COMMENTARIES

ON THE

CONSTITUTION OF THE EMPIRE

OF

JAPAN.

BY

COUNT HIROBUMI ITO.

TRANSLATED

BY

MIYOJI ITO.

TOKYO:

IGIRISU-HŌRITSU GAKKO,

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NOTICE.

His Excellency Count Ito has been pleased to honor the Igirisu-Hōritsu Gakkō (English Law College) by the presentation to it of the copyright of the English translation of his "Commentaries on the Constitution of the Empire of Japan," which has been undertaken and accomplished by Mr. Miyoji Ito, at the request of His Excellency: the copyright of the original version he has had the condescension of presenting to the Kokka-Gaku-Kai (Association for the Science of State).

Our admiration of the spirit of disinterestedness and of devotion to the interests of the public, is greatly excited by the action of the distinguished donor. The College feels deeply grateful to him for the honor he has done it and for the exceptional favor he has conferred upon it.

We have published the work that it may be a hand book for all, that by sales of it funds may be realized to be applied to the furthering of the

interests of this institution, and, above all, that the kind feeling His Excellency has manifested towards it may be had in remembrance forever.

Tokyo, the 28th day of the 6th month
of the 22nd year of Meiji (1889).

KENZO TAKAHASHI
For the Igirisu-Höritsu Gakko.

PREFACE.

THE Imperial House Law is an exposition of the instructions bequeathed by the Sacred Imperial Ancestors of successive ages, and is intended to be a guide to posterity for all time to come. The Constitution of the Empire of Japan is a collection of the fundamental rules of the State, and lays down clear definitions of the relations that ought to mutually exist between the Sovereign and His people. These two Laws are precise and definite in their meaning; they may be compared even, for brilliancy, to the heavenly luminaries. They are couched in language whose import is deep and comprehensive; indeed there is no word adequate enough to express the praise due to them. They embody profound conceptions and a far-sighted policy, that owe their origin to the wisdom of His Imperial Majesty. I, Hirobumi, while engaged with the officials subordinate to me, in the study of these Laws, have made notes of the results of our investigations, and after

revision of them, I have given them the name of Commentaries. I do not intend them to be a systematic exposition of these great Laws; they are meant only as a medium for conveying information. To another generation must be left the composition of an exhaustive elucidation of them, a task that is beyond any aspiration of mine.

The 4th month of the 22nd year of Meiji (1889).

COUNT HIROBUMI ITO.

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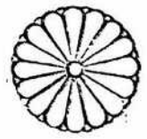

PREAMBLE*

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 12th day of the 10th month of the 14th year of Meiji, 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.

*** This Preamble is not found in the original Japanese text of the Commentaries, but we have deemed it desirable to insert it here for the convenience of our readers. (*Translator's note.*)**

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, 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.

(Countersigned) Count Kuroda Kiyotaka,
Minister President of State.
Count Ito Hirobumi,
President of the Privy Council.
Count Okuma Shigenobu,
Minister of State for Foreign Affairs.
Count Saigo Tsukumichi,
Minister of State for the Navy.
Count Inouye Kaoru,
Minister of State for Agriculture and Commerce.
Count Yamada Akiyoshi,
Minister of State for Justice.
Count Matsugata Masayoshi,
Minister of State for Finance, and Minister of State for Home Affairs.
Count Oyama Iwao,
Minister of State for War.
Viscount Mori Arinori,
Minister of State for Education.
Viscount Enomoto Takeaki,
Minister of State for Communications.

COMMENTARIES

ON THE

CONSTITUTION OF THE EMPIRE OF JAPAN.

THE CONSTITUTION OF THE EMPIRE OF JAPAN.

In our country, the relations between Sovereign and subject were established at the time that the State was first founded. The unity of political powers was weakened, during the middle ages, by a succession of civil commotions. Since the Restoration (1868 A.D.), however, the Imperial power has grown strong and vigorous; and the Emperor has been pleased to issue decrees proclaiming the grand policy of instituting a constitutional form of government, which it is hoped will give precision to the rights and duties of subjects and gradually promote their well-being, by securing unity to the sovereign powers of the Head of the State, by opening a wider field of activity for serving (the Emperor), and by prescribing, with the assistance of the Ministers of State and the advice of the Diet, the whole mode of the working of the machinery of State in a due and proper manner. All this is in strict accordance with the spirit of the noble achievements bequeathed by the Imperial Ancestors, and all that it is proposed to do now, is to open the way for the ultimate accomplishment of the object originally entertained by the said Imperial Ancestors.

CHAPTER I.

THE EMPEROR.

The Sacred Throne of Japan is inherited from Imperial Ancestors, and is to be bequeathed to posterity; in it resides the power to reign over and govern the State. That express provisions concerning the sovereign power are specially mentioned in the Articles of the Constitution, in no wise implies that any newly settled opinion thereon is set forth by the Constitution; on the contrary, the original national polity is by no means changed by it, but is more strongly confirmed than ever.

ARTICLE I.

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

Since the time when the first Imperial Ancestor opened it, the country has not been free from occasional checks in its prosperity nor from frequent disturbances of its tranquility; but the splendor of the Sacred Throne transmitted through an unbroken line of one and the same dynasty has always remained as immutable as that of the heavens and of the earth. At the outset, this Article states the great principle of the Constitution of the country, and declares that the Empire of Japan shall, to the

end of time, identify itself with the Imperial dynasty unbroken in lineage, and that the principle has never changed in the past, and will never change in the future, even to all eternity. It is intended thus to make clear forever the relations that shall exist between the Emperor and His subjects.

By "reigned over and governed," it is meant that the Emperor on His Throne combines in Himself the sovereignty of the State and the government of the country and of His subjects. An ancient record mentions a decree of the first Emperor in which he says:—"The Country of Goodly Grain is a State, over which Our descendants shall become Sovereigns: You, Our descendants, come and govern it." He was also called "Emperor governing the country for the first time" (*Hatsu-kuni-shirasu Sumera-mikoto*). A Prince named Yamato-take-no-Mikoto said:—"I am a son of the Emperor Otarashi-hiko-Oshiro-Wake, who resides in the palace of Hishiro at Makimuku, and who governs the Country of Eight Great Islands." The Emperor Mommu (697–707 A.D.) declared at the time of his accession to the Throne:—"As long as Emperors shall beget sons, We shall, each in His succession, govern the Country of Eight Great Islands." The same Emperor also said:—"We shall reduce the Realm to tranquility and bestow Our loving care upon Our beloved subjects." Such in brief has been the principle, by which the Emperors of every age have been guided on succeeding to the Throne. Latterly, the phrase "the Emperor reigning over and governing

the Country of Eight Great Islands" (*Ōyashima-shi-roshimesu Sumera-mikoto*) came to be used as a regular formula in Imperial Rescripts. The word *shi-roshimesu* means reigning over and governing. It will thus be seen that the Imperial Ancestors regarded their Heaven-bestowed duties with great reverence. They have shown that the purpose of a monarchical government is to reign over the country and govern the people, and not to minister to the private wants of individuals or of families. Such is the fundamental basis of the present Constitution.

According to ancient documents, the dominions of our Empire, which went by the name of *Ōyashi-ma*, was composed of Awaji-shima (the present one), of Akitsushima (the main island), of Futanashima in Iyo (Shikoku), of the Island of Tsukushi (Kyushū), of the Island of Iki (the present Tsushima), of the Island of Oki, and of the Island of Sado. The Emperor Keikō (71-130 A.D.) subjugated the tribe of Ezo in the east, and in the west he subdued that of Kumaso, and the territory under him was brought to a state of tranquility. In the reign of the Emperor Suiko (593-628 A.D.), there were over a hundred and eighty Kunitsuko (Governors of Provinces), and subsequently in the Code of Engi,* the division of

*This code was compiled in the reign of the Emperor Daigo, and consisted of minor rules supplying the deficiencies of the Code of Taihō (*vide* foot note under Article X.). It was in the period of Engi (901-922 A.D.), that Fujiwara-no Tokihira was first commanded by the Emperor to compile it; but as he died while the work was still in hand, the honor of bringing it to completion fell to the lot of his younger brother Tadahira, who finished it in the 6th year of Encho (927 A.D.), that is, more than ten years after his elder brother had received the Imperial command for its compilation. (*Translator's note.*)

the country into sixty-six Provinces and two islands is mentioned. In the first year of Meiji (1868 A.D.), the two Provinces of Mutsu and Dewa together were subdivided into seven Provinces, and in the second year (1869 A.D.), eleven Provinces were established in the Hokkaido. The number of Provinces in the whole country was thus increased to eighty-four. The present dominions consist of the Hokkaido, the various islands of the Okinawa and of the Ogasawara groups, in addition to what was formerly designated by the name of *Ōyashima* or to the sixty-six Provinces and islands mentioned in the Code of Engi. Territory and a people are the two elements out of which a State is constituted. A definite group of dominions constitute a definite State, and in it definite organic laws are found in operation. A State is like an individual, and its territories, resembling the limbs and parts of an individual, constitute an integral realm.

ARTICLE II.

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

As to the succession to the Throne, there have been plain instructions since the time of the first Imperial Ancestor. In obedience to these instructions, the Throne has been transmitted to the sons and grandsons of the Emperors, and this rule shall

remain immutable for all ages. As regards the order of succession, minute provisions have been already made in the Imperial House Law, lately determined by His Imperial Majesty. This law will be regarded as the family law of the Imperial House. That these provisions are not expressed in the Constitution, shows that no interference of the subject shall ever be tolerated regarding them.

By "Imperial male descendants," is meant the male offsprings in the male line of the Imperial succession. The present clause and Article I. of the Imperial House Law are explanatory the one of the other.

ARTICLE III.

The Emperor is sacred and inviolable.

"The Sacred Throne was established at the time when the heavens and the earth became separated" (*Kojiki*). The Emperor is Heaven-descended, divine and sacred; He is preeminent above all His subjects. He must be reverenced and is inviolable. He has indeed to pay due respect to the law, but the law has no power to hold Him accountable to it. 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.

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.

The sovereign power of reigning over and of governing the State, is inherited by the Emperor from His Ancestors, and by Him bequeathed to His posterity. All the different legislative as well as executive powers of State, by means of which He reigns over the country and governs the people, are united in 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. For unity is just as necessary in the government of a State, as double-mindedness would be ruinous in an individual. His Imperial Majesty has Himself determined a Constitution, and has made it a fundamental law to be observed both by the Sovereign and by the people. He has, further, made it clear that every provision in the said Constitution shall be conformed to without failure or negligence.

His Imperial Majesty has taken this step out of the high veneration, in which he holds His Heaven-bestowed functions, and with a view to the completion of a permanent system of government in harmony with the march of national progress. The combination of all the governmental powers of the State in one person, is the essential characteristic of sovereignty, and the carrying of those powers into effect

in accordance with the provisions of the Constitution, denotes the exercise of sovereignty. When the essential characteristic of sovereignty exists without its exercise in the manner just stated, the tendency will be towards despotism. When, on the other hand, there is such exercise of sovereignty without its essential characteristic, the tendency will be towards irregularities and supineness.

(NOTE.) According to the opinion of modern European writers on political philosophy, the powers of the State may be divided into two parts, the legislative and the executive. The judicial power is no more than a branch of the executive power. These three powers of State are carried into execution through the instrumentality of the organic parts appertaining to each; but the original source of activity traces back to the Head of the State. For unless the governmental powers of State all centre in the Head, which is the seat of the will of the State, it will be impossible to maintain the organic life of the State. A constitution allots the proper share of work to each and every part of the organism of the State, and thus maintains a proper connection between the different parts, and assigns functions to the same; while, on the other hand, the Sovereign exercises his proper functions, in accordance with the provisions of the constitution. It will thus be seen that the theory of absolute power, which once prevailed in Rome, cannot be accepted as a constitutional principle. It is also contrary to the just definition of State, to maintain, as it was done at the close of the 18th century,

that the three powers of State should be independent the one of the other, and that the Sovereign's proper share of control shall be confined to the executive. The theories that have been touched upon, contain various points of value in considering the principles that have been adopted into our Constitution, and for this reason, they have been alluded to as a matter of reference.

ARTICLE V.

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

The legislative power belongs to the sovereign power of the Emperor; but this power shall always be exercised with the consent of the Diet. The Emperor will cause the Cabinet to make drafts of laws, or the Diet may initiate projects of laws; and after the concurrence of both Houses of the Diet has been obtained thereto, the Emperor will give them His sanction, and then such drafts or projects shall become law. Thus the Emperor is not only the centre of the executive, but is also the source and fountain-head of the legislative power.

(NOTE.) In Europe, within the last hundred years, it has happened that the turn of events has tended to favor the prevalence of extreme doctrines; and legislative matters have come to be regarded as specially falling within the powers of Parliament, the tendency being to hold, that laws are contracts

between the governing and the governed, and that in their enactment, the Sovereign and the people have equal share. Such a theory arises out of a misconception of the principle of the unity of sovereignty. From the nature of the original polity of this country, it follows that there ought to be one and only one source of sovereign power of State, just as there is one dominant will that calls into motion each and every distinct part of a human body. The use of the Diet is to enable the Head of the State to perform his functions, and to keep the will of State in a well-disciplined, strong and healthy condition. The legislative power is ultimately under the control of the Emperor, while the duty of the Diet is to give advice and consent. Thus between the Emperor and the Diet, a distinction is to be strictly maintained as to their relative positions.

ARTICLE VI.

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

The sanctioning of a law, the causing of the same to be promulgated in a proper form, and the ordering of the taking of measures for the execution of the same—all these belong to the sovereign power of the Emperor. Sanction completes the process of legislation, while promulgation produces binding force upon the subjects. If the power of sanction belongs to Him,

it is scarcely necessary to remark that, as a consequence, He also possesses the power to refuse His sanction. Sanction is a manifestation of the sovereign powers of the Emperor in matters of legislation. Consequently, without the sanction of the Emperor, no project can become law, even if it has received the consent of the Diet. In olden times, the character 法 (law) was read *nori* and pronounced the same as the character 宣 (a term applied to the Sovereign and meaning "declared"). In a work entitled *Harima-fū-doki*, this sentence is found:—"Ōnori-yama (the Great Law Mountain, now called Katsubega-oka) has received its appellation from the circumstance, that it was upon this hill that the Emperor Shinafuto (otherwise called the Emperor Ōjin, 270–312 A.D.) delivered his great laws" (*Ō-nori*). Now language is a very important factor in historical studies for elucidating old traditions and customs. It thus appears that in olden times men generally understood by law the words spoken by a Sovereign, and no conflict has ever arisen as to the general meaning of the word.

(Note.) In Europe, various opinions have been propounded as to the power of Sovereigns to veto proposed laws. In England, it is held that this power is a part of the legislative power of the Sovereign, and is adverted to as proof of the equilibrium maintained between the three estates of the realm (the Crown, the Lords and the Commons). According to certain French writers, this power is regarded as being the check exercised by the executive upon the legislative. The so-called veto power is, in its principle, negative. The

legislative enacts laws, while the Sovereign only vetoes the same. It will thus be seen that this is an offshoot of principles, which aim at confining the sovereign power of a Ruler within the executive power only, or at least at allowing him only a part of the legislative power. In our Constitution, a positive principle is adopted, that is to say, the laws must necessarily emanate at the command of the Emperor. Hence it is sanction that makes a law. As the laws must necessarily emanate at the command of the Emperor, it naturally follows that he has power to withhold sanction to the same. Thus, although there may be some semblance of similarity between our system and the veto system above alluded to, the one is as far separated from the other as the heavens are from the earth.

ARTICLE VII.

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

The convocation of the Diet appertains exclusively to the sovereign power of the Emperor. Hence, the Constitution does not recognize a Diet which assembles of its own accord without summons, and the deliberations of no such Diet shall be allowed to possess any efficacy.

It will also appertain to the sovereign power of the Emperor, after the convocation of the Diet, to open and close its session, in order to exercise a

general control over the commencement and the termination of the respective Houses. In opening the Houses, the Emperor will either proceed in person to the Diet, or He will send there a special Imperial delegate to read His speech. Deliberations in the Diet shall be commenced only after this ceremony has been gone through. No deliberations, that have been held before the opening or after the closing of the Diet, shall be of any account.

By "prorogation" is to be understood the suspension of the deliberations of the Diet. In the case of prorogation for a stated length of time, deliberations will, on the expiration of that time, be resumed where they left off.

The dissolution of the House of Representatives is a mode of ascertaining the public opinion from the tone of the newly elected House. No mention is in this place made of the House of Peers, for the reason that that House cannot be dissolved, although it can be prorogued.

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.

When the country is threatened with danger, or when the nation is visited with famine, plague or other calamity, every necessary and possible measure must be taken for the maintenance of the public safety, for the prevention of such calamities, and for the relief of distress thereby caused. Should an emergency of the kind happen to arise while the Diet is not sitting, the Government will have to take upon itself the responsibility of issuing Imperial Ordinances in the place of laws, and shall leave nothing undone that may be required in the juncture; for such action is imperatively demanded for the defence and safe-guarding of the country. It will be seen that Article V, providing that the exercise of the legislative power requires the consent of the Diet, regards ordinary cases; while the provisions of the present Article, authorizing the issuing of Imperial Ordinances in the place of laws, refers to exceptional cases in times of emergency. This power mentioned in the present Article, is called the power of issuing "emergency Ordinances". Its legality is recognized by the Constitution, but at the same time abuse of it is strictly guarded against. Thus the Constitution limits the use of this power to the cases of urgent necessity for the maintenance of public safety and for the averting of public calamities, and prohibits its abuse on the ordinary plea of protecting the public interest and of promoting public welfare. Consequently in issuing an emergency Ordinance, it shall be made the rule to declare that such Ordinance has been issued in accordance with the provisions of the present Article. For, should the Government make use of this power as a pretext for avoiding the public deliberations of the Diet or for destroying any existing law, the provisions of the Constitution would become dead letters having no signifiance whatever, and would be far from serving as a bulwark for the protection of the people. The right of control over this special power has, therefore, been given to the Diet by the present Article, making it necessary, after due examination thereof at a subsequent date, to obtain its approbation to an emergency Ordinance.

Of all the provisions of the Constitution, those of the present Article present the greatest number of doubtful points. These points will be cleared up one after the other, by presenting them in the form of questions and answers. *First:* Is such an Imperial Ordinance limited in its action to the supplying of the deficiency of the law, or can it also either suspend, modify or abolish any existing law? Since such an Ordinance possesses by virtue of the Constitution, the power of taking the place of law, it shall, as a consequence, be competent to affect any matter that can be affected by law. Should, however, the Diet not give its approbation to such an Ordinance at its next session, the Govern-

ment should promulgate that it shall lose its effect, while at the same time any law which it has abolished or modified shall regain its former efficiency. *Secondly:* When the Diet gives its approbation to such an Ordinance, what shall be the effect thereof? The Ordinance shall then continue to possess the power of law for the future, without having to go through the formality of promulgation. *Thirdly:* How is it that, when the Diet refuses to give its approbation to such an Ordinance, the Government is obliged to promulgate, that the Ordinance in question shall have no effect in the future? Because it is only by such promulgation that the people are freed from their obligation of obedience to it. *Fourthly:* On what ground shall the Diet be entitled to refuse its approbation? The Diet may refuse its approbation, when it has discovered either that the Ordinance is incompatible with the Constitution, or that it is wanting in any of the conditions mentioned in the present Article, or on the ground of some other legislative consideration. *Fifthly:* What, if the Government does not submit the Ordinance to the Diet at its next session, or if, after the Diet has refused to give its approbation to it, the Government does not notify that the Ordinance has been annulled? The Government shall then have to bear the responsibility of a breach of the Constitution. *Sixthly:* When the Diet has refused its approbation, may it demand the retrospective annulment of the Imperial Ordinance in question? As the Sovereign is authorized by the Constitution to issue emergency

Ordinances, in the place of law, it is a matter of course that such Ordinances should have effect as to the period of time they have been in existence. The refusal of approbation by the Diet is consequently to be regarded simply as its refusal to approve the future continued enforcement of the Ordinance as law, and such refusal can not reach the past. *Seventhly:* Can the Diet amend such an Imperial Ordinance before giving its approbation to it? According to the express provisions of the present Article, there are only two alternatives open to the Diet; either to give or not to give its approbation; so that it has no power to amend such an Ordinance.

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.

The present Article treats of the sovereign power of the Emperor as to administrative ordinances. A law requires the consent of the Diet, while an ordinance holds good solely by decision of the Emperor. There are two occasions for the issuing of an ordinance: the first is, when it is required to regulate

measures and details for the carrying out of any particular law; the second, when it is required to meet the necessity of maintaining the public peace and order and of promoting the welfare of the subjects. All these matters may, without having been passed through the regular course of legislation, form the subjects of legal enactments having binding effect upon the people at large by virtue of the executive power of the Emperor. As to a binding effect upon the people, there should not be the slightest difference between a law and an ordinance, save that a law can make alterations in any of the existing ordinances, whereas no ordinance can alter any of the existing laws. In case of a conflict between law and ordinance, the law will always have the preponderance over ordinance.

The power of issuing ordinances is in all cases a consequence of the sovereign power of the Emperor. Those that received the personal decision of the Emperor and His Sign-manual are called "Imperial Ordinances." The issuing of cabinet or departmental ordinances is to be regarded as an exercise of the sovereign power delegated by the Emperor. The wording of the present Article, to wit, "The Emperor issues or causes to be issued," is intended to cover the above two different instances for the issuing of ordinances.

Emergency Ordinances mentioned in the preceding Article may take the place of law. But the administrative ordinances mentioned in the present Article shall take effect within the limits of law, and

although they can supply the deficiency of law, yet they shall have no power to either alter any law or to regulate those matters for which a law is required by express provision of the Constitution. Administrative ordinances are to be made use of under ordinary circumstances, while the aim of emergency Ordinances is to meet the requirements of a time of exigency.

(NOTE.) In Europe, many writers have propounded various opinions as to the scope of ordinances. *First:* in the constitutions of France and of Belgium, it is confined exclusively to the execution of the law; and the Prussian Constitution has exactly imitated their example. This has been merely the result of an erroneous opinion that has been entertained, that the executive power of the Sovereign should be confined within a circle of a very narrow limit. The so-called executive power is not confined to the execution of the provisions of law. Now, in private life a pre-determined purpose alone will prompt the general direction of an individual's actions; while, in facing the ever varying phases of life, it is necessary, if he is to be saved from falling into error, that he exercise his thinking faculties to meet the requirements of the moment. Similarly, though the law is competent to lay down general rules for guidance in ordinary matters, it can not be expected that it shall point out in every case the expeditious course to be taken in relation to every one of the multifarious forms of social activity. Were the executive confined to the execution of the law, the State

would be powerless to discharge its proper functions in the case of absence of a law. Accordingly, ordinances are not only means for executing the law, but may, in order to meet requirements of given circumstances, be used to give manifestation to some original idea. *Secondly:* those also who maintain that the preservation of the public peace and order is the only object of administrative ordinances, are mistaken in defining the limits of the executive. In olden times, in every continental state of Europe, the maintenance of the public peace was regarded as the highest duty of a government, and simplicity as the sole principle of its internal administration. But when the turn of events had brought about a high degree of political development, owing to the advancement of civilization, it was found imperatively necessary to promote the welfare and prosperity of the people, both materially and intellectually, by economical and educational means. It thus came to be recognized, that the object of the administrative ordinances is not confined to the negative measures of police, but that their object ought also to be to take the positive measures of promoting the material prosperity of the people by economical means and of cultivating the intellect of the people through education. The executive, however, ought not to interfere with the liberty of individuals guaranteed by law, but, on the contrary, it should contrive to develope it by encouragement and help, provided within proper limits. The executive ought to uphold laws by confining its action within the limits already established by law, and

ought, thus, to discharge its state functions within proper spheres.

ARTICLE X.

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

The Emperor in accordance with the requirements for the national existence, establishes the offices in the different branches of the administration, fixes the proper organization and functions of each of them, and exercises the sovereign power of appointing men of talent for civil and military posts and of dismissing holders of such posts. The first instance in our history of the appointment of officials dates back to the time of the Emperor Jimmu (660 B.C.), who, upon the completion of His ever memorable deeds, created the office of *Kunitsuko* (Governor of a Province) and that of *Agata-Nushi* (Magistrate of a District). The Emperor Kōtoku (645–654 A.D.) created eight Departments of State, and the organization of the Government was brought

to a fairly perfect state. At the time of the Restoration, the official organization, that had been established by the Code of Taihō,* was adopted with some modifications. After the introduction of successive changes, the Organization of the Government Offices and the Regulations of Salaries have been finally established. According to this system, the Ministers of State are appointed and dismissed by the Emperor Himself. All other high dignitaries of and below the rank of *Chokunin* are appointed upon the sanction of the Emperor at the recommendation of a Minister of State. There can be no appointment that does not derive its authority from the command of the Emperor. It is, however, to be noted that the organization of the courts of law and that of the Board of Audit, shall be enacted by law instead of by Imperial Ordinance, and that the dismissal of judges shall be consequent upon a judicial decision. These are the exceptional cases, for which provisions are specially made in the Constitution and in the law.

When the establishment of the different offices and the creation of official positions pertain to the prerogative of the Sovereign, the said prerogative is

*The Code of Taihō (*Taihō Ryō*) provides for the organizations of the different branches of the Government, and consists, besides, of certain legal enactments; provisions being made only for essential matters. It was compiled by Fujiwara-no Fuhito by Imperial command, in the 1st year of Taihō (701. A.D.) in the reign of the Emperor Mommu. Subsequently, in the reign of the Emperor Genshō, in the 2nd year of Yōrō (718 A.D.), the same personage was commanded by the Sovereign to remodel the wording of the code. Thus modified it was called the Code of Yōrō (*Yōrō Ryō*), and in that form it has been handed down to this day, though it is still called by the original name of the Code of Taihō. (*Translator's note.*)

necessarily accompanied by the power to give salaries and pensions.

(Note.) In Germany, in former times the appointment and dismissal of public functionaries were left to the will of the Sovereign or to the head of a Government office. In the 17th century, it was laid down that the judges of the Imperial Court (Reichsgericht) could not be deprived of their positions unless by process of law; and this principle was also adopted in the case of Imperial Court Councillors (Reichshofrath). In the 18th century, the opinion prevailed that administrative officials had a confirmed right to their official positions, and this principle was adopted into the law in several countries. It was in the beginning of the present century, that it was first propounded that, although an official has a confirmed right to his salary, he has no such right to his position, and therefore that an administrative measure is competent enough to dismiss an official, upon giving him his salary or a pension. This principle was first expressed in the Bavarian regulations as to the tenure of office (law of 1818), in which it is provided that, to suit administrative convenience, an official may, without the trial of a disciplinary court, be deprived of his employment, of his salary for service (dienst gehalt) and of his official uniform, while retaining his official position and the salary proper thereto (standes gehalt). The practice of England, however, is different from what obtains in the German states, and excepting certain special classes

of officials, the Sovereign still possesses, as he possessed formerly, the prerogative of appointing or of dismissing any civil or military official, at his pleasure.

ARTICLE XI.

The Emperor has the supreme command of the Army and Navy.

The great Imperial Ancestor founded this Empire by his divine valor, in personal command of his army composed of several divisions known as *Mononobe*, *Yukiyebe* and *Kumebe*. Thenceforward all the succeeding Emperors have taken the field in person in command of their armies, in the cases of emergency that have arisen in either external or internal affairs. On some occasions an Imperial son or grandson was sent to assume the command of the army on behalf of the Emperor. The great dignitaries of state called *Omi* and *Muraji** served as generals assisting the Imperial personage in command. The Emperor Temmu (673-686 A.D.) created the office of Chief Commissioner of the Military Administration. During the reign of the Emperor Mommu (697-707 A.D.), great reforms

* *Omi* and *Muraji* (properly *Ō-omi* and *Ō-muraji*) were both appellations for Ministers of State. There was not much difference in the official capacity of each, though the former ranked the latter. Those offices were abolished in the 1st year of the reign of the Emperor Kōtoku (645 A.D.), when the offices of Ministers of the Left and of the Right were first created. (*Translator's note.*)

were introduced into the military system, and a Commander-in-chief was appointed whenever three corps of the Imperial army were led into the field. On each occasion of the Commander-in-chief's taking the field, the Emperor had to bestow upon him a sword of discipline, with which he had to enforce strict discipline in his army. All military authority and command were, even at that time, centred in the hands of the Sovereign. But after the usurpation of the military power by the military classes, the reins of government began to slacken.

At the beginning of the great events that achieved the Restoration by the present August Sovereign, His Imperial Majesty issued an Ordinance, proclaiming that He assumed personal military command for the suppression of rebellion, thus manifesting that the sovereign power was centred in Him. Since then, great reforms have been introduced into the military system. Innumerable evil customs, that had been long prevailing, were swept away. A General Staff Office has been established for His Imperial Majesty's personal and general direction of the Army and Navy. Thus the glory bequeathed by the Imperial Ancestors has again been restored to its former brilliancy. The present Article is intended to show, that paramount authority in military and naval affairs is combined in the Most Exalted Personage as His sovereign power, and that those affairs are in subjection to the commands issued by the Emperor.

ARTICLE XII.

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

The present Article points out, that the organization and the peace standing of the Army and Navy are to be determined by the Emperor. It is true, that this power is to be exercised with the advice of responsible Ministers of State; still like the Imperial military command, it nevertheless belongs to the sovereign power of the Emperor, and no interference in it by the Diet should be allowed. The power of determining the organization of the Army and Navy, when minutely examined, embraces the organization of military divisions and of fleets, and all matters relating to military districts and sub-districts, to the storing up and distribution of arms, to the education of military and of naval men, to inspections, to discipline, to modes of salutes, to styles of uniforms, to guards, to fortifications, to naval defences, to naval ports and to preparations for military and naval expeditions. The determining of the peace standing includes also the fixing of the number of men to be recruited each year.

ARTICLE XIII.

The Emperor declares war, makes peace, and concludes treaties.

Declaration of war, conclusion of peace and of

treaties with foreign countries, are the exclusive rights of the Sovereign, concerning which no consent of the Diet is required. For, in the first place, it is desirable that a Monarch should manifest the unity of the sovereign power that represents the State in its intercourse with foreign powers; and in the second, in war and treaty matters, promptness in forming plans according to the nature of the crisis, is of paramount importance. By "treaties" is meant treaties of peace and friendship, of commerce and of alliance.

(NOTE.) According to the old usage of the middle ages in Europe, every Sovereign seems to have personally attended to his own diplomatic affairs. William III. of England took upon himself the functions of Foreign Secretary, and his special talents for diplomacy were greatly lauded at the time. But with the gradual development of constitutional principles in modern times, diplomatic affairs also have been merged into the functions of responsible Ministers of State, and the Sovereign's rights relating to these subjects have come to be exercised, like all other administrative matters, only by the advice of the Ministers. When Napoleon Bonaparte was First Consul of France, he addressed to the King of England a communication containing proposals of peace between France and England, but on the British side it was acknowledged and answered by the Foreign Secretary. In the diplomatic usage of the present day, it is a recognized principle in every country, that a Minister of State should be made the channel of communication of matters relating to diplomatic

affairs and to treaties with foreign powers, except in cases of the Sovereign's personal letters of congratulation or of condolence. The principal object of the present Article is to state that the Emperor shall dispose of all matters relating to foreign intercourse, with the advice of His Ministers, but allowing no interference by the Diet therein.

ARTICLE XIV.

The Emperor declares a state of siege.

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

A state of siege is to be declared at the time of a foreign war or of a domestic insurrection, for the purpose of placing all ordinary law in abeyance and of entrusting part of the administrative and judicial powers to military measures. The present Article expressly provides, that the conditions requisite for the declaration of a state of siege and the effect of the declaration shall be determined by law, and that, in pursuance of the provisions thereof, it appertains exclusively to the sovereign power of the Emperor, under stress of circumstances, to declare or to revoke a state of siege. By "conditions" is meant the nature of the crisis when a state of siege is to be declared, the necessary limits as to territorial extent affected, and rules needful for making the declaration. By "effect" is meant the limit of the power called

into force as the result of the declaration of a state of siege.

The exercise of the right of warfare in the field, or of the declaration of a state of siege as the exigency of circumstances may require, may be entrusted to the commanding officer of the place, who is allowed to take the actual steps his discretion dictates, and then to report to the Government. This is to be regarded as a delegation of the soveregin power of the Emperor to a General in command of an army, in order to meet the stress of emergencies, according to the provisions of the law (Notification No. 36 issued in the 15th year of Meiji—1882 A.D.).

ARTICLE XV.

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

The Emperor is the fountain of honor. It belongs to the sovereign power of the Emperor to reward merit, to requite services, to mark distinguished conduct and praiseworthy undertakings, and to confer conspicuous titular distinctions, other marks of honor and special favors. And no subject is allowed to usurp and trifle with this prerogative of the Emperor. In ancient times, when our Empire was in a state of primitive simplicity, certain distinctions existed to denominate classes of the people into high and low, by means of patriarchal titles. The Emperor Suiko (593–628 A.D.) established twelve

grades of rank, each grade marked by a special head-dress, and conferred them upon his courtiers. This system of rank was extended by the Emperor Temmu (673–686 A.D.) to number in all forty-eight grades. The Emperor Mommu (697–707 A. D.) abolished the usage of conferring a head-dress, and substituted therefor letters patent in bestowing rank. Thirty grades of rank were provided for in the great Code of Taihō* (*Taihō Ryō*), and this is the origin of the grades of rank now existing. Besides rank, orders of merit of twelve grades were bestowed upon those, who had distinguished themselves in military exploits, in filial piety, in brotherly love or in agricultural pursuits. After the middle ages, when the actual power of government had been usurped by the military class, it was never lost sight of that the formal ceremony of conferring titular distinctions ever appertained to the Imperial Court, though all authority connected with rewards or punishments was then under the sway of the Government of the Generalissimo (*Bakufu*). After the Restoration, in the 2nd year of Meiji (1869 A.D.), a new system of rank was established, with grades from the first to the ninth. In the 8th year of Meiji (1875 A.D.), orders of decoration were created. In the 17th year of Meiji (1884 A.D.), five grades of titles of nobility were established. All of these marks of distinction manifest the real motives for them, that merit and services are to be rewarded and publicly honored.

vide foot note under Article I. (*Translator's note.*)

ARTICLE XVI.

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

The State gives equal and impartial protection to the rights of the subjects, in accordance with the principles of justice and of reason, by establishing courts of law and by appointing officers of justice. But the law is not comprehensive or precise enough to meet all the varied and complicated requirements of human life; and when, as it frequently happens, there are palliating circumstances in the case of an offender against the law, it is to be apprehended that no ordinary process of the legislative or of the judicature will be adequate to supply the deficiency of the law. Consequently, it is intended that the right of pardon may be exercised by the special beneficient power of the Emperor, to give relief when there is no hope of it to be looked for from the law; so that there shall not be one subject even, suffering under an undeserved punishment.

"Amnesty" is to be granted, in a special case, as an exceptional favor, and is intended for the pardoning of a certain class of offences. "Pardon" is granted to an individual offender to release him from the penalty he has incurred. "Commutation" is the lessening of the severity of the penalties already pronounced in the sentence. "Rehabilitation" is the restoration of public rights that have been forfeited.

In the thirteen Articles from Article IV. to Article XVI. of the present Chapter, the sovereign powers of the Head of the State are enumerated. These sovereign powers are operative in every direction, unless restricted by the express provisions of the Constitution, just as the light of the sun shines everywhere, unless it is shut out by a screen. So these sovereign powers do not depend for their existence upon the enumeration of them in successive clauses. In the Constitution is given a general outline of these sovereign powers, and as to the particulars touching them, only the essential points are stated, in order to give a general idea of what they are. The right of coining money, for example, and that of fixing of weights and measures, are not enumerated; still the very absence of any mention of them shows that they are included in the sovereign powers of the Emperor.

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.

A Regent shall exercise the sovereign powers of the Emperor. Excepting as to title, he is in every respect like the Emperor, and has to carry on the government in the name of the Emperor, and is not held

responsible therefor. The only restriction upon his power is that mentioned in Article LXXV. of the present Constitution. "In the name of the Emperor" means in the place of the Emperor: that is, a Regent issues his orders in the place of the Emperor.

The institution of a Regent is fixed by the Imperial House Law; but as the exercise of the sovereign powers by a Regent is connected with the Constitution, the provisions relating to the said exercise of sovereign powers are mentioned in the Constitution, while those relating to the institution of a Regent are contained in the Imperial House Law. The question whether it is or is not advisable to institute a Regent under any particular circumstances, shall be decided by the Imperial family, and the matter lies in a region that admits of no interference of the subjects. The extraordinary cases, in which the Emperor is incapable of personally taking the reins of power, are of very rare occurrence; still those rare cases not unfrequently give rise to national commotions. In the Constitution of a certain country, it is provided that both Houses of Parliament shall be convened and asked to vote upon the necessity of instituting a Regent. But such a practice is open to the objection that, as the decision of a matter of great importance to the Imperial family is thus delegated to the will of the majority of the people, there would be a tendency to bring about degradation of the Imperial dignity. It is for the purpose of respecting the character of the national polity of the country and of guarding against the opening of a way to such a tendency, that the disposi-

our earthly existence, in having been born at an epoch so full of prosperity and glory." It will thus be observed that, on the one hand, the Emperors have made it their care to show love and affection to the people, treating them as the treasures of the country; while, on the other, the people have ever been loyal to the Sovereign, and have considered themselves as happy and blessed. Such is in short what appears from the study of ancient documents and of the customs of the land; and it is to this very same source that the theory of the rights and duties of subjects, as mentioned in the present Chapter, is to be traced. Under the military régime of the middle ages, warriors and the common people were placed in different classes. The former monopolized the exercise of every public right, while the latter were not only excluded from the enjoyment of these, but were also curtailed in the full enjoyment of their civil rights. The expression "public treasure" thus lost its meaning and such extension thereof has ceased to be attached thereto. Since the Restoration, the privileges of the military class have been abolished by successive Rescripts, and all Japanese subjects, without discrimination among them, can now enjoy their rights and discharge their duties. The provisions of the present Chapter are meant for the purpose of cherishing and of broadening the beautiful results of the Restoration as well as of bearing witness thereto to all eternity.

ARTICLE XVIII.

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

The expression "Japanese subject" is here used to distinguish a Japanese from a foreign subject or citizen. Every Japanese subject shall be entitled to possess public as well as civil legal rights. It is consequently necessary to settle by law the conditions for being a Japanese subject. There are two ways by which an individual can be a Japanese subject: one is by birth, the other by naturalization or by other effect of law.

The status of subject shall be settled by a special law. But care has been taken to state this fact in the Constitution, because the status of subject or citizen is necessary for the enjoyment of civil rights in whole and of public rights. It will be seen that the provisions of the said special law are framed on the authority of the Constitution, and that such provisions are essentially related to the rights and duties of subjects as mentioned in the Constitution.

Public rights are the right of electing, that of being elected, that of being appointed to office, and so forth. In every country, it is the common rule of public law, that public rights shall be determined by the constitution or by special law, and that they shall be enjoyed solely by native subjects or citizens, to the exclusion of aliens. But, as regards the

enjoyment of civil rights, the custom of making a rigid distinction between native subjects and aliens, is now-a-days a matter of history. At present there is a tendency in almost every country to enable aliens to enjoy, with one or two exceptions, civil rights equally with natives.

ARTICLE XIX.

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

At the present time, appointment to a civil or military post or to any other public function, is not regulated by consideration of family. This must be regarded as one of the splendid results of the Restoration. In former times, men were classified according to birth, and each office belonged to a particular house; and each public employment was hereditary in a particular family. Consequently men of inferior birth, however talented they may have been, were absolutely excluded from high positions in public offices. But since the Restoration, such baleful practices have been swept away, and the former custom of giving weight to family status, has also been done away with. The Constitution now guarantees by the present Article, that neither order of nobility nor degree of rank shall any longer be allowed to militate against the

equality of all men in regard to appointment to office. Still the proper qualifications established by law or ordinance, such, for example, as proper age, payment of taxes, the passsing of examinations, shall be the required conditions for appointment to an office or to any post of public trust.

As it is stated that "Japanese subjects may be appointed to civil or military or any other public offices equally," it follows that this right is not extended to aliens, unless by provisions of a special enactment.

ARTICLE XX.

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

Japanese subjects form one of the elements that make up the Japanese Empire. They are to protect the existence, the independence and the glory of the country. From time immemorial, the people of this land have always held that, to make sacrifice of home and life and to fight for one's country, whenever its need required it, was both admirable and manly. The spirit of loyalty, like the sentiment of honor, has come down to us from our ancestors; and gradually taking a firm hold upon the hearts and minds of all, this spirit has become the general characteristic of the nation. The Emperor Shōmu (724–748 A.D.) once said:—"As Ōtomo-Saiki-no-Sukune was

wont to say, your ancestors having been entirley devoted to the service of their Emperors, they used to sing this song:—

Does my way lead me over the sea,
Let the waves entomb my corpse;
Does my destiny lead me over the mountains,
Let the grass cover my remains;
Where'er I go, I shall by my lord's side expire;
T'is not in peace and ease that I shall die.

Such is what we have been told of your ancestors." These verses have been sung by our soldiery in every age, and have proved of powerful influence in developing loyal and martial feelings. Since the period of Taihō (701–703 A.D.), armies have been organized, and young people capable of bearing arms have been called upon to enlist. In the time of the Emperor Jitō (687–696 A.D.), one-fourth of the young men arriving at majority were enlisted. This is the origin of the system of conscription in this country. Subsequently, the assumption of the power of the State by military families, led to the isolation of the military from the farming class, and, all military affairs having been monopolized by the one class, the old conscription system was for a long while in a state of extinction. After the Restoration, the military class was relieved of their duties in the 4th year of Meiji (1871), and in the following year, the conscription law based upon the old system just alluded to, was promulgated. Under the new system, every male subject throughout the land on reaching his twentieth year is entered upon

the army and navy rolls, though the number actually called upon to serve each year is determined by the organization of the standing army and navy. Those between their seventeenth and fortieth years of age are all enlisted into the militia, and are liable to be at any time called out, upon the breaking forth of war. Such is an outline of the existing conscription law as it is now carried out. The object of the present Article is, that every male adult in the whole country shall be compelled, without distinction of class or family, to fulfil, in accordance with the provisions of law, his duty of serving in the army; that he may be incited to valor while his body undergoes physical training; and that in this way the martial spirit of the country shall be maintained and secured from decline.

ARTICLE XXI.

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

The payment of taxes, like military service, is one of the duties of subjects, as it meets one of the necessities for the common existence of the nation.

In ancient times, taxes were called *chikara* (strength), because they represent the strength of the people. For *to tax*, the word *ōsu* was used, meaning "to make the people bear the burden." As our Emperors have both reigned over and governed the

country since the time of the first Imperial Ancestor, and as they have always looked to the taxes of the whole country for supplies for defraying national expenditures, taxation has a long history in this Empire. In the reign of the Emperor Kōtoku (645–654 A.D.), the system of a triple mode of collecting taxes was inaugurated: taxes were payable in grain, in products (other than grain) or in textures. Since the Restoration the old system of land tax has been remodelled. These were the two great reforms in taxation. As to the particulars of these two reforms, no allusion is here made, as they are minutely described in historical records. A tax is the contributive share of each subject in the public expenditures of the State. It is neither benevolence paid in response to exaction, nor a remuneration for certain favors which have been received upon a mutual understanding.

(Note.) French writers have discussed the principles of taxation in the light of their one-sided views. M. Mirabeau says in an address to the French people exhorting them to contribute towards the national funds:—"Tax is the price paid for benefits received; it is an advance of money to obtain the protection of the social order." M. Emile de Girardin says:—"Taxes are a premium of insurance paid by all the members of a community called a nation, having for effect the assuring of the enjoyment of their rights, and the efficient protection of their interests." Doctrines like these have their source in democratic principles, and according to them, taxation is a sort of exchange of services by the

government for duties by the people. Such doctrines are very ingenious; still they are seriously erroneous, as taxes are for the public expenses of the State, and it is the duty in common for the members of it to pay them. Subjects, therefore, are to pay taxes not only for the needs of the existing government, but also on account of public debts contracted in times past. They are bound to contribute their taxes, not only when benefits are received in return, but also even when none are so received. That expenses shall be curtailed to a minimum and that taxes shall be as light as possible, ought to be the principal care of a government. Such is also the aim of the constitutional principle, that puts the finances under the control of Parliament and makes taxation subject to the vote of the same. When the duty of paying taxes is made a business question of exchange of services between the government and the people, making the consent or the refusal to pay them dependent upon the amount of benefits received, individuals may decline to pay them according to their own private calculations. The result would be impossibility to preserve the existence of the State. Modern scholars have, however, put forth exhaustive arguments to refute the false theory above mentioned, and taxation has at last found a true definition. A brief summary of the opinions of the new school is here introduced. Taxes are levied for the maintenance of the State, and are not a price paid in return for services rendered by the government; for taxes do not exist upon a basis of contract between the

government and the people. (M. Faustin Hélie of France.) The State has the right to impose taxes, and the subjects have the duty of paying them. The legal ground of taxation lies in the pure duty of the subjects. They, being one of the constituent elements of the State, ought to pay taxes, in order that the expenditures necessitated by the nature and object of the State, may be met. The nation as a body ought to supply the funds required for the discharge of its own functions. For individuals, being the elements of the nation, ought each one to pay taxes. That mode of defining taxation is, therefore, erroneous, which considers the nation and individual subjects as apart from the State, and which regards taxes as remuneration paid in return for the protection of property. (Herr Stahl of Germany.) These opinions have been here produced by way of reference.

ARTICLE XXII.

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

The present Article guarantees the liberty of abode and of changing the same. In feudal times, clans were separated from each other by distinct lines of frontiers, surrounded themselves with barriers, and forbade the inhabitants to fix their dwellings out-

side the locality where they were registered, to remove the same or to travel without permission, thus restricting their locomotion and traffickings, and reducing them, as it were, to the level of plants. After the Restoration, with the abolition of all the different clans, the liberty of fixing or of changing one's abode has been recognized, and every Japanese subject is now free to fix his residence either permanently or temporarily, to hire dwelling places, or to engage in business, at any place within the boundaries of the territory of the Empire. That it is provided in the Constitution that this liberty can be restricted by law alone, and that it shall be put beyond the reach of administrative measures, shows how highly the said liberty is estimated.

In this and in succeeding Articles, assurance is given for individual liberty and the security of the property of subjects. The liberty guaranteed by law is the right of subjects, and is, so to speak, the source of the development of their life and intelligence. People enjoying liberty are usually good, enlightened citizens, capable of contributing to the prosperity of the State. In every constitutional country, the individual liberty of the people and the security of their property are regarded as rights of great importance, and due assurances are given for their security. But liberty exists solely in a community in which order prevails. Now the law gives, on the one hand, protection to individual liberty, while, on the other, it defines the limits of restraints upon it, required for maintaining the powers of the State; and thus the

law establishes a proper harmony between the two. Within the limits allowed by law, every individual will have ample scope in the enjoyment of his liberty. Such is the liberty, for which guarantee is given in the Constitution.

ARTICLE XXIII.

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

The present Article gives a guarantee for the security of personal liberty. Arrest, confinement and trial can be carried out only under the cases mentioned in the law, and according to the rules mentioned therein; and no ill-conduct whatever can be punished but in accordance with the express provisions of law. Thus, and thus alone, can the security of personal liberty be maintained. There is a close connection between personal liberty and measures of police and of criminal procedure; and indeed the connection is so close, that there is scarcely a hair's breadth of difference, so to speak, between them. In a constitutional Government, it is a matter of the greatest importance, that the liberty of individuals be respected and that the enjoyment of it be free from the interference of power, while, at the same time, peace and tranquility must be maintained, crime and vice must be suppressed, and the promptness and certainty of the measures taken for

making searches and for conducting trial be secured. Accordingly any police or prison official, arresting or imprisoning any one, or treating him harshly, otherwise than in accordance with law, is liable to heavier punishment for so doing, than would be a private individual. (Criminal Code, Arts. 278, 279 and 280.) As to the process of trial, no case shall be brought before a police official, but before some judicial authority; defence shall also be permitted, and trials shall be conducted openly. Any judicial or police authority, that resorts to violence in order to extort confession of crime from an accused, shall be liable to specially severe punishment. (Criminal Code, Art. 282.) Punishments that are not in accordance with the express provisions of the law, shall have no effect. (Code of Criminal Procedure, Art. 410; Criminal Code, Art. 2.) Such is the extreme thoroughness of care taken for the protection of subjects. Torture and other methods resorted to in trials in the middle ages, are already things of the past, and will never be resuscitated. The present Article insures against the revival of such obsolete usages, and places personal liberty on a safe and stable basis.

ARTICLE XXIV.

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

The present Article is also a necessary provision for the protection of individual rights. The judges established by law shall deal impartially between litigating parties, free from the restraints of power; and every subject, however helpless and poor he may be, shall be able to contend in a court of law with the high and mighty, and giving his version of the case, defend against prosecuting officials. The Constitution, therefore, does not suffer encroachment upon the judicial power nor denial of the rights of individuals, by the establishment of any extraordinary tribunal or commission, other than by the competent court fixed by law. Individual subjects will in this way be safe in putting their reliance upon the independent courts of justice, and in regarding them, as it were, their fathers in possession of the control of justice.

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.

In the present Article, the inviolableness of dwellings is guaranteed. A house is a place in which subjects reside in security, and not only are private persons forbidden to enter the abodes of other people, without the consent of its occupants, but also any police, judicial or revenue official, who, in connection with either a civil or a criminal case or with an

administrative measure, shall enter the house of a private individual or make a search therein, otherwise than in cases specified by law and in accordance with the provisions contained therein, will be regarded by the Constitution as guilty of an illegal act, and shall be liable to be dealt with according to the Criminal Code. (Criminal Code, Arts. 171 and 172.)

ARTICLE XXVI.

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

The secrecy of letters is one of the benefits conferred by modern civilization. In the present Article, it is accordingly guaranteed, that violation of the secrecy of letters either by opening or by destroying them, will not be tolerated, except in matters of criminal investigation or in times of war or of emergency, or in cases specified by express provisions of law.

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.

In the present Article, assurance is given of the

security of the right of property. The right of property is under the powers of the State. It ought, therefore, to be subordinate to the latter, and be subject to the restrictions of the law. It is indeed inviolable, but is not unrestricted. For instance, certain kinds of buildings are prohibited within a certain distance of the boundary line encircling a castle or a fortification, and no indemnity is due for such prohibition; minerals in the earth are under the control of the mining laws; forests are managed by regulations framed in accordance with the requirements of dendrological economy; the planting of trees within a certain distance from a railway line is prohibited; and wells are not to be dug within a certain distance from a cemetery. These are illustrations of the restrictions that are put upon the right of property; and they will be sufficient to show, that the property of individuals, like their persons, is under an obligation of obedience to the powers of the State. The right of property is one that falls within the domain of private law, and is not in conflict with the supreme right of governing the country, which belongs to the sphere of public law. (In Europe, Grotius of Holland maintained in his treatise on International Law, that a Sovereign possesses the supreme right of property in the land under his rule. Recent writers on the law of nations follow this principle, only replacing the expression "supreme right of property" by the term "territorial sovereignty.")

It appears from historical records that, in remote

antiquity, there were instances of private individuals voluntarily offering their land to the Government; of the domains of private individuals being confiscated by the Government; of private individuals selling their land and claiming for its price. In the 2nd year of Taikwa (646 A.D.), in the reign of the Emperor Kōtoku, the tendency to an undue accumulation of lands by one owner was checked by the suppression of *miyake* (land attached to public granaries) and *tadokoro* (large domains in private ownership), and lands were parcelled out among the people according to the number of members of each family, in imitation of the system which prevailed in China during the régime of the Zui (Sui) and Tō (Tang) dynasties. But later on, the baleful system of manors and of domains prevailed more than ever. This state of things favored the growth of feudalism. In the times of the Tokugawa Government, the agricultural population was in most cases reduced to a state of tenantry of the feudal lords. After the Restoration in the 12th month of the 1st year of Meiji (1868), a proclamation was issued, by which the land in each village was declared to be in the ownership of the farmers. In the 4th year (1871) all the clans voluntarily offered to return their domains to the Emperor, and thus the ancient system of feudal domains was at last completely abolished. In the 2nd month of the 5th year (1872), the prohibition upon the buying and selling of land was removed, and title-deeds for lands were issued. In the 3rd month of the 6th year (1873) a notification as to the classification of lands was

promulgated by which the land was divided into two classes called "public lands" and "private lands", but in the 7th year (1874), the expression "private lands" was changed into "people's land" (*min-yū-chi*). In the 8th year (1875), the names of the owners of land were inscribed upon the title-deeds of lands. (In the formula of the title-deeds, it was noted that every one in the Japanese Empire who owns land, ought to have a title-deed for the same similar to the said formula.) In Europe, this result was obtained in some cases by the overthrow of the despotic power of the feudal lords at the point of the bayonet, while in some cases the right of tenants to the land was redeemed for vast sums of money. In this country, the restoration of the land to the uniform administration and its subsequent bestowal upon the people have been smoothly accomplished by the voluntary abnegation of the different clans. Nothing like it has ever occurred in any country within historic times, and it is a glorious monument to the new Government of the Restoration.

When it is necessitated by public benefit, private individuals may be compelled *nolens volens* to part with their property, in order that the requirements of a given case may be met. This provision is based upon the right of sovereignty—the right of reigning over and governing the country, though the determination of the regulations concerning the matter in question is delegated to the sphere of law. With regard to a measure by which private property is sacrificed for the public benefit, the condition is, that a reasonable

indemnity shall be paid for the property taken. As to restrictions upon the right of property, the Constitution abundantly testifies that they must always be fixed by law, and that they are beyond the control of ordinances.

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.

In Western Europe, during the middle ages, when religion exercised an ascendant influence, it was mixed up with politics, internal as well as external, and was very often the cause of bloodshed; while in the countries of the East, strict laws and severe penalties were provided in order to suppress religion. But the doctrine of freedom of religious belief, which dates back four centuries, first received practical recognition at the time of the French Revolution and of the independence of the United States of America, when public declaration was made on the subject. Since then, the doctrine has gradually won approval everywhere, until at present every country, although maintaining in some cases a state religion, and in others favoring a particular creed in the organization of its society or in the system of its public education, nevertheless grants to its people by law entire freedom of

religious belief. The cruel treatment of those of a heterodox faith or the exclusion of them from the enjoyment of certain portions of public and civil rights, are already historical facts of the past, and now-a-days it is very seldom, if ever, that such absurdities are brought to our notice. (In the German states, political rights were denied to the Jews up to the year 1848.) In short, freedom of religious belief is to be regarded as one of the most beautiful fruits of modern civilization. For several centuries, freedom of conscience and the progress of truth, both of them of the most vital importance to man, have struggled through dark and thorny paths, until they have at last come out into the radiance of open day. Freedom of conscience concerns the inner part of man and lies beyond the sphere of interference by the laws of the State. To force upon a nation a particular form of belief by the establishment of a state religion is very injurious to the natural intellectual development of the people, and is prejudicial to the progress of science by free competition. No country, therefore, possesses by reason of its political authority, the right or the capacity to an oppressive measure touching abstract questions of religious faith. By the present Article, a great path of progress has been opened up for the individual rights of conscience, consistent with the direction in which the Government has steered its course since the Restoration.

Belief and conviction are operations of the mind. As to forms of worship, to religious discourses, to the mode of propagating a religion and to the formation

of religious associations and meetings, some general legal or police restrictions must be observed for the maintenance of public peace and order. No believer in this or that religion has the right to place himself outside the pale of the law of the Empire, on the ground of his serving his god and to free himself from his duties to the State, which, as a subject, he is bound to discharge. Thus, although freedom of religious belief is complete and is exempt from all restrictions, so long as manifestations of it are confined to the mind; yet with regard to external matters such as forms of worship and the mode of propagandism, certain necessary restrictions of law or regulations must be provided for, and besides, the general duties of subjects must be observed. This is what the Constitution decrees, and it shows the relation in which political and religious rights stand toward each other.

ARTICLE XXIX.

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

Speeches, writings, publications, public meetings and associations are the media, through which men exercise their influence in political or social spheres. In every constitutional country, full freedom is granted in all of these particulars, in so far as there is no abuse of them by way of commission of crime or of

disturbance of peace and tranquility; and it is hoped that in this way interchange of thought may be promoted, and that useful materials may thus be supplied for the advancement of civilization. But as every one of these edged tools can easily be misused, it is necessary for the maintenance of public order, to punish by law and to prevent by police measures delegated by law, any infringement by use thereof upon the honor or the rights of any individual, any disturbance of the peace of the country, or any instigatation to crime. These restrictions must, however, be determined by law, and lie beyond the sphere of ordinances.

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.

The right of petition is granted to the people out of the Emperor's most gracious and benevolent consideration, so that an avenue may be opened to His subjects, by which they may be able to make their wishes known. In the reign of the Emperor Kōtoku (645–654 A.D.) a bell and a box were hung out, through which the people might make their representations and complaints. After the middle ages, the successive Emperors were wont to listen to the representations of the people that were read to them

in their Court, and to deliver their decisions thereupon, with the advice of their Ministers and Advisers of State (*Na-gon*). (This usage has been abolished since the time of the Emperor Saga, 810–823 A.D.—*Gu-kan-sho.*) It is found in history that every monarch of olden times strove to give redress to the grievances of the people, by supplying them with the means of making their wishes known. In the ages when there was neither Parliament nor well regulated process of trial, that the Sovereign listened to the voice of the people, and thus opened a channel through which their condition might be made known to him; was not only an attestation to his gracious virtues, but was also a necessary political measure, that in this way the ideas of the multitude should be discovered, and that the interest of all should be promoted. At present, our political machinery is, in all its details, in good order, and an institution is shortly to be established for public deliberation. Still, the people shall have the right of petition, and every complaint of the poor and wish of the aged, may be addressed to the Throne, without let or hindrance, as it is the ultimate object of the Constitution to secure respect for the rights of the people, while tender love is borne them, and care is taken to see that no one is excluded from the enjoyment of any of these benefits. This may be regarded as the height of political morality.

But petitioners must observe proper forms of respect. They must not abuse the right granted them by the Constitution, and show disrespect to the Emperor, or engage in calumniously exposing the

secrets of other people. Such conduct is positively condemned by the rules of morality. It is necessary, therefore, to provide proper restrictions thereon by law or ordinance, or by rules of the Houses of the Diet.

The right of petition at first related only to representations addressed to the Sovereign, but its sphere has been gradually extended to those made to Parliament and to Government offices. No legal restriction is made as to whether a petition concerns individual or public interests.

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.

All the provisions contained in the present Chapter give constitutional guarantees for the rights of the subject. It is a principle of every constitution that the duty of obedience to law is not confined to the subject alone, but that the powers of the State in authority over him, shall, in the exercise of their sway, likewise come under the restrictions of the law. In this way alone, can subjects be sure of their rights and property, and be free from the molestations of oppression and of illegalities. Such is the essential feature of the present Chapter. But the Constitution

has not neglected to make exceptional provisions to meet requirements of exceptional contingencies. For it must be remembered that the ultimate aim of a State is to maintain its existence. Experienced captains are sometimes compelled, for the necessity of averting shipwreck and of saving the lives of their passengers, to throw overboard the goods in the ship; while skilful generals do not hesitate, at a critical moment, to sacrifice a part of their army in order to avoid a total defeat of their forces. In like manner, in times of danger, the State will have to sacrifice without hesitation part of the law and of the rights of the subjects, in order to attain its ultimate aim, if it considers that such a course is the only available means by which it can save itself and its people and secure its existence. This is not only a right of the Sovereign, but also his highest duty. Did the State not possess this emergency power, it would be impotent to discharge its functions at the time of a crisis.

This principle is expressly declared in the constitutions of certain countries, while in those of some others it is not so declared; nevertheless the power of a State to thus secure its existence is in practice everywhere acknowledged. For, it is an undisputed fact that every country carries out extraordinary measures to meet necessities arising in times of war. By the Constitution of no country is it allowable, when it is difficult to say whether an occasion is an emergent or only an ordinary one, to trample upon the rights of the subjects on the excuse of this

emergency power, when the necessity of the moment does not call for such measures. Express provisions have been made concerning the emergency power, and mention has also been made of the conditions for the exercise of it, for that it has been thought undesirable that the Constitution should be left defective as to the requirements of a time of emergency. In a certain country, on the other hand, no mention is made of this power. There, emergency measures are put beyond the sphere of the constitution and the legalization of such measures is left to the vote of Parliament. Modern writers on public law praise the former method as being the more perfect.

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.

The soldiery must observe military laws and commands while under the banner. Obedience is their first duty. Therefore, such of the provisions of the present Chapter relating to rights, as come into conflict with military laws and commands, shall not be applicable to those in the military and naval service. For example, those of them that are in

active service are prohibited from discussing either the military or naval system or political matters, forming themselves into associations or meetings for the purpose; nor are they allowed freedom of public discussion, of writings, of publications and of petitions, on political matters.

object of the establishment of the House of Peers is not limited either to making it a bulwark for the Imperial House or to the preserving of conservative elements. Its establishment is demanded by the necessity of maintaining the organic existence of the State. The bodies of the higher organic beings are not mere aggregations of different elements, but incorporations of sets of different organs, the healthy cooperation of which is necessary for the activity of the mind. Were the eyes not located in separate positions, it would be impossible for them to obtain the right optical angle; nor could the sense of hearing be complete, were the ears not turned in different directions. So the Head of the State should be a unity, and neither one of the two media, by which the ideas of the people are collected, can be dispensed with any more than can one or the other wheel of a carriage be done away with. The aim of a representative system is to draw profit from the results of public deliberations. Now, when all the political forces are united in a single House, and are left to the influence of excited passions and abandoned to one-sided movements, with no restraining and equalizing power over them, that House may in the intemperance of biased excitement, overstep the limits of propriety, and, as a consequence, bring about the despotism of the majority, which may in turn lead to anarchy. Evils would be far greater under such a state of things, than they were in the days when there was no representative system at all. If no representative government is instituted, well and

good. If, however, there is one, it can never be free from the evil of partiality, without the provision of two chambers. The reason for this is to be found in the nature of things, and ought not to be lost sight of on account of the particular circumstances of the moment. It may be concluded that whether regarded from a theoretical point of view or considered in the light of mere fact, two chambers are indispensable organs in a representative system of government. The attack that has been made, in a certain country, upon the House of Lords as being indolent and imbecile and an impediment in the dispatch of business, may be valuable as a stricture upon the temporary evils of the moment, but has no weight in the consideration of the permanent policy of the country.

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.

The Members of the House of Peers, whether they be hereditary, elected or appointed ones, are to represent the higher grades of society. If the House of Peers fulfills its functions, it will serve in a remark-

able 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. The object of having a House of Peers is not merely admittance of the higher classes to some share in the deliberations upon legislative matters, but also representation of the prudence, experience and perseverance of the people, by assembling together men who have rendered signal service to the State, men of erudition and men of great wealth. It is thus intended to enable them to maintain an intimate connection among themselves, and form a body of the upper classes, so that the benefits of the establishment of the House of Peers may be realized. The provisions as to its composition being fixed by the Imperial Ordinance concerning the House of Peers, they are not mentioned in this Constitution.

ARTICLE XXXV.

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

The Members of the House of Representatives are

to be elected by the people throughout the country, from among men having certain qualifications and for a fixed length of time. The provisions relating to elections are, as stated in the present Article, passed over to those of a special law, so as to make it easy, when the necessity for it arises in the future, to make additions or alterations in the mode of carrying out elections. It is, therefore, undesirable that the Constitution should enter into minutiæ on the subject.

The Members of the House of Representatives are all of them representatives of the people of the whole country. The object of establishing election districts for the election of Members is to make the election general throughout the country and also for the sake of convenience of election. Representatives, therefore, are to speak freely in the House, according to the dictates of their individual consciences, and are not to regard themselves as the delegates only of the people of their respective districts, commissioned to attend merely to matters entrusted to them by their constituents. The study of European history reveals the fact that, in former times, it frequently happened, that members of Parliament, considering themselves the commissioners of their electors, were devoted to the interests of particular districts, and neglected their public duty of taking a general view of the interests of the country, thus discarding the fundamental principle of the representative system that votes shall be taken for the sake of the majority of the nation at large. Such errors arise from ignorance

of the proper duties of a representative.

ARTICLE XXXVI.

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

The two Houses, though forming the parts of the Diet, are different in the elements composing them, and occupy towards each other equalizing and opposing positions. Therefore the combination in one person of membership of both Houses at one and the same time, is incompatible with the object of establishing two Houses.

ARTICLE XXXVII.

Every law requires the consent of the Imperial Diet.

The law is a rule of conduct emanating from the sovereign power of the State, to which it is necessary to obtain the consent of the Diet. Such is one of the fundamental precepts of a constitutional government. No bill, therefore, can become a law, that has not passed through the Diet; nor can one become so, that has passed through one House, but has been rejected in the other.

(NOTE.) As to the question, what sort of matters ought to be settled by law, no general enumeration of them can be comprehensive enough to cover the

whole ground. In a Prussian Royal Ordinance, by which an ordinary law was promulgated, it is stated that the said law comprised provisions defining such rights and duties of subjects, as are not determined by special laws. Article 2, Chapter VII. of the Bavarian Constitution, May 26, 1818, provides that no new general law that relates to the personal liberty or to the property of people can be enacted, and no existing law changed, authoritatively explained or repealed, without the advice and consent of the Parliament of the Kingdom. But most jurists are of the opinion, that the sphere of law ought not to be restricted to the consideration of rights and duties, or to liberty and property, and that it is futile to attempt, as is shown by constitutional experience as well as by scientific researches, to lay down distinctions between law and ordinance by reference to the nature of the subject matter. What comes within the sphere of law and what within that of ordinance, differ according to the condition of the political development of each country. These limits ought to be ascertained for each country by reference to its constitutional history. But there are two definite cases of limitation: *first*, when a given matter is required to be embodied in a law by an express provision of the constitution; and *secondly*, in case of the modification of a law, in which case nothing but law can effect the modification. Such is the universal practice of constitutional countries.

ARTICLE XXXVIII.

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

When the Government makes the draft of a law, and by order of the Emperor submits it to the two Houses of the Diet as a bill, they shall be competent to pass it with or without amendment or to reject it. When either House deems it necessary that such and such a law be issued, it may initiate a bill for the purpose. When a bill, initiated by the one House and passed in the other with or without amendment to it, shall have received the sanction of the Emperor, it shall become a law the same as in the case of projects submitted by the Government.

The Emperor shall have no relations with the Diet other than to order its convening, its opening and closing, and to give sanction to laws. He charges the Ministers of State, during the session of the Diet, with the drafting of laws and with public correspondence. Accordingly such projects are said "to be submitted by the Government."

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.

The submission to the Diet of the same project for a second time during the same session, not only infringes the rights of the Diet, but is likely to prolong the session for the discussion of a solitary matter. It has, therefore, been prohibited by the present Article. The Constitution prohibits the evasion of the provisions of the present Article, by the laying for a second time before the Diet, under a new title and in new phraseology, a project that has been already rejected by the Diet.

A project of a law, that has not been sanctioned by the Sovereign, can not be introduced into the Diet a second time during the same session. This must be so out of respect to the sovereign powers of the Head of the State, and needs no explicit enunciation. Still, as to representations, it is stated that the same representations can not be made twice during the same session. For, while, on the one hand, whether a project of a law be sanctioned or not, lies with the Emperor, the acceptance or the rejection of a representation, on the other, is in the power of the Government: so there is a distinction between the two as to their relative importance. It will, therefore, be observed, that definite provisions have been made in the one case to avoid all doubt on the subject.

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.

The present Article shows that the Diet has the right of making representations. But in a preceding Article, the right of initiating projects of law has been given to both Houses. What is then the object of the provisions of the present Article, that both Houses may make representations of their opinions concerning a law? It is that the Diet is in this way allowed the option of either one of two courses of action, either to make a draft of a law and then bring it in, or, instead of so doing, simply to make representations of their opinion to the Government, as to the enactment of a new law, or as to the amendment or abolition of an old one, and, if the representation be accepted by the Government, to leave to the latter the framing of the draft of the law. In Europe, the legislative assembly of every country (except Switzerland) possesses the right of initiating a project of a law. But were a legislative assembly to proceed to draw up clause after clause of a law according to the opinions of the majority, much delay would be very often caused in the progress of the debate thereon, while the draft itself would not be free from the defect of crudeness and lack of arrangement. It would be far wiser to rely for such work upon the skill and experience of the commissioners of the Government. Such is the general conclusion arrived at by political writers in every country, as

the result of their observation of facts.

The Diet has not only to take part in legislation, but it has also the duty of indirectly keeping a watch upon the administration. Therefore both Houses may also make representations to the Government as to the advantage or disadvantage, expediency or inexpediency of this or that matter lying outside the sphere of legislation.

But when the opinion of the one or the other House, as to a law or to some other matter, is not accepted by the Government, that House is not allowed to make a representation on the same matter twice during the same session, so that there may be no tendency to controversies and coercion on the part of the Diet.

ARTICLE XLI.

The Imperial Diet shall be convoked every year.

The convocation of the Diet belongs to the sovereign power of the Emperor. But the yearly convocation of the Diet has been expressly provided for in the present Article, to guarantee by the Constitution the existence of the Diet. But cases like those mentioned in Article LXX. are exceptional ones.

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.

Three months have been fixed for the length of a session, so as to avoid the endless dilatation of deliberations. The prolongation of a session or the postponement of the closing of the Diet by reason of unavoidable necessity, shall be carried out by Imperial Order; and the Diet shall have no power to take such steps upon its own responsibility.

With the closing of the Diet shall terminate all the business of the session. No subject of debate, whether a vote has been taken upon it or not, shall be continued at the next session, unless special provisions have been made in regard thereto.

ARTICLE XLIII.

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

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

The Diet shall be convened once a year. This is for the ordinary session. No provision is made in the Constitution, as to the time of year of the ordinary session. But, it being necessary to give it time for the consideration of the Budget of the coming year,

it will usually be opened in the winter months. When there arises an urgent necessity therefor, an extraordinary session shall be specially convoked by Order of the Emperor.

The duration of an extraordinary session is not fixed by the Constitution, but is to be settled by the Imperial Order convoking it, according to the necessity of each case.

ARTICLE XLIV.

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

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

The House of Peers and the House of Representatives, though two distinct branches of the legislative, together form one Diet. Therefore a project, which, though it has passed through one House, yet has not received the consent of the other, cannot become a law. Nor ought the proceedings of one House, at a time when the other is not sitting, to have any effect. It is for these considerations, that the present Article provides that both Houses of the Diet shall be simultaneously opened and closed.

A portion of the House of Peers, consists of hereditary Members. Therefore, although it may be

prorogued, it cannot be dissolved, and when the House of Representatives has been ordered to dissolve, the House of Peers shall be ordered only to prorogue at the same time.

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.

The provision contained in the present Article gives permanent guarantee to the Diet. By it, it is intended to dismiss the old Members and to introduce new ones. Should the Constitution not have fixed the time for newly convoking the House after its dissolution, its existence would be left to the mere caprice of the Government.

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.

When the number of Members present is less than one-third of the whole number of Members, no meeting can be held. Therefore in such cases, deliberations shall not be opened, nor can any vote be taken.

The whole number of Members is that number of them, which is fixed by the Law of Election. As deliberations can not be opened unless more than one-third of the whole number of Members is present, neither can a House be organized unless more than one-third of the whole number has answered the summons of convocation.

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.

It is the usual practice in deliberative assemblies to arrive at decisions by an absolute majority of votes. Absolute majority, in the present Article, means the absolute majority of the Members present. It is rational that, when for the two sides of a question, there is an equal number of Members, it should be decided by the voice of the President. But discussion on an amendment of the Constitution, as set forth in Article LXXIII., is an exceptional case. Again, in the case of an election of President or of a committee or in the proceedings of a committee, the term "majority" shall be interpreted according to the rules specially framed for the particular case, and with such cases the present Article has no connection.

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.

The Diet represents the people; consequently debates and voting therein should be carried on in view of the public. But exceptions should be made for certain affairs that require secrecy of deliberation, such, for instance, as foreign affairs, personal matters, elections of the Diet officers and of committees, certain financial matters, certain military affairs and administrative regulations relating to peace and order. In such cases, the session may be held with closed doors, either upon the demand of the Government or by resolution of the House.

ARTICLE XLIX.

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

To present addresses is to approach the Emperor by presenting to Him a certain writing. The meaning of the word "addresses," includes the reply to an Imperial speech in the Diet, addresses of congratulation or of condolence, representations of opinion,

petitions and the like. The writing may be transmitted or a delegation of the House may be instructed to ask for an audience, and present it to the Emperor. In either case, proper forms of respect must be observed. The dignity of the Emperor must not be infringed by any proceeding implying coercion.

ARTICLE L.

Both Houses may receive petitions presented by subjects.

Subjects are at liberty to directly petition the Emperor, a Government office or the Diet. In the Diet, petitions received from individuals are first examined, and then simply transmitted to the Government, or are transmitted with a memorandum containing the opinion of the Diet, with a request for a report of the Government thereon. But neither House of the Diet has any positive obligation to take petitions into consideration; nor has the Government a positive obligation to grant the prayer set forth in a petition. As to petitions relating to legislative matters, although they need not be taken as direct projects of a law, yet a Member may in the usual manner make a motion in the House relating to the opinion set forth in the petition.

ARTICLE LI.

Both Houses may enact, besides what is pro-

vided for in the present Constitution and in the Law of the Houses, rules necessary for the management of their internal affairs.

By the "rules necessary for the management of their internal affairs," is to be understood, all those provisions relating to the election of the President, to the functions of the President and to the business of the Business Bureau, the establishment of the different sections, the election of committees, the business of the same, rules of debate, the minutes of the same, rules for the disposal of petitions, those for granting leave of absence to Members of the Diet, order and discipline, the business of the accountant of the Diet and the like. These rules are to be established by the respective Houses, within the limits allowed by the Constitution and the Law of the Houses.

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 writing, or by any other similar means, he shall, in the matter, be amenable to the general law.

The present Article recognizes the freedom of speech in the Diet. The management of the internal affairs of the Diet appertains to its autonomy; consequently violation of the rules of morality and personal defamation by an unrestricted licence of speech, are to be suppressed and dealt with by the Diet itself, according to its own regulations; and judicial authorities are not suffered to interfere in these matters. Moreover, the votes of the Diet become bases for future laws, and debates by the Members are the means by which the harmonizing of different conflicting opinions is to be brought about. Accordingly, Members shall be free from criminal or civil liability for expressions used in debate. The purpose of this provision is, in the first place, to insure respect for the rights of the Diet, and in the second, to give weight and value to the speeches of the Members. When, however, Members make public their speeches delivered in the Diet, and thus extend the freedom of speech they enjoy in the Diet, to the outside thereof, they cannot escape legal responsibility for the same, whether the matter made public relate to motions, or to refutation of statement.

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.

The two Houses of the Diet cooperate in the important affairs of legislation. Accordingly special privileges are granted to the Members during the session, so that they may maintain an independent position and be able to discharge their important functions. As to cases of flagrant delicts and to offences connected with a state of internal commotion or with a foreign trouble, no immunity can be claimed through special privilege of the Diet. A session comprises the time intervening between the convoking and the closing of the Diet. As to cases of non flagrant delicts or to ordinary offences, an offending Member may be arrested after communication has been held with the House, and its permission has been obtained so to do. In the case of flagrant delicts and of offences relating to a state of internal commotion or to foreign trouble, an offending Member may be arrested at once, and the matter reported to the House, of which he is a Member.

ARTICLE LIV.

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

To make explanations during debates in the Diet, is an important duty of the Ministers of State, who

must be open-minded to the multitude; they must state what they believe to be truthful and to appeal to public opinion; must accept ideas suggested by the course of the public opinion of the time and search for the most solid views on every subject whatever, so that nothing may be left neglected. In this way alone can the Constitution be made as useful as it ought to be. The right of the Ministers of State to be present in the Houses and to speak therein, is left to the option of the Government. The Ministers of State, therefore, may in person take part in debates, and make explanations or they may instruct Delegates of the Government so to do; they may too, when they think it necessary, decline at pleasure to do either the one or the other, either in person or by delegation.

CHAPTER IV.

THE MINISTERS OF STATE AND THE PRIVY COUNCIL.

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. The Privy Councillors are to give their opinions on important matters of State in response to the Emperor's call therefor. They and the Ministers of State are the Emperor's most eminent assistants.

ARTICLE LV.

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

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

Every Minister of State shall, on the one hand, take part in the deliberations of the Cabinet, while, on the other, he shall have charge of the affairs of some Department of State, and shall have to bear his responsiblity in the affairs of State. These shall be dispatched through the medium of the Cabinet and

of the different Departments of State, and through no other medium whatever. The object of a constitutional government is, that the rights of sovereignty be exercised through the proper channel. In other words, the rights of sovereignty must be exercised with the assistance of the machinery provided for public representation and with that of the Ministers of State. Therefore, the Ministers of State have towards the Emperor, the duty of encouraging all that is proper and of discountenancing all that is improper; and when they fail to discharge this duty, they will not be able to release themselves from responsibility by pleading an Order of the Sovereign.

In ancient times, the great dignitaries of State called *Ō-omi* and *Ō-muraji** were charged with the duty of giving advice to the Emperor. A Rescript of the Emperor Kōtoku (645–654 A.D.) says:—"He that is the Sovereign of a country and that rules its people, would do well not to govern by himself alone: he should avail of the assistance of his functionaries." In the reign of the Emperor Tenchi (662–671 A.D.), the Council of State (*Daijō-kwan*) was first established, and after that, the control over affairs of State was confided to the Chancellor of the Empire (*Daijō-daijin*), to the Minister of the Left (*Sa-daijin*) and to the Minister of the Right (*U-daijin*); while the First Adviser of State (*Dai-nagon*)† took part in

* *Vide* foot note under Art. XI. (*Translator's note.*)

† It was his duty to serve as a medium, through which state affairs were to be brought to the notice of the *Kwambaku* (*vide* a following foot note). When the Ministers did not attend the court, he had to represent them in their functions. (*Translator's Note.*)

advising, and the Minister of the *Nakatsukasa-Shō* inspected and affixed his seal to Imperial Rescripts. Under the Council of State were placed eight Departments, viz:—the *Nakatsukasa-Shō*,[1] the *Shikibu-Shō*,[2] the *Jibu-Shō*,[3] the *Mimbu-Shō*,[4] the *Hyōbu-Shō*,[5] the

1. The *Nakatsukasa-Shō* had charge of the following matters:—(1) those relating to attendance upon the Emperor, to the giving of advice to Him on His personal matters, and to the assisting of Him in the maintenance of a proper dignity and in the observance of proper forms of etiquette; (2) those relating to the inspection and countersigning of drafts of Imperial Rescripts, and to the making of representations to the Emperor; (3) those relating to the issuing of Imperial Orders in time of war; (4) those relating to the reception of addresses to the Emperor; (5) those relating to the compilation of the history of the country; (6) those relating to the gazetteer and the personal status of Imperial Princesses of from the second to the fourth generation, and of the maids of honour and other court ladies; (7) those relating to the submission to the Emperor for His inspection of the census of the population in the various provinces, of the accounts of taxes to be levied, and the lists of the priests and nuns in the same; (8) those relating to the Grand Empress Dowager, the Empress Dowager, and the Empress; (9) those relating to Imperial archives; (10) those relating to the annual expenditure of the Court and to various articles to be provided for the use of the Imperial family; (11) those relating to astronomical calculations and the arrangement of the calendar; (12) those relating to pictorial artists; (13) those relating to medicaments to be supplied to the Emperor and the medical advice to be given Him; and (14) those relating to the maintenance of order in the palace.

2. The *Shikibu-Shō* had charge of the following matters:—(1) those relating to the keeping of the lists of civil officers; (2) those relating to appointment to office and to rank, and to the rewarding of meritorious services; (3) those relating to the superintendance of schools and of civil examinations; (4) those relating to the appointment of stewards in the houses of Imperial Princes and in those of officials of and above the 3rd grade of rank; (5) those relating to pensions of all kinds and to donations; and (6) those relating to the order of precedence of the various officials at the time of congratulatory occasions and of festivals.

3. The *Jibu-Shō* had charge of the following matters:— (1) those relating to the names of officials and to the succession and marriage of officials of and above the 5th grade of rank; (2) those relating to auspicious omens; (3) those relating to demises, funerals, and the granting of posthumous rank to a deceased person or of donations of money to his family; (4) those relating to the anniversaries of the demise of the late Emperor, and to the recording of the names of all the former Emperors,

Gyōbu-Shō,[6] the *Ōkura-Shō*,[7] and the *Kunai-Shō*.[8] Thus the organization of the Government was near-

so that none of those names shall be used by any of the succeeding Emperors or by any subject; (5) those relating to the paying of homage to the Emperor by foreign countries; (6) those relating to the adjudication of disputes about the order of precedence of the various families; (7) those relating to music; (8) those relating to the registration of the names of Budhistic temples, priests, and nuns; (9) those relating to the reception and entertainment of foreigners and to their presentation to the Emperor; and (10) those relating to the Imperial sepulchers, and to the list of people in attendance upon them.

4. The *Mimbu-Shō* had charge of the following matters:— (1) those relating to the supervision of the census of the population of the various Provinces; (2) those relating to the contribution of forced labour as tax; (3) those relating to the exemption from forced labour and the rewarding of subjects distinguished for filial piety, or for their integrity in dealing with other people, or of subjects in distress, or of officials of certain classes; (4) those relating to bridges, roads, harbours, lakes, farms, mountains, rivers, etc.; (5) those relating to the estimation and collection of taxes in products, and of those in textures, to the disbursement of the national funds, and to the making of the estimates of national expenditures; and (6) those relating to granaries and to the land tax (tax in grain).

5. The *Hyōbu-Shō* had charge of the following matters:— (1) those relating to the rosters of military officers, their examination, their appointment, their rank, etc.; (2) those relating to the dispatching of troops; (3) those relating to weapons, guards, fortifications, and signal fires; (4) those relating to pastures, military horses, and public and private horses and cattle; (5) those relating to the postal stations; (6) those relating to the manufacture of weapons, and the lists of mechanics engaged in the same; (7) those relating to practice in drumming and in flute playing and to public and private means of water transportation; and (8) those relating to the training of hawks and dogs.

6. The *Gyōbu-Shō* had charge of the following matters:— (1) those relating to the conduct of trials and to the determination of the severity of punishments; (2) those relating to suits for debts; and (3) those relating to the imposition of fines, to imprisonments, and to penal servitude.

7. The *Ōkura-Shō* had charge of the following matters:— (1) those relating to public accounts; (2) those relating to taxes in textures and of offerings to the Emperor; (3) those relating to weights and measures; (4) those relating to prices of commodities; (5) those relating to the coinage of gold, silver, copper, and iron money, and to the lists of the artisans engaged in the coinage; and (6) those relating to the manufacture of lacquer ware, to weaving, and to other kinds of industries.

8. The *Kunai-Shō* had charge of the following matters:— (1) those

ly complete. In later times, court favorites took sole charge of the affairs of State, and even such petty officials as *Kurando** gradually came to assume the issuing of Imperial Orders; and important measures of State were also executed on the authority of an ex-Emperor, of the private wishes of the Emperor, or of written notes of ladies of the Court. The result was a complete slackening of the reins of power. Immediately after the Restoration, the offices of Regent and of *Kwanbaku*,† that of *Densō*,‡ and that of

relating to rice fields for the supply to the Imperial family; (2) those relating to the harvesting done on the Imperial domains; (3) those relating to the presenting to the Emperor, by subjects, of rare delicacies; (4) those relating to the culinary and engineering departments of the Court, to breweries, to court ladies, to court smiths, to court servants, and to the Imperial wardrobe and the like; and (5) those relating to the list of the Imperial Princes and Princesses of from the second to the fourth generation inclusive.—*From the Taihō Ryō.* (*Translator's Note.*)

* *Kurando* were originally charged with the keeping of important state documents and correspondence; but they gradually came to discharge the duties of chamberlains. (*Translator's note.*)

† It was through the *Kwanbaku* that all proceedings in the affairs of the State were brought to the knowledge of the Emperor. This office was usually combined in the person of either the Chancellor of the Empire, the Minister of the Left, the Minister of the Right, or the Lord Keeper of the Privy Seal. The *Kwambaku* was the highest of the official positions; and consequently, when the Minister of the Left or the Minister of the Right or the Lord Keeper of the Privy Seal was appointed to this post, he took precedence over even the Chancellor of the Empire. (*Translator's note.*)

‡ *Densō*. There were two officers appointed to this post. They were also called *Buke-densō*. *Gisō* (*vide* the following foot note) of the highest rank were appointed to this post. Their functions were chiefly to serve as media between the Imperial Court and the Tokugawa Government; that is, on the one hand, to issue the orders of the Court to the feudal Government, and, on the other, to make the views of the latter known to the former. They were court officials, but in reality they were under the authority of the feudal Government. They pledged fidelity to it; just as its own officials did; and in return they received their salaries from that Government. They ranked *Gisō*, but with regard to certain court affairs, their power was weaker than that of *Gisō*. (*Translator's Note.*)

Gisō,§ were abolished, and orders were issued in the Court strictly prohibiting intrigues and corruptions. Shortly afterwards, the Council of State (*Daijō-kwan*) was revived. In the 7th month of the 2nd year of Meiji (1869), the offices of Minister of the Left (*Sadaijin*), of Minister of the Right (*U-daijin*) and of Councillors of State (*Sangi*) were created in conjunction with the establishment of six Departments of State. In the 4th year (1871), the office of Chancellor of the Empire (*Daijo-daijin*) was established. In the 10th month of the 6th year (1873), the Councillors of State (*Sangi*) were appointed Ministers of State (*Kyō*) in addition to their proper office. After some further changes, the offices of Chancellor of the Empire, of Councillors of State and of Ministers of State were abolished in the 12th month of the 18th year (1885), and their places were supplied by the organization of the Cabinet, composed of ten Ministers of State, namely, of the Minister President of State, of the Minister of State for Foreign Affairs, the Minister of State for Home Affairs, the Minister of State for Finance, the Minister of State for War, the Minister of State for the Navy, the Minister of State for Justice, the Minister of State for Education, the Minister of State for Agriculture and Commerce and the Minister of State for Communications. According to the system that was inaugu-

§ *Gisō*. There were five officers appointed to this post. They had sole charge of matters of the Imperial Court, they had the power to decide on all sorts of court affairs, under the supervision of the *Kwambaku* (*vide* a foregoing foot note under the present Article). They also received their salaries from the feudal Government. (*Translator's note.*)

rated by the Code of Taihō,* the Council of State was placed over the different Departments of State. The latter were consequently offices under the control of the former, while the functions of the Ministers of State were simply to carry out the notices issued from the Council of State; thus these Ministers had no direct official relations with the Emperor and were under no responsibility for the great affairs of State. After the Restoration, modifications were successively introduced until the Cabinet was reorganized by Imperial Rescript in the 18th year of Meiji (1885). By the said reorganization, the Ministers of State were made each separately to bear his share of responsibility to the Emperor directly. Over them was placed the Minister President of State. The object of this change was, on the one hand, to give weight to the functions of the Ministers of State and to impress upon them a higher sense of their responsibility, and, on the other, to maintain the unity of the Cabinet and to avoid all complications and variances therein.

The opinions of European scholars differ on the subject of the responsibility of the Ministers, the systems prevailing in different countries being also various. In some countries (as in England), a mode of impeachment has been specially established in connection with political responsibility, the Lower House instituting the case and the Upper House trying and deciding it; while, in some other countries, either the court of cassation or some special political

* *Vide* foot note under Article X. (*Translator's note.*)

tribunal is entrusted with the power of trial and decision over cases of political responsibility. (In Belgium, the Lower House can impeach, while the Court of Cassation tries and decides. In Austria, either House can impeach, while trial and decision are left to a political tribunal specially established, and which, besides deciding on the political offences indicted, also passes sentence on attendant criminal ones. In Prussia, though there is a provision in the Constitution on the subject, it has not yet been carried into effect, as no law has been specially enacted for the purpose.) Political responsibility is sometimes treated separately from criminality, and effect of judgment stops with dismissal from office and deprivation of service (Law of the United States of America and of Bavaria, 1848). Again, treason, bribery, indiscriminate disbursement of public money, breach of the constitution and the like, are in some cases specially mentioned as offences, for which Ministers of State shall be held responsible. (The Constitutions of the United States of America, of Prussia, and of Portugal, and those of France, 1791 and 1814. The Belgian Parliament has condemned the practice of reciting the offences for which Ministers of State shall be held responsible). The Ministers of State are, in still other cases, held responsible to the Sovereign. (In Holland, a certain Minister once declared that, though he was responsible to the Sovereign, he was not so to the people.) On the other hand, it is in some countries maintained that Ministers are responsible to the people, that is to say,

must be brought before the ordinary courts of law, and that suits arising out of administrative matters must be brought before a court of administrative litigation, the cases of political responsibility are left to be dealt with by the Sovereign as disciplinary measures.

The Minister President of State is to make representations to the Emperor, on matters of State, and to indicate, according to His pleasure, the general course of the policy of the State, every branch of the administrative being under the control of the said Minister. The compass of his duties is large, and his responsibility cannot but be proportionally great. As to the other Ministers of State, they are severally held responsible for the matters within their respective competency: there is no joint responsibility among them in regard to such matters. For, the Minister President and the other Ministers of State, being alike personally appointed by the Emperor, the proceedings of each one of them are, in every respect, controlled by the will of the Emperor, and the Minister President himself has no power of control over the posts occupied by other Ministers, while the latter ought not to be dependent upon the former. In some countries, the Cabinet is regarded as constituting a corporate body, the Ministers are not held to take part in the conduct of the government each one in an individual capacity, but joint responsibility is the rule. The evil of such a system is, that the power of party combination will ultimately over-rule the supreme power of the Sovereign. Such a state of things can

never be approved of according to our Constitution. But with regard to important internal and external matters of State, the whole Government is concerned, and no single Department can, therefore, be exclusively charged with the conduct of them. As to the expediency of such matters and as to the mode of carring them out, all the Ministers of State shall take united counsel, and none of them is allowed to leave his share of the business a burden upon his colleagues. In such matters, it would of course be proper for the Cabinet to assume joint responsibility.

The countersignature of a Minister or of Ministers of State has the two following effects:—*First*, laws, Imperial Ordinances and Imperial Rescripts that relate to affairs of the State can be put into force only by virtue of the countersignature of a Minister or of Ministers of State. Without it, they can take no effect; and when issued through any other than a Ministerial channel, none can be carried out by the functionaries charged with its execution. *Secondly*, the countersignature of a Minister or of Ministers of State attests the right of the said Minister, or Ministers to carry out the law, Imperial Ordinance or Imperial Rescript in question, and also his or their responsibility for the same. The Ministers of State are the channels, through which the Sovereign's Orders are to flow, both at home and abroad. This is made clear by their countersignatures. But the political responsibility of Ministers can not be regarded only from a legal point of view: moral considerations must also enter into the question. For, the limits defined by

law are not the only ones within which Ministers must move; consequently when a mistake has been committed by the Government, responsibility should not be confined to the countersigning Minister or Ministers, but those Ministers also who, though not the countersigners, have been consulted about the matter, ought to be held responsible for the mistake. If, therefore, the fact of countersigning is taken as the mark, by which the limits of responsibility are to be distinguished, it will lead to an undue reliance upon mere form and to the disregarding of real facts. To conclude, though countersignature indicates the responsibility of the countersigning Minister, yet responsibility does not arise from the fact of countersigning.

According to the forms for public documents established by the Code of Taihō, Imperial Rescripts were issued in this way. The draft of a Rescript was prepared in the Court, and dated by the Emperor, when it was given to the Minister of *Nakatsukasa-Shō*. The original draft, which the Emperor had dated, was kept in that Department, and a copy of it was transmitted to the Council of State, bearing the joint signatures of the Minister and Senior and Junior Vice Ministers of the said Department. In the Council of State, this copy then received the signatures of the Chancellor of the Empire, of the Ministers of the Left and of the Right, and of the First Adviser of State. It was then returned to the Emperor with the prayer that it be carried out through the proper channel, whereupon it received His sanction.

The copy to which the Emperor had affixed His "sanction", was left in the Government's keeping, and another copy was made out for promulgation. It is to be observed that great caution and respect were used in inspecting and in signing Imperial Rescripts. After the Restoration, in the 7th month of the 4th year of Meiji (1871), it was made part of the duties of the Chancellor of the Empire, to put his name and seal to Imperial Rescripts. But every thing being as yet in a state of transition, Imperial Rescripts were very frequently issued without the signature of the Chancellor and without the phrase "By Imperial Command." In the 11th month of the 14th year of Meiji (1881), it was established that the Ministers of State should put their signatures to laws, regulations and notifications relating to matters within their respective spheres of control. In the 1st month of the 19th year of Meiji (1886), forms as to countersignatures were settled. The forms of promulgating public documents was thus brought to a high degree of perfection.

ARTICLE LVI.

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

The Emperor, on the one hand, maintains the supreme control of administrative affairs through the medium of the Cabinet, while, on the other, he has established the Privy Council, so that in His wisdom He may have at command its assistance, and that the information He obtains may be thorough and impartial. Ministers of State have to be acute of mind, quick and active in the dispatch of internal and of external affairs. But the task of planning far-sighted schemes of statecraft and of effectuating new enactments, by leisurely meditation and calm reflection, by thorough investigations into ancient and modern history, and by consulting scientific principles, must be entrusted to a special institution made up of men of wide experience and of profound scholarship. In other words, like every thing else in human society, the two different elements follow the general rule of the division of labor. In performing their Heaven-received mission, Sovereigns must first take advice before they arrive at a decision. Hence the establishment of the Privy Council is just as necessary as that of the Cabinet, to serve as the highest body of the Emperor's constitutional advisers. If the Privy Council is competent to lend assistance to the wisdom of the Emperor, to be impartial, with no leanings to this or that party, and to solve all difficult problems, it will certainly prove an important piece of constitutional mechanism. Moreover, when an emergency Ordinance is to be issued or a state of siege is to be declared, or when some extraordinary financial measure is deemed necessary to be taken, the

opinion of the Privy Council is to be sought before the measure is carried out, thereby giving weight to the measures of the administrative in the matter. In this way, the Privy Council is the palladium of the Constitution and of the law. Such being the importance attached to the functions of the Privy Council, it is the established rule that, every Imperial Ordinance, on which the advice of the Privy Council has been asked, shall contain a statement of that fact in the preamble to it. The Privy Council is to hold deliberations only when its opinion has been asked for by the Emperor; and it is entirely for Him to accept or reject any opinion given.

The duty of the Privy Council is to be perfectly loyal and straightforward in furnishing advice to the Emperor. As to a matter about which the opinion of that body has been furnished to the Emperor, no publicity can be given to it, however trifling it may be, without His special permission. For, it is not in an advisory body like the Privy Council, that subjects should seek for fame and glory of the outside world.

CHAPTER V.

THE JUDICATURE.

The Judicature is the authority which, in accordance with the provisions of law and in conformity with reason and justice, redresses injured rights of subjects and metes out punishments. In ancient times, when politics were in a state of primitive simplicity, in no country was the Government distinguished into the judiciary and the administrative, as is abundantly shown by historical records. As, however, civilization advanced and social affairs became more and more complex, a distinct line of demarkation was drawn between the judiciary and the administrative. The two departments have each different organizations, and neither of them suffers any encroachment upon its sphere of business by the other. In this way, it has been possible to witness great progress in constitutional government.

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.

The distinction between the administrative and the judiciary may be briefly described as follows.

The functions of the administrative are to carry out laws and to take such measures as may be found expedient for the maintenance of the public peace and order, and for the promotion of the happiness of the people; while the duty of the judiciary is to pronounce judgment upon infringements of rights, according to the provisions of the law. In the judiciary, law is everything, and the question of convenience is left out of consideration. In the administrative, however, measures are taken to meet the ever changing requirements demanded for the convenience and necessities of society; and law simply shows the limits beyond which they are not permitted to obtrude. Such being the distinction between the nature of the administrative and that of the judiciary, were there only administrative officials and no judicial functionaries, the rights of individuals would be in danger of being made subservient to the ends of social convenience and would ultimately be encroached upon by power.

Therefore trials must be conducted according to law; the law is the sole standard for conducting trials, which must always be conducted in a court of law. But the Sovereign is the fountain of justice, and His judicial authority is nothing more than a form of the manifestation of the sovereign power. Therefore judgments shall be pronounced in the name of the Emperor, the judicial authority in this respect representing Him in His sovereign power.

The organization of the courts of law shall be settled by law, in contradistinction with the organi-

zation of the administrative. Officers of justice possess independent positions founded upon law.

According to the system that prevailed in this country during the middle ages, the Department of Justice (*Gyōbu-Shō*)* was, like the others, under the control of the Council of State. The functions of the Minister of Justice were to exercise control over matters relating to the conduct of trials, to the determination of severity of punishment, to the decision of doubtful questions, to the registration of the people according to the higher (*ryō*) and the lower (*sen*) classes, to imprisonment and to suits arising out of debts. Judges were dependent upon the Minister of Justice, and their functions were to conduct trials, to determine severity of punishment to be meted out, and to give judgment on all sorts of actions at law. It is to be observed that both civil and criminal matters were put under the control of the same Department. As the influence of the military class increased, political power passed to that class, and judicial power slipped into the hands of the Chief of the Police (*Kebiishi*). Thus judicial matters were conducted with military despotism.

This evil practice was continued down to the end of the feudal times, during which appeals were strictly forbidden. Immediately after the Restoration, judicial officials named *Keihōkwan* were appointed, and the judicial authority was restored again to the Emperor. The 4th year of Meiji (1871) witnessed the establishment of the Tōkyō Court of Law,

* *Vide* a foot note under Article LV. (*Translator's note.*)

which was the first instance of the establishment of an office for the special purpose of administering justice. In the same year, the business connected with the hearing of law suits hitherto conducted in the Department of Finance, was transferred to the Department of Justice. In the 5th year (1872), law courts were established in the open ports. Subsequently courts were established throughout the country, classified into Judicial Courts, City and Prefectural Courts and District Courts; at the same time appeals and re-hearings became permissible. In the 8th year (1875), the Court of Cassation was established so as to maintain the unity of the law. In the same year, the functions of the Minister of Justice were settled to consist in exercising control over the judicial administration and not in interfering with trials. Since then various reforms have been made with the object of securing the independence of the courts of law. Such is an outline of the history of judicial matters in this country.

The doctrine of the independence of the three powers (the judicature, the executive and the legislative), which prevailed in Europe at the close of the last century, has already been condemned both by scientific principles and by practical experience. The judicature is combined in the sovereign power of the Emperor as part of His executive power. The word "executive", when used as opposed to the word "legislative", has a comprehensive signification: the judiciary is only a part of the executive, and the executive, strictly speaking, is made up of

two parts the judiciary and the administrative, each performing district services. This principle is at present generally acknowledged by writers on public law, and it is not necessary in this place to dwell upon the subject. Though it is in the power of the Sovereign to appoint judges, and though the courts of law have to pronounce judgment in the name of the Sovereign, yet the Sovereign does not take it upon Himself to conduct trials, but causes independent courts to do so, in accordance to law and regardless of the influence of the administrative. Such is what is meant by the independence of the judicature. This theory has no connection with the doctrine of the independence of the three powers, but it is still an immutable principle.

ARTICLE LVIII.

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

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

Rules for disciplinary punishment shall be determined by law.

The function of judges is to uphold the law and to administer justice to the people in an impartial manner. Special knowledge and experience are accordingly the required qualifications of judges; especially so, as it is on account of the proper qualifications they possess, that subjects trust them as to the manner of their dealing with their rights and property. Hence it is provided in the first clause of the present Article, that certain qualifications for judgeship are to be settled by law.

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. Accordingly they shall be entitled to hold office for life, unless dismissed from the service by a criminal sentence or by the effect of a disciplinary trial. Disciplinary rules applicable to judicial functionaries are fixed by law, and carried out by decision of a court of law. No interference of any chief of an administrative office is allowed. Such is the guarantee which the Constitution provides for the independence of judges.

All details as to suspension from office, to *hishoku*,* to the transfer of appointment and to retirement on account of age, shall be mentioned in the law.

ARTICLE LIX.

Trials and judgments of a Court shall be conducted publicly. When, however, there exists any fear, that such publicity may be

* *Hishoku* is a temporary retirement from active service on one-third pay. (*Translator's note.*)

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.

That trials are publicly conducted and that parties are orally examined in public, are most effective guarantees for the rights of the people. The publicity of trials is of considerable consequence in making judges feel the importance of their duties and in spurring them on to be worthy representatives of reason and of justice. In this country, a practice, called *shirasu saiban*,* was long in vogue, but in the 8th year of Meiji (1875), the conducting of trials openly was permitted for the first time. This was a great step in the progress of judicial matters.

There are two stages in every criminal proceeding, preliminary examination and trial. The word "trial" used in the present Article does not include, in its meaning, preliminary examination. The cases in which public trial may be "prejudicial to peace and order," are, for instance, those relating to offences connected with a state of internal commotion or with a foreign trouble or those relating to the assembling of mobs, or to instigation to crime, thereby agitating and exciting people's minds. The cases in which public trial may be "prejudicial to the maintenance of public morality," are such, for instance,

*According to this system trials were conducted with close doors. (*Translator's note.*)

as relate to private matters causing scandal and shocking public morality, when exposed to the knowledge of the community. From the expression ".....may be prejudicial to peace and order, or to the maintenance of public morality," it is to be inferred that whether a certain act is calculated to disturb peace and order or to be detrimental to public morality, is to be decided by the opinion of the court. "According to law"—that is, according to the express provisions of the Code of Criminal Procedure and the Code of Civil Procedure. "By the decision of the Court"—that is, when there is no express provision of law, the decision of the court will suffice to suspend public trial. From the expression "the public trial may be suspended," it is to be inferred that judgment and pronounciation of sentence are always to be in public.

ARTICLE LX.

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

Those matters appertaining to men in the military or the naval service, that are taken cognizance of by the courts-martial, belong to the category of matters that fall within the competency of a special court other than the ordinary courts of justice. Further, should it become necessary in future to establish special Tribunals of Commerce for merchants, and

manufacturers, commercial and industrial matters to be taken cognizance of by the said tribunals will also belong to the category of matters that shall fall under the jurisdiction of a special court other than the ordinary civil courts. Provisions for these tribunals shall be established by law. No ordinance can establish legal exceptional cases.

The Constitution does not suffer the establishment of exceptional courts placed beyond the control of law, encroaching upon the judicature through the influence of the administrative authority, and wresting from the people the proper courts where justice can be obtained.

ARTICLE LXI.

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

By "the Court of Administrative Litigation" is to be understood a tribunal where cases instituted against administrative measures are adjudicated. The law provides certain limits upon rights of subjects to insure the safety of the same. And no

part of the body politic can claim any exemption from the duty of observing these legal limits. Therefore, when an administrative office in carrying out official measures, infringes the rights of subjects by violating the law or by overstepping the bounds of its functionary powers, such office has to submit to the decision pronounced by the Court of Administrative Litigation.

How is it that, while it is the function of the courts of justice to try cases of law, a Court of Administrative Litigation is to be especially established? The proper function of judicial courts is to adjudicate in civil cases, and they have no power to annul measures ordered to be carried out by administrative authorities, who have been charged with their duties by the Constitution and the law. For, the independence of the administrative of the judicature is just as necessary as that of the judicature itself. Were administrative measures placed under the control of the judicature, and were courts of justice charged with the duty of deciding whether a particular administrative measure was or was not proper, administrative authorities would be in a state of subordination to judicial functionaries. The consequence would be that the administrative would be deprived of freedom of action in securing benefits to society and happiness to the people. Administrative authorities carry out measures by virtue of their official functions, and for these measures they lie under constitutional responsibility, and it follows that they ought to possess power to remove obstacles in the path of these mea-

sures, and to decide upon suits springing from the carrying out of them. For, should the administrative be denied this power, its executive efficacy would be entirely paralized, and it would no longer be able to discharge the responsibilities put upon it by the Constitution. This is the first reason why it is necessary to establish a Court of Administrative Litigation in addition to judicial courts. As the object of an administrative measure is to maintain public interests, it will become necessary under certain circumstances to sacrifice individuals for the sake of the public benefit. But the question of administrative expediency is just what judicial authorities are ordinarily apt to be not conversant with. It would, therefore, be rather dangerous to confide to them the power of deciding such questions. Administrative cases ought, accordingly, to be left to the decision of men well versed in administrative affairs. This is a second and final reason why the establishment of a Court of Administrative Litigation is necessary, in addition to judicial courts. But its organization, like that of the latter, must be established by law.

By Notification No. 46 of the Department of Justice, in the 5th year of Meiji (1872), it was provided, that all suits against local officials should be instituted in a court of law. This led to the accumulation, in the courts, of actions against local officials, and there were manifestations of a tendency, on the part of judicial authorities, to exert their influence with the administrative. By Notification

No. 24 of the 7th year (1874), the expression "administrative litigation" was first made use of. According to that notification, when any one brought a suit against a local official, the judicial authority taking cognizance, had to bring the matter to the notice of the Council of State, with a statement of the circumstances. But this system was meant simply as a temporary means of remedying the evil tendency then manifesting itself, and the establishment of the Court of Administrative Litigation was left to the work of the future.

By the expression "illegal measures of the administrative authorities," it must be understood that no suit can be brought against those measures that have been carried out in conformity with law or with the functionary power of the office in question. No one, for example, shall be allowed to institute a suit touching a measure, which is in conformity with a law placing restriction upon the right of property for the sake of the public good. The expression "rights alleged to have been infringed" points to the evident conclution, that mere damage to one's interest, though it can become the ground of a petition, begets no right of bringing an administrative litigation. When, for example, administrative authorities shall have fixed the course of a line of railroad, according to an established process, the local inhabitants may remonstrate, thinking that it would be more advantageous for them to have its course fixed in some other direction. Such a remonstrance would relate to interest and not to right. So the inhabitants may

petition the competent authorities, but will not be allowed to bring an action before the Court of Administrative Litigation.

CHAPTER VI.

FINANCE.

Finance forms an important part of the administration, as it relates to the management of the annual expenditures and revenue of the State and has a close and intimate bearing upon the resources of the people. Accordingly, great importance is attached to it by the Constitution, which clearly defines the extent of the rights of the Imperial Diet of consent and of control in regard thereto.

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.

It is one of the most beautiful features of con-

stitutional government and a direct safeguard to the happiness of the subjects, that the consent of the Diet is required for the imposition of a new tax, and that such matters are not left to the arbitrary action of the Government. When a new tax is imposed over and above already existing ones, or when the rate of taxation is to be modified, it must be left to the opinion of the Diet what would be a proper degree of taxation. Were it not for this efficient constitutional safeguard, it would be impossible to insure to the subjects security for their resources. "Administrative fees or other revenue having the nature of compensation" as mentioned in the second clause of the present Article, are such as are collected from private individuals for undertakings engaged in, or for transactions conducted, by the Government for them at their request or for their benefit. They are in their nature different from taxes, which are imposed as a common duty to be discharged by all. For instance railway fares, warehouse charges, school fees and the like may be fixed by administrative ordinance and need not be settled by law. But as they are called "administrative fees," a distinction must be observed between them and "judicial fees."

As to the provision of the third clause of the present Article, a national loan involves the incurring of liabilities by the National Treasury to be met in the future. To a new loan, therefore, the consent of the Diet must always be obtained. The effect of a Budget extends over only a single fiscal year, so, in granting subsidies or guarantees or making engagements, that involve the liability of the National Treasury, the consent thereto of the Diet is needed, as in the case of a national loan.

ARTICLE LXIII.

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

In the preceding Article, it has been assured that the imposition of new taxes must be determined by law. In the present one, it is provided that the taxes now in existence shall in future be collected in the method and according to the rate heretofore extant, except in so far as changes shall hereafter be effected by new enactments. In order to meet necessary expenses, a State must possess some fixed revenue. Hence, not only has the Constitution not introduced any change in the national revenue produced by existing taxes, but has, on the contrary, confirmed the same by express provisions.

(NOTE.) In Europe, it is generally held in theory as a very important principle, that all taxes should be yearly voted by Parliament, notwithstanding that this practice is in reality nothing more than a mere formality. In the constitutions of some countries, it is provided that the vote of taxes shall have force for one year only, unless expressly fixed otherwise by a special provision of law. The causes that have brought about such a state of things are as follow:—

First, in the middle ages, the Sovereigns of European countries made no distinction between their private domestic matters and national affairs. They defrayed the national expenses out of their family income, and extended their private domains, in order to meet the civil and military expenses of the State out of the taxation imposed thereupon. But with the establishment of standing armies and the consequent enormous increase in military expenses, and in those connected with royal residences, parks, gardens and the like, their private treasuries began to show deficiencies. They then summoned the magnates from all parts of the country and ordered them to pay benevolence to them, wherewith to cover the deficiencies in the annual expenses of the country. From these facts it is to be noticed, that in Europe taxes were originally nothing more than benevolences or donations paid by the people. (As a proof of this assertion we may refer to Art. 109 of the Constitution of Wurtemburg, which provides that when any deficiency occurs in the income produced by the Royal property, taxes shall be levied in order to defray the national expenses.) Under these circumstances the people naturally deemed it necessary, in order to check the extravagant demands of the Ruler, that the Government should prove the necessity for levying such and such a tax, and that the consent of the people be obtained to it. Thus the condition that without the consent of the people there shall be no tax, has become a fundamental constitutional principle. Such is the historical growth of the principle

referred to. *Secondly*, another cause that has brought about the state of things above alluded to, is to be sought in the extreme democratic principle, that the people possess the right of free consent to all taxes, and that as a natural consequence a Government must cease to exist, when the people do not give their consent to the levying of taxes. These two causes, historical tradition and abstract theory, have combined together, and have so thoroughly taken hold of the constitutions of European countries, that it is now impossible to overcome the prestige they have acquired. But how is it in practice? In England, land taxes, customs dues, excise and stamp duties, which are levied by permanent acts and which constitute the consolidated fund, represent six-sevenths of the entire revenue. (The above statements referring to England have been made on the authority of Prof. A.V. Dicey. According to the statistics for 1884, the total amount of revenue was £87,205,184. Of this sum, £14,000,000 represented the amount levied by yearly Acts of Parliament, while the remaining amount 73 millions in round numbers was levied by permanent Act.) By force of custom and of law, these taxes are regarded as permanent and fixed revenue, and it is not necessary to submit them to the annual vote of Parliament. Art. 109 of the Prussian Constitution provides, that existing taxes shall be collected as heretofore. In France, which is regarded as the centre of philosophical speculation, the principle of submitting taxes to yearly vote is, according to writers in that country, carried out in an indefinite

manner. (*Traité, de la Science de Finances*, by M. Leroy Beaulieu, 3rd edition Vol. II. pp. 75–76.) With regard to direct taxes, the rate of which is fixed annually by vote, some writers maintain that this practice is very inconvenient. What, according to the principles of national existence is most essential for the life of a State, is permanency; therefore, the funds needed for maintaining the permanent existence of the State, should not essentially vary from year to year. No one and no part of the body-politic whatsoever shall have the right to endanger the existence of the State by depriving it of its source of necessary revenue. In Europe, in the middle ages, the property of the Royal Family and not taxes, was the permanent source of funds for national expenditures. Therefore, though the people are at liberty to limit the term for which they consent to be taxed, to a period of one year, yet, with the gradual settlement of the fundamental principles of state in recent years, it has become clear beyond all possibility of doubt that national expenses ought to be defrayed out of taxes, and that the imposition of the permanent taxes, which are necessary for the existence of the State, is carried out in virtue of its right, and not in that of any voluntary gift of the people.

In our country, all national expenses have, from ancient times, been defrayed out of taxes. During the middle ages, three modes of taxation were established: (that is to say, there were taxes payable in grain, taxes payable in products other than grain, taxes payable in textures), thereby causing the people

to bear equitable proportions of taxes, and no resort was ever made to levies other than what furnished the regular supplies. At present all kinds of taxes remain permanent and are not to change from year to year. It is for considerations relating to the peculiar polity of the country and to the probable course of events and for the purpose of preventing all possibility of confusion, that the taxes at present imposed, have been established by the Constitution as permanent ones, to be levied, excepting such of them as may hereafter be changed, in exactly the same way as hitherto it has been done.

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.

In the Budget are estimated the expenditures and the revenue of each financial year, to show the limits which the administrative ought to observe. The preparation of an estimate of the expenditures of the State is the first step in the proper management of

finance. And it is an important result of constitutional principles of government, that the submission of the Budget to the vote of the Diet is required for its consent thereto, and further that after expenses have been defrayed as set forth in the Budget, the subsequent approval of the Diet to any expenditures overpassing the estimated appropriation or to any expenditures not provided for in the Budget, shall be asked for, as control of such matters lies with it.

No reference is to be found in the Code of Taihō * to matters relating to the Budget. Under the Tokugawa régime, the sums to be expended by each office were fixed, but no estimate of them was made. After the Restoration, the old practice was followed and expenses were defrayed as necessity arose for so doing until the 6th year of Meiji (1873), when an estimate of expenditures and of revenue was prepared in the Department of State for Finance, and submitted to the Chancellor of the Empire. This was the first time that our Government ever prepared a Budget as a public document. In the 7th year (1874), a fresh Budget was prepared for that year, and after various improvements had been made in each successive year in the items of expenditures and in the form in which the items were presented, the preparation of the Budget was brought to a tolerable degree of perfection in the 14th year of Meiji (1881) due to the promulgation of the Law of Finance. In the 17th year of Meiji (1884), Regulations for the Estimates of Expenditures and of Revenue were carried into effect,

* *Vide* a foot note under Article X. (*Translator's note.*)

and matters connected with the Budget made considerable progress. In the 19th year of Meiji (1886), the Budget was promulgated by Imperial Ordinance. This was the first time that a Budget had been promulgated according to a settled form. The preparation of the Budget has now-a-days become an indispensable standard in financial matters. The present Article goes a step further and provides that the Budget shall be laid before the Diet. For, there is no effective method other than this, for having the Budget proper and accurate and for making the administrative offices mindful of their duty of observing the limits imposed by it.

There is one thing that demands explanation in this place, and that is the fact that in most countries a Budget is regarded as a law. A Budget is simply a sort of gauge to be observed by the administrative officials for a current year. Thus a Budget requires the consent of the Diet on account of its special character and is not properly speaking a law. Therefore law has precedence over a Budget, which has no power to change a law. Were it possible for a law to be affected by a Budget, that would amount to an overstepping of the right of settling the Budget beyond proper limits. The usage prevailing in other countries by which a Budget is called a law, has in some cases originated from the custom of giving undue importance to the vote of Parliament on a Budget and of regarding such vote as the unbounded right of Parliament, while, in some other places, it has originated from the practice of giving the name of

law to every matter passed through Parliament. It is true that a law must be passed by the Diet; still, it is not correct to say that everything that has been passed by the Diet ought to be called a law. For those rules which, though they may have been passed by the Diet, relate to particular matters and have no general binding force, are different in their nature from law. When, as provided in the second clause, the appropriations set forth in the Titles and Paragraphs of the Budget have been overpassed, or when expenditures that are not provided for in the same have been incurred, the subsequent approval of the Diet is to be obtained, for, even in regard to an indispensable measure, the Government has still to submit to the control of the Diet. It is to be borne in mind, that a deficit rather than a surplus is in fact to be expected from a Budget that has been accurately prepared. If the Ministers of State are not required, merely because they have been settled in the Budget, to make outlays that are unnecessary, neither are they forbidden by the Constitution to make outlays overpassing the estimated appropriations or outlays not provided for in the Budget, that may be necessary on account of unavoidable circumstances. For, the functions of Ministers of State are not determined by consent of the Diet to the Budget, they are fixed by the Constitution and the law, which are the highest criterions of their conduct. Thus, when funds necessary for the exercise of constitutional rights, or for the discharge of legal duties, have been either insufficiently or not at all provided for in the Budget, no

Minister of State ought to thrust aside an administrative measure on the plea of such circumstances. Consequently, unavoidable expenditures overpassing the estimated appropriations or unprovided for in the Budget are all legal. But if they are legal, why ask the subsequent approval of the Diet to them? Because it is thereby intended to keep harmony and close connection between administrative necessities and the control of the legislative. A State, like an individual, is liable to be prodigal and extravagant. It is, therefore, an important duty of the Government to accurately make the disbursement of funds, as settled in the Titles and Paragraphs of the Budget. (A Resolution of the House of Commons, England, of March 30th 1849, says:—"When a certain amount of expenditure for a particular service has been determined upon by Parliament, it is the bounden duty of the Department which has that service under its charge and control, to take care that the expenditure does not exceed the amount placed at its disposal for that purpose.") But the incurring of unavoidable expenditures overpassing the estimated appropriations or ones unprovided for in the Budget, shall be regarded as exceptional cases. When the Diet discovers that any extravagant expenses have been illegally incurred and does not recognize the necessity of such expenses, it may take the matter up as a political question, though it can not make it a subject of legal contention. But the action of the Diet in such cases cannot affect the consequences of the expenditures already incurred by the Government or of the obligations

thereby devolving upon the Government.

"Expenditures overpassing the appropriations set forth in the Titles and Paragraphs of the Budget," are those expenditures that exceed the amounts voted by the Diet. "Expenditures that are not provided for in the Budget," refer to those expenditures that are incurred, apart from the Titles and Paragraphs mentioned in the Budget, on account of unforeseen circumstances. The following provisions are found in Article 19 of the Regulations of the Board of Audit, Prussia:—"The expression excess over appropriation in Article 104 of the Constitution refers to all payments which have been made in excess of the sums specified in the Chapters and Titles of the General State Budget settled in accordance with Article 99 of the Constitution, or of the sums specified in the Titles of special Budgets passed by the National Assembly, except as to those Titles the votes in respect of which have been expressly declared to be transferable, deficiencies in some being met by the surplus from others. In every case in which an appropriation has been exceeded and payments have been made which have not been provided for in the Budget, a statement shall be laid before the Diet of the next year in order to obtain its approval." This provision supplies the defects of Article 104 of the Constitution of that country, and extends the meaning of the expression "excess over appropriation" to include also expenditures not provided for in the Budget.

(NOTE.) The finances of no country are practi-

cally entirely free from drafts upon it exceeding the appropriations set forth in the Budget. In the *Control and Audit of Public Receipts and Expenditure,* passed by the Parliament of England in 1885, it is provided that "the accounts of each year are finally reviewed by the House of Commons, through the Committee of Public Accounts, and any excess of expenditure over the amount voted by Parliament for any service, must receive legislative sanction." (Our authority for these statements is Prof. A.V. Dicey.* Mr. M. Cox also says on this subject that "the sums voted by the House of Commons for the different services are those which appear sufficient on the consideration of the Estimates; but it not unfrequently happens that in some of the services the sums so voted are exceeded, and the excess has to be provided for in subsequent years". It will thus be seen that in England the two methods of asking for approbation after the expenses have been incurred and of asking for a vote for a fresh supply for making up the deficiency, are followed. In Prussia, the practice of asking subsequent approbation is followed, and a provision exists in the Constitution to that effect. In Italy, in some cases, the practice of asking for modifications of the Budget of the current year is followed, while in other cases the practice of asking for subsequent approval is pursued (law of 1869). In France, the supplementary funds, that are to make

*In the original Japanese text, the name of Mr. M. Cox is cited as authority by mistake, and we have been requested by the author of these Commentaries to make this correction. (*Translator's note.*)

up the reasonable deficiencies in the Budget, and the extraordinary funds, which are required on account of unforeseen circumstances or on account of the extension of certain operations beyond previous limits, are to be permitted by law. When the legislature is not sitting, a provisional permission shall be given for such funds by a decree, after the matter has passed through the deliberation of the Cabinet at the instance of the *Conseil d'Etat*. Such decree shall be submitted to the legislature at its next session for its approbation (law of 1878).

ARTICLE LXV.

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

It is provided in the present Article that, as regards the Budget, the right of priority shall be given to the House of Representatives. In discussing the Budget, the object sought for is to arrive at a clear conception of the resources of the people as compared with the financial condition of the Government, so that a just mean may be secured. This is the most important duty to be discharged by Representatives elected by the people.

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.

In Article LXIV., it is provided that the consent of the Imperial Diet shall be required to the Budget. But in the present Article, an exceptional case concerning the expenditures of the Imperial House is mentioned.

The expenditures of the Imperial House are those that are indispensable for maintaining the dignity of the Emperor, and to meet them is the first duty of the Treasury. The employment of the funds is an affair of the Court and not one for fnterference by the Diet; consequently, neither consent to these expenditures nor verification of them is required by the Diet. The amount of the expenditures of the Imperial House is, however, stated in the Budget, and also in the statement of the final accounts. But this is merely for the purpose of completing the sum total of public expenditures, and not for the purpose of submission to the deliberation of the Diet. The reason why the consent of the Diet is required, when it has become necessary to increase the amount of expenditures under review, is that the affair in question has a close relation to the taxes contributed by the subjects and that, therefore, it is to be submitted to the

deliberation of their Representatives.

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.

"Already fixed expenditures based by the Constitution upon the powers appertaining to the Emperor" include all the expenditures which are based upon the sovereign powers of the Emperor, as set forth in Chapter I. of the Constitution, to wit: ordinary expenditures required by the organization of the different branches of the administration, and by that of the Army and Navy, the salaries of all civil and military officers and expenditures that may be required in consequence of treaties concluded with foreign countries. Such expenditures, whether their origin be prior to the coming into force of the present Constitution or subsequent to it, shall be regarded as permanent expenditures already fixed at the time of the bringing of the Budget into the Diet. "Such Expenditures as may have arisen by the effect of law" include the expenses of the Houses of

the Diet, annual allowances and other miscellaneous allowances to the Members, pensions, annuities, expenses and salaries required by the organization of offices determined by law, and other expenses of a like nature." "Expenditures that appertain to the legal obligations of the Government," include the interest on the national debt, redemption of the same, subsidies or guarantees to companies, expenses necessitated by the civil obligation of the Government, compensations of all kinds and the like.

The Constitution and the law are the highest guides for the conduct of administrative and financial affairs, and the State, in order to accomplish the object of its existence, must accord the supremacy to the Constitution and the law, and subject administrative and financial affairs to the control of the two. Therefore, in taking the Budget into consideration, the Diet, faithful to the Constitution and the law, must make it the rule to provide the supplies that may be required by the national institutions established by the Constitution and by law. Also, all existing contracts and all civil and all other obligations equally beget legal necessity for supplies. Were the Diet, in voting the Budget, to reject entirely or to reduce in amount any of the expenditures based by the Constitution upon the sovereign powers of the Emperor or any expenditure necessitated by an effect of law or for the fulfilment of legal obligations, such proceeding should be regarded as subversive of the existence of the State and contrary to the fundamental principles of the Constitution. From the

wording "already fixed expenditures," it is to be understood, that in regard to new expenditures or to the increase of existing ones, though based upon the sovereign powers of the Emperor, the Diet may have the power to freely deliberate upon them. Even those already fixed expenditures based by the Constitution upon the sovereign power of the Emperor and those that have arisen either by the effect of law or from the necessity of fulfilment of legal obligations, may, with the consent of the Government, be rejected, or reduced in amount or otherwise modified.

(NOTE.) According to a work by M. Leroy Beaulieu: "The Swedish legislation contains this important restriction upon the powers of the Rigsdag, that the reduction of credits, previously existing, for public institutions, can, in cases where these reductions would be of a nature to render the operations of these institutions impossible, be made only with the consent of the Crown." In several of the German states, the Constitution contains provisions embodying the principle that Parliament can not reject expenditures that have become necessary in consequence of constitutional, legal or civil obligations. Such a provision is found in Art. 173 of the Constitution of Braunsch-Weich, in Art. 187 of that of Oldenburg, in Art. 91 of that of Hanover, in Art. 81 of that of Sachsen-Meiningen. In Art. 203 of the Constitution of Oldenburg, it is provided that with regard to expenditures once fixed by a Budget, the Government, so long as the matter or the object for which they have been voted exists, cannot, without the

consent of Parliament, increase the amount thereof, nor can Parliament entirely reject or reduce their amount without the consent of the Government. These practices, which remain to this day as customs or as express provisions of law, agree with the recent development of the principles of the science of state. This matter has been quoted here for the sake of reference.

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.

The expenditures of the State are ordinarily to be voted yearly, for the affairs of the State are in a condition of constant activity and motion, and cannot be managed according to a fixed standard. Consequently, the same amount of national expenditures cannot be continued on from one year to another. But in the present Article, exceptional provisions are made for special cases of necessity. In virtue of such provisions, a certain portion of the military and naval expenditures, and expenditures for engineering works, manufactures and the like, that require several years for completion, may, with the consent of the Diet, be fixed for a period comprising several 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.

In the present Article, provision is made for a Reserve Fund out of which to supply deficiencies in the Budget and to meet requirements unprovided for in the same. Article LXIV. sets forth, that expenditures overpassing the appropriations in the Budget or that are not provided for at all therein, shall require the subsequent approval of the Diet; but in that Article, no provision is made as to the source whence such outlays are to be met. Hence the necessity of providing a Reserve Fund by the present Article.

(NOTE.) In Holland, a reserve fund of 50,000 florins is allowed to each Department, besides another reserve fund of a like amount to the Government in general, out of which to supply the deficiencies in the items voted upon. In the Italian Law of Finance, of 1869, it is stated that a reserve fund shall be provided by the Budget; and by the same law two sums are provided, out of which to supply unavoidable deficiencies in the Budget. One of the sums (4,000,000 francs) is intended for expenditures consequent upon obligations and decrees, while the other one (4,000,000 francs) is reserved for other expenditures that cannot be foreseen. The first kind of reserve fund is to be disbursed by the Minister of Finance, after he has had the facts registered in the Board of Audit; in regard to the second, he has to bring the matter to the consideration of the Cabinet, and after its concurrence has been obtained, the fund shall be made use of upon issue of a Royal decree. In Prussia, a reserve fund is provided for each and every Department of State, and in addition, an extraordinary reserve fund is set apart in the Department of Finance. These reserve funds are provided for the purpose of supplying the deficiencies of the Budget and of meeting the requirements not provided for in it. In Sweden, two kinds of reserve funds are provided from the receipts of the National Debt Bureau, for meeting the requirements of unforeseen cases. One kind is for national defence and other important national exigencies; while the other kind is for needs in time of war.

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.

The interpretation of the present Article is amply furnished by the remarks made under Article VIII. The point of difference between the present Article and Article VIII. is, that in the case mentioned in the latter, when the Diet is not sitting, no extraordinary session of it need be called, while in the case of the present one, an extraordiary session is required; but even in this case, necessary measures may be taken without the consent of the Diet, when the convening of an extraordinary session is impossible on account of some circumstance of a domestic or of a foreign nature. More precaution is taken in the case of the present Article, as it relates to financial administration.

By "the necessary financial measures" mentioned in this Article, is to be understood those measures which, though by their nature they require the consent of the legislative assembly, are taken without it in cases of urgency.

What would be the consequences, were the Diet to refuse to give its approval to such financial measures taken in cases of urgency as entail future obligations upon the National Treasury? The withholding of approbation by the Diet refers only to the continued efficacy of the measures in question, and shall not possess the retrospective effect of annulling past proceedings (as has been already fully explained under Art. VIII.). Therefore the Diet can

not cancel the obligations of the Government that have arisen by effect of an Imperial Ordinance. The necessity of resorting to the measures in question would occur only in time of great national calamity. So, by the present Article a formal recognition has been given of the measures that may have been imperatively demanded for the protection of the national existence, while at the same time due importance has been allowed to the rights of the Diet.

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.

When the Diet has closed before it has acted upon the Budget, it will then be said that "it has not voted on the Budget." When in one of the Houses the Budget has been rejected, it will be considered "not to have been brought into actual existence." Further, when the Diet has been either prorogued or when the House of Representatives has been dissolved, before a final vote has been taken upon it, the Budget will have no existence until the next opening of the Diet.

When the Diet has not voted on the Budget or the Budget has not been brought into actual existence,

the result will be, in extreme cases, the destruction of the national existence, and in ordinary ones, the paralyzation of the machinery of the administration. In the United States of America, in 1877, Congress delayed to vote the Army Estimates, and in consequence the troops did not receive any pay for three months. The same year also witnessed the rejection of the Budget in its entirety in the Parliament of Melbourne, Australia. But such a state of affairs being possible only in countries, where democratic principles are taken as the basis of their political institutions, it is incompatible with a polity like ours. In a certain country, might was once allowed to decide in such cases, and the Government carried out its financial measures at its pleasure, in spite of the sentiments of the legislative assembly (as was the case in Prussia from 1862 to 1866). Such a practice, however, is anomalous and is not proper from a constitutional point of view. In the Constitution of this country, after consideration of the nature of the national polity and a view of the matter from a theoretical standpoint, it has been settled that the Budget of the preceding year shall be adopted as a measure of last resort under circumstances like those above mentioned.

ARTICLE LXXII.

The final account of the expenditures and revenue of the State shall be verified and confirmed by the Board of Audit, and it shall be

submitted by the Government to the Imperial Diet, together with the report of verification of the said Board.

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

The Budget is the first piece of work of the yearly financial business, while final accounts are the concluding piece of the same. There are two ways in which the Diet can exercise control over financial operations: one is a preceding, the other a subsequent control. By preceding control is to be understood the power of giving or of withholding consent to the Budget for the coming fiscal year, while by subsequent control is meant the power of verifying the statement of accounts of the past fiscal one. For submission to subsequent control, the Government has the duty of laying before the Diet the final accounts that have already undergone verification by the Board of Audit, together with the report thereon of the said Board.

The functions of the Board of Audit consist: *first*, in verifying the vouchers of the accountants of the different branches of the administration, and in discharging them from responsibility; *secondly*, in control over the measures of the authorities possessing the power of issuing warrants on the Treasury and in examination as to whether or not there has been any disbursement overpassing the estimated appro-

priation, any expenditures not provided for in the Budget, or any operation in violation on provisions of the Budget or of any law or Imperial Ordinance; *thirdly*, in verification of the general accounts of the National Treasury and of the reports on final accounts of the various Departments of State, in comparing the above with the amounts disbursed in the different branches of the administration, as reported to the said Board by the different accountants, and in thus confirming the general final accounts as well as the reports on final accounts of the different Departments of State.

The administrative verification made by the Board of Audit prepares the ground for the legislative one by the Diet. In the Diet, the report of the Board of Audit and the final accounts of the Government will be received at the same time, and the latter will be approved and confirmed, when they are considered to be correct.

For the examination of the financial business of the Government, the Board of Audit must possess an independent character. Accordingly its organization and functions, like those of judges, shall be determined by law and placed beyond the reach of the administrative ordinances. However, rules by which verification is to be conducted shall be determined by Imperial Ordinance.

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 not less than two-thirds of the whole number of Members are present, and no amendment can be passed, unless a majority of not less than two-thirds of the Members present is obtained.

The Constitution has been personally determined by His Majesty the Emperor in conformity with the instructions transmitted to Him by His Ancestors and He desires to bequeath it to posterity as an immutable code of laws, whose provisions His present subjects and their descendants shall obey for ever. Therefore, the essential character of the Constitution should undergo no alteration.

But law is advantageous only when it is in harmony with the actual necessities of society. Thus, although the fundamental character of the national polity is to continue unaltered for all ages to come, yet it may become necessary at some time in the

future, to make more or less great modifications in the less important parts of the political institutions, so as to keep them in touch with the changing phases of society. The present Article does not prohibit the amendment of the provisions of this Constitution at some future time, but establishes certain special conditions for the operation.

Why is the draft of a proposed amendment of the Constitution to be submitted to the Diet by an Imperial Order, while the projects of ordinary laws have to be laid before the Diet by the Government or initiated by the Diet itself? Because the right of making amendments to the Constitution must belong to the Emperor Himself, as he is the sole author of it. If, it may be asked, the power of amendment is vested in the Emperor, why is the matter to be submitted to the Diet at all? For the reason that the Emperor's great desire is that a great law, when once established, shall be obeyed by the Imperial Family as well as by His subjects, and that it shall not be changed by the arbitrary will of the Imperial Family. The ordinary mode of arriving at a decision by a majority of votes of the Members present, is not practised in this matter; the presence and a majority of at least two-thirds of the entire number of all the Members is required for so doing (in each House), for the reason that the greatest caution is to be exercised in regard to matters relating to the Constitution.

From the express provisions of the present Article, it is to be inferred that when a project for the amend-

ment of the provisions of the Constitution has been submitted to the deliberation of the Diet, the latter cannot take a vote on any matter other than what is contained in the project submitted to it. It is further to be inferred that the Diet is not allowed to evade the restriction of the present Article by voting a law that may directly or indirectly affect any of the principles of the present Constitution.

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.

How is it, that while the vote of the Diet is necessary for any amendment of the Constitution, a modification of the Imperial House Law alone, needs no submission to it? Owing to this, that the Imperial House Law is one that has been settled by the Imperial Family concerning their own affairs, and bears no relation to the reciprocal rights and duties of the Emperor or of His subjects towards each other. A rule by which a modification of the Imperial House Law is required to be submitted to the Imperial Family Council and also to the Privy Council ought to be mentiond in the Imperial House Law itself, but need have no mention in the Con-

stitution. Such a provision is accordingly omitted in the present Article.

But, should modifications of the Imperial House Law be suffered to either directly or indirectly bring about any alteration of the present Constitution, the foundations of the latter would not be free from exposure to destruction. Accordingly, in the present Article care has been taken to establish a special safeguard for the Constitution.

ARTICLE LXXV.

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

The institution of a Regency, is an extraordinary state measure and not an ordinary matter. Thus, although a Regent is entitled to exercise the right of reigning over and of governing the country just as if he were Emperor indeed, yet he is not allowed to exercise any power of decision concerning a modification either of the Constitution or of the Imperial House Law. For, the fundamental laws of State and of the Imperial House being of far superior importance than the office of Regent, which is in its nature provisional, no personage other than the Emperor has the power of effectuating the great work of making an amendment to any of them.

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.

Just after the time of the Restoration, laws and regulations were promulgated under the names of *Gosata-sho* or *Fukoku* (Imperial Proclamation) or of *Futatsu* (Notification). On the 13th of the 8th month of the 1st year of Meiji (Sep. 28,1868), the forms for the proclamation of laws and of regulations were fixed. According to the system then established, the expression *Ōse-idasaru* or *gosata* (let it be proclaimed) was used in the case of laws and of regulations issued by the Central Administrative Council (*Gyōsei-kwan*), while the expression *mōshi-tassu* (let it be notified) was used in the case of those issued by the five Boards (those of Shrines, of Financial Affairs, of War, of Foreign Affairs and of Justice), and by Cities and Prefectures. Imperial Proclamations concerning matters within the sphere of either of the five Boards just mentioned or of a City or of a Prefecture, were first drawn up in the Board, City or Pre-

fecture concerned, and then submitted to the Central Administrative Council, whence they were proclaimed after the opinion of the Legislative Council (*Gyō-sei-kwan*) had been obtained thereon. By an Instruction dated the 8th of the 1st month of the 5th year of Meiji (Feb. 15, 1872), it was settled that all Imperial Proclamations and Departmental Notifications should in future be numbered. From that time also a clear distinction began to be made between Proclamations and Notifications. By an Instruction of the 18th of the 7th month of the 6th year of Meiji (1873) a distinction was made between those Proclamations, Notifications and Instructions that had to be posted in public places and those that need not be; and also different concluding phrases were settled for the above mentioned different kinds of Proclamations, Notifications and Instructions. Those addressed to the Government offices and to officials, concluded with the expression *Kono mune ai-tassu* (the above is notified), or *Kono mune ai-kokoroe beshi* (the above must be borne in mind). Those intended for application to the whole country, concluded thus: *Konomune fukokusu* (the above is hereby proclaimed); and in those addressed to Nobles and to Shizoku alone, or to intendants of shrines or temples, the expression *Kono mune kwa-shizoku ye fukokusu* (the above is proclaimed to Nobles and Shizoku), was contained, or the expression *Kono mune shaji ye fukokusu* (the above is proclaimed to intendants of shrines and temples). Finally, it was settled, that those addressed to Government offices and to officials, need not be posted

in public places. This was the first time that a distinction has ever been made between Proclamations to the people in general and Instructions to Government offices. In the 12th month of the 14th year of Meiji (1881), the forms of Imperial Proclamations and of Notifications were fixed. It was provided that Imperial Proclamations would be promulgated in the following formula:—

Proclaimed in obedience to the command of His Majesty the Emperor.

Chancellor of the Empire.

Notifications were to be issued by the Chancellor of the Empire, with the joint signature or signatures of the Minister or Ministers of State concerned. On the 3rd of the same month, it was settled by Imperial Proclamation, that laws and regulations should thenceforth be promulgated by Imperial Proclamation, but that all regulations hitherto issued by the different Departments of State, would thenceforth be issued by the Council of State. Thus the practice of issuing Notifications by the different Departments of State was abolished, and in its stead was instituted the one of appending to Notifications the joint signatures of the different Ministers of State. By the Imperial Ordinance of the 26th of the 2nd month of the 19th year of Meiji (1886), it was provided that laws and Imperial Ordinances would be promulgated with a preamble; that after the Imperial Sign-Manual had been obtained, the Privy Seal would be affixed, and lastly that the Minister President of State and the competent Minister or Ministers of State would append their

countersignatures to the document; and that Cabinet Ordinances would be issued by the Minister President of State and Departmental ones by the respective Ministers of States. To recapitulate, the expressions *Gosata-sho*, *fukoku* and *futatsu* which had for some time been used after the Restoration, to designate public documents issued by the Government, were merely expressions employed according to the nature of the form in which a particular document was drawn up. On the other hand, enactments that went by the name of *hō* (like *Koseki-hō* or the Census Law), of *ritsu* (like *Shin-ritsu-kōryō* or the New Criminal Code), of *rei* (like *Chō-hei-rei* and *Kaigen-rei* or the Conscription Law and the Law of Siege), of *jōrei* (*Shimbun-jōrei* or the Press Law), of *ritsu-rei* (like *Kaitei ritsu-rei* or the Revised Criminal Code), and of *kisoku* (like *Fukenkai-kisoku* or City and Prefectural Assembly Regulations)—these were promulgated throughout the land and, having the same binding force upon the whole people, no one of them was of more importance than another. By the promulgation of the Imperial Ordinance of the 26th of the 2nd month of the 19th year of Meiji (1886), the distinctive names of "law" and of "Imperial Ordinance" were adopted, but between what sort of matter should be promulgated as law and what as Ordinance, no definite boundary line has yet been drawn.

In the organization of the Senate issued in the 8th year of Meiji (1875), it is provided that the Senate shall hold deliberations on the enactment of new laws and upon amendments of old ones. It is also provided in the Imperial Ordinance of the 26th of the 2nd month of the 19th year of Meiji (1886), that projects of laws which are required to be submitted to the debate of the Senate, should be so done as in the past. But, since the 8th year of Meiji (1875), it has not been clear which of the Imperial Proclamations had the nature of law; consequently the limits of the legislative functions of the Senate have remained very vague and undefined (as it was remarked by the Senate in its representation to the Emperor on the 22nd of the 2nd month in the 11th year of Meiji, 1878). Since the 19th year (1886), not a small number of Imperial Ordinances have been submitted to the deliberations of the Senate. The fact is, that until the Constitution comes into effect, a law and an Imperial Ordinance shall be one and the same thing in reality; consequently no distinction can be made as to the binding force of laws and of Ordinances, on the ground of a difference of appellation. In this respect, an analogy may be drawn between law and ordinance on the year hand, and *fukoku* (Imperial Proclamation) and *futatsu* (Notification) of the years previous to the 19th year of Meiji (1886), on the other: at times there was a difference between *fukoku* and *futatsu*, at others there was none.

Therefore, we must look to the establishment of the Imperial Diet for the drawing up of clear distinctions between laws and ordinances, according to the provisions of the Constitution. But until its establishment, neither the name, whether law, regulation, ordinance or what not, shall be taken as the

guide for judging of the relative importance of enactments as to their efficacy. All enactments that have hitherto been passed shall have binding force, despite their diversity of appellation. But, with regard to such enactments as may be in conflict with the provisions of the present Constitution, the whole or any part of such enactments shall lose its effect from the day on which the Constitution comes into force.

Of the enactments of former days now in force and to remain so in future, some of them would have to be in the form of laws, were they to be framed anew according to the provisions of the Constitution. (For instance, the Conscription Law of Article XX., and law concerning taxation, Article XXI.) To make these enactments of the past conform to the provisions of the Constitution by giving them the form of law, would however be attaching too much importance to mere forms, and it would be a useless trouble to do so. It is, therefore, provided, in the present Article, not only that existing laws, ordinances and regulations shall possess binding force, but also that such enactments as are required by the Constitution to be promulgated in the form of laws, shall possess force the same as laws. When it has become necessary in future to make amendments of such enactments, the amendments are to be carried out as laws, notwithstanding that the original enactment in question had been promulgated in the form of Ordinance or of Notification.

APPENDIX.

In these Commentaries as originally written, no text has been given of the Imperial House Law, of the Imperial Oath and Speech nor of the Laws and Ordinance that were issued at the time of the promulgation of the Constitution, but the translator has thought it expedient to insert here in an Appendix for the convenience of readers and for their reference thereto, an English version of the same by the same hand, and published simultaneously with the promulgation aforementioned.

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.

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 cooperating 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 Imperial Throne of Japan, enjoying the Grace of Heaven and everlasting from ages eternal in an unbroken line of succession, has been transmitted to Us through successive reigns. The fundamental rules of Our Family were established once for all, at the time that Our Ancestors laid the foundations of the Empire, and are even at this day as bright as the celestial luminaries. We now desire to make the instructions of Our Ancestors more exact and express and to establish for Our posterity a House Law, by which Our House shall be founded in everlasting strength, and its dignity be forever maintained. We hereby, with the advice of Our Privy Council, give Our Sanction to the present Imperial House Law, to serve as a standard by which Our descendants shall be guided.

[His Imperial Majesty's Sign-Manual.]

[Privy Seal.]

The 11th day of the 2nd month of the 22nd year of Meiji.

THE IMPERIAL HOUSE LAW.

CHAPTER I.

SUCCESSION TO THE IMPERIAL THRONE.

ARTICLE I.

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

ARTICLE II.

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

ARTICLE III.

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

ARTICLE IV.

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

ARTICLE V.

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

ARTICLE VI.

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

ARTICLE VII.

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

ARTICLE VIII.

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

ARTICLE IX.

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

CHAPTER II.

ASCENSION AND CORONATION.

ARTICLE X.

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

ARTICLE XI.

The ceremonies of Coronation shall be performed and a Grand Coronation Banquet (Daijōsai) shall be held at Kyoto.

ARTICLE XII.

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

CHAPTER III.

MAJORITY. INSTITUTION OF EMPRESS AND OF HEIR-APPARENT.

ARTICLE XIII.

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

ARTICLE XIV.

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

ARTICLE XV.

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

ARTICLE XVI.

The institution of Empress and that of Kōtaison shall be proclaimed by an Imperial Rescript.

CHAPTER IV.

STYLES OF ADDRESS.

ARTICLE XVII.

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

ARTICLE XVIII.

The Kōtaishi and his consort, the Kōtaison and his consort, the Imperial Princes and their consorts, the Imperial Princesses, the Princes and their consorts, and the Princesses shall be styled *His, Her, Their* or *Your Highness* or *Highnesses*.

CHAPTER V.

REGENCY.

ARTICLE XIX.

When the Emperor is a minor, a Regency shall be instituted.

When He is prevented by some permanent cause from personally governing, a Regency shall be instituted, with the advice of the Imperial Family Council and with that of the Privy Council.

ARTICLE XX.

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

ARTICLE XXI.

When there is neither Kōtaishi nor Kōtaison, or when the Kōtaishi or the Kōtaison has not yet arrived at his majority, the Regency shall be assumed in the following order:—

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

ARTICLE XXII.

In case the Regency is to be assumed from among the male members of the Imperial Family, it shall be done in agreement with the order of succession to the Imperial Throne. The same shall apply to the case of female members of the Imperial Family.

ARTICLE XXIII.

A female member of the Imperial Family to assume the Regency, shall be exclusively one who has no consort.

ARTICLE XXIV.

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

ARTICLE XXV.

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

CHAPTER VI.

THE IMPERIAL GOVERNOR.

ARTICLE XXVI.

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

ARTICLE XXVII.

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

ARTICLE XXVIII.

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

ARTICLE XXIX.

The Imperial Governor can not be removed from his post by the Regent, unless upon the advice of the Imperial Family Council and upon that of the Privy Council.

CHAPTER VII.

THE IMPERIAL FAMILY.

ARTICLE XXX.

The term "Imperial Family" shall include the Grand Empress Dowager, the Empress Dowager, the Empress, the

Kōtaishi and his consort, the Kōtaison and his consort, the Imperial Princes and their consorts, the Imperial Princesses, the Princes and their consorts, and the Princesses.

ARTICLE XXXI.

From Imperial sons to Imperial great-great-grandsons, Imperial male descendants shall be called Imperial Princes; and from Imperial daughters to Imperial great-great-granddaughters, Imperial female descendants shall be called Imperial Princesses. From the fifth generation downwards, they shall be called, male descendants Princes, female ones Princesses.

ARTICLE XXXII.

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

ARTICLE XXXIII.

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

ARTICLE XXXIV.

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

ARTICLE XXXV.

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

ARTICLE XXXVI.

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

ARTICLE XXXVII.

When a member, male or female, of the Imperial Family is a minor and has been bereft of his or her father, the officials of the Imperial Court shall be ordered to take charge of his or her bringing up and education. Under certain circumstances, the Emperor may either approve the guardian chosen by his or her parent, or may nominate one.

ARTICLE XXXVIII.

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

ARTICLE XXXIX.

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

ARTICLE XL.

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

ARTICLE XLI.

The Imperial writs sanctioning the marriages of members of the Imperial Family, shall bear the countersignature of the Minister of the Imperial Household.

ARTICLE XLII.

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

ARTICLE XLIII.

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

ARTICLE XLIV.

A female member of the Imperial Family, who has married

a subject, shall be excluded from membership of the Imperial Family. However, she may be allowed, by the special grace of the Emperor, to retain her title of Imperial Princess or of Princess, as the case may be.

CHAPTER VIII.

IMPERIAL HEREDITARY ESTATES.

ARTICLE XLV.

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

ARTICLE XLVI.

The landed and other property to be included in the Imperial Hereditary Estates, shall be settled by Imperial writ, with the advice of the Privy Council, and shall be announced by the Minister of the Imperial Household.

CHAPTER IX.

EXPENDITURES OF THE IMPERIAL HOUSE.

ARTICLE XLVII.

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

ARTICLE XLVIII.

The estimates and audit of accounts of the expenditures of

the Imperial House and all other rules of the kind, shall be regulated by the Finance Regulations of the Imperial House.

CHAPTER X.

LITIGATIONS. DISCIPLINARY RULES FOR THE MEMBERS OF THE IMPERIAL FAMILY.

ARTICLE XLIX.

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

ARTICLE L.

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

ARTICLE LI.

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

ARTICLE LII.

When a member of the Imperial Family has committed an act derogatory to his (or her) dignity, or when he has exhibited disloyalty to the Imperial House, he shall, by way of disciplinary punishment and by order of the Emperor, be deprived

of the whole or of a part of the privileges belonging to him as a member of the Imperial Family, or shall be suspended therefrom.

ARTICLE LIII.

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

ARTICLE LIV.

The two foregoing Articles shall be sanctioned, upon the advice of the Imperial Family Council.

CHAPTER XI.

THE IMPERIAL FAMILY COUNCIL.

ARTICLE LV.

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

ARTICLE LVI.

The Emperor personally presides over the meeting of the Imperial Family Council, or directs one of the members of the Imperial Family to do so.

CHAPTER XII.

SUPPLEMENTARY RULES.

ARTICLE LVII.

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

ARTICLE LVIII.

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

ARTICLE LIX.

The grades of rank among the Imperial Princes, Imperial Princesses, Princes and Princesses shall be abolished.

ARTICLE LX.

The family rank of Imperial Princes and all usages conflicting with the present Law, shall be abolished.

ARTICLE LXI.

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

ARTICLE LXII.

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

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.

(Countersigned) Count Kuroda Kiyotaka,
Minister President of State.
Count Ito Hirobumi,
President of the Privy Council.
Count Okuma Shigenobu,
Minister of State for Foreign Affairs.
Count Saigo Tsukumichi,
Minister of State for the Navy.
Count Inouye Kaoru,
Minister of State for Agriculture and Commerce.
Count Yamada Akiyoshi,
Minister of State for Justice.
Count Matsugata Masayoshi,
Minister of State for Finance, and Minister of State for Home Affairs.
Count Oyama Iwao,
Minister of State for War.
Viscount Mori Arinori,
Minister of State for Education.
Viscount Enomoto Takeaki,
Minister of State for Communications.

IMPERIAL ORDINANCE

CONCERNING THE

HOUSE OF PEERS.

ARTICLE I.

The House of Peers shall be composed of the following Members.

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

ARTICLE II.

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

ARTICLE III.

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

ARTICLE IV.

The members of the orders of Counts, Viscounts and

Barons, 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 the 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.

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.

(Countersigned) Count Kuroda Kiyotaka,
Minister President of State.
Count Ito Hirobumi,
President of the Privy Council.
Count Okuma Shigenobu,
Minister of State for Foreign Affairs.
Count Saigo Tsukumichi,
Minister of State for the Navy.
Count Inouye Knoru,
Minister of State for Agriculture and Commerce.
Count Yamada Akiyoshi,
Minister of State for Justice.
Count Matsugata Masayoshi,
Minister of State for Finance, and Minister of State for Home Affairs.
Count Oyama Iwao,
Minister of State for War.
Viscount Mori Arinori,
Minister of State for Education.
Viscount Enomoto Takeaki,
Minister of State for Communications.

LAW OF THE HOUSES.

CHAPTER I.

CONVOCATION, ORGANIZATION AND OPENING OF THE IMPERIAL DIET.

ARTICLE I.

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

ARTICLE II.

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

ARTICLE III.

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

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

ARTICLE IV.

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

ARTICLE V.

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

ARTICLE VI.

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

CHAPTER II.

PRESIDENT, SECRETARIES AND EXPENSES.

ARTICLE VII.

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

ARTICLE VIII.

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

ARTICLE IX.

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

ARTICLE X.

The President of each House shall maintain order therein,

regulate the debates and represent the House outside thereof.

ARTICLE XI.

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

ARTICLE XII.

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

ARTICLE XIII.

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

ARTICLE XIV.

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

ARTICLE XV.

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

ARTICLE XVI.

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

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

ARTICLE XVII.

The Chief Secretary shall, under the direction of the Presi-

dent, 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*. 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 President, Vice-Presidents and Members shall not 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 Chairmen 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, 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 he presides.

ARTICLE XXV.

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

CHAPTER V.

SITTINGS.

ARTICLE XXVI.

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

In the orders of the day, the Bills brought in by the Gov-

ernment shall have precedence, except when the concurrence of the Government has been obtained to the contrary, in case of urgent necessity for debates.

ARTICLE XXVII.

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

ARTICLE XXVIII.

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

ARTICLE XXIX.

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

ARTICLE XXX.

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

ARTICLE XXXI.

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

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

ARTICLE XXXII.

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

CHAPTER VI.

PROROGATION AND CLOSING.

ARTICLE XXXIII.

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

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

ARTICLE XXXIV.

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

ARTICLE XXXV.

Bills, representations and petitions, that have not been voted upon 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 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 of either 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 notices relating to debates shall, simultaneously with the distribution thereof among the Members, be transmitted to the Ministers of State and to the Delegates of the Government.

CHAPTER X.

QUESTIONS.

ARTICLE XLVIII.

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

In putting such question, the Member proposing it shall draw up a concise memorandum and present it to the President, 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 not less than thirty Members support it.

CHAPTER XII.

THE RELATIONS OF THE TWO HOUSES OF THE DIET TO EACH OTHER.

ARTICLE LIII.

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

ARTICLE LIV.

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

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

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

ARTICLE LV.

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

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

ARTICLE LVI.

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

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

ARTICLE LVII.

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

ARTICLE LVIII.

No strangers are allowed to be present at a conference of

the two Houses.

ARTICLE LIX.

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

ARTICLE LX.

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

ARTICLE LXI.

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

CHAPTER XIII.

PETITIONS.

ARTICLE LXII.

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

ARTICLE LXIII.

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

When the Committee on Petitions considers that a petition is not in conformity with the established rules, the President

shall return it through the Member, through whose medium it was originally presented.

ARTICLE LXIV.

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

When 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 THE LOCAL ASSEMBLIES.

ARTICLE LXXII.

Neither House is allowed to issue notifications to the people.

ARTICLE LXXIII.

Neither House is allowed, for the prosecution of examinations, to summon persons or to 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 office.

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 p nishment 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.

We, with the advice of Our Privy Council, give Our Sanction to the Law of Election of the Members of the House of Representatives and to the Appendix thereof, and order the same to be promulgated, and We at the same time order that, from the year of the convocation of the Imperial Diet, elections be carried out 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.

(Countersigned) Count Kuroda Kiyotaka,
Minister President of State.
Count Ito Hirobumi,
President of the Privy Council.
Count Okuma Shigenobu,
Minister of State for Foreign Affairs.
Count Saigo Tsukumichi,
Minister of State for the Navy.
Count Inouye Kaoru,
Minister of State for Agriculture and Commerce.
Count Yamada Akiyoshi,
Minister of State for Justice.
Count Matsugata Masayoshi,
Minister of State for Finance and Minister of State for Home Affairs.
Count Oyama Iwao,
Minister of State for War.
Viscount Mori Arinori,
Minister of State for Education.
Viscount Enomoto Takeaki,
Minister of State for Communications.

LAW OF ELECTION

OF THE

MEMBERS OF THE HOUSE OF REPRESENTATIVES.

CHAPTER I.

ELECTION DISTRICTS.

ARTICLE I.

The Members of the House of Representatives shall be elected in the election districts of each Fu (City) and Ken (Prefecture). 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 Governor of a Fu or of a Ken shall superintend elections in the election districts in his Fu or Ken.

Elections in an election district shall be superintended either by the Guncho (Head of Rural District) or by the Shicho (Head of Municipality) in the capacity of Chairman of Election.

ARTICLE III.

When an election district extends over more than one Gun (Rural District) or Shi (Municipality), the Governor of the Fu or Ken shall appoint one of the Guncho or one of the Shicho for the Chairman of Election.

ARTICLE IV.

When there are more than one election district within the

limits of a Shi, the Governor of the Fu or Ken shall appoint the Kucho (Head of Urban District) for the Chairman of Election.

ARTICLE V.

Expenses of election shall be defrayed out of the local taxes.

CHAPTER II.

QUALIFICATIONS OF ELECTORS.

ARTICLE VI.

Every elector is required to possess the following qualifications:—

1. He must be a male Japanese subject and be not less than full twenty-five years of age.
2. He must have fixed his permanent residence and actually resided in the Fu or Ken, for not less than one year, previous to the date of the drawing up of the electoral list, and must be still residing therein.
3. For not less than one year previous to the date of the making out of the electoral list, he must have been paying, in the Fu or Ken, direct national taxes to the amount of not less than fifteen *yen*, and must be still paying the same.

   But in the case of income tax, he must have been paying it for not less than full three years previous to the same date, and must be still paying it.

ARTICLE VII.

In the case of a person that has succeeded to an estate by

inheritance, the amount of taxes paid on the estate by his predecessor shall be counted in for his qualification.

CHAPTER III.

QUALIFICATIONS OF ELIGIBLE PERSONS.

ARTICLE VIII.

Those alone shall be eligible, that are male Japanese subjects of not less than full thirty years of age, and that, in the Fu or Ken in which they desire to be elected, have been paying direct national taxes to an amount of not less than fifteen *yen*, for a period of not less than one year, previous to the date of the making out of the electoral list, and that are still paying that amount of direct national taxes.

As to income tax, however, it is required that eligible persons shall have been paying it for a period of not less than three years previous to the date of the making out of the electoral list, and that they be still paying it.

ARTICLE IX.

Officials in the Imperial Household Department, Officials of Justice, Auditors, Revenue Officials and Police Officials shall not be eligible.

Officials other than those enumerated in the preceding clause may, so long as their official functions are not thereby interfered with, serve as Members, retaining their official position.

ARTICLE X.

The Officials of a Fu, Ken or Gun shall not be eligible within the limits of the jurisdiction of their respective office.

ARTICLE XI.

The officers of a Shi, Town or Village, engaged in the management of an election, shall not be eligible within their respective election districts.

ARTICLE XII.

Shinto priests, and priests and teachers of religion of all kinds shall be ineligible.

ARTICLE XIII.

When a member of a Fu or Ken Assembly has been elected Member of the House of Representatives, and has accepted the election, he shall resign his former seat.

CHAPTER IV.

RULES APPLICABLE IN COMMON TO ELECTORS AND TO ELIGIBLE PERSONS.

ARTICLE XIV.

Any person, falling within any of the following categories, shall be disqualified as elector or as eligible person:—

1. Lunatics and idiots.
2. Undischarged bankrupts.
3. Persons who have been deprived of public rights or whose public rights are suspended.
4. Those who have been sentenced to confinement, when full three years have not yet elapsed since the completion or pardon of their sentences.
5. Persons who have been sentenced by the old Criminal Law to penal servitude for not less than one year, or to imprisonment for a political offence for not less than one

year, when full three years have not yet elapsed since the completion or pardon of their sentences.

6. Persons who have been punished for gambling, when full three years have not yet elapsed since the completion or pardon of their sentences.
7. Persons whose right to elect and to be elected is suspended on account of an offence connected with an election.

ARTICLE XV.

Men in the Army or in the Navy can not exercise the right to elect or to be elected, while they are in actual service. The same rule applies to those, who have temporarily retired from actual service, or who have been suspended therefrom.

ARTICLE XVI.

The toshu (pater-familias) of families of nobility shall be incapable of electing or of being elected Members of the House of Representatives.

ARTICLE XVII.

Any person, against whom a criminal prosecution has been brought, and who is in detention or is under bail, shall be incapable of exercising the right to elect or to be elected, until the completion of the proceedings.

CHAPTER V.

ELECTORAL LIST.

ARTICLE XVIII.

The Chairman of Election shall cause the Chocho (Head of Town) and the Soncho (Head of Village) of an election district, to make a list of all the persons in the district having qualifications to elect, and make out two copies thereof by the 1st of April in each year: one of the copies shall be forwarded to the Chairman of Election before the 20th of the same month.

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

ARTICLE XIX.

In a Shi, the electoral list shall be made out in the following manner:—

1. When the whole Shi or a Ku (Urban District) thereof constitutes an election district, the Chairman of Election shall compile the electoral list.
2. When several Ku of a Shi are united into one election district, the Kucho of each Ku shall compile the electoral list for his respective district, and forward it to the Chairman of Election.
3. When, in case Gun and Shi are united into one election district, the Guncho assumes the functions of Chairman of Election, the Shicho shall compile the electoral list and forward it to the Chairman of Election.
4. In the case mentioned in the last clause, when the Shicho serves as Chairman of Election, he shall compile the electoral list of the Shi.

ARTICLE XX.

When an elector is paying direct national taxes without the limits of the election district in which he is residing, he shall obtain, to that effect, the certificate of the Chocho, Soncho, Shicho or Kucho, of the place in which he is paying such taxes, and forward it, before the date for the compilation of

the electoral list, to the Chocho, Soncho, Shicho or Kucho, entrusted with the management of the voting.

ARTICLE XXI.

The Chairman of Election shall amalgamate into one, all the electoral lists forwarded by the respective Chocho, Soncho, Shicho or Kucho, making one list for each election district. He shall keep it in the Gun, Shi or Ku Office, concerned in the management of the election, and send a duplicate of it to the Governor of the Fu or Ken.

ARTICLE XXII.

The Chairman of Election shall, during fifteen days commencing from the 5th of May in each year, exhibit for public inspection a copy of the electoral list of each election district in the Gun, Shi or Ku Office, concerned in the management of the election.

ARTICLE XXIII.

When any one possessing the qualifications to elect, discovers an omission or the wrong registration of a name in an electoral list, he may claim that correction be made, by, giving to the Chairman of Election, during the period of public inspection, written notice and his reasons therefor, together with corroborative evidence.

After the expiration of the period for public inspection, no notice mentioned in the foregoing clause shall be entertained.

ARTICLE XXIV.

Upon the receipt of a notice about omission, the Chairman of Election 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 the notice to be relevant, he shall immediately register the name omitted, and communicate the circumstances to the Chocho, Soncho, Shicho or Kucho of the place, in which the person in question

is residing, at the same time publishing the fact in the election district.

ARTICLE XXV.

Upon the receipt of a notice of wrong registration, the Chairman of Election shall examine the reasons alleged and evidence adduced, and in case of necessity shall summon and examine the person, who has given the said notice, and the one, concerning whom the notice has been given. The matter shall be decided within twenty days from the receipt of the notice, and when it is decided to have been a wrong registration, it shall be at once erased, and the circumstances communicated to the Chocho, Soncho, Shicho or Kucho of the place, in which the person in question is residing, at the same time publishing the fact in the election district.

ARTICLE XXVI.

When either the person, who has given the notice, or the person, about whom it has been given, is not satisfied with the decision of the Chairman of Election, he may, within seven days from the day, on which the said decision was given, institute against the Chairman of Election a suit in a Court of First Instance.

ARTICLE XXVII.

Upon the receipt of the suit mentioned in the preceding Article, the Court shall promptly proceed to the trial of the case, irrespective of its calender.

ARTICLE XXVIII.

No appeal is allowed against the judgment of the Court of First Instance mentioned in the preceding Article, but it is permissible to bring an appeal to the Court of Cassation for revision.

ARTICLE XXIX.

The 15th of June shall be the date, on which the electoral

list shall be finally settled, and it shall be maintained as it then may be, until the day of compilation the following year. When, however, any correction is to be made in pursuance of the judgment of a Court of Law, the Chairman of Election shall make the said correction within twenty-four hours from the receipt of such judgment, and shall communicate the circumstance to the Chocho, Soncho, Shicho or Kucho of the place, in which the person, who has given the notice, or the one about whom the notice has been given, is residing, at the same time publishing the facts within the election district.

CHAPTER VI.

DATE OF ELECTION AND VOTING PLACE.

ARTICLE XXX.

Voting shall take place ordinarily on the 1st day of July. In the case, however, of the dissolution of the House of Representatives, the date of an extraordinary election shall be fixed and proclaimed by Imperial Ordinance, at least thirty days beforehand.

ARTICLE XXXI.

The voting place shall be opened in the Town or Village Office or in some other place named by the Chocho or the Soncho, and shall be put under the management of the Chocho or Soncho.

ARTICLE XXXII.

When the number of electors in a Town or a Village is not numerous enough to require the opening of a voting place, several Towns or several Villages or both may be united for

the purpose.

In this case, the Guncho shall, subject to the approval of the Governor of the Fu or Ken, determine the Towns or Villages to be thus united, the voting place, and the Chocho or Soncho, under whose management the voting place is to be put.

ARTICLE XXXIII.

The Chocho or the Soncho shall nominate not less than two and not more than five witnesses from among the electors of the election 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 cannot decline their nomination without proper reasons.

CHAPTER VII.

VOTING.

ARTICLE XXXIV.

The voting shall commence at 7 o'clock A. M. and be closed at 6 o'clock P. M.

ARTICLE XXXV.

The ballot box shall have a double lid, each fitted with a different key. One of the two keys shall be put in the custody of the Chocho or Soncho, and the other in that of the witnesses.

ARTICLE XXXVI.

Before the commencement of the voting, the Chocho or the Soncho shall, together with the witnesses, open the ballot box

in the presence of the electors on the spot, and show them that it is empty.

ARTICLE XXXVII.

On the day of election, electors shall come in person to the voting place and vote after identifying themselves with their names in the electoral list.

ARTICLE XXXVIII.

The voting papers shall be of a uniform style in each Fu and Ken, and shall be given to each elector by the Chocho or the Soncho, at the voting place on the day of election.

Every voter shall, at the voting place, inscribe upon the voting paper the name of the person he votes for, then his own name and residence, and shall put his stamp upon it.

ARTICLE XXXIX.

When a voter declares himself incapable of forming the characters required, the Chocho or the Soncho shall direct an officer to do so for him. The paper shall next be read to the voter, who shall put his stamp thereon and then cast his vote. These details shall be entered in the minutes of the voting.

ARTICLE XL.

In an election district where two or more than two Members are to be elected, the method of "scrutin de liste" shall be employed.

ARTICLE XLI.

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 judgment of a Court of Law entitling him to have his name entered in the electoral list, the Chocho or the Soncho shall give him a voting paper and allow him to vote. The circumstances shall be entered in the minutes of the voting.

ARTICLE XLII.

When the time for closing the polling arrives, the Chocho or the Soncho shall declare the fact and shut the ballot box. After the shutting of the ballot box, no voting shall be allowed.

ARTICLE XLIII.

The Chocho or the Soncho 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 theirs.

ARTICLE XLIV.

On the day following that of election, the Chocho or Soncho shall send, in company with one or more witnesses, the ballot box and the minutes of the voting, to the Gun, Shi or Ku Office concerned in the management of the election.

ARTICLE XLV.

In the case of an island situated in an election district, whence there are circumstances to make it impossible to send the ballot box within the time mentioned in the preceding Article, the Governor of the Fu or Ken may fix a convenient date for voting, between the day of the settlement of the electoral list and the date of the election, and cause the ballot box to be sent by the date of the election.

CHAPTER VIII.

ELECTION MEETING.

ARTICLE XLVI.

The election meeting shall be held in the Gun, Shi or Ku Office, entrusted with the management of the election.

ARTICLE XLVII.

The Chairman of Election shall nominate by lot an Election Committee of not less than three and of not more than seven persons, from among the witnesses assembling from the different voting places.

ARTICLE XLVIII.

On the day following that of the transmission of the ballot boxes, the Chairman of Election shall open each ballot box in the presence of the Election Committee, and shall count the total number of ballots and that of the voters. When there is any difference between the total number of ballots and that of the voters, the fact shall be entered in the minutes of the election.

ARTICLE XLIX.

When the counting has been finished, the Chairman of Election shall inspect the ballots in company with the Election Committee.

ARTICLE L.

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

ARTICLE LI.

The following ballots shall be void:—

1. Those of persons whose names are not recorded in the electoral list. It is, however, otherwise in the case of a person, who has voted in virtue of a judgment of a Court of Law, which he had brought with him.
2. Ballots, for which a regular voting paper has not been used.
3. Ballots, on which the voter's name is not stated.
4. Those, on which the name of a person, who has no qualifications for election, is inscribed. But in the case of a "scrutin de liste," such a ballot shall have effect with respect to such of the persons named therein as do possess those qualifications.
5. Those, on which either the name of the voter or that of the person voted for cannot be deciphered on account of erroneous characters used, stains, erasures or injuries. It is otherwise, when the ordinary *kana* characters are used, or when the name, though formed of wrong characters, may be clearly recognized.
6. Those, in which words other than those specified in the second clause of Article XXXVIII. are written. But it is not the same, when the official rank, profession, class and residence of the person voted for, have been added, so that there might not be mistake of identification, or when titles of respect have been used.

ARTICLE LII.

When any doubt arises as to the validity of a ballot, the Chairman of Election shall decide, after having heard the opinion of the Election Committee. Against this decision, no objection can be raised at the election meeting.

ARTICLE LIII.

Those ballots, that are void, shall be crossed across, and the circumstances shall be recorded in the minutes of election. Such ballots shall be preserved for a year, and at the expiration of that time, shall be destroyed by fire.

ARTICLE LIV.

When a ballot contains more than the fixed number of names of persons to be voted for, the names in excess of the fixed number shall be struck off commmencing with the last.

When a "scrutin de liste" contains less than the fixed number of names, only those actually put down upon it

shall be counted. In case the name of one person is written twice, it shall be counted as one vote.

ARTICLE LV.

Ballots shall be preserved for sixty days in the Gun, Shi or Ku Office, but shall be destroyed by fire at the expiration of the said period.

ARTICLE LVI.

When, concerning an election suit, either a criminal accusation or indictment has been brought, the ballots shall be preserved until the settlement of the case, without any regard to the expiration of the pericds mentioned in Article LIII. and in Article LV.

ARTICLE LVII.

The Chairman of Election shall make minutes of the election, in which shall be recorded all matters relating to the inspection of the election, and shall preserve them, after putting his signature and obtaining those of the members of the Election Committee to them also.

CHAPTER IX.

ELECTED PERSONS.

ARTICLE LVIII.

The individual, who has obtained a relative majority of the total number of ballots, shall be declared the elected person.

When the number of ballots is equal, the individual, the senior in point of birth, shall be declared the elected person, and when the dates of birth are the same, it shall be decided

by drawing lots.

ARTICLE LIX.

When the elected person or persons have been settled, the Chairman of Election shall at once communicate his or their names and the number of his or their ballots to the Governor of the Fu or Ken.

ARTICLE LX.

Upon the receipt of the communication mentioned in the preceding Article, the Governor of the Fu or Ken shall give notice to each of the elected persons, and shall notify their names throughout the district under his jurisdiction.

ARTICLE LXI.

Upon the receipt of notice of election, every elected person shall communicate to the Governor of the Fu or Ken, as to whether he accepts it or not.

ARTICLE LXII.

Any individual, who has been declared elected in several election districts, shall, upon the receipt of the notice of election, communicate to the Governor of the Fu or Ken which election he accepts.

ARTICLE LXIII.

Those elected persons shall be considered to have declined their election, who, being then within the respective Fu or Ken, have not made the communication of acceptance within ten days, or who, being then out of the respective Fu or Ken, have not made such communication within twenty days.

ARTICLE LXIV.

When an elected person either declines the election or does not send in the communication of acceptance of election within the fixed period, the Governor of the Fu or Ken shall fix

the date of election, and cause the respective Chairman of Election to hold a new election. But in the case mentioned in the second clause of Article LVIII., should any individual, who has been declared an elected person by the drawing of lots, either decline or fail to send in the communication of acceptance, the other person, who has lost the election by the said drawing of lots, shall be declared the elected person.

ARTICLE LXV.

When it has been settled who are the elected persons in every election district, the Governor of the Fu or Ken shall give them certificates of election, and notify their names throughout the extent of his jurisdiction. He shall then report thereon to the Minister of State for Home Affairs, with the statements of the qualifications of the elected persons.

CHAPTER X.

TERM OF MEMBERSHIP AND SUBSTITUTIONAL ELECTIONS.

ARTICLE LXVI.

The term of membership shall be four years. After the expiration of their term, Members may again accept election.

ARTICLE LXVII.

When, upon the occurrence of a vacancy among Members, the Minister of State for Home Affairs orders the Governor of the respective Fu or Ken to hold a substitutional election, the latter shall cause an extraordinary election to be held in the respective election district for the election of a substitutional Member, within twenty days from the day, on which

he received the order of the said Minister of State.

ARTICLE LXVIII.

The term of substitutional membership shall correspond to that of the predecessor.

CHAPTER XI.

REGULATION OF VOTING PLACES.

ARTICLE LXIX.

The Chocho or Soncho charged with the management of voting shall maintain order at the voting place, and, in a case of necessity, may deliver an offender to the police authorities to be dealt with by them.

ARTICLE LXX.

No person carrying weapons or arms is permitted to enter a voting place.

ARTICLE LXXI.

No person, who is not an elector, is permitted to enter a voting place.

ARTICLE LXXII.

At a voting place it is forbidden to make speeches, to engage in discussions, to cause an uproar, or to use pursuasion for the votes of other people.

ARTICLE LXXIII.

When any person disturbs the order of a voting place, the Chocho or Soncho shall give him warning, and, when the warning is disregarded, shall cause him to leave the voting place.

ARTICLE LXXIV.

A person, who has been compelled to leave a voting place, may, unless he has become an offender against law, again be called therein for the purpose of voting.

ARTICLE LXXV.

When any of the electors assembled at a voting place transgresses either the provisions of the Criminal Law or the punitive rules of the present Law, he shall be forbidden to vote, and his name and the circumstances shall be recorded in the minutes of the election.

ARTICLE LXXVI.

As to the decision of the Chocho or Soncho on a dispute relating to an election, no objection against it can be raised at the voting place.

ARTICLE LXXVII.

Any person, who requests admission to an election meeting held at the Gun, Shi or Ku Office charged with management of election, shall be treated by the Chairman of Election according to the provisions set forth in the five Articles from Article LXIX. to Article LXXIII.

CHAPTER XII.

LAW SUITS ABOUT ELECTION.

ARTICLE LXXVIII.

When a person, who has lost an election, considers that there is sufficient reason to make void the election of the elected person in the respective 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 LXV.

No suit brought after the expiration of the above mentioned period shall be entertained.

ARTICLE LXXIX.

The plaintiff shall, simultaneously with the filing of his petition, deposit as security in the Clerk's Bureau of the Court of Appeal three hundred *yen* in cash or Public Bonds of equal value.

ARTICLE LXXX.

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 delivered, 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.

ARTICLE LXXXI.

In case two or more than two plaintiffs have brought a suit against one and the same elected person, the Court of Appeal may deliver judgment to all the plaintiffs by one and the same document.

ARTICLE LXXXII.

Should the House of Representatives be ordered to dissolve while the trial is going on, the Court of Appeal shall dismiss the suit.

ARTICLE LXXXIII.

When the plaintiff withdraws his suit, he shall give public notice of the fact through the medium of a newspaper or by some other method.

ARTICLE LXXXIV.

In trying a suit about an election, a Court of Appeal may directly deliver judgment on those offenders against the Crim-

inal Law or the present Law, who are connected with the suit at issue. In this case, however, the Public Prosecutors must be present.

In case he is not connected with a suit about an election, an offender against the present Law shall be tried in the Criminal Court having jurisdiction over him.

ARTICLE LXXXV.

When a suit about an election is decided in a Court of Appeal, a copy of the judgment shall be sent to the Minister of State for Home Affairs; and on the opening of the House of Representatives, another copy shall be sent to the President thereof.

ARTICLE LXXXVI.

Against the judgment of a Court of Appeal on a suit about an election, an appeal may be made for revision to the Court of Cassation.

ARTICLE LXXXVII.

An elected person, who is the object of a suit, shall not lose the right of a seat in the House of Representatives, pending the final decision of the Court of Law.

ARTICLE LXXXVIII.

In connection with a suit about an election, in all matters not provided for in the present Chapter, the process of ordinary legal proceedings shall be followed.

CHAPTER XIII.

PUNITIVE RULES.

ARTICLE LXXXIX.

Any person, who has effected the insertion of his name in

the electoral list by fraudulently falsifying the amount of his tax paid, his age, residence, or any other facts necessary for the qualifications of an elector, shall be liable to a fine of not less than four *yen* and of not more than forty *yen*.

ARTICLE XC.

Any person, who either directly or indirectly has given or has promised to give an elector money, goods, notes, or public or private employment, with the object of obtaining a vote for himself, of enabling another person to obtain the same, or of preventing the elector from voting for another person, shall be liable to a fine of not less than five *yen* and of not more than fifty *yen*.

The same rule applies to the person who has received such gift or promise.

ARTICLE XCI.

Any person who has either obtained a vote for himself, or has enabled another person to obtain the same, or has prevented an elector from voting for another person, by either directly or indirectly giving or promising to give the elector money, goods, notes, or public or private employment, shall be dealt with, according to the provision of Art. 234 of the Criminal Law.

Any person, who has voted or who has refrained from voting in consideration of such gift or promise, shall be dealt with in a like manner.

ARTICLE XCII.

Any person, who has done violence to an elector, with the object of obtaining a vote for himself, of enabling another person to obtain the same, or of preventing an elector from voting for another person, shall be sentenced to a minor confinement without hard labour of not less than one month and of not more than six months, with a fine of not less than five *yen* and of not more than fifty *yen*.

ARTICLE XCIII.

Any person, who, by doing violence to an elector, has obtained a vote for himself, or enabled another person to obtain the same, or has prevented the elector from voting for another person, shall be liable to be sentenced to a minor confinement without hard labour of not less than three months and of not more than two years, with a fine of not less than ten *yen* and of not more than a hundred *yen*.

ARTICLE XCIV.

Whoever assembles a crowd of people, for the purpose of either intimidating electors, of causing disturbance at a voting place or at an election meeting, or of detaining, damaging, or plundering a ballot box, shall be liable to be sentenced to a minor confinement without hard labour of not less than six months and of not more than two years, with a fine of not less than ten *yen* and of not more than a hundred *yen*.

Whoever knowingly joins such a crowd and adds to its influence, shall be liable to a minor confinement without hard labour of not less than fifteen days and of not more than two months, with a fine of not less than three *yen* and of not more than thirty *yen*.

Should the offender be carrying weapons or arms, one degree shall be added to the principal punishment.

ARTICLE XCV.

Whoever at the time of election, by force, or by doing violence to the election officers or witnesses, either disturbs a voting place or a place of election meeting, or detains, damages, or plunders a ballot box, shall be liable to a minor confinement without hard labour of not less than four months and of not more than four years, with a fine of not less than twenty *yen* and of not more than two hundred *yen*.

Should the offender be carrying weapons or arms, one degree shall be added to the principal punishment.

ARTICLE XCVI.

Whoever commits either one of the offences mentioned in the preceding Article, by assembling a crowd of people, shall be liable to a major imprisonment without hard labour.

Whoever knowingly joins such a crowd and adds to its influence, shall be liable to a minor confinement without hard labour of not less than two years and of not more than five years.

Should the offender be carrying weapons or arms, one degree shall be added to the principal punishment.

ARTICLE XCVII.

Whoever instigates a person or persons, by means of speeches, newspapers or writings of any kind, to commit any of the offences mentioned in the preceding three Articles, shall be liable to be dealt with, according to the provision of Art. 105 of the Criminal Law. In case the instigation has not produced any effect, the principal punishment shall be commuted by two or three degrees.

ARTICLE XCVIII.

Whoever enters a voting place or a place of election meeting, carrying weapons or arms, shall be punished with a fine of not less than three *yen* and of not more than thirty *yen*.

ARTICLE XCIX.

Should an elected person have been sentenced to any of the punishments mentioned in the ten Articles from Article LXXXIX. to Article XCVIII., the election shall be void.

ARTICLE C.

Any person who has voted by fraudulently assuming another person's name, or has voted in spite of his disqualifications according to Article XIV., shall be punished with a fine of not less than four *yen* and of not more than forty *yen*.

ARTICLE CI.

Whoever has, for the commission of any of the offences mentioned in the foregoing Articles, been sentenced to a punishment severer than confinement, or has been twice sentenced to fines, shall be suspended from the exercise of the right to elect and to be elected for a period of time not less than three years and of not more than seven years.

ARTICLE CII.

Should a witness fail to discharge any of the duties mentioned in the provisions of the present Law, without any justifiable reason, shall be punished with a fine of not less than four *yen* and of not more than forty *yen*.

ARTICLE CIII.

As to offences, other than those for which provisions are made in the present Chapter, they shall be dealt with in accordance with the provisions of the Criminal Law, when such provisions are expressed therein, and the severer punishment shall be applied.

ARTICLE CIV.

In all offences relating to elections, six months shall be considered as the term of prescription of penalties.

ARTICLE CV.

The present punitive rules, as well as the Articles of Chapter XI., shall be pasted up at every voting place and every place of election meeting.

CHAPTER XIV.

SUPPLEMENTARY RULES.

ARTICLE CVI.

In every Shi, there shall be established one voting place,

and the management of all votings and elections as specified in the present Law shall be taken charge of by the Shicho.

In the case mentioned in Article IV., one voting place shall be established in each election district, and the management of all votings and elections as specified in the present Law shall be taken charge of by the Kucho.

ARTICLE CVII.

In the case mentioned in the preceding Article, the Shicho or the Kucho shall nominate not less than three and not more than seven witnesses from among the electors in the election district under his management, and shall give notice of nomination to them, at least three days previous to the date of election, at the same time requesting them to be present on the day of election at the Shi or Ku Office concerned in the management of election.

The witnesses shall be present at the voting, and shall also inspect the ballots.

In this case, matters relating to voting shall also be recorded in the minutes of election.

ARTICLE CVIII.

In localities where the Toshi (Governor of Island) is appointed, the functions of Chairman of Election mentioned in the present Law shall be discharged by the Toshi.

ARTICLE CIX.

In Towns and Villages where the Law for the Organization of Towns and Villages is not in force, the functions of the Chocho or Soncho mentioned in the present Law shall be taken charge of by the Kocho (Headman).

ARTICLE CX.

In the first year of the compilation of the electoral list, those persons who have continuously been paying in full amount, since the coming into force of the Law of Income

Tax, an amount of income tax equal to that specified in Article VI. and Article VIII., shall be considered to have fulfilled the condition as to the period of tax payment required in tax qualification.

ARTICLE CXI.

In the Hokkaido, in the Okinawa Ken, and in the Ogasawarajima, the present Law shall not be carried out, pending the carrying out therein of general laws for the organization of local governments.

APPENDIX

OF THE

LAW OF ELECTION

OF THE

MEMBERS OF THE HOUSE OF REPRESENTATIVES.

		Total number of Members.
Tōkyō Fu:—		12
District I	Kōjimachi Ku, Azabu Ku, Akasaka Ku	1
District II	Shiba Ku	1
District III	Kyōbashi Ku	1
District IV	Nihonbashi Ku	1
District V	Honjō Ku, Fukagawa Ku	1
District VI	Asakusa Ku	1
District VII	Kanda Ku	1
District VIII	Shitaya Ku, Hongō Ku	1
District IX	Koishikawa Ku, Ushigome Ku, Yotsuya Ku	1
District X	Higashitama Gun, Minamitoshima Gun, Kitatoshima Gun	1
District XI	Minamiadachi Gun, Minamikatsushika Gun	1
District XII	Ebara Gun, The Seven Islands of Izu	1

		Total number of Members.
Kyōto Fu:—		7
District I	Kamigyō Ku	1

District II	Shimogyō Ku	1
District III	Otagi Gun, Kadono Gun, Otokuni Gun, Kii Gun	1
District IV	Uji Gun, Kuse Gun, Sōraku Gun, Tsuzuki Gun	1
District V	Minamikuwata Gun, Kitakuwata Gun, Funai Gun, Amata Gun, Ikuruka Gun	2
District VI	Kasa Gun, Yosa Gun, Naka Gun, Takano Gun, Kumano Gun	1

Total number of Members. 10

Ōsaka Fu :—

District I	Nishi Ku	1
District II	Higashi Ku, Kita Ku	1
District III	Minami Ku	1
District IV	Nishinari Gun, Higashinari Gun, Sumiyoshi Gun	2
District V	Shimakami Gun, Shimashimo Gun, Teshima Gun, Nose Gun	1
District VI	Matsuda Gun, Katano Gun, Sasara Gun, Kawachi Gun, Wakae Gun, Takayasu Gun	1

District VII	Ishikawa Gun, Yakami Gun, Furuichi Gun, Yasukabe Gun, Nishikibe Gun, Tannan Gun, Shiki Gun, Tanhoku Gun, Ogata Gun, Shibukawa Gun	1
District VIII	Sakai Ku, Otori Gun, Izumi Gun	1
District IX	Minami Gun, Hine Gun	1

Total number of Members. 7

Kanagawa Ken :—

District I	Yokohama Ku	1
District II	Kuraki Gun, Tachibana Gun, Tsuzuki Gun	1
District III	Minamitama Gun, Nishitama Gun, Kitatama Gun	2
District IV	Miura Gun, Kamakura Gun	1
District V	Kōza Gun, Aikō Gun, Tsukui Gun	1
District VI	Osumi Gun, Yorogi Gun, Ashigarakami Gun, Ashigarashimo Gun	1

Total number of Members. 12

Hyōgo Ken :—

District I	Kōbe Ku	1

District II	Muko Gun, Uhara Gun, Kawanobe Gun, Arima Gun	1
District III	Taki Gun, Higami Gun	1
District IV	Yatabe Gun, Akashi Gun, Mino Gun	1
District V	Kako Gun, Innami Gun	1
District VI	Kato Gun, Taka Gun, Kasai Gun	1
District VII	Shikitō Gun, Shikisai Gun, Jintō Gun, Jinsai Gun	1
District VIII	Ittō Gun, Issai Gun, Akō Gun, Sayō Gun, Shisawa Gun	2
District IX	Kinosaki Gun, Mikumi Gun, Keta Gun, Izushi Gun, Shitsumi Gun, Futagata Gun, Yabu Gun, Asago Gun	2
District X	Tsuna Gun, Mihara Gun	1

Nagasaki Ken :— Total number of Members. 7

District I	Nagasaki Ku, Nishisonogi Gun	2

District II	Higashisonogi Gun, Kitatakaku Gun	1
District III	Minamitakaku Gun	1
District IV	Kitamatsuura Gun, Iki Gun, Ishida Gun	1
District V	Minamimatsuura Gun	1
District VI	Kamiagata Gun, Shimoagata Gun	1

Niigata Ken :— Total number of Members. 13

District I	Niigata Ku, Nishikanbara Gun	1
District II	Kitakanbara Gun, Higashikanbara Gun, Iwafune Gun	2
District III	Nakakanbara Gun	1
District IV	Minamikanbara Gun	1
District V	Koshi Gun, Mishima Gun	2
District VI	Kariha Gun	1
District VII	Kitauonuma Gun, Minamiuonuma Gun, Nakauonuma Gun, Higashikubiki Gun	2
District VIII	Nakakubiki Gun, Nishikubiki Gun	2
District IX	Sawada Gun, Kamo Gun, Hamo Gun	1

Saitama Ken :— Total number of Members. 8

District I	Kitaadachi Gun, Niikura Gun	1

District II	Iruma Gun, Koma Gun, Yokomi Gun, Hiki Gun	2
District III	Minamisaitama Gun, Kitakatsushika Gun, Nakakatsushika Gun	2
District IV	Kitasaitama Gun, Osato Gun, Hara Gun, Hanzawa Gun, Obusuma Gun	2
District V	Kodama Gun, Kami Gun, Naka Gun, Chichibu Gun	1

Gunma Ken :—

Total number of Members. 5

District I	Higashigunma Gun, Minamiseta Gun, Tone Gun, Kitaseta Gun	1
District II	Nitta Gun, Yamada Gun, Ora Gun	1
District III	Sai Gun, Nawa Gun, Midorino Gun, Tago Gun, Minamikanra Gun	1
District IV	Nishigunma Gun, Kataoka Gun, Azuma Gun	1
District V	Kitakanra Gun, Usui Gun	1

Chiba Ken :—

Total number of Members. 9

District I	Chiba Gun, Ichihara Gun	1
District II	Higashikatsushika Gun, Inba Gun, Shimohabu Gun, Minamisōma Gun	2
District III	Katori Gun	1
District IV	Unakami Gun, Sosa Gun	1
District V	Yamabe Gun, Musa Gun	1
District VI	Isumi Gun, Kamihabu Gun, Nagara Gun	1
District VII	Mota Gun, Shusu Gun, Amaha Gun	1
District VIII	Awa Gun, Hei Gun, Asai Gun, Nagasa Gun	1

Ibaraki Ken :—

Total number of Members. 8

District I	Higashiibaraki Gun, Kajima Gun, Namekata Gun	2
District II	Taga Gun, Kuji Gun, Naka Gun	2
District III	Nishiibaraki Gun, Makabe Gun	1
District IV	Toyoda Gun, Yūki Gun, Okada Gun, Nishikatsushika Gun, Sarushima Gun	1

District V	Tsukuba Gun Niibari Gun	1
District VI	Shida Gun Kawachi Gun Kitasōma Gun	1

Tochigi Ken :—

Total number of Members. 5

District I	Kawachi Gun Haga Gun	1
District II	Kamitsuga Gun Shimotsuga Gun Samukawa Gun	2
District III	Aso Gun Ashikaga Gun Yanada Gun	1
District IV	Shiwoya Gun Nasu Gun	1

Nara Ken :—

Total number of Members. 4

District I	Sokami Gun Soshimo Gun Yamabe Gun Hirose Gun Heguri Gun	1
District II	Shikijō Gun Shikige Gun Uda Gun Toichi Gun Takaichi Gun Katsujō Gun Katsuge Gun Oshiumi Gun	2
District III	Uchi Gun Yoshino Gun	1

Mie Ken :—

Total number of Members. 7

District I	Ano Gun Ichishi Gun	1
District II	Mie Gun Suzuka Gun Ange Gun Kawawa Gun	1
District III	Kuwana Gun Inabe Gun Asake Gun	1
District IV	Iidaka Gun Iino Gun Take Gun	1
District V	Watarai Gun Toshi Gun Ago Gun Kitamuro Gun Minamimuro Gun	2
District VI	Ahai Gun Yamada Gun Nabari Gun Iga Gun	1

Aichi Ken :—

Total number of Members. 11

District I	Nagoya Ku	1
District II	Aichi Gun	1
District III	Higashikasugai Gun Nishikasugai Gun	1
District IV	Niwa Gun Haguri Gun	1
District V	Nakajima Gun	1
District VI	Kaitō Gun Kaisai Gun	1
District VII	Chita Gun	1
District VIII	Aomi Gun Hazu Gun	1

District IX	Nukada Gun Nishikamo Gun Higashikamo Gun	1
District X	Kitashitara Gun Minamishitara Gun Hoi Gun	1
District XI	Atsumi Gun Yana Gun	1

Shizuoka Ken :— Total number of Members. 8

District I	Abe Gun Udo Gun	1
District II	Fuji Gun Ihara Gun	1
District III	Shida Gun Masutsu Gun	1
District IV	Haibara Gun Sano Gun Kito Gun	1
District V	Suchi Gun Toyota Gun Yamana Gun Iwata Gun	1
District VI	Nagakami Gun Fuchi Gun Hamana Gun Inasa Gun Aratama Gun	1
District VII	Naka Gun Kamo Gun Kuntaku Gun Takata Gun Suntō Gun	2

Yamanashi Ken :— Total number of Members. 3

District I	Nishiyamanashi Gun Kitakoma Gun Nakakoma Gun	1
District II	Higashiyamanashi Gun Minamitsuru Gun Kitatsuru Gun	1
District III	Higashiyatsushiro Gun Nishiyatsushiro Gun Minamikoma Gun	1

Shiga Ken :— Total number of Members. 5

District I	Shiga Gun Takashima Gun	1
District II	Kōga Gun Nosu Gun Kurimoto Gun	1
District III	Inukami Gun Echi Gun Kanzaki Gun Gamō Gun	2
District IV	Nishiasai Gun Higashiasai Gun Ika Gun Sakata Gun	1

Gifu Ken :— Total number of Members. 7

District I	Atsumi Gun Katagata Gun Kakami Gun	1
District II	Fuwa Gun Apachi Gun	1
	Kaisai Gun Shimoishizu Gun	

District III	Tagino Gun Kamiishizu Gun Haguri Gun Nakajima Gun	1
District IV	Ono Gun Ikeda Gun Motosu Gun Mushiroda Gun Yamagata Gun	1
District V	Mugi Gun Gujō Gun	1
District VI	Kamo Gun Kago Gun Toki Gun Ena Gun	1
District VII	Ono Gun Masuda Gun Yoshiki Gun	1

Nagano Ken :— Total number of Members. 8

District I	Kamiminochi Gun Sarashina Gun	1
District II	Shimominochi Gun Kamitakai Gun Shimotakai Gun	1
District III	Chiisagata Gun Hashina Gun	1
District IV	Nishichikuma Gun Higashichikuma Gun Minamiazumi Gun Kitaazumi Gun	2
District V	Minamisaku Gun Kitasaku Gun	1
District VI	Kamiina Gun Suwa Gun	1
District VII	Shimoina Gun	1

Miyagi Ken :— Total number of Members. 5

District I	Sendai Ku Natori Gun Miyagi Gun	1
District II	Shibata Gun Karita Gun Igu Gun Watari Gun	1
District III	Kurokawa Gun Kami Gun Shida Gun Tamatsukuri Gun Tota Gun	1
District IV	Kuribara Gun Toyoma Gun	1
District V	Momofu Gun Oshika Gun Matoyoshi Gun	1

Fukushima Ken :— Total number of Members. 7

District I	Shinobu Gun Date Gun	1
District II	Adachi Gun Asaka Gun	1
District III	Tamura Gun Iwase Gun Higashishirakawa Gun Nishishirakawa Gun Ishikawa Gun	2
District IV	Minamiaizu Gun Kitaaizu Gun Onuma Gun Yama Gun Kawanuma Gun	2

District V.....	Kikuta Gun Iwasaki Gun Iwaki Gun Naraha Gun Shineha Gun Namekata Gun Uda Gun	1

Total number of Members. 5

Iwate Ken :—

District I.....	Minamiiwate Gun Kitaiwate Gun Shiba Gun Ninohe Gun	1
District II.....	Higashihehi Gun Makahehi Gun Kitahehi Gun Minamikunohe Gun Kitakunohe Gun	1
District III.....	Hienuki Gun Higashiwaga Gun Nishiwaga Gun Nishihehi Gun Minamihehi Gun	1
District IV.....	Esashi Gun Isawa Gun Kesen Gun	1
District V.....	Nishiiwai Gun Higashiiwai Gun	1

Total number of Members. 4

Aomori Ken ;—

District I.....	Higashitsugaru Gun Kamikita Gun Shimokita Gun Sannohe Gun	 2
District II.....	Kitatsugaru Gun Minamitsugaru Gun	1

District III.....	Nakatsugaru Gun Nishitsugaru Gun	1

Total number of Members 6

Yamagata Ken :—

District I.....	Minamimurayama Gun Higashimurayama Gun Nishimurayama Gun	2
District II.....	Higashiokitama Gun Minamiokitama Gun Nishiokitama Gun	1
District III.....	Atami Gun Nishitagawa Gun Higashitagawa Gun	2
District IV.....	Mogami Gun Kitamurayama Gun	1

Total number of Members. 5

Akita Ken :—

District I.....	Minamiakita Gun	1
District II.....	Yamamoto Gun Kitaakita Gun Kazuno Gun	1
District III.....	Kawabe Gun Yuri Gun	1
District IV	Senboku Gun Hiraka Gun Okachi Gun	2

Total number of Members. 4

Fukui Ken :—

District I.....	Asuha Gun Ōno Gun	1
District II	Yoshida Gun Sakai Gun	1
District III.....	Nanjō Gun Imadate Gun Nibu Gun	1

District IV	Mikata Gun, Onifu Gun, Oi Gun, Tsuruga Gun	1

Total number of Members.

Ishikawa Ken :— 6

District I.	Kanazawa Ku, Ishikawa Gun	2
District II.	Nomi Gun, Enuma Gun	1
District III	Kahoku Gun, Hagui Gun, Kajima Gun	2
District IV	Fugeshi Gun, Suzu Gun	1

Total number of Members.

Toyama Ken :— 5

District I.	Kaminigawa Gun, Nchi Gun	2
District II.	Shimonigawa Gun	1
District III	Imizu Gun	1
District IV	Tonami Gun	1

Total number of Members.

Tottori Ken :— 3

District I	Ōmi Gun, Hōmi Gun, Iwai Gun, Yagami Gun, Hattō Gun, Chizu Gun	1
District II.	Takakusa Gun, Keta Gun, Kawamura Gun, Kume Gun, Yabase Gun	1

District III	Asciri Gun, Aimi Gun, Hino Gun	1

Total number of Members.

Shimane Ken :— 6

District I	Shimane Gun, Aika Gun, Yu Gun	1
District II	Nogi Gun, Nita Gun, Ohara Gun, Iishi Gun	1
District III	Shutto Gun, Tatenui Gun, Kando Gun	1
District IV	Nima Gun, Anno Gun, Ochi Gun	1
District V	Naka Gun, Mino Gun, Kanoashi Gun	1
District VI	Suki Gun, Ochi Gun, Ama Gun, Chibu Gun	1

Total number of Members.

Okayama Ken :— 8

District I	Okayama Ku, Mino Gun, Jyōdō Gun, Oku Gun, Kojima Gun	2
District II	Tsudaka Gun, Akasaka Gun, Iwanashi Gun, Wake Gun	1

District III	Tsuu Gun Kuboya Gun Kayo Gun Kado Gun	1
District IV	Asakuchi Gun Oda Gun Shitsuki Gun	1
District V	Jōbō Gun Kawakami Gun Tetta Gun Aga Gun	1
District VI	Majima Gun Oba Gun Nishisaijō Gun Nishihōjō Gun Nishinanjō Gun Higashihōjō Gun	1
District VII	Shōhoku Gun Shōnan Gun Yoshino Gun Aita Gun Kumehōjō Gun Kumenanjō Gun	1

Total number of Members. 10

Hiroshima Ken :—

District I	Hiroshima Ku Aki Gun	2
District II	Sahegi Gun	1
District III	Numata Gun Takamiya Gun Yamagata Gun	1
District IV	Takada Gun Miyoshi Gun Mitani Gun	1
District V	Kamo Gun	1
District VI	Toyoda Gun	1
District VII	Mitsugi Gun Sera Gun	1

District VIII	Fukatsu Gun Numakuma Gun Anna Gun	1
District IX	Ashida Gun Homuji Gun Jinseki Gun Konu Gun Nuka Gun Mikami Gun Eso Gun	1

Total number of Members. 7

Yamaguchi Ken :—

District I	Yoshiki Gun Mine Gun Asa Gun Saba Gun	2
District II	Amu Gun Mishima Gun Otsu Gun	1
District III	Akamagaseki Ku Toyoura Gun	1
District IV	Tsuno Gun Kumake Gun Ōshima Gun	2
District V	Kuga Gun	1

Total number of Members. 5

Wakayama Ken :—

District I	Wakayama Ku Nagusa Gun Ama Gun Arita Gun	2
District II	Ito Gun Naka Gun	1
District III	Hidaka Gun Nishimuro Gun Higashimuro Gun	2

Tokushima Ken :—

Total number of Members. 5

District I	Myōtō Gun, Katsuura Gun	1
District II	Naka Gun, Kaibu Gun	1
District III	Myōsai Gun, Awa Gun, Oe Gun	1
District IV	Itano Gun	1
District V	Mima Gun, Miyōshi Gun	1

Kagawa Ken :—

Total number of Members. 5

District I	Kagawa Gun, Yamada Gun, Shōdo Gun	1
District II	Ouchi Gun, Kangawa Gun, Miki Gun	1
District III	Utari Gun, Aya Gun	1
District IV	Tado Gun, Naka Gun	1
District V	Toyoda Gun, Mino Gun	1

Ehime Ken :—

Total number of Members. 7

District I	Onsen Gun, Wake Gun, Kazahaya Gun, Noma Gun, Kume Gun, Iyo Gun, Shimoukena Gun	2

District II	Ochi Gun, Kuwamura Gun, Shufu Gun	1
District III	Kita Gun, Kamifukena Gun	1
District IV	Nii Gun, Uma Gun	1
District V	Nishiuwa Gun, Higashiuwa Gun	1
District VI	Minamiuwa Gun, Kitauwa Gun	1

Kōchi Ken :—

Total number of Members. 4

District I	Tosa Gun, Nagaoka Gun	1
District II	Hata Gun, Takaoka Gun, Akawa Gun	2
District III	Kagami Gun, Aki Gun	1

Fukuoka Ken :—

Total number of Members. 9

District I	Fukuoka Ku, Ido Gun, Shima Gun, Sawara Gun	1
District II	Kasuya Gun, Munekata Gun, Naka Gun, Mikasa Gun, Mushiroda Gun, Jōza Gun, Geza Gun, Yasu Gun	2
District III	Onga Gun, Kurate Gun, Kama Gun, Honami Gun	1

District IV	Mii Gun, Mihara Gun, Yamamoto Gun, Ikuha Gun, Takeno Gun	1
District V	Mitsuma Gun, Kozuma Gun, Shimozuma Gun	1
District VI	Yamato Gun, Miike Gun	1
District VII	Kiku Gun, Tagawa Gun	1
District VIII	Miyako Gun, Nakatsu Gun, Tsuiki Gun, Koge Gun	1

Total number of Members.

Ōita Ken :— 6

District I	Ōita Gun	1
District II	Kitaamabe Gun, Minamiamabe Gun	1
District III	Ono Gun, Naori Gun	1
District IV	Hayami Gun, Kusu Gun, Hida Gun	1
District V	Nishikunisaki Gun, Higashikunisaki Gun	1
District VI	Shimoke Gun, Usa Gun	1

Total number of Members.

Saga Ken :— 4

District I	Saga Gun, Kanzaki Gun, Oki Gun, Kii Gun, Yabu Gun, Mine Gun	2

District II	Higashimatsuura Gun, Nishimatsuura Gun	1
District III	Kinoshima Gun, Fujitsu Gun	1

Total number of Members.

Kumamoto Ken :— 8

District I	Kumamoto Ku, Akita Gun, Takuma Gun, Udo Gun	2
District II	Tamana Gun	1
District III	Yamaga Gun, Mamamoto Gun, Kikuchi Gun, Goshi Gun, Aso Gun	2
District IV	Kamimashiki Gun, Shimomashiki Gun	1
District V	Yatsushiro Gun, Ashikita Gun, Kuma Gun	1
District VI	Amakusa Gun	1

Total number of Members.

Miyasaki Ken :— 3

District I	Miyasaki Gun, Kitanaka Gun, Minaminaka Gun, Koyu Gun	1
District II	Kitamorokata Gun, Nishimorokata Gun, Higashimorokata Gun	1
District III	Higashiusuki Gun, Nishiusuki Gun	1

		Total number of Members.
Kagoshima Ken :—		7
District I.....	Kagoshima Gun, Taniyama Gun, Kitaōsumi Gun, Kumake Gun, Komo Gun	1
District II.....	Kiire Gun, Ibusuki Gun, Nini Gun, Kawanabe Gun	1
District III.....	Hioki Gun, Ata Gun	1
District IV	Takaki Gun, Itsumi Gun, Minamiisa Gun, Satsuma Gun, Koshikishima Gun	1
District V	Hishikari Gun, Aira Gun, Kuwabara Gun, Nishiso Gun, Kitaisa Gun	1
District VI	Minamimorokata Gun, Minamiōsumi Gun, Kimotsuki Gun, Higashiso Gun	1
District VII.....	Ōshima Gun	1

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.

(Countersigned) Count Kuroda. Kiyotaka,
Minister President of State.

Count Ito Hirobumi,
President of the Privy Council.

Count Okuma Shigenobu,
Minister of State for Foreign Affairs.

Count Saigo Tsukumichi,
Minister of State for the Navy.

Count Inouye Kaoru,
Minister of State for Agriculture and Commerce.

Count Yamada Akiyoshi,
Minister of State for Justice.

Count Matsugata Masayoshi,
Minister of State for Finance, and Minister of State for Home Affairs.

Count Oyama Iwao,
Minister of State for War.

Viscount Mori Arinori,
Minister of State for Education.

Viscount Enomoto Takeaki,
Minister of State for Communications.

THE LAW OF FINANCE.

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 favour 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 in cash, in order to delegate the power of cash 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 can not

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 of accounts 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 on final accounts submitted by 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 the 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 or manufacture, which had to be completed within the said financial year, the 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 paid out in mistake or had been overpaid, receipts belonging to a financial year of which the accounts of receipts and payment has 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 lend-

ing 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 under the Government 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 ammunitions.

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 case where the officials mentioned in the preceeding Article lose or injure the cash or articles, by fire or flood, or by being robbed of, 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 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; 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.

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THE CONSTITUTION

OF THE

EMPIRE OF JAPAN.

(TRANSLATION.)

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, 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, 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.

(Countersigned) Count Kuroda Kiyotaka,
Minister President of State.

Count Ito Hirobumi,
President of the Privy Council.

Count Okuma Shigenobu,
Minister of State for Foreign Affairs.

Count Saigo Tsukumichi,
Minister of State for the Navy.

Count Inouye Kaoru,
Minister of State for Agriculture and Commerce.

Count Yamada Akiyoshi,
Minister of State for Justice.

Count Matsugata Masayoshi,
Minister of State for Finance, and Minister of State for Home Affairs.

Count Oyama Iwao,
Minister of State for War.

Viscount Mori Arinori,
Minister of State for Education.

Viscount Enomoto Takeaki,
Minister of State for Communications.

THE CONSTITUTION

OF THE

EMPIRE OF JAPAN.

CHAPTER I.

THE EMPEROR.

ARTICLE I.

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

ARTICLE II.

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

ARTICLE III.

The Emperor is sacred and inviolable.

ARTICLE IV.

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

ARTICLE XVI.

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

ARTICLE XVII.

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

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

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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 meetings and associations.

ARTICLE XXX.

Japanese subjects may present petitions, by observing the proper

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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 it by the Government, and may respectively initiate projects of law.

ARTICLE XXXIX.

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

ARTICLE XL.

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

ARTICLE XLI.

The Imperial Diet shall be convoked every year.

ARTICLE XLII.

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

ARTICLE XLIII.

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

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

ARTICLE XLIV.

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

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

ARTICLE XLV.

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

ARTICLE XLVI.

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

ARTICLE XLVII.

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

ARTICLE XLVIII.

The deliberations of both Houses shall be held in public. The

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 address to the Emperor.

ARTICLE L.

Both Houses may receive petitions presented by subjects.

ARTICLE LI.

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

ARTICLE LII.

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

ARTICLE LIII.

The Members of both Houses shall, during the session, be free from arrest, unless with the consent of the House, except in cases of flagrant delicts, or of 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 whatever kind, that relate to the affairs of the State, require the countersignature 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.

Rules for disciplinary punishment shall be determined by law.

ARTICLE LIX.

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

ARTICLE LX.

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

ARTICLE LXI.

No suit at law, which relates to rights alleged to have been infringed by the illegal measures of the 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 law separately.

CHAPTER VII.

SUPPLEMENTARY RULES.

ARTICLE LXXIII.

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

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

ARTICLE LXXIV.

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

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

ARTICLE LXXV.

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

ARTICLE LXXVI.

Existing legal enactments, such as laws, regulations, Ordinances, or by whatever names they may be called, shall, so far as they do not conflict with the present 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.