order a witness to go together to the designated place. The witness may be produced, when he or she does not comply with the order of going together without proper reason.

Article 163. In case a witness is to be examined outside the court, a member of a collegiate court may be caused to make such examination, or a judge of a District Court or a Summary Court at the place where the witness actually is may be requisitioned to do so.

The requisitioned judge may in turn requisition a judge of another District Court or Summary Court who is authorized to accept such requisition.

If the requisitioned judge has himself no authority over the matter under requisition, he may transfer the requisition to a judge or another District Court or Summary Court who is authorized to accept such requisition.

In respect to the examination of witnesses, the commissioned or requisitioned judge may effect dispositions appertaining to the court or a presiding judge. But the rulings mentioned in Articles 150 and 160 may be rendered by the court also.

Despite the preceding paragraph, all the proceedings provided by the paragraph 2 and 3, Article 158 and Article 159 shall be carried out by the (principal) court.

Article 164. A witness may demand travelling expenses, daily allowances and charges for lodging. But this shall not apply if, without good reason, he has refused to be sworn or to testify.

## Chapter XII

### Expert Evidence

Article 165. A court may order persons of learning or experience to give expert evidence.

Article 166. An expert witness shall be caused to take an oath.

Article 167. When expert evidence is required in respect to the mental or physical condition of the accused, a court may, if necessary, have the accused confined in a hospital or other suitable place for a fixed period.

In order to confine the accused in accordance with the preceding paragraph, a writ of confinement shall be issued.

Unless otherwise provided in this law the provisions relating to detention shall apply mutatis mutandis to the confinement mentioned in the first paragraph. But this shall not apply to the provisions relating to release on bail.

Article 168. Where it is necessary for the purpose of furnishing expert evidence, an expert witness may, with the permission of a court, enter a dwelling of the person, or premises, buildings or vessels guarded by persons, examine the person, dissect a corpse, open a grave, or break and destroy things.

The court must, on giving the permission mentioned in the preceeding paragraph, issue a warrant of permission in which the name of the accused, offense, place to be entered, the person to be examined, corpse to be dissected, grave to be opened, things to be destroyed, the name of expert witness and other matters provided by the Rules of Court shall be entered.

A court may provide some conditions that it deems reasonable, as for the examination of a person.

The expert witness shall show the warrant of permission to the person who is subject to the disposition mentioned in the first paragraph.

The provisions of the three preceding paragraphs shall not apply to the disposition mentioned in the first paragraph, which are effected by an expert witness in the court room.

The provisions of Articles 131, 137, 138 and 140 shall apply mutatis mutandis to the case of the examination of the person made by an expert witness in accordance with the provision of the first paragraph.

Article 169. A court may cause a member of a collegiate court to effect disposition necessary for taking expert evidence. But this shall not apply to the disposition provided for in Article 167, Para. 1.

Article 170. A procurator or counsel may be present at the inquiry by an expert witness. The provisions of Article 157, Para. 2, shall apply mutatis mutandis to this case.

Article 171. With the exception of the provisions relating to production, the provisions of the preceding chapter shall apply mutatis mutandis to expert evidence.

Article 172. In case where he whose person is to be examined by an expert witness in accordance with the first paragraph of Article 168 refuses the examination, the expert witness may request the examination of that person to a judge.

The judge, upon the request mentioned in the preceding paragraph, may examine the person in accordance with the provisions of Chapter X applied with necessary modifications.

Article 173. An expert witness may demand fees for his opinion and reimbursement of any disbursements, in addition to travelling expenses, daily allowances and charges for lodging.

Article 174. In case person is examined in regard to past facts which he knows by virtue of special knowledge, the provisions of the preceding chapter shall govern instead of those of this chapter.

## Chapter XIII

### Interpretation and Translation

Article 175. In case a person not versed in the Japanese language is required to make a statement, an interpreter shall be caused to interpret.

Article 176. In case a deaf or mute person is required to make a statement, an interpreter may be caused to interpret.

Article 177. Letters, signs or marks not in the Japanese language may be caused to be translated.

Article 178. The provisions of the preceding chapter shall apply mutatis mutandis to interpretation and translation.

## Chapter XIV

### Preservation of Evidence

Article 179. The suspect, accused or his counsel may, when there are reasons which make it difficult to use evidences unless they are preserved in advance, only prior to the date for first public trial, request a judge to effect such disposition as seizure, search, evidence by inspection, examination of witness or expert evidence.

The judge who has received the request prescribed in the preceding paragraph has the same power as the court or presiding judge regarding the dispositions thereof.

Article 180. Procurator and counsel may, in the court, inspect and also copy documents and pieces of evidence relating to the disposition mentioned in Para. 1 of the preceding article. However, in case counsel copies pieces of evidence, he shall obtain the permission of a judge.

The accused or suspect may, in the court, inspect the documents and pieces of evidence mentioned in the preceding paragraph with the permission of a judge. However, this shall not apply to the case where a counsel is assigned to the accused or suspect.

## Chapter XV

## Costs of Trial

Article 181. When a penalty has been pronounced, the whole or a part of the costs of the trial shall be charged to the accused.

Even where no penalty has been pronounced, any costs which have arisen from a cause imputable to the accused may be charged to him.

In case only a public procurator has taken an appeal, and the appeal is dismissed or withdrawn, the cost connected with the appeal may not be charged to the accused.

Article 182. The costs of an action against co-offenders may be charged to such co-offenders to be borne by them jointly and severally.

Article 183. If, in case a judgment of innocence or acquittal has been delivered on the case in respect to which public action has been brought upon complaint, accusation or request, the complainant, accuser or person who made a request has acted in bad faith or with gross negligence, the costs of the trial may be charged to them.

Article 184. In the event of a recourse or a demand for reopening of procedure being withdrawn by a person other than a procurator, the costs connected with the appeal or reopening of procedure may be charged to such person.

Article 185. When the costs of the trial are to be charged to the accused in a case in which the proceedings are terminated by decision, relating to such costs shall be rendered ex-officio. Against such decision an appeal may be raised only where an appeal has been made against the decision in the principal action.

Article 186. Where the costs of the trial are to be charged to a person other than the accused in a case in which the proceedings are terminated by decision, a separate ruling for the purpose shall be rendered ex-officio. Against such a ruling, immediate kokoku appeal may be made.

Article 187. Where the costs of the trial are to be imposed in a case in which the proceedings are terminated otherwise than by decision, a separate ruling for the purpose shall be rendered ex-officio by the court in which the case was last pending. Against such a ruling immediate kokoku appeal may be made.

Article 188. If, in a decision ordering the costs of the trial to be borne, the amount is not fixed, the same shall be fixed by a procurator who is to direct its execution.

## Book II

## First Instance

### Chapter I

### Inquiry and Investigation ([redacted])

Article 189. Any member of the National Rural Police or of the police of Autonomous Entities shall act as a judicial police official when and as authorized by law or regulations of the National Public Safety Commission, the Prefectural Public Safety Commission, the Local Public Safety Commission, or of the Special Ward Public Safety Commission concerned.

Judicial police officials shall, when they deem a crime has been committed, investigate the offender and evidence thereof.

Article 190. Who are to exercise the functions of judicial police officials in regard to forestry, railways or other special matters, and the scope of their functions shall be provided by other law.

Article 191. Public Procurator may, if he deems it necessary, investigate a crime himself.

Secretary of public procurator's office shall investigate a crime under the instruction of a public procurator.

Article 192. There shall be mutual cooperation and coordination on the part of public procurator and the Prefectural Public Safety Commission, Local Public Safety Commission, Special Ward Public Safety Commission and judicial police officials regarding the criminal investigation.

Article 193. Public Procurator may, in accordance with his territorial jurisdiction, give necessary general suggestion to judicial police officials regarding their investigation. Such general suggestion shall be confined to setting forth standards for the essential requirements of criminal investigation needed to institute and support the indictment.

Public Procurator may, in accordance with his territorial jurisdiction, also issue such general instructions as are necessary to coordinate investigations.

Public Procurator may, when it is necessary in case he himself investigates a crime, instruct judicial police officials and cause them to assist in the investigation.

In the case of the three preceeding paragraphs, judicial police officials shall follow the suggestions and instructions of the public procurator.

Article 194. The Procurator-General, Superintending Procurator of the High Procurator's Office, or Chief Procurator of the District Procurator's Office may, when he deems it necessary in cases where judicial police officials fail to follow the advice and instructions of procurators without good reason, file charges regarding disciplinary action against them or their removal, either with the National Public Safety Commission, Prefectrual Public Safety Commission, Local Public Safety Commission, or the Special Ward Public Safety Commission in case they are police officials, or with the person who has the right of disciplinary action or removal in case they are the judicial police officials other than the national rural police officials and municipal police officials.

The National Public Safety Commission, Prefectural Public Safety Commission, Local Public Safety Commission or the Special Ward Public Safety Commission or the person who has the right to give disciplinary action against or remove the judicial police officials other than the national rural police officials and municipal police officials shall, when they deem that the charges mentioned in the preceding paragraph are well-founded, give disciplinary action against or remove the persons charged, as prescribed by other law.

Article 195. Public Procurator and secretaries of Public Procurator's Office may, when it is necessary for the purpose of investigation, carry out their duties outside their territorial jurisdiction.

Article 196. Public Procurators, secretaries of Public Procurator's Office, judicial police officials and defense lawyers and any other persons whose duties are connected with criminal investigation, are required to be cautious of injuring the reputation of suspect or other persons and of interferring with the administration of the criminal investigation.

Article 197. With regard to the investigation, such examination as may be necessary for attaining its object may be made. But compulsory dispositions may not be effected except in cases when there are special provisions therefor in this law.

Public offices, or public or private organizations may be asked to make reports on necessary matters relating to the investigation.

Article 198. The Public Procurator, the secretary of the Public Procurator's Office and the judicial police officials may ask any criminal suspect to appear in their offices and question him, if it is necessary for pursuing the criminal investigation. But the suspect may, except in case he has been arrested or is under detention, refuse to appear or, after he has appeared, may withdraw at any time.

When questioning the suspect, the Public Procurator, the secretary of the public procurator's office and the judicial police officials shall, in advance of the examination, notify the suspect that he may refuse answer to any question.

What the suspect states may be taken down in a document.

The document mentioned in the preceding paragraph shall be submitted or read to the suspect for his verification and, if he make a motion for any increase or decrease or alteration, his remarks shall be entered in the document.

If the suspect affirms that the contents of the document are correct, he may be asked to sign and seal on it; however, this shall not apply if the suspect refuses to do so.

Article 199. Where there exists any reasonable cause for the suspicion that a crime has been committed by a suspect, public procurator, secretary of a public procurator's office or judicial police official may arrest him upon a warrant of arrest issued in advance by a judge. But in respect to the offenses punishable with a fine not exceeding five hundred yen, detention or a minor fine, such arrest may be effected only in case where the suspect has no fixed dwelling or where he fails to appear without good reason notwithstanding that he has been called in accordance with the provisions of the preceding article.

The warrant of arrest mentioned in the preceding paragraph shall be issued upon request of a public procurator or judicial police officer.

When asking for a warrant mentioned in the first paragraph, public procurator or judicial official shall inform the court of all the requests, if any, that have been made previously against the same suspect for the same offense.

Article 200. A warrant of arrest shall contain the name and dwelling of the suspect; the name of crime; essential facts of suspected crime; public offices or other places where to bring him; effective period and a statement that arrest cannot be made after the lapse of this period and that the warrant shall be returned to the court of issuance; the date issued; as well as such other matters as prescribed by the rules of the court; and the signature and seal of the judge issuing the warrant.

The provisions of Para. 2 and 3 of Article 64 shall apply mutatis mutandis to the warrant of arrest.

Article 201. When the suspect is arrested upon a warrant of arrest, the warrant shall be shown to him.

The provisions of Article 73, Para. 3, shall mutatis mutandis apply to the case where the suspect is arrested by a warrant of arrest.

Article 202. When a secretary of procurator's office or judicial police constable has arrested the suspect upon the warrant of arrest, the former shall immediately produce him to a procurator and the latter to a judicial police officer.

Article 203. When a judicial police officer has arrested the suspect upon a warrant of arrest or obtained the suspect who was arrested upon a warrant of arrest he shall immediately inform him of the essential fact of crime and the fact that he is entitled to appoint counsels, and then, giving him the opportunity for explanation, he shall immediately release the suspect when he believes there is no need to detain him, or take steps to transfer the suspect together with the documents and evidence to a procurator within forty-eight hours after the person of the suspect was subject to restraints, when he believes it is necessary to detain him.

In the case of the preceding paragraph, the suspect shall be asked whether or not he has a counsel and, if he has a counsel, he need not be informed of his right to select a counsel.

If the suspect is not transferred within the time limitation mentioned in the first paragraph, he shall be released immediately.

Article 204. When a procurator has arrested the suspect upon a warrant of arrest or obtained the suspect who was arrested upon a warrant of arrest (excluding such suspect as was delivered in accordance with the preceding article), he shall forthwith inform him of the essential fact of crime and the fact that he is entitled to appoint a counsel and then, giving him opportunity for explanation, shall immediately release him when he believes there is no need to detain him, or shall request a judge to detain him within forty-eight hours after his person was subjected to restraints, when he believes it necessary to detain him. However, the request for detention is not necessary in case public action has been instituted within the limitation of time.

If the request for detention or the institution of public action is not made within the time limitation mentioned in the preceding paragraph, the suspect shall be released immediately.

The provisions of Para. 2 of the preceding Article shall apply mutatis mutandis to the cases of Para. 1 of this Article.

Article 205. When a procurator has received the suspect delivered in accordance with the provisions of Article 203, he shall give the suspect an opportunity for explanation, and immediately release the suspect if he believes there is no need to detain him, or shall request a judge to detain him, within twenty-four hours after he received the suspect, if he believes it is necessary to detain the suspect.

The time limitation mentioned in the preceding paragraph shall not exceed seventy-two hours after the person of the suspect was subjected to restraints.

In case the public action is instituted within the time limitation provided by the two preceding paragraphs, a request for the detention need not be made by the procurator.

If the request for detention or the institution of public action is not made within the time limitation mentioned in the two preceding paragraphs, the suspect shall immediately be released.

Article 206. In case unavoidable circumstances prevented procurators or judicial police officers from complying with the time limitations provided for in the three preceding articles, a procurator may, explaining the reasons thereof, request a judge to detain the suspect.

The judge who has been requested as prescribed in the preceding paragraph may not issue warrant of detention unless he recognizes that the unavoidable circumstances have justified the delay involved.

Article 207. The judge who has received the request mentioned in the three preceding articles shall have the same power as a court or presiding judge regarding the disposition thereof. However, this shall not apply to release on bail.

A judge shall promptly issue a warrant of detention when he has received the request mentioned in the preceding paragraph. However, when he recognizes that there are no grounds for detention and when a warrant of detention cannot be issued in accordance with the provisions of Para. 2 of the preceding article, he shall immediately release the suspect without issuing a warrant of detention.

Article 208. When a public action has not been instituted within ten days after the request of detention was made, in connection with the case where a suspect was detained in accordance with the provisions of the preceding article, a public procurator shall immediately release the suspect.

A judge may, if he deems unavoidable circumstances exist, extend the period prescribed in the preceding paragraph upon the request of a public procurator. Such total period of extension or extensions shall in no event be longer than ten days.

Article 209. The provisions of Articles 74, 75 and 76 shall apply mutatis mutandis to the arrest effected by a warrant of arrest.

Article 210. When there are sufficient grounds to suspect the commission of a crime punishable by death penalty or pehal servitude or imprisonment for an indeterminate period or for a period of three years or more, and if in addition because of great urgency a warrant of arrest cannot be obtained beforehand from a judge, a public procurator, a secretary of a public procurator's office or a judicial police official may, upon statement of the reasons therefor, apprehend a suspect. In such cases, the proceedings for obtaining a warrant of arrest from a judge shall be immediately taken. If a warrant of arrest is not issued, the suspect must be released immediately.

The provisions of Para. 1 of Article 200 shall apply mutatis mutandis to the warrant of arrest mentioned in the preceding paragraph.

Article 211. In case a suspect has been arrested in accordance with the provisions of the preceding article, the provisions regarding the case where a suspect was arrested in accordance with the provisions of Article 199 shall mutatis mutandis apply.

Article 212. A person who is committing or has just committed an offense, is called a flagrant offender.

If any person who falls under one of the following items is found under circumstances which indicate clearly that an offense has just been committed, he shall be deemed flagrant offender.

(1) A person being pursued with hue and cry;

(2) A person carrying with him stolen goods, or arms or other objects apparently used in connection with the offense;

(3) A person bearing on his body or clothes visible traces of the offense;

(4) A person who attempt to run away when challenged.

Article 213. Any person whosoever may arrest a flagrant offender without a warrant.

Article 214. When any person other than a procurator, a secretary of the procurator's office, and a judicial police official has arrested the offender he shall immediately deliver him to a procurator of a District or Local Public Procurator's Office or to a judicial police official.

Article 215. When a judicial police constable has obtain delivery of a flagrant offender, he shall promptly deliver him to a judicial police officer.

A judicial police constable who has obtained delivery of the offender shall take down the name and residence of the arrester and the reason for the arrest. If necessary, he may require the arrester to accompany him to the government or municipal office.

Article 216. The provisions relating to the case where a suspect has been arrested in accordance with Article 199 shall apply mutatis mutandis to the case where a flagrant offender has been arrested.

Article 217. Regarding the flagrant offense punishable with a fine not more than five hundred yen, detention or minor fine, the provisions of Articles 213-216 shall apply only in case the dwelling or name of the offender is unknown or there is apprehension of the offender taking flight.

Article 218. If necessary for the investigation of a crime, a public procurator, secretary of the Public Procurator's Office or judicial police official may effect seizure, search and take evidence by inspection upon the warrant issued by a judge. In this case, the examination of the person must be made upon the warrant for the examination of the person.

The warrant mentioned in the preceding paragraph shall be issued upon demand of a public procurator, secretary of the Public Procurator's Office of judicial police officer.

A public procurator, secretary of the Public Procurator's Office of judicial police officer must, in case he requests the warrant for the examination of the person, show the reason for the necessity of examination of the person, sex and physical condition of the person to be examined and the matters provided for in the Rules of Court.

Judge may provide some conditions that he deems reasonable, as for the examination of a person.

Article 219. The warrant mentioned in the preceding article shall contain the name of the suspect or accused and name of offense, articles to be seized, place, person or articles to be searched, place or articles to be inspected for taking evidence, person to be examined and conditions relating to the examination of the person, effective period, a statement that the seizure, search or taking evidence by inspection shall not be commenced in any way after the lapse of such period and the warrant shall be returned to the court, the date of issuance as well as such other matters as provided for in the Rules of Court, and shall be signed and sealed by the judge issuing the warrant.

The provisions of Para. 2 of Article 64 shall apply mutatis mutandis to the warrant mentioned in the preceding Article.

Article 220. In cases where a procurator, a secretary of public procurator's office or a judicial police official arrests the suspect in accordance with Article 199 or where he arrests a flagrant offender, he may, if necessary, take the following actions, and the same shall, if necessary, apply to the case where a suspect is arrested in accordance with Article 210:

(1) To ender the dwelling of a person, or premises, building or vessels guarded by persons and search for the suspect;

(2) To seize, search or inspect on the spot of the arrest. The things seized shall be returned forthwith if a warrant of arrest cannot be obtained in the case mentioned in the latter part of the preceding paragraph.

For the dispositions mentioned in the first paragraph, a warrant need not be obtained.

The provisions of Item 2, Para. 1 and the preceding paragraph shall mutatis mutandis apply to the case where a secretary of procurator's office or a judicial police official executes a warrant of production or detention. The provisions of Item 1, Para. 1 shall mutatis mutandis apply to the case where the warrant of production or detention issued against a suspect is executed.

Article 221. A procurator, secretary of the procurator's office or judicial police official may detain articles which have been left behind by a suspect or any other person, or those which have been voluntarily produced by their owner, possessor or custodian.

Article 222. The provisions of Articles 99, 100, 102 to 105, 110 to 112, 114, 115 and 118 to 124 shall apply mutatis mutandis to the seizure and search effected by a public procurator, secretary of the Public Procurator's Office or judicial police official in accordance with the provisions of Articles 218, 220 and 221. The provisions of Articles 110, 112, 114, 118, 129, 131 and 137 to 140 shall apply mu-

tatis mutandis to the taking of evidence by inspection effected by a public procurator, secretary of the Public Procurator's Office or judicial police official in accordance with the provisions of Articles 218 or 220. However, a judicial constable may not effect the disposition provided for in Articles 122 to 124.

In case of searching the suspect in accordance with the provision of Article 220, the provisions of the second paragraph of Article 114 need not be complied with, if urgency is required.

The provisions of Articles 116 and 117 shall apply mutatis mutandis to the seizure and search effected by a public procurator, secretary of the Public Procurator's Office or judicial police official in accordance with the provisions of Article 218.

Before sunrise and after sunset, a public procurator, secretary of Public Procurator's Office or judicial police official may not enter the dwelling of a person or premises, buildings or vessels guarded by persons, for the purpose of taking evidence by inspection in accordance with the provision of Article 218. However, this shall not apply to the places mentioned in Article 117.

In case the taking evidence by inspection is commenced before sunset, the disposition may be continued even after the sunset.

In case a public procurator, secretary of Public Procurator's Office or judicial police official effects seizure, search or taking evidence by inspection in accordance with the provisions of Article 218, the suspect may, if necessary be caused to be present.

In case any one who refuses the examination of the person must be imposed a non-penal fine or must be ordered to compensate for the expenses resulting from the refusal, the request thereof shall be made to the court.

Article 223. The public procurator, the Secretary of the Public Procurator's Office and the judicial police officials may ask any person other than the suspect

to appear in their offices, question him or request him to formulate an opinion as an expert or act as interpreter or translator, if it is necessary for pursuing the criminal investigation.

Proviso of Para. 1 of Article 198 and Paras. 3 - 5 of the same article shall apply mutatis mutandis to the case prescribed by the preceding paragraph.

Article 224. In cases where a request has been made for expert evidence by virtue of Para. 1 of the preceding article, and the measures provided by Para. 1, Article 167 are needed, the public procurator, the secretary of the Public Procurator's Office and the judicial police officer shall ask the judge for the measures above mentioned.

The judge, if he recognizes the asking mentioned in the preceding paragraph as reasonable, shall carry out the measures according to Article 167.

Article 225. An individual who, as an expert, fulfills the request made by virtue of Para. 1, Article 223, may carry out the measures provided by Para. 1, Article 168, after he obtains permission of the judge.

The permission mentioned in the preceding paragraph shall be asked by the public procurator, the Secretary of the Public Procurator's Office or the judicial police officers.

Where the judge recognizes that the asking mentioned in the preceding paragraph is reasonable, he shall grant it by issuing a warrant of permission.

Article 168, Paras. 2, 3, 4, and 6 shall apply mutatis mutandis to the warrant of permission.

Article 226. When an individual who apparently possesses information essential to the investigation of a crime refuses to appear or disclose such information voluntarily at the examination in accordance with Para. 1, Article 223, the public procurator may request a judge to interrogate him as a witness, before the first date fixed for the public trial of the case.

Article 227. When there is cause to believe that an individual who has voluntarily furnished information at the examination in accordance with Para. 1, Article 223, may be subjected to pressures to withdraw or change such statements in testimony at the public trial, and when it appears that such testimony will be essential for proving the guilt of the accused, the public procurator may request a judge to interrogate the person as a witness, before the first date fixed for the public trial of the case.

The procurator must state the reasons of such interrogation and show that it is absolutely necessary for proving the guilt of the accused.

Article 228. A judge to whom the request provided by the two preceding articles has been made shall have the same authority as a court or a presiding judge has in regard to the examination of a witness.

The judge may, when he recognizes it does not appear to interfere with the pursuance of the criminal investigation, cause the accused, the suspect or the counsel to be present at the examination mantioned in the preceding paragraph.

Article 229. In the event of the body of a person who had died an unnatural death or is suspected of having died an unnatural death being found, a procurator of a District or Local Public Procurator's Office which has jurisdiction over the place where it has been found shall hold an inquest (examine the body).

A procurator may cause a secretary of a Public Procurator's Office or a judicial police officer to effect the dispositions mentioned in the preceding paragraph.

Article 230. A person who has been injured in consequence of an offense may file a complaint.

Article 231. The legal representative of the injured party may file an independent complaint.

On the death of the injured party, his spouse or any of his lineal relatives or brothers and sisters may file a complaint, but not against the express intention of the injured party.

Article 232. Where the legal representative of the injured party is the suspect, the spouse of the suspect, a blood relative within the fourth degree of relationship or a relative by affinity within the third degree or relationship of the suspect, a relative of the injured party may file an independent complaint.

Article 233. In respect to the offense of defaming a deceased person, the relative or descendants of the deceased may file a complaint.

The provisions of the preceding paragraph shall govern also where, in respect to an offense of defamation, the injured party has died without filing a complaint. But no action may be taken contrary to the express intentions of the injured party.

Article 234. If there is no person to file a complaint, in respect to an offense subject to prosecution on complaint, a procurator may, on the application of any person interested, designate a person who can file a complaint.

Article 235. In respect to an offense subject to prosecution on complaint, no complaint may be made after the lapse of six months from the day on which knowledge of the offender was obtained. However, this shall not apply to the complaint to be made by the representative of a foreign power in accordance with Article 232, Para. 2 of the Penal Code or to the complaint to be made, in relation to the crime against a foreign mission sent to Japan as mentioned in Articles 230 or 231 of the Penal Code, by such mission.

Complaint in the case contemplated in the proviso of Article 229 of the Penal Code shall not be valid unless it is made within six months from the day on which the judgment declaring the marriage void, or annulling it, became final and conclusive.

Article 236. Where there are two or more persons entitled to file a complaint, failure by one of them to observe the term for complaint shall not operate against the others.

Article 237. Complaint may be withdrawn at any time before public action has been instituted.

A person who has had his complaint withdrawn shall be barred from filing another complaint.

The provisions of the two preceding paragraphs shall apply mutatis mutandis to a demand made in a case which is to be received on demand.

Article 238. A complaint filed against one or more of the co-offenders in an offense subject to prosecution on complaint, or the annulment thereof, shall take effect in respect to the other co-offender also.

The provisions of the preceding paragraph shall apply mutatis mutandis to an accusation or demand made in respect to a case which is to be received on accusation or demand.

Article 239. Any person who believes that an offense has been committed, may lodge an accusation.

When a government or public official in exercise of his functions believes that an offense has been committed, he must lodge an accusation.

Article 240. Complaints may be filed by proxy. The same shall apply to the annulment of complaints.

Article 241. Complaint or accusation shall be filed with a procurator or a judicial police officer in writing or orally.

On receipt of an oral complaint or accusation, a procurator or a judicial police officer shall draw up a protocol.

Article 242. On receipt of complaint or accusation, a judicial police officer shall promptly forward the documents and the pieces of evidence pertaining thereto to the public procurator.

Article 243. The provisions of the two preceding articles shall apply mutatis mutandis to the annulment of complaint or accusation.

Article 244. The complaint or annulment thereof to be made by the representative of a foreign power in accordance with the provisions of Article 232, Para. 2 of the Criminal Code, may be made to the foreign minister notwithstanding the provision of Article 241 and the preceding Article of this Law.

The same shall apply to the complaint or annulment thereof, regarding the crime against a foreign mission sent to Japan as mentioned in Article 230 or 231 of the Criminal Code, to be made by such mission.

Article 245. The provisions of Articles 241 and 242 shall apply mutatis mutandis to self-denunciation.

Article 246. Except as otherwise provided in this law, when a judicial police officer has conducted the investigation of a crime, he shall send the case, together with the documents and pieces of evidence, to public procurator. But this shall not apply to the case which is specially designated by a procurator.

## Chapter II

## Public Action

Article 247. Public action shall be instituted by public procurator.

Article 248. If, after considering the character, age and situation of the offender, the gravity of the offense, the circumstances under which the offense was committed, and the conditions subsequent to the commission of the Offense, prosecution is deemed unnecessary, public action may be dispensed with.

Article 249. Public action shall not take effect against persons other than the accused designated by public procurator.

Article 250. Prescription shall be completed upon the lapse of:

(1) Fifteen years, for offenses punishable with death;

(2) Ten years, for offenses punishable with imprisonment with or without hard labor for an indeterminate term;

(3) Seven years, for offenses punishable with imprisonment with or without hard labor for a term of not less than ten years;

(4) Five years, for offenses punishable with imprisonment with or without hard labor for a term of less than ten years;

(5) Three years, for offenses punishable with imprisonment with or without hard labor for a term of less than five years or with a fine;

(6) One year, for offenses punishable with detention or a minor fine.

Article 251. In regard to offenses punishable by the concurrent imposition of two or more principal penalties or by the imposition of two or more principal penalties, the provisions of the preceding article shall apply with reference to the heaviest penalty.

Article 252. When the penalty is to be increased or commuted in accordance with the Criminal Code, the provisions of Article 250 shall apply with reference to the penalty not so increased or commuted.

Article 253. Prescription shall commence to run from the time when the criminal act has ceased.

In the case of an offense committed conjointly by two or more persons, the period for prescription shall, in respect to all the co-offenders, commence to run from the time when the final act has ceased.

Article 254. Prescription shall cease to run on the institution of the public action and begin to run when a decision notifying jurisdictional incompetency or dismissing the indictment becomes finally binding. However, this shall not apply in cases where the institution of the public action has lost its validity in accordance with Para. 2 of Article 271.

The cessation of prescription caused by an indictment laid against one of the co-offenders shall take effect against other co-offenders also. And the prescription which has been stayed shall begin to run when the decision of the case becomes finally binding.

Article 255. Prescription shall not run during the period for which the accused is outside of Japan or he conceals himself so that it is impossible to serve him with a copy of the indictment.

The matters needed for proving the absence of the criminal from Japan or his concealment which made the service of indictment impossible shall be provided by Rules of Court.

Article 256. Public action must be instituted by filing a written indictment (with Court).

The written indictment shall contain:

(1) Name of the accused and other matters necessary to specify the accused,

(2) Facts constituting the offense charged,

(3) Charge.

Facts constituting the offense charged shall be described clearly in the form of specified counts, in which time, place and method of offense must be stated as far as known.

Charges shall be stated by enumerating the names of laws or ordinances which the accused has violated and shall be applicable to the case. However, errors in the citation or enumeration of the name of laws or ordinances, if they do not create any substantial prejudice to the defense of the accused, shall not affect the validity of the indictment.

Several counts and charges may be put forward in a conjunctive or alternative way.

No evidential document must be annexed or referred to in the written indictment which may cause the court to form a conclusion in advance of trial.

Article 257. Public action may be cancelled before the judgment in the first instance has been rendered.

Article 258. If a public procurator considers that the case does not come within the jurisdiction of the court corresponding to the public procurator's office to which

he belongs, he shall send such case, together with the documents and pieces of evidence, to a procurator of the public procurator's office corresponding to the competent court.

Article 259. When public procurator has made a decision not to institute an action, he shall promptly inform the suspect of such fact, upon his request.

Article 260. If, in a matter respecting which complaint or accusation or demand has been lodged, public action has been instituted, or a decision has been taken not to institute the same, notice of such fact shall, by a procurator, be promptly given to the complainant or accuser of the person who demanded. The same shall apply where an action has been cancelled, or the case has been sent to a procurator of another public procurator's office.

Article 261. If, in a case respecting which complaint or accusation or demand has been lodged, a decision has been taken not to institute an action, a procurator shall, upon request of the complainant or accuser or the person who demanded, promptly inform them of the reasons therefor.

Article 262. If, in a case respecting which complaint or accusation is made concerning the offenses mentioned in Articles 193 to 196 of the Criminal Code and the complaint and the accuser is dissatisfied with the decision made by a public procurator not to institute an action, he may apply to a District Court having jurisdiction over the place of the public procurator's office to which that procurator belongs for committing the case to a court for trial.

The application mentioned in the preceding paragraph shall be made by submitting a written application to a procurator who made the decision not to institute an action within seven days from the day on which the notice mentioned in Article 260 was received.

Article 263. The application mentioned in the first paragraph of the preceding article may be withdrawn until the ruling of Article 266 is rendered.

The person who made the withdrawal as provided in the preceding paragraph may not make anew the request mentioned in the first paragraph of the preceding article in respect to the same case.

Article 264. A procurator shall institute public action if he considers the application mentioned in the first paragraph of Article 262 well-founded.

Article 265. Trial and judgment on the application mentioned in the first paragraph of Article 262 shall be conducted and delivered by a collegiate court.

The court may, if it deems necessary, cause a member of a collegiate court to investigate the fact or commission a judge of a District or Summary Court to do so. In this case a commissioned judge or a requisitioned judge has the same authority as the court or a presiding judge.

Article 266. On receipt of the application mentioned in the first paragraph of Article 262, a court shall render a ruling according to the following classification:

(1) In the event of the application having been made in a form contrary to that of law or ordinance or after the right of application has extinguished or of its being without grounds, it shall be dismissed;

(2) If the application is well-founded the case shall be committed to a competent District Court for trial.

Article 267. When the ruling mantioned in No. 2 of the preceding article has been rendered, public action is deemed to have been instituted on the case.

Article 268. When a case has been committed to it for trial in accordance with the provisions of Article 266, No. 2, the court shall designate from among advocates one who shall sustain the action on such case.

The advocate designated as mentioned in the preceding paragraph shall exercise the functions of a procurator in order to sustain the action on the case until the judgment has become finally binding. But the advocate mentioned in the preceding

paragraph shall commission a procurator to direct secretaries of Public Procurator's Office or judicial police officers or constables for criminal investigation.

The advocate who exercises the functions of a procurator in accordance with the preceding paragraph is deemed to be an official engaged in the public service in accordance with laws and ordinances.

A court may cancel the designation of the advocate designated in accordance with the first paragraph at any time if it findsthat he is not qualified to exercise his functions or there are any other special circumstances.

The advocate designated in accordance with the first paragraph shall be given allowances as fixed by cabinet order.

Article 269. When a court dismisses the request mentioned in the first paragraph of Article 262 or when the request is withdrawn, the court may, by a ruling, cause the person who made the request to redress the whole or a part of the costs necessitated by the procedure relating to the request, an immediate kokoku appeal may be filed to the ruling.

Article 270. After the public action has been instituted, a procurator may inspect and copy the documents and pieces of evidence relating to the action.

## Chapter III

## Public Trial

### Section I. Preparation for Public Trial and Process of Public Trial

Article 271. On public action being instituted, court shall serve the accused with a copy of the indictment without delay.

In case where the copy of indictment fail to be served (on the accused) within two months after the public action having been instituted, the institution of public action shall lose its validity retroactively.

Article 272. On public action being instituted, court shall notify the accused without delay that he may have his defense counsel (at his own expense), and that he

may ask the court to appoint a defense counsel for him, if he cannot have it for himself because of poverty or other causes. However, this shall not apply where the accused has already his defense counsel.

Article 273. The presiding judge shall fix the date for public trial.

The accused shall be summoned for the public trial.

Public procurator, defense counsel and assistant shall be notified of the date for public trial.

Article 274. Where the accused (by chance) found within the precincts of a court, is notified by court of the fixed date for public trial in any way (other than with a writ of summons) he shall be deemed as served with a writ of summons.

Article 275. There shall be a reasonable interval prescribed by the Rules of Court between the first date fixed for public trial and the service of the writ summons.

Article 276. The presiding judge may change the fixed date for public trial, either ex-officio or upon request of public procurator, the accused or defense counsel.

Before changing the fixed date for public trial, court shall hear the opinion of public produrator and the accused or defense counsel as provided by the Rules of Court. However, this shall not apply, if the matter demands haste.

In cases prescribed by the provise of the preceding Para., court shall afford public procurator and the accused or defense counsel an opportunity to make objections at the commencement of the date fixed for public trial.

Article 277. Where court has changed the fixed date for public trial abusing its authority, protest may be made by every individual concerned in the case to obtain remedy in the judicial administrative control proceedings in accordance with the Rules or instructions of the Supreme Court.

Article 278. Where an individual who has been summoned for public trial can-

not appear (on the fixed date) because of sickness or other causes, he shall submit (to court), in accordance with the Rules of Court, a medical certificate or other evidential materials (for proving the causes.)

Article 279. Upon request of public procurator, the accused or defense counsel or ex-officio, court may ask other offices or organizations, whether they be public or private, for reports and information necessary for public trial.

Article 280. After the institution of public action and before the first date for public trial, dispositions relating to detention shall be taken charge of by a judge.

Where, before the expiration of the time limitations prescribed by the Articles 204 or 205, public action has been instituted against a suspect who has been arrested by virtue of the provisions of Article 199 or 210 or as a flagrant offender, and who has not been detained by warrant of detention, judge must notify the accused of the offense charged, hear the statement of him, and if he does not issue a warrant of detention, release him immediately.

Judge mentioned in the two preceding paragraphs has the same authority as court or presiding judge.

Article 281. Court may examine witnesses on other dates than fixed for public trial, when it deems it necessary after taking into consideration any such condition that is prescribed by Article 158 and hearing the opinion of public procurator and the accused or defense counsel.

Article 282. Hearing on the date for public trial shall be conducted in court room.

Court shall be opened in the assembled presence of judge, court clerk and public procurator.

Article 283. Where the accused is a juridical person, it may always appear by proxy.

Article 284. Where the offense charged is punishable by a fine not exceeding five thousand yen or a minor fine, the accused is not required to appear. However, he may appear by proxy.

Article 285. Where the offense charged is punishable by detention, the accused must be present on date for public trial when the judgment is rendered. He may be permitted to be absent at any other stage of the public trial, when the court finds that attendance is not essential for protection of his rights.

Where the offense charged is punishable by penal servitude or imprisonment not exceeding three years of maximum penalty or by a fine of more than five thousand yen, the accused must be present on date for public trial at the proceedings described in Article 291 and where the judgment is rendered. As to the other stage of public trial, the last part of the preceding paragraph shall apply.

Article 286. Except as otherwise provided by the three preceding articles, public trial may not be held if the accused is not present.

Article 287. The accused, while in public trial court, shall be subject to no physical restraint whatsoever, unless he employs violence or attempts to escape. And when the accused is subject to no physical restraint, guards may be placed over him.

Article 288. The accused may not withdraw from the court except with the permission of the presiding judge.

The presiding judge may take suitable measures to make the accused stay in court and to maintain order.

Article 289. Where the offense charged is punishable by death, penal servitude or imprisonment for an indeterminate period or for more than three years of maximum penalty, public trial shall not be conducted if the defense counsel does not appear.