

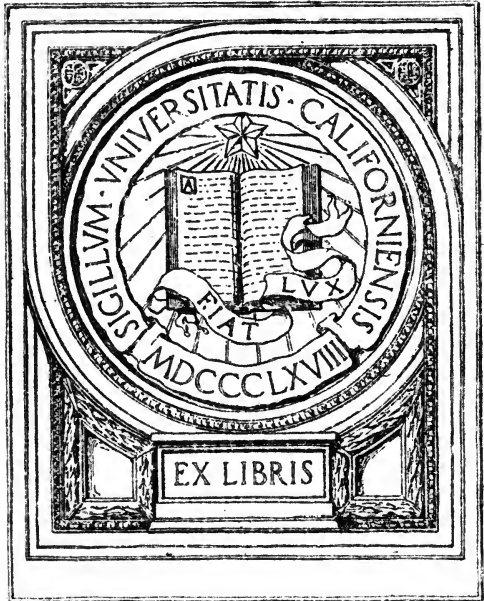
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CONSTITUTIONAL IMPERIALISM IN JAPAN

BY  
ERNEST WILSON CLEMENT

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*Faint handwritten text, possibly a signature or address, including the name "Sho Nemoto" and "M. P."*

To HON. SHO NEMOTO, M. P.

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ANNEX 10

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## PREFACE

THIS pamphlet is an attempt to give a bird's-eye view of the progress and position of constitutional government and representative institutions in Japan. It does not pretend to enter into a detailed discussion of the various questions which naturally arise; and yet it may serve as an introduction to a more thorough study. The Appendix contains the principal documents necessary for such a study. It may, indeed, seem that the Appendix is disproportionately large and that an operation should have been performed. But the material there reproduced is of such importance that it could not well have been omitted or abridged. If any desire a more detailed study of the subject of this pamphlet, they are referred to Uyehara's *Political Development of Japan*, from which we have often quoted. We only hope that the brief study of this pamphlet may arouse a deep interest in more profound investigation.

ERNEST WILSON CLEMENT.

TOKYO, JAPAN, DECEMBER 30, 1915.

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### PRONUNCIATION OF JAPANESE WORDS.

<p><i>a</i> like <i>a</i> in <i>father</i></p> <p><i>e</i> like <i>e</i> in <i>men</i></p> <p><i>i</i> like <i>i</i> in <i>pin</i></p> <p><i>o</i> like <i>o</i> in <i>pony</i></p> <p><i>u</i> like <i>oo</i> in <i>book</i></p>	<p><i>ai</i> as in <i>aisle</i></p> <p><i>ei</i> as in <i>weigh</i></p> <p><i>au</i> } as <i>o</i> in <i>bone</i></p> <p><i>ō</i> }</p> <p><i>ū</i> as <i>oo</i> in <i>moon</i></p>
---	---

*i* in the middle of a word and *u* in the middle or at the end of a word are sometimes almost inaudible.

The consonants are all sounded, as in English: *g*, however, has only the hard sound, as in *give*, although the nasal *ng* is often heard; *ch* and *s* are always soft, as in *check* and *sin*; and *z* before *u* has the sound of *dz*. In the case of double consonants, each one must be given its full sound.

There are as many syllables as vowels. There is practically no accent; but care must be taken to distinguish between *o* and *ō*, *u* and *ū*, of which the second is more prolonged than the first.

Be sure to avoid the flat sound of *a*, which is always pronounced *ah*.

Japanese words, especially names, should almost always be divided into syllables with a vowel at the end of each syllable. The principal exception is in the case of double consonants; there the syllabic division is made between the two consonants: *n* may also close a syllable.

## INTRODUCTION

**T**HE Japanese Constitution was promulgated February 11, 1889; the first national election for members of the Lower House of the Imperial Diet was held on July 4, 1890; and the first session of the Japanese Diet was formally opened on November 29, 1890. According to the Preamble of the Constitution, the time of the opening of that first session was to be "the date when the present Constitution comes into force". Of course, that instrument was practically in force as soon as it was promulgated, because preparations were begun to carry out in detail its provisions, as well as the provisions of the Imperial House Law, the Ordinance concerning the House of Peers, the Law of the (Two) Houses, the Law of the Election of Members of the House of Representatives, and the Law of Finance,—all of which were promulgated in connection with the Constitution.<sup>1</sup>

In any event (without trying to be too exact mathematically), it is perfectly proper to assume that, by 1915, twenty-five years of constitutional government in modern Japan have passed. This is, then, a suitable time to be "looking backward" over the quarter of a century, to attempt to portray the progress of constitutionalism in Japan, and to determine its present status. For this purpose, the heading "Constitutional Imperialism" has been adopted. It should be stated that there was a slight inclination to make the title "Imperialistic Constitutionalism." But as Imperialism was first chronologically and is still first theoretically and practically, with such modifications as have been introduced by the Constitution, it seemed more appropriate, from every point of view, to make "Constitutional" an adjective modifying "Imperialism".

This fact should be borne in mind by American readers, who must not expect to find, in the Japanese political system, such

<sup>1</sup> Those documents are printed in full in the Appendix of this book, except the Imperial House Law, which is given only in part.

popular rights and privileges as they enjoy, or such as the English enjoy under a constitutional monarchy. It must be remembered that the Japanese constitution was framed principally from German models, as best suited to the conditions in Japan at that time. The American Republic and the British Empire were too radical in their political constitutions to be followed by a nation emerging from centuries of feudalism and absolute imperialism. The modifications of imperialism could not be too extreme or too sudden, but must be slight and gradual. The people as a whole must be educated up to the point where they could understand and appreciate, not only political rights and privileges, but also political duties and responsibilities. Fukuzawa, the great Commoner of Japan, once wrote as follows:

Owing to the peculiar customs which have for so long existed, we are not at all sensitive about our privileges and our rights.

The Japanese people needed to be gradually educated up to an appreciation of popular rights and duties. Thus the Constitution was to be, in a sense, the school-master to lead them to Constitutionalism.

Now, this subject of "Constitutional Imperialism in Japan" may be conveniently divided into the following topics:

- I. The Imperial Prerogative.
- II. The Privy Council.
- III. The "Elder Statesmen."
- IV. The Cabinet.
- V. The Imperial Diet.
  - A. House of Peers.
  - B. House of Representatives.
- VI. The Judiciary.
- VII. The Rights and Duties of Subjects.
- VIII. Political Parties.
- IX. Public Opinion.
- X. Conclusions.

## I. THE IMPERIAL PREROGATIVE

The sovereignty of the Emperor is the fundamental principle of the Japanese Constitution. Article I reads as follows:

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

The late Prince Ito, the chief compiler of the Constitution, in his *Commentaries on the Constitution of the Empire of Japan*,<sup>1</sup> says of this article:

It is meant that the Emperor on the Throne combines in Himself the sovereignty of the State and the government of the country and of His subjects.

The "divine right of kings" was carried to such an extreme in England that Charles I lost his head; but in Japan "the divine right of the Emperor" is acknowledged to a degree of which no Stuart ever even dreamed. Uyehara, in his *Political Development of Japan*<sup>2</sup> sets forth that point very vividly: he asserts that the Emperor of Japan can use "more effectively than Louis XIV" the latter's famous expression, "L'Etat c'est moi." And then the Japanese writer sums up the status of the Emperor as follows:

He is to the Japanese mind the Supreme Being in the Cosmos of Japan, as God is in the Universe to the pantheistic philosopher. From him everything emanates; in him everything subsists; there is nothing on the soil of Japan existent independent of him. He is the sole owner of the Empire, the author of law, justice, privilege, and honor, and the symbol of the unity of the Japanese nation. He has no pope or archbishop to crown him at his accession. He is supreme in all temporal affairs of the State as well as in all spiritual matters, and he is the foundation of Japanese social and civic morality.<sup>3</sup>

<sup>1</sup> Igirisu Horitsu Gakko, Tokyo, 1889, p. 3.

<sup>2</sup> Dutton, New York, 1910, pp. 19-24.

<sup>3</sup> *Ibid.*, p. 23.

As a corollary of this fundamental principle, the Emperor is "sacred and inviolable." Ito says:

The Emperor is Heaven-descended, divine and sacred; He is pre-eminent above all His subjects. He must be revered and is inviolable. . . . Not only shall there be no irreverence for the Emperor's person, but also shall He not be made a topic of derogatory comment nor one of discussion.<sup>1</sup>

It is really unthinkable that any Japanese Emperor could ever suffer the fate of Charles I of England. It was this idea of imperial sanctity that made the people discredit, at first, the report of the anarchist conspiracy of 1910. It must however be acknowledged, that even the Emperor is not always exempt from being the subject of discussion. And yet on the whole he is generally considered sacred, so that attempts to drag him into politics are resented. An apparent attempt to utilize for partisan purposes an imperial rescript by the new young Emperor is believed to have ruined Katsura's last ministry in 1913. And the failure of Saionji at that time to make the Seiyukai yield to what was said to be the imperial desire in that case is thought to have compelled him to give up the leadership of that party and retire to private life.

Dr. McLaren, in a lecture before the Asiatic Society of Japan, spoke as follows on this point:

The tremendous prestige of the Imperial name had been used continually for the defense of the Government. . . . The divine descent of the Monarch had been made to bear the whole burden of the oligarchical form of government. . . . The oligarchy and the monarchy had been merged into a single governing power, which continued to exist through the reverence of the people for the Throne.<sup>2</sup>

This idea of the sacredness of the imperial name has given rise to some ridiculous instances of so-called *lèse majesté*. For instance, the Ministry was censured in 1893 "for its carelessness in maintaining the dignity of the crown." It happened

<sup>1</sup> Commentaries, p. 6.

<sup>2</sup> *Japan Advertiser*, Tokyo, 19 June, 1913.

that an English lawyer, counsel for the Japanese government, in a case before the English Consular Court at Yokohama, had used the name of the Emperor in his plea!

The Constitution further states positively that

The Emperor is the head of the Empire, combining in himself the rights of sovereignty and exercising them, according to the provisions of the present Constitution.<sup>1</sup>

Ito, in his comments on this article, refers to the Emperor as

This Most Exalted Personage who thus holds in His hands, as it were, all the ramifying threads of the political life of the country, just as the brain, in the human body, is the primitive source of all mental activity manifested through the four limbs and the different parts of the body.<sup>2</sup>

Not only does the Emperor thus exercise the executive power of the State, but, according to a specific article:<sup>3</sup> "The Emperor exercises the legislative power with the consent of the Imperial Diet." And, as the Emperor, by Article VI, "gives sanction to laws and orders them to be promulgated and executed," it naturally and logically follows, according to Ito, that "He also possesses the power to refuse His sanction."<sup>4</sup> On this point, Uyehara writes as follows:

The sanction of the Sovereign to a bill is the final point in Japanese legislation. The Emperor is absolutely free either to give or refuse sanction. Therefore, you may say that the Emperor has an absolute veto over all legislation. There is no constitutional way for the Diet to over-ride this veto of the Emperor.<sup>5</sup>

Moreover, the imperial control of the legislative organ, the Imperial Diet, is seen in the fact that, by Article VII, "The Emperor convokes the Imperial Diet, opens, closes and prorogues it, and dissolves the House of Representatives."

The fact that the Constitution reserves to the Emperor cer-

<sup>1</sup> Article IV.

<sup>2</sup> *Op. cit.*, p. 7.

<sup>3</sup> Article V.

<sup>4</sup> *Op. cit.*, p. 11.

<sup>5</sup> Political Development of Japan, p. 128.

tain powers is not so different from the custom of conferring such "reserved rights" upon the executive in other countries as to require special comment. It is sufficient to call attention to Articles XI-XVI.<sup>1</sup>

There is, however, one constitutional provision which requires special notice under this topic of "The Imperial Prerogative." The Constitution cannot be amended unless a project to that effect is submitted by imperial order to the Imperial Diet. Then, in neither House, can an amendment be debated unless two-thirds of its members are present; and no amendment can be passed unless two-thirds of the members present approve.<sup>2</sup> Ito explains why the Diet cannot initiate an amendment by saying that "the right of making amendments to the Constitution must belong to the Emperor Himself, as He is the sole author of it."<sup>3</sup> But just as the late Emperor, now known as Meiji Tenno, granted the Constitution in response to a desire or a demand, so doubtless any prudent emperor will heed public opinion with reference to amendments.

It may be said in general concerning the imperial authority in Japan that, while nominally and theoretically it is not limited, yet practically it is somewhat limited. Uyehara says: "Neither custom nor law, written or unwritten, nor the Constitution limits his ultimate sovereign power; He is the Supreme Lord and Absolute Master of the Empire."<sup>4</sup>

Yet the Emperor does not interfere in the actual administration of affairs; he reigns but he does not rule. The late Emperor took a deep personal interest in the affairs of state, but never showed the slightest desire to exercise "personal rule." It is, therefore, not difficult for an emperor, unless he is a man of strong personality, to be at the same time an "absolute monarch" and an absolute figure-head. That was often the case in Old Japan; and it is not an impossibility even in New Japan. Uyehara affirms most positively that "it is not the personality of the Emperor . . . upon which the strength and the value of the Japanese monarchy depend";<sup>5</sup>

<sup>1</sup> Appendix.

<sup>2</sup> Article LXXIII.

<sup>3</sup> *Op. cit.*, p. 140.

<sup>4</sup> *Op. cit.*, pp. 193-194.

<sup>5</sup> *Ibid.*, p. 201.



and he claims that it is "the unique history and tradition of the imperial throne"; but we make bold to say, even in opposition to a Japanese, that the personality of the sovereign is of special importance. It is possible that, in general, the imperial personality weighs more than the individual personality. But in the case of the late Emperor, Meiji Tenno, his own personality, in the sense of his individuality, was no small element in the loyalty and patriotism of thousands of his subjects. And it is not an invidious comparison to state that the feeling toward the present Emperor does not seem as yet to be the same as that toward his illustrious father, Mutsuhito the Great.

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## II. THE PRIVY COUNCIL

According to Ito's *Commentaries* the Privy Council is "the highest body of the Emperor's constitutional advisors,"<sup>1</sup> as well as "the palladium of the Constitution and the law"; and its duty, according to the same authority, is "to be perfectly loyal and straight-forward in furnishing advice to the Emperor." It is higher than the Cabinet, because its advice may be asked concerning the organization of a cabinet. Moreover, all the measures of a cabinet may be referred to it by the Emperor, either before they are presented to the Diet by the Cabinet, or after they have passed the Diet. The Privy Council is, therefore such an influential body that membership therein is accounted a very great honor. It must, however, be said with regret that occasionally the Privy Council has been found a convenient place in which to shelve a prominent man for whom some provision must be made. And the ministers of State who form the Cabinet have seats in the Privy Council *ex officio* and are just enough by themselves to constitute a quorum of ten members.

The Privy Council has a voice in giving advice to the Imperial Family Council concerning such important matters as changing the order of succession to the throne and the selection of a regent in case the Emperor is a minor. And the Privy Council may be particularly consulted by the Emperor in case of a political crisis. While the Cabinet is "a board of the chief executive officers", the Privy Council is "a deliberative body consisting of the chief legal advisors of the Sovereign." It suggests that "it will certainly prove an important piece of constitutional mechanism."<sup>2</sup> Indeed, the gradual evolution of the power of the Privy Council is a most noteworthy feature in the Japanese constitution. On the other hand, those who believe in popular institutions think that the Privy Council

<sup>1</sup> *Op. cit.*, p. 98.

<sup>2</sup> *Ibid.*

has "usurped" power and that its authority must be limited by reforms in its official organization.<sup>1</sup>

It is scarcely necessary to give details of the organization of the Privy Council; but it may be well to reproduce the following articles of the Imperial Ordinance of 1888, as amended in 1890:

Article II.—The Privy Council shall consist of one President, one Vice-President, twenty-five Councillors, one Chief Secretary and five Secretaries.

Article VI.—The Privy Council shall hold its meetings for the purpose of advising His Majesty the Emperor, and shall state its opinions with regard to the following matters:

1. Matters which come under its jurisdiction according to the *Koshitsu Tempan* (Law of the Houses).

2. Drafts and doubtful points relating to articles of the Constitution and to laws and ordinances dependent to the Constitution.

3. Proclamations of the law of siege provided for in Article XIV, and Imperial Ordinances mentioned in Articles VIII and LXII of the Constitution, as well as all other Imperial Ordinances of a restrictive character.

4. International treaties and pledges.

5. Matters relating to the amendment of the organization of the Privy Council and the rules for conducting business in the Privy Council.

6. Matters specially called for, besides those mentioned in the last paragraphs.

Article X, Paragraph 2.—The President shall cause the Chief Secretary to make explanations and shall afterwards allow the members to discuss matters freely, but no member can speak without obtaining the permission of the President, who may engage in all debates, and shall point out the questions to be decided, and require members to vote with regard to the same.

We also reproduce, from the original Ordinance of April 28, 1888, the following statement:

Article VIII.—Though the Privy Council is the Emperor's highest resort of council, it shall not interfere with the Executive.

<sup>1</sup>The Presidents of the Privy Council have been Count Ito, Count Oki, Count Kuroda, Marquis Saionji, Marquis Ito, and Prince Yamagata.

### III. THE ELDER STATESMEN

A body of men known as *Genro*, which is freely translated into English by the term "Elder Statesmen", must not be omitted from this discussion of "Constitutional Imperialism." As a matter of fact, they are not mentioned in the Constitution; they are an extra-constitutional body; but they outrank every constitutional body except the Emperor and the Privy Council. They are a survival of feudalism; they are relics of history. To be more literal, they are the survivors of the great band of men who accomplished the Restoration of 1868, and reconstructed Japan during the marvelous years of the Meiji era. They deserve the greatest credit for making New Japan what she now is; they were statesmen of the highest ability: but they are considered to have outlived their usefulness; they are an anachronism. There are only three left since the death of Prince Ito, the most active and most eminent, and of Marquis Inouye; the survivors are Princes Yamagata and Oyama (who rarely acts) and Marquis Matsukata.

The Elder Statesmen have been the "Warwicks of Japan", not in the sense of being king-makers but in that of being cabinet-makers. In fact they have not only made, but also unmade, cabinets. They have been the power behind and before the throne. They have invariably been consulted, unofficially of course, by the Emperor in all great political crises. But it certainly looks as if the days of that "august but obsolete" body are numbered. It is an open secret, that, while they recommended Count Okuma to the Emperor for the premiership in April, 1914, they did so, after the futile attempt to constitute a reactionary ministry under Viscount Kiyoura, merely because they found that they could no longer oppose the popular demand. Thus one result of the first quarter century of constitutionalism in Japan has been the almost complete elimination of this once strong extra-constitutional factor, which death will soon entirely eliminate.

## IV. THE CABINET

It is interesting to note that the Cabinet has no official standing in the Constitution. "Ministers of State" are merely mentioned and to that extent are recognized even in their official capacities; but the Cabinet as a body is not officially recognized. Of course, it may be taken for granted, that several ministers of State, of whom one is known as "Prime Minister," would form an organization, called a "Ministry" or a "Cabinet." Thus, indirectly, the Cabinet, as a constitutional organ, is recognized and must receive consideration.<sup>1</sup>

<sup>1</sup>The following (issued in 1899) explains itself.

### IMPERIAL NOTIFICATION No. 135.

#### FUNCTIONS OF THE CABINET.

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

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

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

Art. IV.—All laws and all imperial ordinances affecting the administration as a whole, shall bear the counter signature of the Minister President as well as that of the Minister from whose Department they directly emanate. All imperial ordinances affecting a special Department only, shall be counsigned by the Minister of that Department alone.

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

- (1.) Drafts of laws, financial estimates, and settled accounts.
- (2.) Treaties with foreign countries and all national questions of importance.
- (3.) Ordinances relating to administration, or to the carrying out of regulations and laws.
- (4.) Disputes connected with the relative competence of Ministers of Departments.
- (5.) Petitions from the people, handed down from the Throne or submitted by the Imperial Diet.
- (6.) Expenditures apart from the ordinary estimates.

The ministers of State are the following: Minister President of State, Minister of Foreign Affairs, Minister of Home Affairs, Minister of Finance, Minister of War, Minister of the Navy, Minister of Justice, Minister of Education, Minister of Agriculture and Commerce, Minister of Communications, and Minister of the Imperial Household. But the last-mentioned is not a member of the Cabinet, which, when fully constituted, consists thus of ten members.

To elucidate what follows, we have prepared (see following page) a table of the Cabinets during the past twenty-five years or so. It should, however, be explained that the figures of duration cannot be given with absolute exactness, but are approximate; because, theoretically, each Cabinet holds over till its successor takes office, but practically gives up office at the time of resignation. However, the interim is generally only a few days and, at the longest, has been only one month.

The table of Cabinets shows that, in the first eight cases (with the exception of the Okuma-Itagaki Cabinet, which lasted only a few months), three of the Elder Statesmen

(7.) Appointments of chokunin officials and of local prefects and governors, as well as their promotions and removals.

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

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

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

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

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

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

(Yamagata, Matsukata and Ito) took turns as Premier and were in power (with other Elder Statesmen, like Inouye and Oyama, sometimes in the Cabinets with them) for about twelve years. Then for the next period of about twelve years, Katsura (Yamagata's lieutenant) and Saionji (Ito's lieutenant) held power alternately.

The table of Cabinets also shows that the average duration of the fourteen ministries that held office for a period of  $24\frac{1}{3}$  years (December 1889—March 1914) is almost twenty-one months. The average of the first eight Ministries, which covered eleven and one-half years, is a little over seventeen months; while the average of the last six Ministries, which covered almost thirteen years, is almost twenty-six months. It is interesting to note that the two unusually long terms were held by the first Ito and the first Katsura Ministries, which covered the periods respectively of the War with China (1894, 1895) and the Russo-Japanese War (1904, 1905), when political rivalries were temporarily buried. Moreover, Katsura holds two records—of both the longest and the shortest ministries.

TABLE OF CABINETS.

<i>Premier</i>	<i>Term of Office</i>	<i>Years</i>	<i>Months</i>
Yamagata.....	Dec., 1889—April, 1891	1	5
Matsukata .....	May, 1891—July, 1891	1	3
Ito .....	Aug., 1892—Aug., 1896	4	1
Matsukata. ....	Sept., 1896—Dec., 1897	1	4
Ito .....	Jan., 1898—June, 1898	0	6
Okuma-Itagaki .....	June, 1898—Oct., 1898	0	4
Yamagata.....	Nov., 1898—Sept., 1900	1	11
Ito .....	Oct., 1900—May, 1901	0	8
Katsura .....	June, 1901—Jan., 1906	4	7
Saionji .....	Jan., 1906—July, 1908	2	6
Katsura .....	July, 1908—Aug., 1911	3	2
Saionji .....	Sept., 1911—Dec., 1912	1	4
Katsura .....	Dec., 1912—Feb., 1913	0	2
Yamamoto. ....	Feb., 1913—Mar., 1914	1	1
Okuma .....	Apr., 1914—		

As in England, any member of the Cabinet may be also a member of either House. And ministers who may not be members have, nevertheless, the right at any time to take seats

(in a special place) and to speak in either House. They have also free access to committee rooms.

The Cabinet may be called the Emperor's executive organ. Ito says:

The Ministers of State are charged with the duty of giving advice to the Emperor; they are to serve as media through which the Imperial commands are conveyed, and are to execute administrative affairs.<sup>1</sup>

Uyehara says that the Cabinet "is the channel and medium through which the Sovereign exercises his power."<sup>2</sup>

The principal question with reference to the Cabinet is that of its responsibility. The text of the Constitution is unfortunately (perhaps purposely?) indefinite; it reads as follows:

The respective Ministers of State shall give their advice to the Emperor and be responsible for it.<sup>3</sup>

But Ito is more explicit in his *Commentaries*, where he uses the following expression:

The appointment and dismissal of them [Ministers] having been included by the Constitution in the sovereign power of the Emperor, it is only a legitimate consequence that the power of deciding as to the responsibility of Ministers is withheld from the Diet.

Ministers are directly responsible to the Emperor and indirectly so to the people.

It is the Sovereign and not the people that can decide as to the responsibility of Ministers.<sup>4</sup>

As a matter of fact there can be no doubt that until somewhat recently it was acknowledged and accepted, in theory and in practice, that the Cabinet was responsible only to the Emperor. And yet, even as early as 1895, Ito himself made an informal alliance with the Liberal party; and Matsukata,

<sup>1</sup> *Op. cit.*, p. 93.

<sup>2</sup> *Op. cit.*, p. 140.

<sup>3</sup> Article LV.

<sup>4</sup> *Loc. cit.*



who followed him, similarly obtained the support of the Progressive party.

The year 1898 witnessed an attempt, but a short-lived one, to establish a "party cabinet" under Okuma and Itagaki. Next, even the conservative Yamagata followed the plan of an *entente cordiale* with the predominant party (Liberal) in the Lower House. In 1900-1901, an Ito ministry was another abortive attempt to establish a "party cabinet" under the auspices of Ito's newly organized party (*Seiyukai*). Later Saionji and Yamamoto made more serious and more successful attempts to carry on the administration in close connection with the dominant party (*Seiyukai*) in the Lower House. Finally, on Christmas Day, 1914, Okuma dissolved the House of Representatives and appealed to a general election, by which he obtained a large majority to back up his Ministry, which is at once a personal and a party cabinet. The old-style "transcendental cabinet" is no longer possible; a "party cabinet" is demanded by public opinion and is another of the results of the first quarter century of constitutionalism.

## V. THE IMPERIAL DIET

From the point of view of constitutionalism, the Japanese Imperial Diet should be one of the most important organs. But at the outset, Americans and British must be warned not to expect an institution like either the American Congress or the British Parliament. The Japanese national assembly is rather like the German institution and is, therefore, generally called the "Imperial Diet". It is well known that German ideas of government were largely followed by Ito in drawing up the Japanese Constitution, because they seemed best fitted to Japanese Imperialism.

The Japanese Imperial Diet is bicameral: it consists of a House of Peers (*Kizoku-in*) and a House of Representatives (*Shugi-in*). The House of Peers is composed of a varying number of members (about 375),—part hereditary, part elective, and part appointive. The hereditary members are the imperial princes and the princes and marquises. The elective members are those chosen from among the counts, viscounts, and barons, and the highest taxpayers of each prefecture. The appointive members are those who are nominated by the Emperor "for meritorious services to the State and for erudition." But the number of appointive members and of elective taxpayers "shall not exceed the number of the members having the title of nobility." The hereditary members and the appointive members enjoy a life tenure; while the elective members serve for a term of seven years.

The membership of the House of Peers in the Thirty-sixth Session <sup>1</sup> of the Imperial Diet was as follows:

Imperial princes .....	12
Princes .....	13
Marquises .....	33
Counts .....	17
Viscounts .....	69
Barons .....	62
Imperial appointees .....	124
Highest tax-payers .....	44
Total .....	374

<sup>1</sup> May 20-June, 10, 1915.

The offices of president and vice-president of the House of Peers have been held by the following members:

	PRESIDENTS.		VICE-PRESIDENTS.
1890-1891	Count Ito	1890-1891	Count Higashikuze
1891-1896	Marquis Hachisuka	1891-1893	Baron Hosowaka
1896-1903	Prince Konoye	1893-1894	Marquis Saionji
1903-	Prince Tokugawa	1894-	Marquis Kuroda

The House of Representatives consists of 381 members. Any "male Japanese subject who is not less than full thirty years of age shall be eligible for election," except that certain persons laboring under mental or financial or civic disabilities can neither enjoy the franchise nor be eligible for election. Heads of noble families; men in the active service of the army or the navy; students; Shinto priests and ministers, priests and teachers of religion of all kinds; teachers of elementary schools; and certain Government officials and persons working for the Government under contract are likewise ineligible in either case.

Electors must possess the following qualifications:

1. Completion of the twenty-fifth year of age.
2. A permanent residence in the election district for not less than one year previous to the date of drawing up the electoral list.
3. Payment of direct national taxes to the amount of not less than ten *yen*.

It should be noted that, while an elector possesses the franchise five years before he is eligible for election, the candidate has the great advantage over the elector of not being limited by any residential or property qualifications.

The members of the House of Representatives are elected under the system of large electoral districts, and by single non-transferable votes. The ballot is secret.<sup>1</sup> A city having a population of over 30,000 forms one electoral district, with one or two members, according to size. The three cities of Tokyo, Osaka and Kyoto form each one district,

<sup>1</sup> Uyehara, *op. cit.*, p. 178.

with eleven, six, and three members respectively. In all other cases, each prefecture forms one district, with from two to twelve members according to the population. There are special provisions for the Hokkaido on account of its large area and scattered population. There are many polling-places in each district.

The members of both Houses receive an annual allowance (2,000 *yen*) and traveling expenses, except those who are in the service of the Government. Of course, no one can be a member of both Houses at the same time.

The members of the two Houses possess certain special personal privileges.

No Member of either House shall be held responsible outside the respective Houses for any opinion uttered or for any vote given in the House (Article LII).

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

Ordinary sessions of the Imperial Diet must be convoked every year; and they last for three months. This time limit, however, may be prolonged by Imperial Order in case of necessity. An extraordinary session may be convoked by Imperial Order, "when urgent necessity arises"; and its duration "shall be determined by Imperial Order."<sup>1</sup> In the case of the dissolution of the House of Representatives, a new election must be held at such a time as will enable the new House to be "convoked within five months from the day of dissolution."

A quorum in either House consists of one-third of the whole number of members; and, without such quorum, "no debate can be opened and no vote can be taken."

An "absolute majority" is required for a decision in either House. The President has no vote, except in the case of a tie, when he has the deciding vote.

In general, the two Houses have equal rights and powers

<sup>1</sup> In twenty-five years, there were eleven special sessions.

and are supposed, therefore, to be co-ordinate. It is however provided by the Constitution (Article LXV), that "the budget shall be first laid before the House of Representatives."

In a hard-fought contest with the House of Representatives in 1892, the House of Peers won for itself an imperial interpretation to the effect that it had the right to reinsert in the Budget items expunged by the House of Representatives, *i. e.*, that it had equal rights of amendment with the latter.

But an absolute equality of the two Houses is difficult to maintain. According to Ito, it was the intention of the framers of the Constitution, in case the House of Peers fulfilled its functions, to make it

serve in a remarkable degree to preserve an equilibrium between political powers, to restrain the undue influence of political parties, to check the evil tendencies of irresponsible discussions, to secure the stability of the Constitution, to be an instrument for maintaining harmony between the governing and the governed, and to permanently sustain the prosperity of the country and the happiness of the people.<sup>1</sup>

The House of Peers is naturally much more conservative and bureaucratic than the House of Representatives; and it has checked not only evil tendencies but also progressive legislation. It almost invariably supports the administration, "no matter who forms it", unless the latter appears too radical. It has hindered the attempts of the House of Representatives to revise or repeal "repressive and arbitrary laws" against public meetings, the press, political associations, etc. It has also checked attempts to revise the land-tax, to reform the electoral system, etc.; and it has often opposed the House of Representatives in contests over the budget. According to Ito, again: "The House of Peers can stop all legislation, however important and necessary it may be, and it cannot be dissolved."<sup>2</sup>

A little study of each session of the Imperial Diet may be profitable; and to illustrate such study, a table giving the dates

<sup>1</sup> *Op. cit.*, p. 66.

<sup>2</sup> *Ibid.*, p. 166.

of the election, of the opening and the closing, and of suspension, reopening and dissolution, is appended. The asterisks in the first column indicate special elections following dissolutions. The dates in the second column are those of the formal opening ceremony; in the last column, those of the formal closing ceremony in the cases where the session "died a natural death".

TABLE OF SESSIONS OF THE DIET

ELECTION	SESSION	OPENED	SUSPENDED	REOPENED	DISSOLVED	CLOSED
July 4, 1890	1	Nov. 29, 1890				Mar. 8, 1891
	2	Nov. 26, 1891			Dec. 25, 1891	
*Feb. 15, 1892	3	May 6, 1892	May 16	May 23		June 15, 1892
	4	Nov. 29, 1892	Jan. 23, 1893	Feb. 7		Feb. 28, 1893
	5	Nov. 28, 1893	Dec. 19	Dec. 29 <sup>1</sup>	Dec. 30, 1893	
*Mar. 1, 1894	6	May 15, 1894			June 2, 1894	
*Sept. 1, 1894	7	Oct. 15, 1894				Oct. 22, 1894
	8	Dec. 24, 1894				Mar. 25, 1895
	9	Dec. 28, 1895	Feb. 15, 1896	Feb. 25		Mar. 29, 1896
	10	Dec. 25, 1896				Mar. 25, 1897
	11	Dec. 24, 1897			Dec. 25, 1897	
*Mar. 15, 1898	12	May 19, 1898	June 7	June 10	June 10, 1898	
*Aug. 10, 1898	13	Dec. 2, 1898				Mar. 10, 1899
	14	Nov. 22, 1899				Feb. 24, 1900
	15	Dec. 25, 1900	Feb. 27, 1901	Mar. 14		Mar. 25, 1901
	16	Nov. 10, 1901				Mar. 10, 1902
Aug. 10, 1902	17	Dec. 9, 1902	Dec. 16	Dec. 28	Dec. 28, 1902	
*Mar. 1, 1903	18	May 12, 1903	May 21	May 23		June 5, 1903
	19	Dec. 10, 1903			Dec. 11, 1903	
*Mar. 1, 1904	20	Mar. 20, 1904				Mar. 30, 1904
	21	Nov. 30, 1904				Feb. 28, 1905
	22	Dec. 28, 1905				Mar. 28, 1906
	23	Dec. 28, 1906				Mar. 28, 1907
	24	Dec. 28, 1907				Mar. 27, 1908
May 15, 1908	25	Dec. 25, 1908				Mar. 25, 1909
	26	Dec. 24, 1909				Mar. 24, 1910
	27	Dec. 23, 1910				Mar. 23, 1911
	28	Dec. 27, 1911				Mar. 26, 1912
May 15, 1912	29	Aug. 23, 1912				Aug. 26, 1912
	30	Dec. 27, 1912	Jan. 21, 1913	Feb. 5		Mar. 27, 1913
	31	Dec. 26, 1913				Mar. 26, 1914
	32	May 6, 1914				May 8, 1914
	33	June 22, 1914				June 29, 1914
	34	Sept. 4, 1914				Sept. 10, 1914
	35	Dec. 7, 1914			Dec. 25, 1914	
*Mar. 25, 1915	36	May 20, 1915				June 10, 1915

<sup>1</sup> On December 29 there was a second suspension for fourteen days, but on the next day dissolution was announced.

The following persons held the offices of president and vice-president of the House of Representatives during the session of the period under review :

SESSION.	PRESIDENT.	VICE-PRESIDENT.
1, 2	Nakashima	Tsuda
3, 4	Hoshi	Sone
5	Kusumoto	Abe
6	Kusumoto	Kataoka
7-9	Kusumoto	Shimada
10, 11	Hatoyama	Shimada
12-17	Kataoka	Motoda
18	Kataoka	Sugita
19	Kono	Sugita
20, 21	Matsuda	Minoura
22-24	Sugita	Minoura
25-28	Haseba	Koedzuka
29, 30	O-oka	Seki
31	O-oka, Haseba, Oku	Seki
32-35	Oku	Seki
36	Shimada	Hanai

It was feared by many that the first session would de-

### ERRATA

On page 22, (page 342 of bound volume) under—Table of Sessions of the Diet—read corrections as follows:

Session 4, closed	March	1, 1893,	instead of February	28
Session 7, opened	October	18, 1894.	instead of October	15
Session 8, closed	March	27, 1895,	instead of March	25
Session 13, opened	December	3, 1898,	instead of December	2
Session 16, opened	December	10, 1901,	instead of November	10
Session 30, reopened	February	4,	instead of February	5
Session 32, opened	May	5, 1914,	instead of May	6

papers of that time, informed the public that a certain number of men, members of the House of Peers, " had formed an organization for the purpose of investigating the manner of

of the election, of the opening and the closing, and of suspension, reopening and dissolution, is appended. The asterisks in the first column indicate special elections following dissolutions. The dates in the second column are those of the formal opening ceremony; in the last column, those of the formal closing ceremony in the cases where the session "died a natural death".

TABLE OF SESSIONS OF THE DIET

ELECTION	SESSION	OPENED	SUSPENDED	REOPENED	DISSOLVED	CLOSED
July 4, 1890	1	Nov. 29, 1890	. . . . .	. . . . .	. . . . .	Mar. 8, 1891
	2	Nov. 26, 1891	. . . . .	. . . . .	Dec. 25, 1891	
*Feb. 15, 1892	3	May 6, 1892	May 16	May 23	. . . . .	June 15, 1892
	4	Nov. 29, 1892	Jan. 23, 1893	Feb. 7	. . . . .	Feb. 28, 1893
	5	Nov. 28, 1893	Dec. 19 . .	Dec. 29 <sup>1</sup>	Dec. 30, 1893	
*Mar. 1, 1894	6	May 15, 1894	. . . . .	. . . . .	June 2, 1894	
*Sept. 1, 1894	7	Oct. 15, 1894	. . . . .	. . . . .	. . . . .	Oct. 22, 1894
	8	Dec. 24, 1894	. . . . .	. . . . .	. . . . .	Mar. 25, 1895
	9	Dec. 28, 1895	Feb. 15, 1896	Feb. 25	. . . . .	Mar. 29, 1896
	10	Dec. 25, 1896	. . . . .	. . . . .	. . . . .	Mar. 25, 1897

<sup>1</sup> On December 29 there was a second suspension for fourteen days, but on the next day dissolution was announced.



The following persons held the offices of president and vice-president of the House of Representatives during the session of the period under review :

SESSION.	PRESIDENT.	VICE-PRESIDENT.
1, 2	Nakashima	Tsuda
3, 4	Hoshi	Sone
5	Kusumoto	Abe
6	Kusumoto	Kataoka
7-9	Kusumoto	Shimada
10, 11	Hatoyama	Shimada
12-17	Kataoka	Motoda
18	Kataoka	Sugita
19	Kono	Sugita
20, 21	Matsuda	Minoura
22-24	Sugita	Minoura
25-28	Haseba	Koedzuka
29, 30	O-oka	Seki
31	O-oka, Haseba, Oku	Seki
32-35	Oku	Seki
36	Shimada	Hanai

It was feared by many that the first session would develop such antagonism between the Government and the legislature as to lead to a serious rupture; but such an unfortunate outcome was averted by tact on both sides. The House of Peers was composed of 252 members, as follows: 10 imperial princes, 10 princes and 21 marquises, having a hereditary tenure of office; 16 counts, 70 viscounts and 22 barons, elected by "the members of their respective orders"; forty-four persons chosen from among and by the highest taxpayers in each imperial city (*fu*) and prefecture (*ken*); and fifty-nine persons, nominated by the Emperor on account of meritorious services. Some of these members were incapables, possessing no merit save their rank; some were merchants, whose wealth was their only qualification; some among those appointed for erudition were mere book-worms without knowledge of political science. A curious paragraph, occurring now and then in the newspapers of that time, informed the public that a certain number of men, members of the House of Peers, "had formed an organization for the purpose of investigating the manner of

studying political questions!" Nor was this so strange; for as representative institutions in Japan were but in their infancy, it would, of course, be unreasonable to expect the first Diet to be composed largely of tried and experienced legislators. But it is only fair to add that in both houses there were many veteran statesmen and well-versed young politicians, and that the House of Peers has since been steadily growing in reputation and influence. The House of Representatives consisted of an even 300 members, who had a great variety of professions and showed great differences in personal ability and experience. The old *samurai* (gentry) class had 109, and the *heimin* (commonalty) class had 191 representatives.<sup>1</sup>

It was on December 2, 1890, that the House of Peers had the honor of receiving the first bill ever presented to a National Assembly in Japan—a "bill for the amendment and control of the system of weights and measures." It was on December 4 that Count Matsukata, Minister of Finance, laid before the House of Representatives the first budget, over which ensued a prolonged and bitter discussion. The Government asked for the sums of 70,800,311 *yen* for "ordinary expenditures," and 23,204,082 *yen* for "extraordinary expenditures." The Budget Committee of the House recommended a reduction of about 7,840,000 *yen*; the "Moderates" proposed a reduction of 5,000,000 or 6,000,000 *yen*. At one time it looked as if the "Radicals" would surely win and thus provoke the Government to dissolve the House of Representatives; but finally a compromise was effected, by which the government consented to a reduction of about 6,500,000 *yen*.

Other important measures passed by the Diet were bills for opening additional ports, for postponement of the operation of the Commercial Code, for reforming weights and measures according to the metric system. One bill, passed by the lower House, but not reached in the upper House, was for the reduction of the land tax.

<sup>1</sup> This paragraph and several following ones are taken from the writer's pamphlet on "Constitutional Government in Japan," published in 1903 by the American Academy of Political and Social Science, Philadelphia, as No. 371 of its series of publications.

The second session was almost entirely consumed in a bitter fight over the budget. Fortunately, the appropriation of \$500,000 for the Columbian Exposition in Chicago was put through by itself in a supplementary budget. Vain attempts were made to amend the publication regulations, the law for public assembly, and other regulations, in a way to grant greater freedom of the press and liberty of speech. The main strength of the opposition, which had a good working majority, was spent upon reductions of the budget; and the government, insisting that the reductions proposed were too drastic for administrative purposes, finally dissolved the lower House on Christmas Day.

The third session, which was a special session, necessitated by the dissolution of the previous regular session, was marked by two conflicts: one between the lower House and the Government on the subject of interference in the election of members of that House; and one between the two Houses with reference to the respective powers of deliberation and consent in respect to the budget. In the former case, the House of Representatives by a large majority passed a resolution arraigning the Government for improper interference in the February elections. As a result of this resolution, the session was suspended for one week. The dispute between the two Houses arose from the fact that the House of Peers made amendments in the budget sent up from the House of Representatives, by restoring some items expunged by the latter. The majority of the representatives contended that the House of Peers, though competent to diminish or expunge items, exceeded its authority when it inserted items, because, according to the Constitution, the budget must originate with the executive, and any new item must be submitted first to the lower House. The upper House, however, insisted that it had equal rights of amendment with the lower House, and not only sent its amended budget down a second time, but also voted an address to the Throne on the question at issue. The Emperor, having consulted the Privy Council, decided that "neither House is superior or inferior to the other except . . . that . . . the lower House receives the budget from the Gov-

ernment before the upper." The particular points at issue between the two Houses were afterwards settled by compromise, and the budget was finally passed on the last day of the session. But once again several important measures failed to get through both Houses.

The apparently inevitable conflict between the Diet and the Government was continued in the fourth session, when it took the form of a dispute over what the Constitution terms "fixed expenditures," and says "shall be neither rejected nor reduced by the Imperial Diet, without the concurrence of the Government" (Article LXVII). The lower House called for large reductions, especially in naval expenditures; but the Government refused to entertain the idea, although the opposition mustered a large majority. Even after the Government, by suspending the session, had given an opportunity for calm reflection, the opposition vehemently continued the fight and finally carried by the sweeping majority of seventy-eight an address to the Throne impeaching the Cabinet. The Emperor, with the advice of the Privy Council, having carefully considered the situation, critical in the extreme, issued a conciliatory and compromise message, in which he skillfully balanced the censure and the praise on each side and closed by donating ten per cent of the imperial household allowance,<sup>1</sup> and by directing all civil and military officials (with certain exceptions) to give the same percentage of their salaries, for six years, to the fund for building men-of-war. The total sum thus obtained was from 2,000,000 to 3,000,000 *yen*. This spirit of compromise was still further carried out in the remainder of the budget, which was reduced, on its expense side, by about 3,750,000 *yen*. In this fourth session, the Diet also passed three important bills, marking long steps in advance in the path of popular rights; these bills effected most desirable amendments in the copyright law, the publication regulations, and the law of public meeting and political association.

In the fifth session, Mr. Hoshi, president of the lower

<sup>1</sup> Then 3,000,000 *yen*.

House, was accused of unprofessional conduct as a lawyer and of having abused his official position in the interests of certain legislation, and finally not only deposed from office, but also expelled from membership. Later a conflict arose between the House of Representatives and the Government on the subject of the strict enforcement of the treaties; this led to a suspension for ten days. When the House reassembled, it was deemed by the Government to be in the same unconciliatory mood, and the session was again suspended for two weeks. The following day, however, dissolution was ordered, so that practically nothing of importance was accomplished in that session.

The sixth session was short-lived and came to an untimely end, because the House of Representatives passed an address to the Throne, impeaching the Cabinet. By this time the situation had become very critical: the Ito ministry stood firm, and the opposition were aroused by two dissolutions within six months; so that the harmonious co-operation of the legislative and the executive departments appeared almost an impossibility. At this juncture, the war with China broke out and temporarily cleared the political atmosphere. There were, indeed, those who claimed that the Ministry was not averse to a war which should divert the minds of the people from politics and unite the nation in a common patriotic cause.

Consequently, when the seventh (extraordinary) session was convened at Hiroshima in October, 1894, it took only a few days to get organized and vote, with unanimity, an appropriation of 150,000,000 *yen* for carrying on the war.

The eighth session, which met at the regular time two months later, also passed the budget with absolute unanimity, and sank all party differences in an earnest effort to support the government in the prosecution of the war.

But a year later, when the ninth session began, partisan feelings were again aroused in connection with post-bellum measures, and finally resulted, in the House of Representatives, in a resolution of want of confidence in the Cabinet. This was met by a suspension for ten days, after which that resolution was voted down. This result was due to a coalition between

the Cabinet and the Liberal Party (*Jiyuto*), the first in the history of constitutional government in Japan. In accordance with the terms of this alliance, the Liberal leader, Count Itagaki, and other Liberal politicians, were admitted into the Cabinet. But this coalition ministry was soon broken up by internal dissensions; and Count Matsukata, with the aid of Count Okuma and the Progressives, organized the next ministry.

When the tenth session of the Diet began, it was supposed that the new Cabinet was in a minority in the lower house; but it soon gained the support of a good working majority and put through its measures with remarkable ease and celerity. Although the session was interrupted by frequent recesses on account of the death and funeral of the Empress Dowager, a great deal was accomplished. A national taxation law, a new tariff law, the adoption of the gold standard, a radical revision of the press law and the law of public meetings in the interests of larger freedom, and the budget, were among the important measures carried through both Houses.

But one year later, when the eleventh session was opened, the condition had so materially changed that a resolution of want of confidence in the Cabinet was able to command a good majority, and was on the point of being voted on the second day of the session, when the Ministry forced a "dissolution" and then itself resigned. In the following month Marquis Ito was again at the helm, with a Cabinet supposed to be able to command the support of the Liberals.

The twelfth (special) session, however, was not of very long duration. The bone of contention was the subject of taxation: the Ministry wished to obtain a larger amount of revenue by increasing the land tax; but the Liberals, who in the first few sessions of the Diet had been ardent supporters of a reduction of that tax, did not dare to put themselves in an apparently inconsistent position. The result was that the Government was unable to get many supporters for its bill, and, after one suspension, again resorted to dissolution, in less than six months after the previous one, and then, like the preceding Cabinet, resigned office. Although this sudden end of the

session found some important measures left on the docket, yet the income-tax law, the naturalization law, and the revised Civil Code were fortunate enough to get through both Houses.

The Okuma-Itagaki "Party Cabinet," organized with the support of the new Constitutional party, formed by the amalgamation of the opposition parties and factions, was soon broken up by internal dissensions; and the new party itself, because it was not a real union but only an amalgamation, was rent in pieces. But the temporary alliance had served its purpose; so that, when the Yamagata ministry was organized, theoretically as a "Neutral Cabinet," it found itself compelled to make an informal alliance with the Liberals.

The result was that the thirteenth session of the Diet was harmonious and "unusually fruitful of legislative works," as one vernacular journal expressed it in its English column. The chief failure of this session was the inability of the two Houses to agree upon a new law of election, by which the right of franchise should be largely extended by diminishing the age limit and amount of property qualification. But many important measures were carried through, such as a reform of the local government system, the amendment of the code of criminal procedure, the increase of the land-tax and a budget calling for 246,451,706 *yen* of expenditures.

The fourteenth session was a very tame one, but was distinguished by success in passing a new election law. By this law the membership of the House of Representatives was increased to 376; the districts were rearranged to give urban populations a more adequate representation; the plan of unsigned uninominal ballots was adopted; the limits of an electoral district were extended to include a whole prefecture, except in the cases of urban districts; and the property and age qualifications were reduced, so that the electoral franchise was largely extended.<sup>1</sup> Moreover, the property qualifications of candidates were entirely abolished.

In the fifteenth session, the Ito Cabinet, supported by Ito's newly organized party (*Seiyukai*), commanded a majority in

<sup>1</sup> There are now over 1,000,000 voters in parliamentary elections.

the lower House, but met strong opposition in the upper House. Such a conservative body as the House of Peers could not brook the idea of having the leader of a political party as Premier, and refused to pass the budget which was sent up from the House of Representatives. When negotiations proved absolutely fruitless, Ito resorted to the extreme measure of an Imperial Rescript, which resulted in the passage of the budget.

The sixteenth session was a quiet one, because Ito, who had been succeeded by Katsura, gave instructions to his party, before he started on a trip abroad, "not to present unreasonable opposition to the Government."

The seventeenth session was short-lived; it was dissolved because it threw out Katsura's bill for increased taxation for the sake of securing funds for naval expansion.

The eighteenth session (special) was quiet, because a compromise had been effected between Katsura and the Seiyukai.

The nineteenth session holds the record (with the eleventh session) as the shortest session, of only one day. Mr. Kono, the Speaker of the House of Representatives, had introduced into his reply to the address from the Throne a short clause which amounted to an impeachment of the Government. This use of a purely formal document for partisan purposes could not be overlooked; and dissolution was the punishment.

The twentieth and the twenty-first sessions, meeting during the Russo-Japanese War, showed again a burying of political differences and unanimous support of the Government.

The twenty-second session opened with Katsura still in power, but in only a few days found him succeeded by Saionji, who had followed Ito as leader of the Seiyukai. This was a very important session at which post-bellum measures swelling the budget to 600 million *yen*, including the great expansion of the national armament and the nationalization of the private railways, were passed by the lower House, practically without any amendment.<sup>1</sup>

The twenty-third and the twenty-fourth sessions, with

<sup>1</sup> Satoh, *Evolution of Political Parties in Japan*, Tokyo, 1914, p. 73.



Saionji continuing as Premier and the Seiyukai as the strongest party in the House of Representatives, passed off quietly.

The twenty-fifth session illustrated what Uyehara<sup>1</sup> calls "one of the anomalies of Japanese domestic politics." The Seiyukai, in a majority in the House of Representatives, supported the non-party Katsura Cabinet, which had been organized when Saionji, for some unaccountable reason, resigned. It would seem that, as Uyehara suggests,<sup>2</sup> the Seiyukai had no other course, except to run the risk of a dissolution and the loss of their majority in an expensive election.

The twenty-sixth and the twenty-seventh sessions continued this anomaly, which Katsura called a "Rapprochement Policy." But the Seiyukai were enabled during these sessions to obtain from Katsura some concessions in return for their support. For instance, the Government was compelled to agree to a slight reduction of the land-tax, a reassessment of the taxable value of land, a revised tariff, etc. Moreover, attention must be called to the budget for 1909-1910. The *Japan Mail* said:

It may be described broadly as the first really sound document of its kind which a Japanese Cabinet has been in a position to compile for some years, since it brings expenditures strictly within the limits of visible income and since it makes no draft upon contingent assets.

When the twenty-eighth session met, it found Saionji again at the post of Premier, with the Seiyukai in a majority in the House of Representatives, so that everything passed off smoothly.

The twenty-ninth session was a special one, necessitated by the death of the Emperor Mutsuhito, and was marked by perfect unanimity.

The thirtieth session was a stormy one from the very outset. The Saionji Cabinet had been wrecked by the demand of the War Minister (Gen. Uyehara) for an increase of the

<sup>1</sup> *Op. cit.*, p. 253.

<sup>2</sup> *Ibid.*, p. 254.

army by two divisions. Katsura had come back<sup>1</sup> to political life as Premier and was also organizing a new political party (*Doshikai*). The new Premier and Saionji had effected an understanding, by which an oral message was to be given by the new young Emperor to Saionji, asking him to use his influence to keep the Seiyukai from pressing its opposition. But when Saionji delivered his message to the Seiyukai, he found them strongly united in declining to conform to the desire of their President. They were even more bitterly opposed to Katsura for dragging the Throne into the contest. Their attitude, as Satoh points out (p. 90), "was tantamount to disobeying an Imperial command." Katsura suspended the Diet and intended to resort to dissolution; he is reported to have even carried in his pocket the Imperial Order for dissolution. but, when he realized the strength of public opinion against him, he resigned. Some of the newspaper comments on this struggle are interesting and instructive. The *Chuo Shimbun*, Tokyo, speaking of "such a hot encounter between the executive and the legislature," says:

While its occurrence during the national mourning was to be regretted, it had the effect of chastising the clansmen and saving constitutional government from ruin.

The *Yomiuri Shimbun*, Tokyo, said:

What took place during the last three months shows that the center of gravity in the political world has been shifted from the executive to the legislative department.

Inasmuch as the new Ministry under Yamamoto was practically a Seiyukai Cabinet, the rest of the session was quiet.

The thirty-first session was not so peaceful. When it transpired that the proposed budget included a very large sum for naval expansion, while at the same time naval scandals were being exposed, the popular disaffection became very great. The Seiyukai, with a large absolute majority as the result of

<sup>1</sup> He had retired to the posts of Lord Keeper of the Privy Seal and Lord Chamberlain to the new Emperor Yoshihito.

the election of 1912, passed the budget, with a reduction, however, of 30,000,000 *yen* from the naval appropriation. The House of Peers voted a reduction of 70,000,000 *yen*, "the whole of the new appropriation." When a conference of the two Houses failed to effect any compromise, it happened that the whole budget "failed to materialize." The Yamamoto Cabinet resigned and the Diet adjourned.

The thirty-second, the thirty-third and the thirty-fourth sessions were all special ones. The first one was necessitated by the death of the Empress-Dowager and was marked by unanimity. The thirty-third session presented the interesting spectacle of the new Okuma Cabinet, with only a small number of supporters in the House of Representatives, confronting the Seiyukai with its large absolute majority. Although the Ministry was implacable, yet, as its program presented no great issue for a difference of opinion, the Seiyukai wisely refrained from carrying their opposition so far as to refuse to pass the important special budget. The thirty-fourth session, necessitated by Japan's ultimatum to Germany, was harmonious.

The thirty-fifth session (ordinary), however, found the Seiyukai taking a firm stand against the Government on the budget, on the ground of opposition to the army increment feature; so that Okuma decided to appeal to the people by a dissolution.

The thirty-sixth session (special), with the Okuma Cabinet supported by a large absolute majority, obtained in the election, passed the army increment bill which had wrecked two strong cabinets. And it is one of the frequent paradoxes of Japanese politics, that the popular Premier Okuma finally put through that most unpopular measure.

After this somewhat detailed consideration of the thirty-six sessions of the Imperial Diet, it may be profitable to examine the tables on pages 25 and 26; for they throw some light on various points. It is instructive to note that, during the first decade, there were fourteen sessions (of which, of course, four were special); five cases each of suspension and dissolution, the latter of which necessitated five special elec-

tions; that no House was permitted to serve out its full term of four years, except the one which was elected in August, 1898, and which ran over into the next period. This we shall make a half decade, during which there were seven sessions (two special sessions); three cases of suspension and two of dissolution, the latter of which necessitated two special elections; and one House, elected in March, 1904, served out its full term, almost all of which was in the next period. On the other hand, during the last decade, there have been fifteen sessions (five special ones), with only a single suspension and a single dissolution and one special election. And the last dissolution, on December 25, 1914, was really in the interests of constitutionalism. In fact, as one looks down the table of sessions of the Diet for twelve years, from 1903 to 1915, he cannot help noticing one of the most significant proofs of the progress of constitutionalism in Japan. And, if one compares that table with the table of Cabinets, he will not fail to observe that there have been more dissolutions of the Ministry than of the Diet for the past ten or twelve years. In spite of the fact that the longer tenure of the members of the House of Representatives was often gained by unholy alliances with the administration, on the whole, there is good reason for encouragement over the general progress of representative institutions in Japan.

## VI. THE JUDICIARY

The Japanese Constitution has comparatively little to say on the subject of judicature, and only in very general statements. It is doubtless for the best not to have the judiciary system too strictly limited by hard and fast constitutional provisions. It is wise that merely "glittering generalities" are given and that the details of organization are left to more flexible arrangements. Article LVII reads as follows:

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

Ito explains this in the following terms:

The Sovereign is the fountain of justice, and His judicial authority is nothing more than a form of the manifestation of sovereign power. Therefore judgment shall be pronounced in the name of the Emperor, the judicial authority in this respect representing Him in His sovereign power.<sup>1</sup>

Concerning judges it was merely provided that

The judges shall be appointed from among those who possess proper qualifications according to law. No judge shall be deprived of his position, unless by way of criminal sentence or disciplinary punishment. Rules for disciplinary punishment shall be determined by law.<sup>2</sup>

Ito gives the following explanation:

In order to remain impartial and fair in trials, the judges ought to occupy an independent position, free from the interference of power, and should never be influenced by the interest of the mighty or by the heat of political controversies.<sup>3</sup>

Satoh <sup>4</sup> calls attention to one striking illustration of the

<sup>1</sup> *Op. cit.*, p. 101.

<sup>2</sup> Article LVIII.

<sup>3</sup> *Op. cit.*, p. 105.

<sup>4</sup> *Op. cit.*, pp. 45, 46.

independence of the judiciary. It was in connection with the trial of the man who assaulted and wounded the Czarewitch (now Czar) of Russia at Otsu in 1891. An attempt was made to consider it a special case for political purposes. But the court stood firm to judge the case purely from the legal point of view and condemned the assailant, not to capital punishment (as desired by the Government), but to life imprisonment, which was the maximum punishment by law in such a case. Satoh adds:

This was not only a technical point of thrilling importance, but was indeed a landmark of great prominence in the path of Japan's progress as a constitutional nation. Here the principle of entire independence of the judiciary from the executive was permanently and most conspicuously established.

There is one more important provision, in Article LIX, that trials and judgments of a Court shall be conducted publicly.

When, however, there exists any fear, that such publicity may be prejudicial to peace and order, or to the maintenance of public morality, the public trial may be suspended by provision of law or by the decision of the Court of Law.

It is important to note that the Japanese judiciary has no power to interpret the Constitution. Such power, as has been pointed out in preceding sections, resides entirely with the Emperor.

Moreover, the ordinary Japanese court of law has no jurisdiction, according to Article LXI, in any

suit at law, which relates to rights alleged to have been infringed by the illegal measures of the administrative authorities, and which shall come within the competency of the Court of Administrative Litigation specially established by law.

This leads Uyehara <sup>1</sup> to make the following comment:

There is nothing in the Constitution to safeguard the rights and

<sup>1</sup> *Op. cit.*, p. 132.

liberties of the people from the encroachment of the permanent executive officials.

For the Cabinet has "almost sole control" over the Court of Administrative Litigation, whose "scope is extensive", for it

adjudicates in all cases relating to the assessment of taxes, with the exception of custom duties, [and to] the punishment of defaulting taxpayers; the prohibition of withdrawal of permission to engage in business; water rights and works (matters mostly concerning irrigation); and disputes between the State and individual concerning the ownership of land.<sup>1</sup>

One is tempted to enter upon a discussion of the modern Japanese judiciary system, which has been subjected to a great deal of severe criticism. It will however suffice in this connection to state that, in general, the system is a marked improvement over the so-called administration of law in feudal days, and that justice and equity generally prevail. The famous Korean conspiracy trial was not carried on according to Anglo-Saxon ideas of judicature and seemed to be a miscarriage of justice; so that when Imperial Amnesty was granted, in February 1915, to those who had been declared guilty and had served part of their sentence, it was a cause of great rejoicing. The Japanese system, modeled after the systems of the continent of Europe, including a preliminary examination, with methods amounting practically to torture in some cases; the delay in granting bail, if it be granted at all; the apparent idea that a man is considered guilty until he is proven innocent—these and other minor points are counter to Anglo-Saxon ideas of justice and equity. They have all been the object of severe criticism, not only by foreigners but also by Japanese; and they are likely to be modified in a way to give the police less power and the accused greater protection. And only lately there has been a lively discussion whether the system of trial by jury should be adopted in Japan.

<sup>1</sup> *Ibid.*, p. 141.

## VII. RIGHTS AND DUTIES OF SUBJECTS

The Japanese Constitution contains fifteen Articles (XVIII-XXXIII) on the topic of the duties and the rights of subjects. It states that the conditions necessary for being a Japanese subject shall be determined by law. It permits Japanese subjects, according to certain qualifications, to hold public office. It makes them amenable to military service and to payment of taxes, according to law. It specifies that they shall have liberty of abode within the limits of law; that their right of property shall remain inviolate; that their houses shall not be entered or searched without their consent, except in cases provided for in the law; that the secrecy of their letters shall remain inviolate, except in cases mentioned in law. It gives them permission to present petitions, under certain proper conditions.

It declares:

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

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

It also prescribes that

Japanese subjects shall, within the limits of law, enjoy the liberty of speech, writing, publication, public meetings and association (Article XXIX);

and that

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

It will of course be observed, that all the immunities and privileges of Japanese subjects are limited by such conditions as "according to the provisions of the law", "except in the cases provided for in the law", "within limits not prejudicial



to peace and order", etc. It may, therefore, be correct to say, as Uyehara says: "The Constitution of Japan provides no absolute guarantee in respect of civil rights and liberties."<sup>1</sup> He also states, rather strongly:

As a matter of fact, that part of the Constitution which deals with the rights and liberties of the people is a mere ornamental flourish, so long as the Government is not responsible to the people.<sup>2</sup>

On the other hand, it must be acknowledged, that, during the first twenty-five years of constitutionalism in Japan, great progress has been made in the extension of popular rights and privileges by laws which have been enacted. If the reader will kindly take the trouble to glance back over the review of the thirty-six sessions of the Diet, he can see for himself that this statement is true. He should notice especially what was accomplished in the fourth, the tenth, the thirteenth, and the fourteenth sessions in the way of extending popular rights and privileges. And this advance is a kind of guarantee of still greater progress under more favorable conditions all along the line of popular government. In appraising the value of what has been accomplished, though it is far from being satisfactory, one must be careful not to pass judgment according to the standard of Anglo-Saxon ideas of individual rights and privileges. It is fair only to compare the Japan of 1915 with the Japan of 1890. The writer was living in Japan (in Mito), when the Constitution was promulgated (1889) and when the first Diet met (1890); and he can testify from personal observation and experience to the progress which has been made in a quarter of a century in the expansion of personal rights and liberty.

<sup>1</sup> *Op. cit.*, p. 183.

<sup>2</sup> *Ibid.*, p. 186.

## VIII. POLITICAL PARTIES

This is another topic which is not mentioned in the Japanese Constitution, but which is a natural and necessary outgrowth of constitutionalism. Political parties are important organs of representative institutions. It is not necessary to enter into a lengthy discussion of this topic which is more fully treated by the writer in *The Political Science Quarterly* for December, 1912. And still more recently (June, 1914), Mr. Henry Satoh has published a book, *Evolution of Political Parties in Japan*, to which some references have already been made. Uyehara also discusses this topic.<sup>1</sup>

The history of political parties in Japan may be divided into the following periods: (1) embryonic period, 1867-1882; (2) organizing period, 1882-1890; (3) developing period, 1890-1898; (4) influential period, 1898-1911; (5) predominant period, 1911 —. But in this connection, we are specially concerned only with the three periods from 1890 to the present time.

The first national election, on July 4, 1890, resulted in the return of members divided among ten small groups, some of which however succeeded in amalgamating into four or five parties, of which the largest one was the *Jiyuto*, or Liberal Party. For several years the Liberals and the Progressives (*Kaishinto* or *Shimpoto*) were the most prominent parties; and each in turn was sought in alliance by the Government. In 1898, those two parties, burying the hatchet, united in organizing the *Kenseito*, or Constitutional party. This new party was suddenly called upon to form a Cabinet, generally known as the Okuma-Itagaki Ministry, from the leaders of the two parties that had united. This hyphenated Ministry soon fell a prey to internal dissensions; and the coalition,

<sup>1</sup> Kawakami, *The Political Ideas of Modern Japan*, Shokwabo, Tokyo, 1903; and Lay's paper in the *Transactions of the Asiatic Society of Japan*, Tokyo, Vol. XXX, pp. 363-462, are also valuable.

which was only an amalgamation, was dissolved into its original elements. In 1900 Ito's new party, the *Seiyukai*, of which the old Liberals formed the nucleus, was suddenly called on to form a Ministry, which was also short-lived. These attempts at party government seem to have been premature; but they served to indicate the trend of events. Moreover, as Uyehara puts it, concerning the first attempt, "its real importance lies in the fact that it had completely disposed of the prejudice that a person directly connected with a political party could not become a Cabinet minister."<sup>1</sup> The second Saionji and the Yamamoto ministries were strongly "party cabinets"; and Okuma's is still more so, albeit it is also a "personal cabinet", in which Okuma is indisputably "Premier".

And this is a reminder of one of the peculiar features of Japanese political parties. That is the personal element by which factions and parties have rallied around men more than measures, persons rather than principles. This feature is, of course, a survival of the feudal system, as has been pointed out by Ozaki (now Minister of Justice) in an article in a magazine called *Shinseiki* (New Century). He said: "The fact is that the majority of our politicians are still subject to feudal notions. Their attitude to the president of a party is precisely that of the retainers of a *daimyo* to their lord."

Another peculiarity is that party ties are loose and party principles are indefinite. Individuals do not find it difficult to shift allegiance from one party or faction to another, often without sacrificing their principles, if they have any! This is largely due to the indefiniteness and generalities of party platforms, or the lack of positively distinguishing principles separating parties. For instance, the same party has been found, according to circumstances, either in support of or in opposition to an increase of the land-tax. Okuma and Ozaki, now "in", have put through the army increment scheme, which they vigorously opposed, when "out"; and they do not mind the charge of inconsistency. They seem to agree with Emerson that "a foolish consistency is the hobgoblin of little minds".

<sup>1</sup> *Op. cit.*, p. 241.

Japanese political parties, in spite of their faults, have certainly made great progress. The *Japan Times*, on October 12, 1911, wrote that party government would be welcome "notwithstanding all the evils of the party system, because it will get rid of a self-bureaucracy, assuming the leadership of the nation". Satoh says:

The formation of the Okuma Government thus proves to be a victory of the principle of party government, and the Premier, Count Okuma, has now the satisfaction of having come out triumphant over his enemies after his many years' fight for the constitutional progress of his beloved country.<sup>1</sup>

It now seems quite evident that the Japanese political parties, imperfect though they are, have behind them the people of the Empire.

<sup>1</sup> *Op. cit.*, p. 106.

## IX. PUBLIC OPINION

One of the most significant phases of the political progress made in New Japan during the past twenty-five years of constitutionalism has been the development of an expressive public opinion. During the feudal system there was, from one point of view, no public opinion; or at the best, it was very narrow and local in its sphere of action. But along with the granting of popular rights and privileges, with the spread of education, with the growing importance and power of the press, there has been a most gratifying evolution of public opinion. It is true, "and pity 'tis 'tis true", that often the most evident manifestation of that opinion has been in mob violence. But in spite of that unfortunate, though perhaps inevitable, concomitant, public opinion, as expressed in the press and on the platform, can no longer be ignored, but must always be taken into consideration. And the Japanese press, in spite of the existence of "yellow journalism", is a creator and expresser of sound public opinion.

There can be little if any doubt that it was nothing but the power of public opinion which overwhelmed the Katsura Ministry in February, 1913, after less than two months of official life. And it was likewise the fact that public opinion held the Yamamoto Ministry responsible for the naval scandals which forced that Cabinet out of power in March, 1914, in spite of the fact that it was supported by the Seiyukai with a big majority in the House of Representatives. And it was public opinion which upheld the Okuma Cabinet for several months against that hostile Seiyukai majority and finally, in the election of March, 1915, completely turned the tables and gave Okuma a big majority. Of course, public opinion is likely to be more or less fickle and sometimes even unjust. In 1913, the Seiyukai members of the House of Representatives were the popular idols on account of their resolute opposition to Katsura: in

1914, because they supported the Yamamoto Cabinet, they were in danger of suffering personal indignities at the hands of a mob, and had to be specially protected from violence. Verily, the populace are iconoclasts as well as hero-worshippers.

It goes without saying that public opinion in Japan would be less violent and more regular, and so more powerful, if a larger number of people possessed the electoral franchise. The number of electors has, it is true, increased considerably in twenty-five years, as may be seen from the following statistics: <sup>1</sup>

1890 .....	453,474
1892 .....	460,914
1894 .....	464,278
1896 .....	467,607
1898 .....	501,459
1902 .....	983,193
1904 .....	757,788
1908 .....	1,582,676
1912 .....	1,503,968
[1915 .....	1,546,241]

The increase in 1902 was due to the lowering of the property qualification. The decrease in 1904 was due to the lowering of the land-tax. The increase in 1908 was due to the extension of the electoral franchise to the Hokkaido and several new urban districts. The increase in 1915 was due to the extension of the franchise to the Okinawa prefecture.

One discouraging feature has been that so many of the electors did not exercise their privilege. An improvement in this respect would doubtless follow the complete establishment of party government and a wider extension of the franchise. The election in March, 1915, indeed, showed a marked improvement. Whereas the average rate of non-voters among the electors was almost 12 per cent in 1898, almost 14 per cent in 1903 and 1904, over 14 per cent in 1908, and about 10.1 per cent in 1912, in 1915, it was only 8 per cent. These figures are eloquent.

<sup>1</sup> *Japan Year Book* for 1912 and 1914.

The following are the full statistics <sup>1</sup> of the election of 1915 :

Number of electors .....	1,546,241
Number of non-voters .....	121,548
Number of voters .....	1,424,693
Number of invalid votes .....	7,557
Number of valid votes .....	1,417,136

These figures show that a larger proportion of the electors than ever before appreciated the value of the "precious one vote".

Woman suffrage is fortunately not yet an issue in Japan; but universal male suffrage has been discussed. A bill to that effect once passed the House of Representatives but was shelved in the House of Peers. Indeed, it may not be wise to pass too suddenly to such an extreme as universal suffrage; it may be better to extend the franchise gradually by reducing the amount of the tax qualification required for eligibility to vote. It is expected that the Okuma Cabinet, if it survives till the next regular session of the Diet in the winter of next year (1916), will introduce an electoral reform bill to round out the quarter century of constitutionalism in Japan.

<sup>1</sup> Furnished by Hon. Sho Nemoto, M. P.

## X. CONCLUSION

It is certainly desirable to ascertain what conclusions and inferences may fairly be drawn from what has been recorded above. In the first place it is quite evident that, when one writes of the Government in Japan, a capital "G" should be employed. There is nothing small or weak about the administration, whether national, provincial, municipal, or what not. It all centers about the national administration in Tokyo; it is a case of centralization; it is a centripetal form of government; it gravitates around and toward the Imperial palace in Tokyo. It was with good reason that Dr. W. E. Griffis called his first great work on Japan *The Mikado's Empire*; for the Empire belongs to the Emperor. And it is also with good reason that Dr. Griffis gives the title of *The Mikado* to his most recent work. A book entitled *Japan to America*, compiled by Mr. Naoichi Masaoka, and published by Putnams (1914), includes a contribution of a few pages (100-103) by Mr. Iechiro Tokutomi, the able editor of the *Kokumin Shim-bun*, Tokyo, on "Centripetal Mikadoism". We quote here some of Mr. Tokutomi's expressions:

But our imperialism, our democratism, our socialism—all these center upon a single principle, and it is "centripetal Mikadoism", as we express it and advocate it. Rome was, at one time, the center of the Roman Empire; hence the adage, "All roads lead to Rome". In a like manner, the Mikado is the center of our nation. Considered as a body politic, it has him as its sovereign; considered as a distinct race, it has him as its leader; considered as a social community, it has him as its nucleus. Who can, then, contradict me when I say that all our "isms"—social, racial and political—are included, involved, implicated, by this "centripetal Mikadoism"?

And he attributes Japan's "great socio-economic revolution" to the "automatic process" of that "centripetal Mikadoism".

Another natural inference from these studies is that custom is more powerful than law. Or, to express the idea in another



way, it takes a long time for a new law to establish itself against an old custom. The feudal system had been so strongly entrenched in Japan, that, even after it was nominally abolished, it persisted in fact in many survivals which die hard. It is true that there is a strong popular demand for more representative institutions; it is also true that the mass of the people are somewhat contented with the *status quo* and are rather submissive in spirit. They still endure official surveillance and hold officialdom in awe; they take off their hats when speaking to a policeman. The survival of absolutism may be seen in the tendency to establish Government monopolies and to nationalize industries. The survival of feudalism is evident in the political party system, where clannishness still prevails and loyalty to men is stronger than fidelity to principle.

Another conclusion one may reach is that nominality does not always correspond with reality. The Japanese have a common expression, *yumei-mujitsu*, which means literally "having name without reality". A certain thing may be so only in name, not in reality; nominally so, but not really so. This is a criticism which some have brought against Japan's present political system; that it is only nominally, not really, constitutionalism. This may be true to a certain extent; the same political phrases do not connote exactly the same things in all countries. But there is another phase of this nominality. Theoretically and nominally, the central Government, for instance, has control over each prefectural Government: the Emperor appoints the Governor of each Prefecture; and the Minister of Home Affairs has the authority to dissolve a Prefectural Assembly; but he rarely exercises that authority. Both the Minister and the Governor, though they are centralizing officials, prefer to respect local public opinion in local affairs.

It is not without profit to pay a little attention to the new election law. The process seems somewhat complicated and long-drawn-out, so that it requires several meetings with various officials. First, there is the casting of the ballot under one set of officials; secondly, there is the counting of the ballots under the same or a different set of officials; and, thirdly,

there is the election meeting, under another set of officials (part of whom, however, may be the same), to decide the result of the election. Possibly this long process may insure a minimum of fraud and interference.

We have already called attention to the radical changes effected by this new law; and concerning its results we quote Uyehara, as follows:

The new law greatly improved the electoral system by securing a better representation of the different classes of the people and of the different prefectures, by extending the choice of candidates, and by abolishing open voting; and it works, as a whole, very much better than the old law.<sup>1</sup>

The political campaign of the special election of March 25, 1915, calls for comment in this connection, because it illustrates some points in the evolution of popular institutions in Japan. The conduct of a political campaign had become too formal and had fallen into the hands of professional canvassing agents; so that to some extent the *yen* had become mightier than the pen. The cost of election had grown to be enormous, except in the very few cases in which a candidate was so fortunate as to meet with little or no opposition. It was, of course, a matter of discussion as to what constituted the legal expenses of a campaign; and it required no little care and ability to steer clear between the Scylla and the Charybdis of parsimony and bribery. It seemed to demand several thousand *yen* for an "average man" to carry on a campaign in a strictly legal manner. This sum would include such items as printing, postage, advertising, rent of offices, carriage hire, and speech-making expenses.

House-to-house canvassing is one special feature of a campaign and is here dubbed "the submarine attack". It has been carried on by teachers, family doctors, female hair-dressers, *et al.*; and it has been especially utilized, in a few cases, by female members of the family of the candidate. This feature of women as campaigners has been strongly discussed, pro and con, by the press.

<sup>1</sup> *Op. cit.*, p. 179.

In the campaign of 1915, speech-making was a more prominent feature than ever. Ozaki, Minister of Justice, and the Premier himself actually "took the stump". One unique feature of the campaign was the sight of Okuma on a trip westward by rail, making short speeches from the car-window at important stations. Another unique feature was the fact that, at many places where the presence of Ozaki or Okuma was impossible, their "tinned speeches" were heard from the phonograph. And an opposition candidate went one better by letting Ozaki speak through the machine but stopping it every few minutes to answer Ozaki's points. There certainly never has been such a "popular" campaign.

It may be added that the landslide to Okuma was the popular response to this campaign. It was a personal victory for the "grand old man", because he was not afraid to appeal to the people. The army increment scheme, which had been the principal issue in bringing about the dissolution, was scarcely mentioned in the campaign. Even the important negotiations with China cut little figure; although they probably had more weight than the two-division increase. The result of the election was not so much pro-Doshikai as anti-Seiyukai. It was not that the electorate loved the Doshikai more but the Seiyukai less. It was a question chiefly of Okuma or Hara (present leader of the Seiyukai). It was because the people trusted Okuma. And when Okuma's great victory was announced to him, he remarked: "Now we can witness the dawn of real constitutionalism in Japan".

Dr. Ukita, editor-in-chief of the great monthly magazine, *Taiyo (Sun)*, has discussed, in quite an interesting manner, the change of methods in national elections. According to a summary of his article, he expressed these sentiments:

He divides the history of parliamentary campaigns into three periods,—namely, the robbery, the jobbery, and the begging periods. These vicissitudes in the history of elections in Japan may, he remarks, be considered either progress or degeneration according to the point of view. In the first period the voters were forced to elect men whether they liked them or not by a display of force,

giving much occupation to the *soshi* [ruffians], who freely made use of swords and revolvers for the purpose of intimidation. As time passed, and men grew wiser by experience, they began to realize that it was more effective and profitable to collect votes by the dispensation of money than by threats of violence. More lately begging has come to be a popular and effective method of collecting votes, and is tried by many candidates side by side with the buying-up process. Some may argue that the change from robber to beggar implies degeneration, while others may consider the change to imply progress as discarding barbarous in favor of more "civilized" methods. Now that robbery, jobbery, and begging have been tried in turn in the electioneering campaigns, Dr. Ukita thinks that perhaps future candidates for parliamentary honors will find it necessary to make an appeal to the reason and sense of justice of the voters. If this should be so, candidates in future must pay more attention to the exposition of their political views on the platform, and oratory may be found to supersede less honorable methods of enlisting the support of voters.<sup>1</sup>

If we turn to consider the work of the Diet, we find one phase quite in line with what is going on in the national assemblies of other countries. The real business of each House is being done in the committee rooms rather than on the floor of the House. Uyehara remarks on this point: The Government has invented a doctrine called "the principle of *fugen-jikko*, or practice without discussion".<sup>2</sup> But the discussions in each House are not necessarily checked; the oratorical displays are not shut off; but the decision is often left to the calmer consideration of a committee instead of the excitement of a debate.

The House of Peers is a troublesome element in the political world of Japan. Uyehara claims that it is "a great obstacle to the proper development of constitutional government". But he rightly acknowledges that "the real usefulness of the House of Peers" will be more evident, if "Ministers become responsible to the House of Representatives".<sup>3</sup>

<sup>1</sup> *Japan Chronicle*, Kobe, April 29, 1915.

<sup>2</sup> *Op. cit.*, p. 269.

<sup>3</sup> *Ibid.*, p. 214.

In spite of the fact that mob violence is too frequent, there has been a great growth of the power of public opinion. There is even a trend toward democracy, not so much in form as in spirit. Some writers go so far as to assert that there is no public opinion in the true sense of the word, that there is only mob opinion. But others believe that they see in mob violence only an unfortunate mode of expression of real public opinion; and they think that, with less official repression, there will be less public violent expression. They write about "the awakening of the people"; of the "tendency toward popular government" as "steadily growing strong"; and they claim that "on the whole, it must be admitted that constitutionalism has made marked headway". They assert that the time has passed when the Japanese nation would follow the lead of one man "as sheep follow the shepherd". The development of such public spirit is no small result of the past twenty-five years.

In conclusion, it is interesting to notice how the Japanese seem to have united and harmonized various forms of government. They have not adopted but rather adapted what they found useful in other political systems, and have harmonized all with Imperialism. The Emperor is still nominally and theoretically the head of the Empire, the sole Sovereign; but he has voluntarily given away some of the administrative functions to an Imperial Diet, partly representative in its nature; and he has permitted a large measure of local self-government. In other words, the Japanese have evolved a form of constitutional government which theoretically recognizes the "divine right" of the Emperor to be absolute in his realm, but in practice gives to the people an increasing measure of administration with such representative institutions as an Imperial Diet and local assemblies. McLaren says:

A Constitution which is obviously a compromise measure, or a system of government, which combines the three hostile elements of an absolute monarch, a bureaucratic oligarchy and a representative legislature, is not likely to be permanently satisfactory to a nation.<sup>1</sup>

<sup>1</sup> Japanese Documents, p. lxxxv.

The Tokyo *Nichi-nichi Shimbun* says:

Our political system is neither monarchical nor democratic, neither bureaucratic nor parliamentary, neither militaristic nor anti-militaristic. These six elements are put together in an unharmonious conglomeration.

Dr. N. Hozumi, emeritus professor of the Imperial University, Tokyo, has expressed his conception in these words:

The foregoing statements lead us to a very peculiar conclusion as to the nature of the government, which may at first sight seem paradoxical, and yet is true. The Emperor holds the supreme power, not as his own inherent right, but as an inheritance from his Divine Ancestor. The government is, therefore, *theocratical*. The Emperor rules over the country as the supreme head of the vast family of the Japanese nation.<sup>1</sup> The government is, therefore, *patriarchal*. The Emperor exercises the sovereign power according to the Constitution, which is based on the most advanced principles of modern constitutionalism. The government is, therefore, *constitutional*. In other words, the fundamental principle of the Japanese government is *theocratico-patriarchal constitutionalism*.<sup>2</sup>

In another place Dr. Hozumi says:

I can speak from personal knowledge, that the principal care of Prince Ito, in preparing the draft of the Constitution, by the command of his Sovereign, was to reconcile and bring into harmony the traditional character of the government, based on the cult of the Imperial Ancestor, with the most advanced principles of modern constitutionalism.<sup>3</sup>

It would seem, therefore, as if the Government of Japan is not unlike what Rev. R. A. Hume, in writing about church government in his "Missions from the Modern View", called "Episco-presby-gational". The Emperor is the "bishop",

<sup>1</sup> Percival Lowell has well said in *The Soul of the Far East* (p. 30), concerning Japan: "The Empire is one great family; the family is a little empire".

<sup>2</sup> *Ancestor-Worship and Japanese Law*, pp. 87, 88.

<sup>3</sup> *Ibid.*, p. 93.

the *summus episcopus*; the Imperial Diet is the synod or "presbytery"; and local governments are "congregations". Thus the Japanese, past masters in the art of compromise, have established an "Episco-presbytery-gational" form of government.

This is the record of twenty-five years of "Constitutional Imperialism in Japan". It is "Imperialism" in origin, in essence, and in substance, in theory and in fact; but it has been, is being, and will be, greatly modified by "Constitutional" elements. It may never be reversed to "Imperial Constitutionalism": but it is quite likely that the "Imperial" features will grow smaller and weaker, while the "Constitutional" elements will grow larger and stronger. This will come not by revolution but by evolution.

## APPENDIX

### I. THE CONSTITUTION OF JAPAN <sup>1</sup>

#### IMPERIAL OATH AT THE SANCTUARY OF THE IMPERIAL PALACE

We, the Successor to the prosperous Throne of Our Predecessors, do humbly and solemnly swear to the Imperial Founder of Our House and to Our other Imperial Ancestors that, in pursuance of a great policy co-extensive with the Heavens and with the Earth, We shall maintain and secure from decline the ancient form of government.

In consideration of the progressive tendency of the course of human affairs and in parallel with the advance of civilization, We deem it expedient, in order to give clearness and distinctness to the instructions bequeathed by the Imperial Founder of Our House and by Our other Imperial Ancestors, to establish fundamental laws formulated into express provisions of law, so that, on the one hand, Our Imperial posterity may possess an express guide for the course they are to follow, and that, on the other, Our subjects shall thereby be enabled to enjoy a wider range of action in giving Us their support, and that the observance of Our laws shall continue to the remotest ages of time. We will thereby to give greater firmness to the stability of Our country and to promote the welfare of all the people within the boundaries of Our dominions; and We now establish the Imperial House Law and the Constitution. These Laws come to only an exposition of grand precepts for the conduct of the government bequeathed by the Imperial Founder of Our House and by Our other Imperial Ancestors. That We have been so fortunate in Our reign, in keeping with the tendency of the times, as to accomplish this work, We owe to the glorious Spirits of the Imperial Founder of Our House and of Our other Imperial Ancestors.

We now reverently make Our prayer to Them and to Our Illustrious Father, and implore the help of Their Sacred Spirits, and make to Them solemn oath never at this time nor in the future to fail to be an example to Our subjects in the observance of the Laws hereby established.

May the Heavenly Spirits witness this Our solemn Oath.

<sup>1</sup> Official Translations from the *Japan Weekly Mail*, Feb. 15, 1889.



## IMPERIAL SPEECH ON THE PROMULGATION OF THE CONSTITUTION

Whereas, We make it the joy and glory of Our heart to behold the prosperity of Our country, and the welfare of Our subjects, We do hereby, in virtue of the supreme power We inherit from Our Imperial Ancestors, promulgate the present immutable fundamental law, for the sake of Our present subjects and their descendants.

The Imperial Founder of Our House and Our other Imperial Ancestors, by the help and support of the forefathers of Our subjects, laid the foundation of Our Empire upon a basis which is to last forever. That this brilliant achievement embellishes the annals of Our country, is due to the glorious virtues of Our Sacred Imperial Ancestors, and to the loyalty and bravery of Our subjects, their love of their country, and their public spirit. Considering that Our subjects are the descendants of the loyal and good subjects of Our Imperial Ancestors, We doubt not but that Our subjects will be guided by Our views, and will sympathize with all Our endeavours, and that, harmoniously co-operating together, they will share with Us Our hope of making manifest the glory of Our country, both at home and abroad, and of securing forever the stability of the work bequeathed to Us by Our Imperial Ancestors.

## THE CONSTITUTION OF THE EMPIRE OF JAPAN

## PREAMBLE

Having, by virtue of the glories of Our Ancestors, ascended the throne of a lineal succession unbroken for ages eternal; desiring to promote the welfare of, and to give development to, the moral and intellectual faculties of Our beloved subjects, the very same that have been favoured with the benevolent care and affectionate vigilance of Our Ancestors; and hoping to maintain the prosperity of the State, in concert with Our people and with their support, We hereby promulgate, in pursuance of Our Imperial Rescript of the 14th day of the 10th month of the 14th year of Meiji [October 12, 1881], a fundamental law of State, to exhibit the principles by which We are to be guided in Our conduct, and to point out to what Our descendants and Our subjects and their descendants are forever to conform.

The rights of sovereignty of the State, We have inherited from Our Ancestors, and We shall bequeath them to Our descendants. Neither We nor they shall in future fail to wield them, in accordance with the provisions of the Constitution hereby granted.

We now declare to respect and protect the security of the rights and of the property of Our people, and to secure to them the complete enjoyment of the same, within the extent of the provisions of the present Constitution and of the law.

The Imperial Diet shall first be convoked for the 23rd year of Meiji [1890], and the time of its opening shall be the date when the present Constitution comes into force.

When in the future it may become necessary to amend any of the provisions of the present Constitution, We or Our successors shall assume the initiative right, and submit a project for the same to the Imperial Diet. The Imperial Diet shall pass its vote upon it, according to the conditions imposed by the present Constitution, and in no otherwise shall Our descendants or Our subjects be permitted to attempt any alteration thereof.

Our Ministers of State, on Our behalf, shall be held responsible for the carrying out of the present Constitution, and Our present and future subjects shall forever assume the duty of allegiance to the present Constitution.

[His Imperial Majesty's Sign-Manual]

[Privy Seal.]

The 11th day of the 2nd month of the 22nd year of Meiji [February 11, 1889].

[Countersigned by the Ministers.]

#### CHAPTER I.—THE EMPEROR

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

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

ARTICLE III.—The Emperor is sacred and inviolable.

ARTICLE IV.—The Emperor is the head of the Empire, combining in Himself the rights of sovereignty, and exercises them according to the provisions of the present Constitution.

ARTICLE V.—The Emperor exercises the legislative power with the consent of the Imperial Diet.

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

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

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

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

ARTICLE IX.—The Emperor issues or causes to be issued, the Ordinances necessary for the carrying out of the laws, or for the maintenance of the public peace and order, and for the promotion of the welfare of the subjects. But no Ordinance shall in any way alter any of the existing laws.

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

ARTICLE XI.—The Emperor has the supreme command of the Army and Navy.

ARTICLE XII.—The Emperor determines the organization and peace standing of the Army and Navy.

ARTICLE XIII.—The Emperor declares war, makes peace, and concludes treaties.

ARTICLE XIV.—The Emperor proclaims the law of siege.

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

ARTICLE XV.—The Emperor confers titles of nobility, rank, orders and other marks of honour.

ARTICLE XVI.—The Emperor orders amnesty, pardon, commutation of punishments, and rehabilitation.

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

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

## CHAPTER II.—RIGHTS AND DUTIES OF SUBJECTS

ARTICLE XVIII.—The conditions necessary for being a Japanese subject shall be determined by law.

ARTICLE XIX.—Japanese subjects may, according to qualifications determined in laws or ordinances, be appointed to civil or military offices equally, and may fill any other public offices.

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

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

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

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

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

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

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

ARTICLE XXVII.—The right of property of every Japanese subject shall remain inviolate.

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

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

ARTICLE XXIX.—Japanese subjects shall within the limits of law, enjoy the liberty of speech, writing, publication, public meeting, and association.

ARTICLE XXX.—Japanese subjects may present petitions, by observing the proper forms of respect, and by complying with the rules specially provided for the same.

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

ARTICLE XXXII.—Each and every one of the provisions contained in the preceding Articles of the present chapter, that are not in conflict with the laws or the rules and discipline of the Army and Navy, shall apply to the officers and men of the Army and of the Navy.

CHAPTER III.—THE IMPERIAL DIET

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

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

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

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

ARTICLE XXXVII.—Every law requires the consent of the Imperial Diet.

ARTICLE XXXVIII.—Both Houses shall vote upon projects of law submitted to them by the Government, and may respectively initiate projects of law.

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

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

ARTICLE XLI.—The Imperial Diet shall be convoked every year.

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

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

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

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Art. XLIII In case of urgent necessity, an emergency session apart from the regular session may be convened. The duration is two

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

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

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

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

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

ARTICLE XLIX.—Both Houses of the Imperial Diet may respectively present addresses to the Emperor.

ARTICLE L.—Both Houses may receive petitions presented by subjects.

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

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

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

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

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

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

All Laws, Imperial Ordinances, and Imperial Rescripts of what-

ever kind, that relate to the affairs of the State, require the counter-signature of a Minister of State.

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

#### CHAPTER V.—THE JUDICATURE

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

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

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

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

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

ARTICLE LX.—All matters that fall within the competency of a special Court shall be specially provided for by law.

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

#### CHAPTER VI.—FINANCE

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

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

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

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

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

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

ARTICLE LXV.—The Budget shall be first laid before the House of Representatives.

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

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

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

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

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

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

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

ARTICLE LXXII.—The final account of the expenditures and



revenue of the State shall be verified and confirmed by the Board of Audit, and it shall be submitted by the Government to the Imperial Diet, together with the report of verification of the said Board.

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

CHAPTER VII.—SUPPLEMENTARY RULES

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

In the above case, neither House can open the debate, unless at least two-thirds of the whole number of Members are present, and no amendment can be passed, unless a majority of at least two-thirds of the Members present is obtained.

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

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

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

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

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

II. IMPERIAL ORDINANCE CONCERNING THE HOUSE OF PEERS

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

[His Imperial Majesty's Sign-Manual]

[Privy Seal.]

The 11th day of the 2nd month of the 22nd year of Meiji [February 11, 1889].

[Countersigned by the Ministers.]

ARTICLE I.—The House of Peers shall be composed of the following Members.

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

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

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

ARTICLE IV.—The members of the orders of Counts, Viscounts and Barons, that after reaching the age of full twenty-five years have been elected by the members of their respective orders, shall become Members for a term of seven years. Rules for their election shall be specially determined by Imperial Ordinance.

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

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

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

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

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

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

ARTICLE X.—When a Member has been sentenced to confinement, or to any severer punishment, or has been declared bankrupt, he shall be expelled by Imperial Order.

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

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

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

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

ARTICLE XII.—Every matter, other than what provision has been made for in the present Imperial Ordinance, shall be dealt with according to the provisions of the Law of the Houses.

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

### III. LAW OF THE HOUSES

We, with the advice of Our Privy Council, hereby give Our Sanction to the present Law of the Houses and order it to be promulgated, and at the same time direct that, from the day of the institution of the House of Peers and of the House of Representatives, all affairs connected with either the one or the other of them, be conducted in accordance with the present Law.

[His Imperial Majesty's Sign-Manual]

[Privy Seal.]

The 11th day of the 2nd month of the 22nd year of Meiji [February 11, 1889].

[Countersigned by the Ministers.]

CHAPTER I.—CONVOCAATION, ORGANIZATION, AND OPENING OF THE  
IMPERIAL DIET

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

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

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

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

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

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

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

CHAPTER II.—PRESIDENT, SECRETARIES, AND EXPENSES

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

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

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

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

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

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

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

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

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

ARTICLE XVI.—In each House there shall be appointed a Chief Secretary and several Secretaries.

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

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

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

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

ARTICLE XVIII.—The expenses of both Houses shall be defrayed out of the National Treasury.

#### CHAPTER III.—THE ANNUAL ALLOWANCES TO THE PRESIDENT, VICE-PRESIDENT AND MEMBERS

ARTICLE XIX.—The Presidents of the respective Houses shall receive each an annual allowance of four thousand *yen* and the Vice-Presidents, that of two thousand *yen* each; while such Members of the House of Peers as have been elected thereto, and such as have been nominated thereto by the Emperor, and the Members of the House of Representatives, shall each receive an annual allowance of

eight hundred *yen*.<sup>1</sup> They shall also receive travelling expenses in accordance with regulations to be specially provided. Members, however, who do not comply with the summons of convocation, shall receive no annual allowance.

The Presidents, Vice-Presidents, and Members shall [not]<sup>2</sup> be allowed to decline their respective annual allowances.

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

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

#### CHAPTER IV.—COMMITTEES

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

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

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

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

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

The Chairman of both the Standing and Special Committees shall be respectively elected at the meetings of the Committees, by and from among the members thereof.

ARTICLE XXII.—No debate can be opened nor can any resolution be passed by the Committee of the Whole House, unless more than one third of the entire number of the Members of the House is present,

<sup>1</sup> Raised in 1899 to five thousand *yen*, three thousand *yen*, and two thousand *yen*, respectively.

<sup>2</sup> Deleted in 1899.

or by either the Standing or by the Special Committees unless more than one half of the members of the same is present.

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

ARTICLE XXIV.—The Chairman of each Committee shall report to the House concerning the proceedings and results of the meetings of the Committee over which he presides.

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

#### CHAPTER V.—SITTINGS

ARTICLE XXVI.—The President of each House shall determine the orders of the day and report the same to the House over which he presides.

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

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

ARTICLE XXVIII.—Bills brought in by the Government shall never be voted upon, without having been first submitted to the examination of a Committee. But it may happen otherwise, when it is so demanded by the Government in case of urgent necessity.

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

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

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

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

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

#### CHAPTER VI.—PROROGATION AND CLOSING

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

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

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

ARTICLE XXXV.—Bills, representations, and petitions, that have not been voted upon up to the time of the closing of the Imperial Diet, shall not be continued at the next session. It is, however, otherwise in the case mentioned in Article XXV.

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

#### CHAPTER VII.—SECRET SITTINGS

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

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

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

ARTICLE XXXIX.—The proceedings of a secret sitting shall not be made public.

#### CHAPTER VIII.—THE PASSING OF THE BUDGET

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



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

CHAPTER IX.—THE MINISTERS OF STATE AND THE DELEGATES OF THE GOVERNMENT

ARTICLE XLII.—The Ministers of State and the Delegates of the Government shall be allowed at any time to speak. But the speech of no Member shall be interrupted that they may do so.

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

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

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

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

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

CHAPTER X.—QUESTIONS

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

In putting such question, the Member proposing it shall draw up a concise memorandum and present it to the President, after he shall have signed it conjointly with the supporters.

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

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

CHAPTER XI.—ADDRESSES AND REPRESENTATIONS

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

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

ARTICLE LII.—No motion for such address and representation shall in either House be made the subject of debate, unless at least thirty Members support it.

CHAPTER XII.—THE RELATIONS OF THE TWO HOUSES OF THE DIET TO EACH OTHER

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

ARTICLE LIV.—When a Government Bill has been passed in either House with or without amendment, it shall then be carried into the other House. When the second House either concurs in or dissents from the vote of the first House, it shall, simultaneously with addressing the Emperor, report to the first House.

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

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

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

ARTICLE LVI.—Both Houses shall elect an equal number, not more than ten, of Managers to meet in conference. When the Bill in question has been adjusted in the conference, the adjusted Bill shall be discussed first in that House which had either received it from

the Government or had initiated it, and the Bill is then carried to the other House.

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

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

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

ARTICLE LIX.—At a conference of the two Houses, vote shall be taken by secret ballot. In the event of a tie vote, the Chairman shall have the casting vote.

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

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

#### CHAPTER XIII.—PETITIONS

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

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

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

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

When it is asked for by a special report of the Committee on Petitions or by not less than thirty Members of the House, either House may proceed to debate on the matter of the petition in question.

ARTICLE LXV.—When either House passes a vote to entertain a petition, the petition shall then be sent to the Government, together

with a memorial of the House thereon, and the House may according to circumstances, demand a report thereon of the Government.

ARTICLE LXVI.—Neither House can receive a petition presented by a proxy, excepting when such proxy is a party recognized by law as an artificial person.

ARTICLE LXVII.—Neither House can receive petitions for amending the Constitution.

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

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

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

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

CHAPTER XIV.—THE RELATIONS BETWEEN THE HOUSES AND THE PEOPLE, THE GOVERNMENT OFFICES AND LOCAL ASSEMBLIES

ARTICLE LXXII.—Neither House is allowed to issue notifications to the people.

ARTICLE LXXIII.—Neither House is allowed, for the prosecution of examinations, to summon persons or to direct a member to repair outside the precincts of the House.

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

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

CHAPTER XV.—RETIREMENT AND OBJECTIONS TO THE QUALIFICATION OF MEMBERS

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

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

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

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

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

#### CHAPTER XVI.—LEAVE OF ABSENCE, RESIGNATION, AND SUBSTITUTIONAL ELECTIONS

ARTICLE LXXXI.—The President of either House shall have the power to grant to Members a leave of absence for a period not exceeding a week. As to a leave of absence for a period of more than a week, permission may be given by the House. No permission shall be given for a leave of absence for an unlimited period of time.

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

ARTICLE LXXXIII.—The House of Representatives shall have power to accept the resignation of a Member.

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

#### CHAPTER XVII.—DISCIPLINE AND POLICE

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

ARTICLE LXXXVI.—Police officials required by either House, shall be provided by the Government and put under the direction of the President.

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

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

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

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

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

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

ARTICLE XCII.—In neither House shall the use of coarse language or personalities be allowed.

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

#### CHAPTER XVIII.—DISCIPLINARY PUNISHMENTS

ARTICLE XCIV.—Both Houses shall have the power to mete out disciplinary punishment to the respective Members.

ARTICLE XCV.—In each House there shall be instituted a Committee on Disciplinary Punishment for making enquiries into cases of disciplinary punishment.

When a case for disciplinary punishment occurs, the President shall, in the first place, instruct the Committee to enquire into the

matter, and shall deliver sentence after having submitted the case to the consideration of the House.

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

ARTICLE XCVI.—Disciplinary punishments shall be as follows:—

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

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

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

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

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

ARTICLE XCIX.—When, for non-compliance, without substantial reasons, with the Imperial Proclamation of convocation within one week from the date specified therein, or for absence, without good reasons, from the meetings of the House or of a Committee, or for having exceeded the period of his leave of absence, a Member has received a summons from the President and still persists in delaying his appearance without good grounds for so doing, for one week after the receipt of the said summons, he shall, in the House of Peers, be suspended from taking his seat, and the matter shall be submitted to the Emperor for His decision.

In the House of Representatives, such a Member shall be expelled therefrom.

## IV. THE LAW OF FINANCE

We, with the advice of Our Privy Council, hereby give Our Sanction to the present Law of Finance and order it to be promulgated.

[His Imperial Majesty's Sign-Manual]

[Privy Seal.]

The 11th day of the 2nd month of the 22nd year of Meiji [February 11, 1889].

[Countersigned by the Ministers.]

## CHAPTER I.—GENERAL RULES

ARTICLE I.—The financial year of the Government shall commence on the 1st day of the 4th month in each year, and end on the 31st day of the 3rd month of the following year.

All transactions of matters relating to receipt and disbursement of the revenues and expenditures of each financial year, shall be completed on the 31st day of the 11th month of the following financial year.

ARTICLE II.—All receipts from taxes and all other resources shall be treated as revenues, and all expenses, as expenditures. Revenues and expenditures shall be embodied in the general budget.

ARTICLE III.—Sums appropriated for each financial year shall not be applied to the payment of expenses belonging to another financial year.

ARTICLE IV.—No Government Office is allowed to keep special funds other than those provided for by law or ordinance.

## CHAPTER II.—BUDGET

ARTICLE V.—The general budget of annual revenues and expenditures shall be laid before the Imperial Diet of the previous year, at the beginning of its session.

ARTICLE VI.—The general budget of annual revenues and expenditures shall be divided into two parts, the ordinary and extraordinary; and each part shall be subdivided into Titles and Paragraphs.

The following documents shall accompany the budget for the information of the Imperial Diet:—

1. Paper stating the amount of the estimated expenses demanded by the respective Departments of State. In this paper every item in each Paragraph shall be explicitly stated.



2. Paper stating the actual accounts of the revenue and expenditure of the financial year, ended on the 31st day of the 3rd month of the current year.

ARTICLE VII.—The reserves to be provided in the budget shall be divided into the following two classes:—1st reserve; 2nd reserve.

The first reserve shall be used to supply deficiencies, which are unavoidable in the budget. The second reserve shall be used to meet necessary expenses unprovided for in the same.

ARTICLE VIII.—The account of sums defrayed out of the reserve shall, after the lapse of the financial year, be laid before the Imperial Diet, and its approbation shall be sought.

ARTICLE IX.—The maximum amount of the Treasury Bills to be issued during each financial year, shall be determined with the consent of the Imperial Diet.

#### CHAPTER III.—RECEIPTS

ARTICLE X.—Taxes and other revenues shall be raised in accordance with the provisions of laws and ordinances.

Taxes and other revenues shall not be levied except by officials qualified therefor by law or ordinance.

#### CHAPTER IV.—EXPENDITURES

ARTICLE XI.—The amount appropriated for the expenses of the Government for each financial year, shall be defrayed out of the revenues of the same financial year.

ARTICLE XII.—The Ministers of State shall not apply the appropriations for any object other than that prescribed in the budget; nor are they permitted to interchange the amounts of appropriation in each Paragraph one for the other.

The Ministers of State shall hand over to the Treasury all receipts under their control, and shall not make use of them directly.

ARTICLE XIII.—The Ministers of State shall draw order of payment upon the Treasury, in order to defray the expenses appertaining to their respective administrations.

The power to issue order of payment, however, may be delegated to other functionaries in accordance with rules specially provided for.

ARTICLE XIV.—The Treasury shall not make payment on such orders as are contrary to the provisions of laws and ordinances.

ARTICLE XV.—The Ministers of State shall not issue order of

payment, except in favor of a legitimate creditor of the Government or his agent.

For the expenses enumerated here below, the Ministers of State may, however, issue order of advance payment to competent officials or to banks specially assigned by the Government.

1. Payment on the principal and interest of national debts.
2. Expenses of troops and fleets, and Government vessels.
3. Expenses of Government Offices abroad.
4. All expenses to be paid in foreign countries, besides those mentioned in the preceding clause.
5. Expenses to be paid in those districts in the interior, where the means of transportation and communication are incomplete.
6. Those miscellaneous ordinary expenses in the different Government Offices, of which the whole annual amount is below five hundred *yen*.
7. Expenses of Offices, the situation of which cannot be settled in one place.
8. Expenses of works carried out under direct supervision of the different Government Offices, provided such expenses do not exceed three thousand *yen* for each superintending official.

#### CHAPTER V.—FINAL ACCOUNTS

ARTICLE XVI.—General final accounts to be laid by the Government before the Imperial Diet, after it has received the verification of the Board of Audit, shall be drawn up in the same form as the general budget, and shall contain explicit statements as to the following particulars:—

##### REVENUES

- Estimated amount of revenues.
- Ascertained amount of revenues.
- Amount of revenues received.
- Amount of revenues not yet received.

##### EXPENDITURES

- Estimated amount of expenditures.
- Amount of expenditures increased after the determination of the budget.
- Amount of expenditures for which order of payment had been issued.
- Amount to be carried over to the next financial year.

ARTICLE XVII.—The following documents shall accompany the general final accounts mentioned in the preceding Article, together with the report of verification of the Board of Audit:—

1. Reports of final accounts submitted of the respective Departments of State.
2. Accounts of the national debts.
3. Accounts of cases in which special modes of treatment are allowed.

CHAPTER VI.—TERMS OF PRESCRIPTION

ARTICLE XVIII.—As to those liabilities of the Government, of which the creditor has not made the demand of disbursement or of payment within five years, after the end of the financial year in which the payment should have been made, they shall be considered to have passed the term of prescription, and the Government shall be free from the liability. But in case the term of prescription is fixed by a special law, the provision of such law shall be followed.

ARTICLE XIX.—When, concerning any amount of money due to the Government, a person has not received notice for payment within five years, after the end of the financial year in which such payment should have been made, he shall be freed from their liability. But in case the term of prescription is fixed by a special law, the provision of such law shall be followed.

CHAPTER VII.—SURPLUS TRANSFER OF APPROPRIATIONS TO ANOTHER FINANCIAL YEAR. RECEIPTS NOT PROVIDED IN THE BUDGET.

REFUNDING OF APPROPRIATIONS

ARTICLE XX.—When there occurs a surplus in the annual accounts of a financial year, it shall be carried over to the revenues of the next financial year.

ARTICLE XXI.—In case any express permission is specially provided in the budget, or in case expenses have not been wholly paid out during a financial year, on account of delays caused by unavoidable circumstances in the progress of any work of manufacture which had to be completed within the said financial year, appropriations may be carried over to, and disbursed in, the succeeding year.

ARTICLE XXII.—In case the total amount of a continuing expenditure fund is determined for any work, manufacture, or any other undertakings, which require a number of years for completion, the

surplus of each financial year may be successively carried over and disbursed until the end of the year, in which the said work, manufacture, or other undertakings shall be finished.

ARTICLE XXIII.—Money paid back for refunding sums which had been out in mistake or had been overpaid, receipts belonging to a financial year of which the accounts of receipts and payment have been finished, and all other receipts not provided in the budget, shall be taken into the revenue of the current financial year. However, in the case of an advance payment, of a disbursement in approximate amounts, or of a disbursement by a temporary interchange of items, which has been made in accordance with the provisions of law or Imperial Ordinance, the sums of money paid back may be applied for refunding the respective appropriations, out of which they had been originally paid.

CHAPTER VIII.—WORKS UNDER THE GOVERNMENT. THE SALE AND PURCHASE, AND LENDING AND BORROWING OF OBJECTS

ARTICLE XXIV.—Excepting the cases otherwise prescribed by law or Imperial Ordinance, works under the Government, and the sale and purchase and lending and borrowing of articles, shall be put to competition, by giving public notice. In the following cases, however, contracts may be entered into at discretion, without resorting to the competitive means:—

1. In the case of the purchase or borrowing of articles in the exclusive possession of a single person or company.
2. In the case of works to be carried out, or of articles to be purchased or sold, or to be lent or borrowed, under circumstances requiring the actions of the Government to be kept secret.
3. In the case of extraordinary urgency, when there is no time to put to competition the undertaking of a work, or the purchase or sale, or borrowing or lending of articles.
4. In the case of articles which, on account of their peculiar nature, or on account of the special object for which they are to be used, require to be purchased directly in the place of production or manufacture, or from the producers or manufacturers.
5. In the case of the purchase of manufactures or instruments, which cannot be manufactured except by special artists.
6. In the case of the purchase or lease of lands and buildings, requiring particular situation or construction.

7. In the case of contracts relating to works, and of the purchase or borrowing of articles, of which the cost or value does not exceed five hundred *yen*.
8. In the case of the sale of movable properties, the estimated value of which does not exceed two hundred *yen*.
9. In the case of the purchase of men-of-war.
10. In the case of the purchase of horses in the Army.
11. In case a work or manufacture is caused to be undertaken, or some articles are purchased, for experimental purposes.
12. In the case of the employment of the poor belonging to a charity establishment, or in the case of the direct purchase of things produced or manufactured therein.
13. In the case of the employment of convict labour, or of the direct purchase of things manufactured by the same, or in the case of the direct purchase of articles produced or manufactured at an agricultural or industrial establishment under the control of the Government.
14. In the case of the sale of articles produced or manufactured at an agricultural or industrial establishment under the Government, or an establishment for charity, education, or by convict labour.

ARTICLE XXV.—No payment shall be made in advance for works or manufacture, or for the purchase of articles, excepting in cases of men-of-war, arms, and ammunition.

#### CHAPTER IX.—ACCOUNTING OFFICIALS

ARTICLE XXVI.—Officials, who are charged with the receipt and disbursement of cash and with serving articles in and out that belong to the Government, shall be responsible in every case for the money and articles under their management, and receive the verification and decision of the Board of Audit.

ARTICLE XXVII.—In cases where the officials mentioned in the preceding Article lose or injure the cash or articles, by fire or flood, or by being robbed of them, or by any other causes, they shall not be relieved from their responsibility, unless, by proving to the Board of Audit that the loss or injury has been unavoidable in connection with the custody, they shall have received decision of the said Board, discharging them from the responsibility for the same.

ARTICLE XXVIII.—The officials who may be required to deposit security for being charged with the receipt or disbursement of cash

and with serving articles in and out, shall be determined by Imperial Ordinance.

ARTICLE XXIX.—The capacity to order payment and that of dealing with the receipt and disbursement of money, shall not be combined in one person at the same time.

#### CHAPTER X.—MISCELLANEOUS RULES

ARTICLE XXX.—In case when it is difficult to follow the provisions of the present Law on account of special requirements, a special mode of treatment may be allowed.

The establishment of a special mode of treatment shall be effected by law.

ARTICLE XXXI.—The Government may entrust the Nippon Ginko [Bank of Japan] with the management of the Treasury funds.

#### CHAPTER XI.—SUPPLEMENTARY RULES

ARTICLE XXXII.—The provisions of the present Law not relating to the Imperial Diet shall come in force from the 1st day of the 4th month of the 23rd year of Meiji [April 1, 1890]; and those relating to the Imperial Diet shall come in force from the time of its opening.

The provisions of the present Law relating to the final accounts shall have application from the accounts of the financial year for which the vote of the Imperial Diet shall have been obtained.

ARTICLE XXXIII.—Laws and ordinances which are incompatible with any provision of the present Law, shall be repealed from the day of the coming in force of such provision.

### V. THE NEW LAW OF ELECTION <sup>1</sup>

#### CHAPTER I.—THE ELECTION DISTRICTS

ARTICLE I.—The Members of the House of Representatives shall be elected in each of the Election Districts. The Election Districts, and the number of Members to be elected in each district, are set forth in the Appendix of the present Law.

ARTICLE II.—The Voting Districts shall be determined according to the limits of *Shi* (Cities), *Cho* (Towns), and *Son* (Villages). In accordance with the provisions of the Imperial Ordinance, a city, town or village possessing peculiar circumstances may establish not

<sup>1</sup> From the *Japan Weekly Times* of Aug. 16 and 23, 1902, with corrections.

less than two voting districts, or may establish one voting district for several towns or villages. When the provisions of the present Law are not applicable to the voting mentioned in the preceding clause, special provisions may be enacted by Imperial Ordinance.

ARTICLE III.—A Union of several Towns or several Villages, or of Towns and Villages administering in common the affairs of such Towns and Villages, shall be regarded as one Town or Village, and the administrators of the Union shall be regarded as the Heads of the Town or Village.

ARTICLE IV.—The Mayor of a City or the Head of a Town or Village shall take charge of the voting in the capacity of Voting Overseer.

ARTICLE V.—The Counting Districts shall be in conformity with the limits of a Gun (Rural District) or City. The Head of the Gun or the Mayor shall take charge of counting affairs in the capacity of Counting Overseer.

ARTICLE VI.—The Governor of a Local Administration Office shall supervise the election affairs in the capacity of Chairman of Election.

ARTICLE VII.—Even when an alteration takes place in an election district in consequence of one in the administration arrangement, the member or members actually sitting for such district shall retain their seats.

#### CHAPTER II.—RIGHTS OF ELECTORS AND OF ELIGIBLE PERSONS

ARTICLE VIII.—Any person possessing the following qualifications shall enjoy the franchise.

1. He must be a male Japanese subject and be not less than full twenty-five years of age.
2. He must have had his permanent residence in the election district for not less than one year previous to the date of the drawing-up of the electoral list.
3. He must have been paying in the electoral district, land tax to the amount of not less than ten *yen* for not less than one year, and previous to the date of the making out of the electoral list, or other direct national taxes exclusive of land tax of not less than ten *yen* in the aggregate, or land tax and other direct national taxes combined of not less than ten *yen*, for not less than two years; and must be still paying the same.

In the case of a person that has acquired property by succeeding to an estate, the amount of taxes paid on the estate by his predecessor shall be regarded as taxes paid by him.

ARTICLE IX.—In the qualifications mentioned in the preceding article, those that depend on time shall not be affected by any alteration of the administrative jurisdiction of the places of abode of the persons concerned.

ARTICLE X.—A male Japanese subject who is not less than full thirty years of age shall be eligible for election.

ARTICLE XI.—The following persons shall not enjoy the franchise or be eligible for election:—

1. Those who have been declared incompetent or quasi-incompetent.
2. Those who have been declared bankrupt and have not yet fulfilled their obligations, or those who have been declared to be in process of liquidation or to be insolvent and who have not yet been definitely rehabilitated.
3. Those who have been deprived of civic rights or whose civic rights are suspended.
- [4. Those who have been sentenced to simple confinement or to a graver punishment and whose cases are *sub judice*.] <sup>1</sup>

ARTICLE XII.—The pater-familias of noble families shall not possess the franchise or be eligible for election. The same rule applies to men in the Army or in the Navy who are on active service or who have been summoned in time of war or of emergency; also to students of Government, communal and private educational institutions.

ARTICLE XIII.—Shinto priests and ministers, priests and teachers of religion of all kinds, teachers of elementary schools shall be ineligible. This rule applies to those who have not yet passed three months after they have resigned their respective offices.

Those who undertake Government work under contract or those who are officers of juridical persons undertaking Government work under contract shall be ineligible.<sup>2</sup>

ARTICLE XIV.—The officers and officials engaged in the management of an election shall not be eligible within the limits of the

<sup>1</sup> This clause was deleted in 1910.

<sup>2</sup> In 1908, this paragraph was amended by inserting the word "principally"; so that the latter part would read: "those who are officers of juridical persons undertaking principally Government work under contract shall be ineligible."



jurisdiction of their respective offices. This rule applies to those who have not yet passed three months after they have resigned their respective offices.

ARTICLE XV.—Officials in the Imperial Household Department, Officials of Justice, Chiefs and Judges of the Administrative Litigation Court, Auditors, Revenue Officials and Police Officials shall not be eligible.

ARTICLE XVI.—Officials other than those enumerated in the preceding article may, so long as their official functions are not thereby interfered with, serve as members, retaining their official position.

ARTICLE XVII.—A member of a Fu or Ken Assembly may not combine his office with membership in the House of Representatives.

#### CHAPTER III.—ELECTORAL LIST

ARTICLE XVIII.—The Chocho (Head of Town) and the Soncho (Head of Village) shall make every year according to the existing state of things on the 1st of October a list of all the qualified persons residing in the Cho and the Son, and shall make out two copies of the electoral list and forward them to the Guncho (Head of Rural District) before the 15th of the month.

The Guncho shall inspect the lists forwarded to him by the Chocho and Soncho and shall return the duplicates to the respective Chocho and Soncho before the 31st of October, after making any correction that it is judged necessary.

The Shicho (Mayor) shall make every year, according to the existing state of things on the 1st of October, a list of all the qualified persons residing in the city and shall make out an electoral list before the 31st of the same month.

In the electoral list shall be entered the name, official rank, profession, class, residence, date of birth of each voter, and the total amount of taxes paid by him and the place in which such taxes are paid.

ARTICLE XIX.—When an elector is paying direct national taxes without the limits of the Shi, Cho or Son in which he is residing, he shall obtain in accordance with the prescribed process a certificate to that effect, and shall forward it before the 5th of October to the Shicho, Chocho, or Soncho of the place where he is residing. In case the said certificate is not forwarded by the prescribed time, the said taxes shall not be counted in the electoral list.

ARTICLE XX.—The Guncho, Shicho, Chocho, or Soncho shall, at

their respective offices or at places approved by their respective local Governors, exhibit for public inspection the electoral list, during fifteen days commencing from the 5th of November.

ARTICLE XXI.—When an elector discovers an omission or the wrong registration of a name in the list, he may claim that a correction be made by giving to the Guncho or the Shicho written notice and his reasons therefor, together with corroborative evidence.

ARTICLE XXII.—When for a justifiable reason an elector cannot follow the process mentioned in Article XIX and his name has not been registered in the list, the provisions in the preceding Article shall apply.

ARTICLE XXIII.—After the expiration of the period for public inspection, a claim set forth in the preceding two articles may not be made.

ARTICLE XXIV.—Upon the receipt of a notice set forth in Article XXI and Article XXII, the Guncho or Shicho shall examine the reasons alleged and the evidence adduced, and shall give his decision within twenty days from the receipt of such notice. When he decides that the notice is relevant, he shall immediately register the name omitted and communicate to that effect with the person who has given the notice and to the other persons concerned, at the same time publishing the main points of the case in the election districts. When the notice is decided to be irrelevant, a communication to that effect shall be made to the person who has given the notice.

When the registration has been corrected, the Guncho shall communicate the circumstances to the Chocho or Soncho of the place in which the person in question is residing.

ARTICLE XXV.—When either the person who has given the notice or other persons concerned are not satisfied with the decision of the Guncho or Shicho made in conformity with the foregoing article, they may, within seven days from the day on which the said decision was given, institute against the Guncho or Shicho a suit in a Local Court.

No appeal is allowed to Appellate Courts against the judgment of the Local Court mentioned in the preceding clause, but it is permissible to bring an appeal to the Court of Cassation for revision.

ARTICLE XXVI.—The Chocho or the Soncho shall forward to the Guncho between the 20th of November and the 10th of December the electoral list placed under his management.

The Guncho shall examine the list forwarded to him in conformity with the preceding clause and shall send it back by the 20th of December to the Chocho or the Soncho after making the necessary correction whenever there is any part to be corrected in the list.

ARTICLE XXVII.—The electoral list shall be settled on the 20th of December, and the list shall be kept till the day on which the electoral list for the next year is settled. When, however, any correction is to be made in the list in pursuance of the judgment of a Court of Law, the Guncho or the Shicho shall at once make the said correction and shall publish the fact.

When the list has been corrected in conformity with the preceding clause, the Guncho shall communicate the circumstances to the Chocho or Soncho of the place where the person concerned is residing, and shall cause the duplicate copy to be corrected accordingly.

A new electoral list shall be compiled whenever a natural calamity or any other unavoidable circumstance may require it.

The compilation of the electoral list according to the foregoing clause and the date and also the date and duration for placing the list for public inspection and for settling it shall be determined by order.

#### CHAPTER IV.—VOTING AND VOTING PLACE

ARTICLE XXVIII.—The date of a general election shall be determined by Imperial Ordinance and shall be proclaimed at least thirty days beforehand.

ARTICLE XXIX.—Election shall be done by voting.

In voting one elector shall vote for one person only.

ARTICLE XXX.—The voting place shall be opened in a City or a Town or a Village Office or in some other place appointed by the voting overseer with the approval of the local Governor.

ARTICLE XXXI.—A voting overseer shall proclaim to the voting district at least five days previous to the date of election the locality of the voting place placed under his management.

ARTICLE XXXII.—The Guncho or the Shicho shall nominate not less than three and not more than five voting witnesses from among the electors of the voting district under his management, and the notice of the nomination shall be sent to the persons nominated at least three days previous to the day of election, requesting them to attend the voting place on that day.

The witnesses can not decline their nomination without proper reasons.

ARTICLE XXXIII.—The voting place shall be opened at 7 o'clock a. m. and be closed at 6 o'clock p. m.

ARTICLE XXXIV.—On the day of election, electors shall come in person to the voting place and vote, after identifying themselves as the persons whose names are in the electoral list and after affixing their seals to it.

In case a voting overseer cannot identify a person who is about to vote, he shall require him to declare on oath his proper identity. When this declaration is not made, such person shall not be allowed to vote.

ARTICLE XXXV.—The ballots shall be given to each elector at the voting place on the day of voting.

ARTICLE XXXVI.—Every elector shall, at the voting place, himself inscribe upon the ballot the name of the person he wishes to vote for, and shall put the paper into the ballot-box.

An elector must not write his name on the ballot.

ARTICLE XXXVII.—No person, other than those entered in the electoral list, shall be capable of voting. Should, however, any one come to the voting place on the day of election, bringing with him a writ of decision entitling him to have his name entered on the electoral list, the voting overseer shall allow him to vote.

ARTICLE XXXVIII.—Whenever a person entered in the electoral list does not possess the right of election, such person cannot vote.

The foregoing clause applies to those persons who cannot themselves write the names of the persons they wish to vote for.

ARTICLE XXXIX.—The voting overseer shall, on consulting the voting witnesses, decide whether or not to allow the voting.

In case an elector of a Cho or Son on whom the decision mentioned in the foregoing clause has been made is dissatisfied with it, the voting overseer shall provisionally allow him to vote.

For a vote mentioned in the foregoing clause the elector shall be made to put it in an envelope and to seal it and to place it in the ballot-box after superscribing his own name on the envelope.

For an elector of a Cho or Son objected to by any of the persons mentioned in clause 1 of this article, the provisions of clause 2 of this article shall apply.

ARTICLE XL.—When the time for closing the polls arrives, the

voting overseer shall declare the fact and close the entrance of the voting place; and shall close the ballot-box as soon as the electors present in the voting place have finished voting. After the shutting of the ballot-box, no voting shall be allowed.

ARTICLE XLI.—The voting overseer shall keep minutes of the voting, in which are to be entered all matters relating to the voting and to which he shall put his signature as shall also the witnesses.

ARTICLE XLII.—In the case of a Cho or Son the voting overseer shall, in company with one or more witnesses, send, not later than the day following that of election, the ballot-box, the minutes of the voting and the electoral list to the counting overseer.

ARTICLE XLIII.—In the case of an island or other place whence it is impossible, owing to imperfect means of communication, to send the ballot box within the time mentioned in the preceding article, the local Governor may fix a convenient date for voting and cause the ballot-box, minutes of the voting, and the electoral list to be sent by the time of counting the votes.

ARTICLE XLIV.—When owing to natural calamity or other unavoidable circumstances it is found to be impossible to carry out the voting or it is necessary to take a new vote, the voting overseer shall give notice to that effect to the Chairman of Election. In such case the Chairman of Election shall cause the voting to be carried out by fixing a new date. The date, however, shall be proclaimed in the voting district at least five days beforehand.

ARTICLE XLV.—In the case where two or more members are to be elected simultaneously in one and the same electoral district, the provisions of Article XXIX and XXXVI shall be applied irrespective of the nature of the election.

ARTICLE XLVI.—No person is under obligation to state the name of a person voted for to any person.

#### CHAPTER V.—CONTROL OF VOTING PLACES

ARTICLE XLVII.—The voting overseer shall maintain order at the voting place and may, in case of necessity, ask the interference of police officials.

ARTICLE XLVIII.—With the exception of the electors, persons attending to the business of the voting place, officials who are authorized to oversee the voting place and police officials, no person is allowed to enter the voting place.

ARTICLE XLIX.—When at the voting place any person makes speeches, engages in discussion or causes an uproar, or holds a conference or uses persuasion as to voting, or otherwise disturbs the order of the voting place, the voting overseer shall caution him, and, if the caution is disregarded, shall cause him to leave the voting place.

ARTICLE L.—A person who has been compelled to leave a voting place in accordance with the foregoing article, may be allowed to vote at the end of the voting; but this rule may not be adhered to when the voting place has been closed.

CHAPTER VI.—COUNTING OF BALLOTS AND COUNTING-OFFICE

ARTICLE LI.—Subject to the approval of a Gun or Shi Office or of the local Governor, a counting office shall be established at a place appointed by the counting overseer.

ARTICLE LII.—The counting-overseer shall proclaim the counting-office beforehand.

ARTICLE LIII.—The local Governor shall nominate in each counting district not less than three and not more than seven counting witnesses from among the electors in the district, and shall cause them to attend the counting. However the voting witnesses may act as counting witnesses in a Shi.

A counting witness may not resign his nomination without proper causes.

ARTICLE LIV.—The counting-overseer shall open in the presence of the witnesses the ballot-box on the day following that of its arrival in the case of a Gun, and on the day following that of election in the case of a Shi, and shall count the total number of ballots and that of voters.

ARTICLE LV.—When the counting mentioned in the preceding article has been finished, the counting-overseer shall next examine the votes coming under clause 2 and clause 4 of Article XXXIX and shall decide as to their acceptability on consulting the opinion of the counting witnesses.

The counting-overseer shall mix the ballots of the various voting places and shall sort the ballots.

ARTICLE LVI.—The electors are entitled to request to be permitted to inspect the counting at the respective offices.

ARTICLE LVII.—The validity of ballots shall be decided by the counting-overseer on consulting the opinion of the counting witnesses.

ARTICLE LVIII.—The following ballots shall be void :—

1. Those for which a regular ballot has not been used.
2. Those on which the names of two or more persons voted for are entered.
3. Those on which the names of a person voted for can not be deciphered.
4. Those on which the name of a person who has no qualification for election is inscribed.
5. Those on which words other than the name of the person voted for are written. This rule does not apply to those on which the official rank, profession, class, residence or honorifics are entered.

ARTICLE LIX.—Ballots shall be sorted into those that are valid and those that are void and shall be preserved by the respective counting-overseers during the tenure of office of the members.

ARTICLE LX.—The counting-overseer shall keep minutes of counting, in which shall be recorded all matters relating to the counting, and shall, after affixing his signature and those of the counting witnesses, preserve them together with the voting minutes during the tenure of office of the members.

ARTICLE LXI.—When the examination of ballots has been finished the counting-overseer shall at once report the result to the Chairman of Election.

ARTICLE LXII.—The provisions of Article XLIV shall, with the exception of the proviso, be applied correspondingly to counting.

ARTICLE LXIII.—For the control of counting offices the provisions of Chapter V shall be applied correspondingly.

#### CHAPTER VII.—ELECTION MEETING

ARTICLE LXIV.—The election meeting shall be held at the place and on the date appointed by the Chairman of Election, to examine the returns mentioned in Article LXI.

When the counting returns mentioned in Article LXI have been received in the case where a new election has been held owing to the invalidation of a portion of the election, the Chairman of Election shall summon an election meeting and shall examine anew the said returns together with those forwarded by the other counting-overseers.

ARTICLE LXV.—The Chairman of Election shall previously proclaim the place and date of the election meeting.

ARTICLE LXVI.—The Chairman of Election shall nominate from among the electors of the different election districts not less than three and not more than seven election witnesses and shall summon them to attend the election meeting on the day when it is held, by giving notice of the day of the meeting to the said witnesses at least three days beforehand.

An election witness cannot resign the nomination without proper reasons.

ARTICLE LXVII.—The Chairman of Election shall keep minutes of the election, in which shall be recorded all matters relating to the election meeting, and shall preserve them together with the returns mentioned in Article LXI, during the tenure of office of the members, after affixing his signature and those of the witnesses.

ARTICLE LXVIII.—The electors may request admission to the election meeting of their respective election districts.

ARTICLE LXIX.—For the control of the place of the election meeting the provisions of Chapter V shall be applied.

#### CHAPTER VIII.—ELECTED PERSONS

ARTICLE LXX.—The individual who has obtained a relative majority of the total number of valid ballots shall be declared the elected person. However the number of ballots obtained shall not be less than one-fifth of that obtained by dividing the total number of the electors entered in the electoral list by the fixed number of members to be returned from the district.

When an elected person mentioned in the preceding clause either declines the election or dies previous to the issue of the notice of election; or when his election has been invalidated in consequence of his having been punished for an offence committed in connection with the election either before or after the issue of the notice of election; or when the election has been invalidated by his having been disqualified for election, the vacancy shall be filled from among those who obtained ballots as mentioned in the preceding clause but who were not declared elected, the selection to be made according to the relative majority of ballots obtained.

Besides the cases mentioned in the preceding clause, when it is found necessary according to the issue of a suit either about election or about returns, the elected person shall be decided anew according to the precedents mentioned in the present Article.

The provisions of Article VII shall also be applied to cases coming under the preceding two clauses.



In deciding an elected person according to the present article, when the number of ballots is equal, the individual who is the senior in point of birth shall be elected, and when they are both of the same age, it shall be decided by drawing lots.

ARTICLE LXXI.—When the elected person has been decided, the Chairman of Election shall at once communicate the fact to the person concerned.

ARTICLE LXXII.—Upon the receipt of notice of election, mentioned in the preceding article, every elected person shall communicate to the Chairman of Election whether he accepts or not.

One and the same person cannot accept the election of several different election districts.

ARTICLE LXXIII.—Those elected persons shall be considered to have declined their election who have not made the communication of acceptance within twenty days from the day on which they received notice of election.

ARTICLE LXXIV.—In case there is no elected person, the local Governor shall fix the date and shall carry out a new election, proclaiming previously the date therefor.

In case the number of persons elected does not come up to the required number, the local Governor shall, in conformity with the precedent mentioned in the preceding article, cause an election to be held to fill up the deficiency in the number.

The rules of the preceding two clauses shall also apply when an elected person is lacking for a cause coming under clauses 2 and 3 of Article LXX.

An election mentioned in the present article may not be held during the period allowed for filing a suit mentioned in Articles LXXX and LXXXII, or till the settlement of judgment in a case where a suit has been filed.

ARTICLE LXXV.—When an elected person has accepted his election, the local Governor shall at once give him a certificate of election, and publish his name throughout the extent of his jurisdiction, at the same time reporting thereon to the Minister of State for Home affairs.

ARTICLE LXXVI.—When owing to a suit either about election or about returns, either the one or the other has been invalidated; or when after the issue of a certificate of election the election has been invalidated as a result of punishment for an offence committed rela-

tive to election, the local Governor shall cancel the certificate of election and shall publish the fact throughout the extent of his jurisdiction.

CHAPTER IX.—TERM OF MEMBERSHIP AND SUBSTITUTIONAL ELECTIONS

ARTICLE LXXVII.—The term of membership shall be four years from the date of a general election. Even when the term expires during a sitting of the Imperial Diet, the members shall remain on duty till the close of the session.

ARTICLE LXXVIII.—When a vacancy occurs among Members within one year from the date of a general election, such case shall be dealt with in conformity with the precedents mentioned in Article LXX.

When in a case mentioned in the preceding article there is no elected person, or when a vacancy occurs among Members after the expiration of one year from the date of a general election, the local Governor shall, in accordance with the order of the Minister of State for Home Affairs, carry out a substitutional election within twenty days from the day on which he received the said order.

The date of a substitutional election mentioned in the preceding clause shall be notified beforehand by the local Governor.

ARTICLE LXXIX.—A member elected by substitutional election shall remain on duty during the remainder of the term of his predecessor.

CHAPTER X.—LAW SUITS ABOUT ELECTIONS AND ABOUT RETURNS

ARTICLE LXXX.—An elector who entertains an objection to the validity of the election may institute a suit against the Chairman of Election in a Court of Appeal within thirty days from the day of the election.

Those who are dissatisfied with the judgment of the said Court may make an appeal to the Court of Cassation for revision.

ARTICLE LXXXI.—When the provisions for election are violated, the Court of Law shall declare the election void either *in toto* or in part, only in case such violation is judged liable to affect the issue of returns.

In regard to a law suit about returns, when the election is judged to come under the foregoing clause, the Court of Law shall also declare the election void either *in toto* or in part.

ARTICLE LXXXII.—When a person who has lost an election

questions the validity of the election of the elected person in the election district, he may institute a suit in a Court of Appeal against the elected person, within thirty days from the day of the notification of the name of the elected person as mentioned in Article LXXV. However, when a law suit is instituted on the ground that the requirement provided in the proviso of clause 1, Article LXX has been acquired, such suit shall be made against the Chairman of Election, and shall be instituted within thirty days from the day of notification mentioned in Article LXXIV.

Those who are dissatisfied with the judgment of the Court of Appeal mentioned in the preceding clause may bring an appeal to the Court of Cassation for revision.

ARTICLE LXXXIII.—In trying a suit about election or about returns a Court shall require the Public Procurator to attend the proceedings.

ARTICLE LXXXIV.—When a suit about an election or about returns has been decided in a Court, a copy of the judgment shall be sent to the Minister of State for Home Affairs; and when the Imperial Diet is in session, another copy shall be sent to the President of the House of Representatives.

ARTICLE LXXXV.—The plaintiff shall, simultaneously with the filing of his petition, deposit as security in the Court three hundred *yen* in cash or Public Bonds of equal value.

In case the judgment has been given against the plaintiff, should he fail to pay the whole amount of the legal costs within seven days from the day on which the judgment was settled, the security money shall be appropriated for the purpose, and should there still remain any deficiency, the required amount shall be charged to the plaintiff.

#### CHAPTER XI.—PUNITIVE RULES

ARTICLE LXXXVI.—Any person, who has effected by fraudulent process the insertion of his name in the electoral list, or who has made a false declaration in the case of clause 2, Article XXXIV, shall be liable to a fine of not less than ten *yen* and of not more than fifty *yen*.

ARTICLE LXXXVII.—Any person, who has committed whether prior or subsequent to the election an act coming under any of the following items, shall be sentenced to minor confinement without hard labor for not less than one month and not more than one year, or to pay a fine of not less than ten *yen* and not more than one hundred *yen* :—

1. When in connection with an election, money, goods, notes or other presents, or public or private employment have been given, either directly or indirectly, to an elector or to a canvasser, or when promised to be given; or when persuasion has been used either to accept the said articles or benefit or to accept the promise of giving them, or when the said articles or benefit have been accepted or their acceptance has been promised.
2. When in connection with an election persons have been entertained with liquors or food or with amusements, under whatever pretexts or in whatever forms, or when such entertainment has been enjoyed; or when ships, vehicles, or horses have been furnished for conveying persons to or from a place of election meeting or place for counting ballots or voting place, or when such facilities of conveyance have been accepted; or when traveling expenses or expenses incurred in lodging or in taking rest have been paid for other persons or when persons have got such expenses paid for them by others; or when promise has been given to persons to make such payment for them or when such promise has been accepted from others.
3. When, in connection with an election, irrigation, tenancy, credit, contribution and other matters of interest relating to an elector or to a shrine, temple, school, company, guild or a civic corporation related to an elector have been taken advantage of in persuading an elector; or when an elector has complied with persuasion of this kind.

In any case mentioned in the preceding clauses, the articles received shall be confiscated and those already spent shall have their value collected.

ARTICLE LXXXVIII.—Those who come under any of the following items shall be sentenced to minor confinement without hard labor for not less than two months and not more than two years, with a fine of not less than five *yen* and not more than one hundred *yen*.

1. When, in connection with an election, an elector is subjected to an act of violence or to intimidation, or when he is abducted.
2. When the convenience of passage of an elector is obstructed, or when, by fraudulent means, either the exercise of the right of election is interfered with or an elector is caused to vote.

3. When, in connection with an election, irrigation, tenancy, credit or other matters of interest relating to an elector or to a shrine, temple, school, company, guild or a civic corporation related to an elector have been taken advantage of as means of persecuting an elector.

ARTICLE LXXXIX.—When a Government official, employee, witness or overseer connected with election business has shown to persons the names of persons voted for by electors, he shall be sentenced to minor confinement without hard labor for not less than two months and not more than two years, with a fine of not less than five *yen* and of not more than one hundred *yen*. This rule applies even when the facts shown are incorrect.

ARTICLE XC.—When, without any justifiable cause, any person has either at a voting place or a counting place, interfered with the voting of an elector or has put into practice any device calculated to get the knowledge of the name of a person voted for, he shall be sentenced to minor confinement without hard labor for not less than one month and not more than one year, or to pay a fine of not less than ten *yen* and not more than one hundred *yen*.

The foregoing clause shall apply to a person who, without following the provisions of the laws and regulations, has opened a ballot-box or has taken out ballots from a ballot-box.

ARTICLE XCI.—Whoever has done violence to a voting overseer, counting overseer, Chairman of Election, witnesses, or election overseer, or has disturbed a place of election meeting, a counting place or a voting place; or detains, damages, or plunders ballots or ballot-boxes, shall be sentenced to minor confinement without hard labor for not less than four months and not more than four years.

Whoever has committed an offence mentioned in the preceding clause by assembling a crowd for the purpose, shall be liable to be sentenced to imprisonment with hard labor; whoever has knowingly joined such a crowd to add to its influence, shall be liable to minor confinement without hard labor for not less than one month and not more than five years.

ARTICLE XCII.—Whoever has assembled a crowd for the purpose of intimidating an elector, a person who has offered himself for election, or his canvasser; or of disturbing a place of election meeting, a counting place, or a voting place; or of detaining, damaging, or plundering the ballots, ballot-boxes or other documents relating to the election, shall be liable to be sentenced to hard confinement

without hard labor for not less than six months and not more than three years. Whoever has knowingly joined such a crowd to add to its influence shall be liable to minor confinement without hard labor for not less than fifteen days and not more than three months.

When the offender has carried any of the articles mentioned in Article XCIII, one degree shall be added to the principal punishment.

ARTICLE XCIII.—When an elector, a person who has offered himself for election, or a canvasser carries, in connection with election, fire-arms, spear or halberd, sword or dagger, pointed bamboo, bludgeon, or other weapons capable of killing or injuring persons, he shall be liable to minor confinement without hard labor for not less than two years or to a fine of not less than five *yen* and of not more than two hundred *yen*.

A police official or gendarme may, whenever it is judged necessary, seize any of the articles mentioned in the foregoing clause.

ARTICLE XCIV.—Whoever enters a place of election meeting, counting place, or voting place carrying any of the articles mentioned in the preceding article shall be liable to be dealt with according to the provisions of the foregoing article, with one degree added to the punishment.

ARTICLE XCV.—Whoever, for the purpose of making a display in connection with an election, assembles a crowd, causes a procession to parade, or makes use of fire-works, bonfires or torchlights; or beats a bell or drum or sounds a conch or bugle; or makes use of a flag or a similar object of display; or commits similar acts disregarding the warning of police officials, shall be liable to minor confinement for not less than fifteen days and not more than six months, or to a fine of not less than five *yen* and not more than one hundred *yen*.

ARTICLE XCVI.—Whoever, with the object of making other per-commit any of the acts mentioned in Articles LXXXIX to XCV, instigates them by means of speeches, newspapers, magazines, circulars, placards or in any other form, shall be liable to be dealt with according to the provisions of the respective Articles. In the case of a newspaper or a magazine the person registered as editor shall be dealt with.

ARTICLE XCVII.—Whoever, with the object of preventing the election of another person, has published false information against a person who has offered himself for election, by means of speeches, newspapers, magazines, circulars, placards or by any other means

whatever, shall be liable to minor confinement for not less than six months, with a fine of not less than fifty *yen*. The proviso of the preceding article shall apply to a newspaper or a magazine.

ARTICLE XCVIII.—Any person who has voted without being an elector himself, or who has voted by fraudulently assuming the name of another person, shall be liable to minor confinement without hard labor for not less than one month and not more than two years, with a fine not less than ten *yen* and not more than one hundred *yen*.

ARTICLE XCIX.—Should a witness fail to discharge any of the duties mentioned in the present Law without any justifiable reason, he shall be punished with a fine of not less than five *yen* and of not more than fifty *yen*.

ARTICLE C.—In case any of the offences mentioned in Clause II, Article XCII, Articles XCI and XCIV have been committed, the article found on the person of an offender shall be confiscated.

ARTICLE CI.—Should an elected person have been punished for committing an offence in connection with his election, his election shall be void.

ARTICLE CII.—Any person who has been punished for an offence committed in connection with an election, shall be forbidden to exercise the right to vote and to be elected for a period of time not less than two years and not more than eight years from the expiration of the term of the punishment as determined by declaration of the Court of Law.

ARTICLE CIII.—For an offence punishable according to the present Law six months shall be considered as the term of prescription.

#### CHAPTER XII.—SUPPLEMENTARY RULES

ARTICLE CIV.—Expenses relating to an election shall be fixed by Imperial Ordinance.

ARTICLE CV.—With regard to a law suit connected with an election, the Court of Law shall at once give trial irrespective of the order of filing of other suits.

ARTICLE CVI.—In Towns and Villages where the Law for the Organization of Towns and Villages is not in force, the functions of the Chocho or the Soncho mentioned in the present Law shall be taken charge of by the Kocho (Headman) or an official corresponding in his function to the Kocho.

In localities where a Toshi (Governor of Island) is on duty, the

functions of the Guncho mentioned in the present Law shall be taken charge of by the Toshi; where there is no Toshi, an official corresponding in his function to the Toshi shall take charge of the said functions.

For the municipalities of Tokyo, Kyoto, and Osaka the Shi mentioned in the present Law shall correspond to Ku, the Shicho to Kucho, and the Shiyakusho to Kuyakusho.

ARTICLE CVII.—When the witnesses do not attend the appointed place in time, or when the required quorum is lacking in the course of the function, a voting overseer, counting overseer, or Chairman of Election may nominate provisionally the required number of witnesses from among the electors.

ARTICLE CVIII.—With regard to law suits relating to an electoral list and to law suits about elections or about returns, they shall be dealt with in accordance with the provisions of the Civil Procedure, with the exception of all those cases specially provided in the present Law.

ARTICLE CIX.—The kinds of the direct national taxes mentioned in the present Law shall be determined by Imperial Ordinance.

ARTICLE CX.—Whenever the provisions of the present Law are judged inapplicable to a case occurring in Hokkaido and Okinawa, special provisions may be provided by Imperial Ordinance.

#### CHAPTER XIII.—APPENDED RULES

ARTICLE CXI.—The present Law shall be put in force from the next General Election. However for Hokkaido (excepting the urban districts of Sapporo, Hakodate, and Otaru) and Okinawa, the date of enforcement shall be specially determined by Imperial Ordinance.

ARTICLE CXII.—Only for the compilation of electoral lists necessary for the Election of Members for the first time according to the present Law, the dates and period mentioned in Articles XVIII to XX, Articles XXIV, XXVI, and XXVII, may be specially determined by Imperial Ordinance. The said lists shall remain valid till the day on which the electoral lists for the next year are settled.

[*List of Electoral Districts omitted*].



## VI. THE IMPERIAL HOUSE LAW

It is scarcely necessary to reproduce in full the Imperial House Law, promulgated at the same time as the Constitution; it will be sufficient to pick out a few of the most important points.<sup>1</sup>

A large number of the articles (in all LXII in number) deal with the personal affairs and relations of the Imperial Family. It is perfectly natural that, according to Article XXXV,

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

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

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

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

A female member of the Imperial Family who has married a subject shall be excluded from the membership of the Imperial Family (Article XLIV).

Article I says:

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

Article II specifies that

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

Articles III-IX specify very particularly the line of succession in case there is no Imperial eldest son, or grandson, or any descendant, or Imperial brother or his descendants, or Imperial uncle or his descendants. It is well provided that there shall be no break in the line, so that, as is stated in the Preamble, "Our House shall be founded in everlasting strength and its dignity be forever maintained."

Article XI directs that

The ceremonies of coronation shall be performed and a Grand Coronation Banquet shall be held at Kyoto.

In accordance with that article, the present Emperor was officially crowned in Kyoto in November, 1915.

<sup>1</sup> Translation by Satoh.

Article XII reads as follows :

Upon an ascension to the throne, a new era shall be inaugurated, and the name of it shall remain unchanged during the whole reign.

Accordingly, when the present Emperor ascended the throne in 1912, the Meiji era gave way to the Taisho era, or Era of Great Righteousness.

The Emperor, the Imperial eldest son (Crown Prince) and the Imperial grandson attain their majority at the age of eighteen ; but all other members of the Imperial Family do not attain their majority till the age of twenty.

The Emperor, the Grand Empress-Dowager, the Empress-Dowager and the Empress are to be addressed as " Majesty " (His, Her, or Your) ; while all other members of the Imperial Family are to be addressed as " Highness " (His, Her, or Your).

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