

10. Original drafts of committee reports. Note - Draft of Preamble and Article I, carbon copy of original.

OSD REVIEWED 08-Feb-2011: NO OBJECTION TO DECLASSIFICATION.

THE PREAMBLEPREAMBLE

WE, the Japanese People, acting through our duly elected representatives in the National Diet, determined that we shall secure for ourselves and our posterity the fruits of peaceful cooperation with the nations and the blessings of liberty throughout this land and resolved that never again shall we be visited with the horrors of war through the action of government, do proclaim the sovereignty of the people's will and do Ordain and Establish this Constitution, founded upon the universal principle that government is a sacred trust, its authority for which is derived from the people, the powers of which are exercised by the representatives of the people and the benefits of which are enjoyed by the people, and Repeal and Revoke all Constitutions, Ordinances, Laws, and Regulations in conflict herewith.

The people of Japan, desiring peace for all time and fully conscious of the high ideals concerning human relationships now stirring mankind, have determined to rely for their security and survival upon the justice and good faith of the peace-loving peoples of the world. Japan desires to occupy an honored place in an international society dedicated and dedicated to the preservation of peace, and the banishment of tyranny and slavery, oppression and intolerance, for all time from the earth.

To these high principles and purposes Japan pledges its national honor, determination, will and full resources.

ARTICLE I

There is no governing right of the nation as a whole. The threat of use of force is forever renounced as a means for settling disputes with any other nation. No Army, Navy, Air Force, or other war potential

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shall ever be authorized and no rights of belligerency will ever be  
conferred upon the State.

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GENERAL HEADQUARTERS  
SUPREME COMMANDER FOR THE ARMED FORCES  
Government Section  
Public Administration Division

MEMORANDUM FOR THE CHIEF, GOVERNMENT SECTION.

The Committee on the Emperor and Miscellaneous Affairs  
submits the following report:

CHIEF, \_\_\_\_\_

THE EMPEROR

Article 1. The Imperial Throne shall be the symbol of the  
State and of the Unity of the People, and an Emperor shall be the  
symbolic personification thereof, deriving his position from the  
sovereignty which inheres in the People, and from no other source.

Article 2. Succession to the Imperial Throne shall be  
dynastic and in accordance with such Imperial House Law as the  
Diet may enact.

Article 3. The advice and consent of the Cabinet shall  
be required for all acts of the Emperor in matters of State, and  
the Cabinet shall be responsible therefor. The Emperor shall  
perform such state functions as are provided for in this Consti-  
tution. He shall have no governmental powers, nor shall he  
assume or be granted such powers. The Emperor may delegate his  
functions in such manner as may be provided by law.

Article 4. In the event of a regency is instituted in conformity with the provisions  
of Article 3, the duties of the Emperor shall be performed by the Regent in the name of the  
Emperor. The provisions of the Constitution relating to the functions of the Emperor  
shall apply with equal force to the Regent.

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Article 44. Acting only on the advice and with the consent of the Cabinet, the Emperor, on behalf of the People, shall perform the following state functions:

1. Affix his official seal to and proclaim all laws enacted by the Diet, all Cabinet ordinances, all amendments to this Constitution, and all treaties and international conventions;

2. Convoke sessions of the Diet;

3. Dissolve the Diet and proclaim general elections;

4. Appoint the Prime Minister in accordance with the provisions of Article 66, and accept his resignation;

5. Attest the appointment or commission and resignation or dismissal of other Ministers of State, Ambassadors and those other state officials whose appointment or commission and resignation or dismissal may by law be confirmed in this manner;

6. Attest grants of amnesty, pardons, commutation of punishment, reprieves, and rehabilitation;

7. Award honors;

8. Receive Ambassadors and Ministers of Foreign States; and

9. Perform appropriate ceremonial functions.

Article 45. No grants of money or other property shall be made to the Throne, and no expenditures shall be made by the Throne, unless authorized by the Diet.

**ENACTMENT**

(To be included in Chapter \_\_\_\_\_ THE DIET).

Article 46. No Objection To Declassification in Full 2011/05/31 : HIA-ROWELL-4-A -2-4-8  
proper to carry into execution the provisions of this Constitution.

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TREATY MAKING POWERS

(To be included in Chapter \_\_\_\_\_, THE EXECUTIVE)

Article \_\_\_\_\_ The Cabinet shall be empowered to conclude treaties and agreements and <sup>to</sup> enter into international conventions, provided that such treaties, agreements and conventions shall be effective only if the consent of the Diet be granted by prior authorization or subsequent ratification.

CHAPTER \_\_\_\_\_

TREASON

Article \_\_\_\_\_ Treason shall consist in conspiring or attempting, or in abetting in any way any person who conspires or attempts, to alter by the use of force this Constitution or to overthrow the State which it establishes; in waging war, or in abetting in any way any person who wages war, against Japan; or in conspiring or attempting in any way to cause Japan to wage war on another State.

Treason shall be punishable by death.

Only Japanese nationals shall be accused of treason.

AMENDMENTS

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AMENDMENTS

Article \_\_\_\_\_ Amendments to this Constitution shall be made

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only by the Diet, through a concurring vote of three-fourths of all its members, and shall thereupon become effective, as an integral part of this Constitution; provided that, in the case of Amendments to Chapter \_\_\_\_\_, such Amendments shall further be submitted to the Electorate for ratification, and shall become effective only when ratified by two-thirds of the people voting thereon.

Amendments to this Constitution, upon becoming effective in the manner prescribed above, shall immediately be proclaimed by the Emperor, in the name of the People, as an integral part of this Constitution.

### CHAPTER \_\_\_\_\_

#### SUPREME LAW OF LAND

Article \_\_\_\_\_ This Constitution shall be the Supreme Law of the Land, and no law, ordinance, treaty or other governmental act contrary to the provisions thereof shall have legal force or validity.

Article \_\_\_\_\_ All laws, ordinances, rescripts, treaties and other governmental enactments, of whatever description or source of authority, promulgated prior to the ratification of this Constitution, or those particular provisions thereof, which are contrary to the provisions of this Constitution, shall be automatically invalid from the instant of ratification.

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Article \_\_\_\_\_ The Emperor, upon succeeding to the Throne, and the Regent, Ministers of State, Members of the Diet, Members of the Judiciary and all other officers of the State, upon assuming office, shall be bound to support this Constitution.

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**CHAPTER \_\_\_\_\_**

**RATIFICATION**

Article        This Constitution shall be established when ratified by the Diet by roll-call vote of two-thirds of the members present.

Upon ratification by the Diet, the Emperor shall immediately proclaim, in the name of the People, that this Constitution has been established as the Supreme Law of the Land.

**RICHARD A. POOLE**  
Ensign,        USNR  
Chairman

**GEORGE A. NELSON, JR**  
1st Lt,        CMP

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GENERAL HEADQUARTERS  
SUPREME COMMANDER FOR THE ALLIED POWERS  
Government Section  
Public Administration Division

MEMORANDUM FOR THE CHIEF, GOVERNMENT SECTION.

1. The Committee of the Diet submits the following report:

CHARTER

ARTICLE I

Article I. The Diet shall be the highest organ of state power and shall be the sole law-making authority of the state.

Article II. The Diet shall consist of one House of elected representatives with a membership of not less than 300 nor more than 500.

Article III. The qualifications of electors and of candidates for election to the Diet shall be determined by law, and in determining such qualifications there shall be no discrimination on grounds of sex, race, creed, color or social status.

Article IV. Members of the Diet shall receive compensation from the national treasury as determined by law.

Article V. Members of the Diet shall in all cases, except those specified by law, be free from arrest while attending the sessions of the Diet or while travelling to and from such sessions; and for any speech, debate, or vote in the Diet, they shall not be held legally liable elsewhere.

Article VI. The Diet shall be permanent and shall not be terminated at an earlier date by dissolution of the Diet as provided herein.

Article VII. The method of election, apportionment, and voting

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shall be determined by law.

Article VIII. The Diet shall meet in annual session as determined by law.

Article IX. The Government may call special sessions and shall do so on petition of not less than twenty-five per cent of the members of the Diet.

Article X. The Diet shall be the sole judge of the elections and the qualifications of its members. The denial of a seat to anyone who is certified to have been elected and whose right to the seat has been questioned shall require the vote of a majority of the members present.

Article XI. A quorum to transact business shall consist of not less than one-third of all the members. Except as otherwise provided herein all actions of the Diet shall be by majority vote of those present. In case of a tie the presiding officer shall cast the deciding vote.

Article XII. The Diet shall choose its presiding officer and other officials. It may determine the rules of its proceedings, punish members for disorderly behavior and expel them. On a motion for expulsion of a member a vote of not less than two-thirds of the members present shall be required to effect such expulsion.

Article XIII. No law shall be passed except by bill.

Article XIV. The deliberations of the Diet shall be public, and no secret sessions shall be held. The Diet shall maintain and publish a record of its proceedings and this record shall be made available for inspection by the public. The individual

vote of any member shall be secret. The Diet shall be convened upon the demand of twenty per cent of those present.

Article XV. The Diet shall have the power to conduct investigations, to compel the attendance and testimony of witnesses and

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the production of records, and to punish for refusal to comply.

Article XVI. The Prime Minister and the Ministers of State whether or not they hold seats in the Diet may at any time appear before that body for the purpose of presenting and arguing bills and shall appear when required to answer interpellations.

Article XVII. Upon the passage of a resolution of non-confidence by a majority of the total membership of the Diet, the Government shall either resign within ten days or order the Diet to dissolve. When the Diet has been ordered dissolved a special election of a new Diet shall be held not less than thirty days nor more than forty days after the date of dissolution. The newly elected Diet shall be convoked within twenty days after the date of election.

Article XVIII. The Diet shall constitute from among its members a court of impeachment to try members of the Judiciary against whom proceedings have been instituted, as determined by law.

Article XIX. The Diet shall establish the several Ministries of State.

FRANK E. HAYS  
Lt Col, CAV

GUY J. SWOPE  
Comdr, USNR

O. I. HAUGE  
Lt (jg) USNR

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CERTRUDE NORMAN

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The copy for  
Committee on Civil Rights



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GENERAL HEADQUARTERS  
 SUPREME COMMANDER FOR THE ALLIED POWERS  
 Government Section  
 Public Administration Division

MEMORANDUM FOR THE CHIEF, GOVERNMENT SECTION.

The Committee on Civil Rights submits the following report:

## CHAPTER VII

## CIVIL RIGHTS

## ARTICLE I

Article        The people of Japan are entitled to the enjoyment without interference of all fundamental human rights that do not conflict with the equal enjoyment of those rights by others.

Article        The fundamental human rights hereinafter by this constitution conferred upon and guaranteed to the people of Japan result from the age-old struggle of man to be free. They have survived the exacting test for durability in the crucible of time and experience and are conferred upon this and future generations in sacred trust, to be held for all time inviolate.

Article        The freedoms, rights and opportunities provided by this Constitution are maintained by the (self-disciplined) cooperation of the people. They (therefore) involve a corresponding obligation on the part of the people to prevent their abuse and to ensure

Article        The feudal system of Japan shall cease. All Japanese by virtue of their humanity shall be respected as individuals. Their right to life, liberty and the pursuit of happiness within the limits of the general welfare shall be the supreme consideration of all laws and of all governmental action.

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Article 1. All natural persons are equal before the law. No discrimination shall be authorized or tolerated in political, economic, educational <sup>or</sup> and domestic relations on account of race, creed, sex, <sup>social status</sup> caste or national origin. No patent of nobility shall from this time forth embody within itself any national or civic power of government. No rights of peerage except those of the Imperial <sup>dynasty</sup> family shall extend beyond the lives of those now existent. No special privilege shall accompany any ownership or grant of title, honor, decoration or other distinction; nor shall any such <sup>award</sup> ~~ownership or grant of distinction~~ be valid beyond the lifetime of the individual who <sup>awards</sup> ~~owns~~ or may receive it.

Article 2. The people are the ultimate arbiters of their government. They have the inalienable right to choose their public officials and to dismiss them. All public officials are servants of the whole community and not of any special groups. In all elections, secrecy of the ballot shall be kept inviolate, nor shall any voter be answerable, publicly or privately, for the choice he has made.

Article 3. Every person has the right of peaceful petition <sup>to the representatives of public officials and</sup> for the redress of grievances, ~~as well as~~ for the enactment, repeal or amendment of laws, ordinances or regulations; nor shall any person be in any way discriminated against for <sup>submitting</sup> making such a petition.

Article 4. Aliens shall be entitled to the equal protection of law. When charged with any offense they are entitled to ~~use~~ the assistance of their diplomatic representatives and to ~~prefer~~ <sup>prefer</sup> of their own choosing.

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Article 5. No person shall be held in enslavement, serfdom

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of bondage of any kind. Involuntary servitude, except as a punishment for crime, is prohibited.

Article Freedom of thought and conscience shall be held inviolable.

Article Freedom of religion is guaranteed to all. No religious organization shall receive special privileges from the State, nor exercise political authority.

No person shall be compelled to take part in any religious acts, celebrations, rites or practices. The State and its organs shall refrain from religious education or any other religious activity.

Article <sup>and all other forms of expression</sup> Freedom of assembly, speech, and press are guaranteed, ~~including the right to criticize any public official, agency or practice, or to urge the enactment, amendment or repeal of any law.~~ No censorship shall be maintained, nor shall the secrecy of any means of communication be violated. ~~All forms of expression other than speech and press shall be accorded the same essential freedom,~~ but legal measures for the suppression of indecent or degrading literature, plays, moving-pictures, radio-broadcasts, and exhibitions shall be permissible for the protection of youth and the maintenance of high public standards.

Article <sup>association</sup> Freedom of movement and choice of domicile, <sup>abode</sup> are guaranteed to every person, <sup>to the extent</sup> provided they do not conflict with the general welfare.

All persons shall be free to emigrate <sup>to any country</sup> ~~if they so desire and~~

~~if the laws of the country of their choice permit their entrance~~  
and residence; but no Japanese citizen <sup>shall</sup> can be banished from Japanese territory. Emigrants shall be permitted to change their nationality.

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Article Freedom of academic teaching, study and choice of occupation are guaranteed to all adults.

~~Article It shall be the duty of government to protect these freedoms.~~

III. SOCIAL AND ECONOMIC RIGHTS

Article The family is the basis of human society and its traditions for good or evil permeate the nation. Hence marriage and the family are protected by law, and it is hereby ordained that they shall rest upon the <sup>indisputable</sup> legal and social equality of both sexes, upon mutual consent instead of parental coercion, and upon cooperation instead of male domination. Laws contrary to these principles shall be abolished, and replaced by others viewing choice of spouse, property rights, inheritance, choice of domicile, divorce and other matters pertaining to marriage and the family from the standpoint of individual dignity and the essential equality of the sexes.

Article In all spheres of life laws shall be designed only for the promotion and extension of social welfare, and of freedom, justice and democracy. All laws, agreements, contracts or relationships, public or private, which restrict or tend to destroy the welfare of the people shall be <sup>repealed and</sup> replaced by others which promote it. To this end the Diet shall enact legislation which shall

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protect and assist expectant and nursing mothers, promote infant and child welfare, and establish just rights for illegitimate and adopted children, and for the underprivileged.

Establish and maintain free, universal and compulsory education, based on ascertained needs;

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Prohibit the exploitation of children;

Promote the public health;

Provide social <sup>security</sup> insurance for all the people;

<sup>Sub</sup> Set proper standards for working conditions, wages and hours and establish the right of workers to organize and to bargain collectively, and to strike (in all except essential occupations; and

<sup>A</sup> Protect intellectual labor and the rights of authors, artists, scientists, and inventors whether native or foreign.

<sup>All men have</sup>  
Article Every adult has the right to earn a living by productive work. Insofar as a suitable occupation cannot be found for him, provision shall be made for his necessary maintenance.

Article Japanese citizens have the right to organize freely in societies, unions or associations for any peaceful purposes; but secret political, militaristic or ultra-nationalistic organizations are prohibited, as shall be all organizations cultivating civil, international or interracial antagonism and strife.

Article The right to own property is inviolable, but property rights shall be defined by law, in conformity with the public welfare.

Article The ultimate title to the land and to all natural resources <sup>is vested</sup> resides in the State as the collective representative of the people. <sup>other natural</sup> Hence land and its resources are subject to the right of the State to take them, upon just compensation therefor, for the purpose of securing and promoting the proper conservation, development, utilization and control thereof, and to enact legislation necessary or expedient therefor.

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Article Private property may be inherited, but the right of the State to share in inherited estates is undeniable and shall be fixed by law.

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Article Contracts are protected by law, but usury is prohibited, and legal transactions which are contrary to public policy are null and void.

Article <sup>Ownership of</sup> Property imposes obligations. Its use <sup>be in</sup> by the owner shall at the same time serve the public good. Where the public interest is clearly served better by public ownership, <sup>taken by the state for public use</sup> private property may be expropriated on the basis of law, and only upon <sup>just</sup> fair compensation. <sup>therefor.</sup>

Article The organization of Japan's economic life must conform to the principles of justice and democracy, to the end that all citizens may be guaranteed a decent standard of living. Within these limits the economic liberty and rights of the individual shall be assured.

Article The state may undertake the exclusive production, manufacture or distribution of goods or services essential to public health or welfare but shall not enter into partnerships nor grant subsidies to any favored individual or group, nor may it grant or delegate unrestricted monopoly privileges.

## IV. JURIDICAL RIGHTS

Article No person, save those <sup>arrested</sup> ~~arrested~~ in the act of law-breaking, shall be apprehended except upon warrant issued by a competent officer of a court of law specifying the offense upon which the person may be charged. <sup>where apprehended while committing the crime</sup>

No person shall be arrested or detained without being at once informed of the charges against him nor without the privilege of counsel; he shall not be held incommunicado, <sup>he shall not be</sup> nor detained without adequate cause, <sup>and upon demand of any person such cause</sup> which must be immediately shown in open court. <sup>in the presence of the accused or of his counsel.</sup>

No person shall be deprived of life, <sup>or</sup> liberty <sup>nor of his</sup> or property except according to procedures established by the Diet, nor shall any person be denied the right of appeal to the courts.

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Article The right of the people to be secure in their persons, homes, papers and effects against <sup>entries,</sup> unreasonable searches and seizures shall not be violated, nor shall any warrant be issued <sup>in such cases except upon a warrant issued by a judge or justice of the peace</sup> except upon probable cause, and particularly describing the place to be searched and the person or things to be seized.

Each search or seizure shall be made upon separate warrant issued for the purpose by a competent officer of a court of law.

Article <sup>Infliction of torture by any public officer</sup> The use of torture, whether physical or mental, is absolutely forbidden, ~~to any public officer and strict punishment shall be inflicted upon any officer found guilty of such abuse.~~

Excessive bail shall not be required, nor cruel or unusual punishments inflicted.

Article In all criminal cases the accused shall enjoy the right to a speedy and public trial by an impartial tribunal. He shall, at his trial, be confronted with all the witnesses against him and be permitted <sup>full opportunity</sup> through counsel to cross-examine such witnesses, and he shall have the right of compulsory process for obtaining witnesses, at public expense, in his favor. At all times the accused shall have the assistance of competent counsel who shall, if the accused be unable to secure the same by his own efforts, be assigned to his use by the government.

No person shall be twice placed in jeopardy for the same offense.

No person shall be declared guilty of a crime except upon fair and open trial, nor shall any person be deprived of civil rights without a trial.

Trial by jury shall be accorded to anyone charged with a capital offense, and to anyone accused of a felony, at the request of the accused.

Article No person shall be compelled to testify against himself, nor shall the testimony of a wife or husband be accepted

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~~in evidence against the spouse of such wife or husband.~~

No confession shall be <sup>admitted in evidence</sup> ~~valid unless made in the presence~~  
~~of counsel for the accused, nor shall it be valid if made under~~  
~~compulsion, or torture, or threat.~~ <sup>prolonged arrest or</sup> ~~or after detention.~~

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

Article <sup>52</sup> No ex-post facto law shall be enacted, nor any  
 punishment <sup>be</sup> ~~inflicted~~ penalizing any person for an act lawful at  
 the time it was committed.

Article The right of extraditing persons from Japan  
 who have fled from or escaped justice in foreign countries shall  
 not be denied in such cases when official representatives of such  
 foreign nations may request it.

*No person shall be punished for  
 an act lawful at the time it was committed*

PIETER K. ROEST  
 Lt Col, TC

BEATE SIROTA

HARRY EMERSON WILDES

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GENERAL HEADQUARTERS  
SUPREME COMMANDER FOR THE ALLIED POWERS  
Government Section  
Public Administration Division

MEMORANDUM FOR THE CHIEF, GOVERNMENT SECTION.

The Committee on Civil Rights submits the following report:

CHAPTER III

CIVIL RIGHTS

I. GENERAL

Article        The people of Japan are entitled to the enjoyment without interference of all fundamental human rights that do not conflict with the equal enjoyment of those rights by others.

Article        The fundamental human rights hereinafter by this constitution conferred upon and guaranteed to the people of Japan result from the age-old struggle of man to be free. They have survived the exacting test for durability in the crucible of time and experience and are conferred upon this and future generations in sacred trust, to be held for all time inviolate.

Article        The freedoms, rights and opportunities provided by this Constitution are maintained by the self-disciplined cooperation of the people. They therefore involve a corresponding obligation on the part of the people to prevent their abuse and to employ them always for the common welfare.

Article        No Objection To Declassification in Full 2011/05/31 : HIA-ROWELL-4-A -2-4-8  
 Japanese by virtue of their humanity shall be respected as individuals. Their right to life liberty and the pursuit of happiness within the limits of the general welfare shall be the supreme consideration of all law, and of all governmental action.

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Article All natural persons are equal before the law. No discrimination shall be authorized or tolerated in political, economic, educational and domestic relations on account of race, creed, sex, caste or national origin. No patent of nobility shall from this time forth embody within itself any national or civic power of government. No rights of peerage except those of the Imperial family shall extend beyond the lives of those now existent. No special privilege shall accompany any ownership or grant of title, honor, decoration or other distinction; nor shall any such ownership or grant of distinction be valid beyond the lifetime of the individual who owns or may receive it.

Article The people are the ultimate arbiters of their government. They have the inalienable right to choose their public officials and to dismiss them. All public officials are servants of the whole community and not of any special groups. In all elections, secrecy of the ballot shall be kept inviolate, nor shall any voter be answerable, publicly or privately, for the choice he has made.

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ART. FREEDOMS

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or bondage of any kind. Involuntary servitude, except as a punishment for crime, is prohibited.

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No person shall be compelled to take part in any religious acts, celebrations, rites or practices. The State and its organs shall refrain from religious education or any other religious activity.

Article Freedom of assembly, speech and press are guaranteed, including the right to criticize any public official, agency or practice, or to urge the enactment, amendment or repeal of any law. No censorship shall be maintained, nor shall the secrecy of any means of communication be violated. All forms of expression other than speech and press shall be accorded the same essential freedom, but legal measures for the suppression of indecent or degrading literature, plays, moving-pictures, radio-broadcasts, and exhibitions shall be permissible for the protection of youth and the maintenance of high public standards.

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All persons shall be free to emigrate if they so desire and

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and residence; but no Japanese citizen can be banished from Japanese territory. Emigrants shall be permitted to change their nationality.

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Article It shall be the duty of government to protect these freedoms.

III. SOCIAL AND ECONOMIC RIGHTS

Article The family is the basis of human society and its traditions for good or evil permeate the nation. Hence marriage and the family are protected by law, and it is hereby ordained that they shall rest upon the undisputed legal and social equality of both sexes, upon mutual consent instead of parental coercion, and upon cooperation instead of male domination. Laws contrary to these principles shall be abolished, and replaced by others viewing choice of spouse, property rights, inheritance, choice of domicile, divorce and other matters pertaining to marriage and the family from the standpoint of individual dignity and the essential equality of the sexes.

Article In all spheres of life laws shall be designed only for the promotion and extension of social welfare, and of freedom, justice and democracy. All laws, agreements, contracts or relationships, public or private, which restrict or tend to destroy the welfare of the people shall be replaced by others which promote it. To this end the Diet shall enact legislation which shall:

Protect and aid expectant and nursing mothers, promote infant and child welfare, and establish just rights for illegitimate and adopted children, and for the underprivileged;

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sory education, based on ascertained truth;

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Prohibit the exploitation of children;

Promote the public health;

Provide social insurance for all the people;

Set proper standards for working conditions, wages and hours and establish the right of workers to organize and to bargain collectively, and to strike in all except essential occupations; and

Protect intellectual labor and the rights of authors, artists, scientists, and inventors whether native or foreign.

Article        Every adult has the right to earn a living by productive work. Insofar as a suitable occupation cannot be found for him, provision shall be made for his necessary maintenance.

Article        Japanese citizens have the right to organize freely in societies, unions or associations for any peaceful purposes; but secret political, militaristic or ultra-nationalistic organizations are prohibited, as shall be all organizations cultivating civil, international or interracial antagonism and strife.

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Article        The ultimate title to the land and to all natural resources resides in the State as the collective representative of the people. Hence land and its resources are subject to the right of the State to take them, upon just compensation therefor, for the purpose of securing and promoting the proper conservation, development, utilization and control thereof and to enact legislation necessary

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Article        Private property may be inherited, but the right of the State to share in inherited estates is undeniable and shall be fixed by law.

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Article 1. Contracts are controlled by law, but usury is prohibited, and legal transactions which are contrary to public policy are null and void.

Article 2. Property imposes obligations. Its use by the owner shall at the same time serve the public good. Where the public interest is clearly served better by public ownership, private property may be expropriated on the basis of law, and only upon fair compensation.

Article 3. The organization of urban's economic life must conform to the principles of justice and democracy, to the end that all citizens may be guaranteed a decent standard of living. Within these limits the economic liberty and rights of the individual shall be assured.

Article 4. The State may undertake the exclusive production, manufacture or distribution of goods or services essential to public health or welfare, but shall not enter into partnerships nor grant monopolies to any favored individual or group, nor may it grant or delegate unrestricted monopoly privileges.

IV. JUDICIAL RIGHTS

Article 5. No person, save those arrested in the act of law-breaking, shall be apprehended except upon warrant issued by a competent officer of a court of law specifying the offense upon which the person may be charged.

No person shall be arrested or detained without being at once informed of the charges against him nor without the privilege of counsel.

No person shall be arrested or detained without being immediately shown in open court upon demand of his counsel or of his counsel.

No person shall be deprived of life, liberty or property except according to procedures established by the State, nor shall any person be denied the right of appeal to the courts.

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Article      The right of the people to be secure in their persons, homes, papers and effects against unreasonable searches and seizures shall not be violated, nor shall any warrant be issued except upon probable cause, and particularly describing the place to be searched and the person or things to be seized.

Each search or seizure shall be made upon separate warrant issued for the purpose by a competent officer of a court of law.

Article      The use of torture, whether physical or mental, is absolutely forbidden to any public officer and strict punishment shall be inflicted upon any officer found guilty of such abuse.

Excessive bail shall not be required, nor cruel or unusual punishments inflicted.

Article      In all criminal cases the accused shall enjoy the right to a speedy and public trial by an impartial tribunal. He shall, at his trial, be confronted with all the witnesses against him and be permitted through counsel to cross-examine such witnesses, and he shall have the right of compulsory process for obtaining witnesses, at public expense, in his favor. At all times the accused shall have the assistance of competent counsel who shall, if the accused be unable to secure the same by his own efforts, be assigned to his use by the government.

No person shall be twice placed in jeopardy for the same offense.

No person shall be declared guilty of a crime except upon fair and open trial, nor shall any person be deprived of civil rights without a trial.

Trial by jury shall be accorded to anyone charged with a capital offense. No Objection To Declassification in Full 2011/05/31 : HIA-ROWELL-4-A -2-4-8  
quest of the accused.

Article      No person shall be compelled to testify against himself, nor shall the testimony of a wife or husband be accepted

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in evidence against the spouse of such wife or husband.

No confession shall be valid unless made in the presence of counsel for the accused, nor shall it be valid if made under compulsion or torture or threat.

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

Article        No ex post facto law shall be enacted, nor any punishment inflicted penalizing any person for an act lawful at the time it was committed.

Article        The right of extraditing persons from Japan who have fled from or escaped justice in foreign countries shall not be denied in such cases when official representatives of such foreign nations may request it.

PIETER K. ROEST  
Lt Col,        TC

BEATE SIROTA

HARRY EMERSON WILDES

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CENTRAL HEADQUARTERS  
SUPREME COMMANDER FOR THE ALLIED POWERS  
Government Section  
Public Administration Division

MEMORANDUM FOR THE CHIEF, GOVERNMENT SECTION.

The Committee on the Executive submits the following report:

CHAPTER IV

The Executive

Article XXIX. The executive power is vested in a Cabinet. The Cabinet consists of a Prime Minister, who is its head, and such other Ministers of State as may be authorized by the Diet. In the exercise of the executive power, the Cabinet is collectively responsible to the Diet.

Article XXX. The Emperor appoints as Prime Minister the person designated by the Diet.

The Prime Minister shall with the advice and consent of the Diet appoint Ministers of State.

The Prime Minister may remove individual Ministers at will.

Whenever a vacancy occurs in the office of Prime Minister or upon the convening of a new Diet, the Cabinet shall collectively resign and a new Prime Minister shall be designated. Pending such designation, the Cabinet shall continue to perform its duties.

Article XXXI. The Prime Minister introduces bills on behalf of the Cabinet, reports to the Diet on general affairs of state and the status of foreign relations and exercises control and supervision over the several executive departments and agencies.

Article XXXII. In addition to other executive responsibilities, the Cabinet shall;

\* Conduct foreign relations;

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Conclude such treaties, international conventions and agreements with the consent of the Diet by prior authorization or subsequent ratification as it deems in the public interest;

Administer the civil service according to standards established by the Diet;

Faithfully execute laws and administer the affairs of state;



Prepare and submit to the Diet an annual budget;  
 Issue orders and regulations to carry out the provisions of  
 this Constitution and the law, but no such order or regulation shall  
 contain a penal provision; and

Grant amnesty, pardon, commutation of punishment, reprieve  
 and rehabilitation.

Article XXXIII. Acts of the Diet and executive orders shall  
 be signed by the competent Minister of State and countersigned by the  
 Prime Minister.

Article XXXIV. Cabinet Ministers shall not be subject to  
 judicial process during their tenure of office without the consent of  
 the Prime Minister, but no right of action shall be impaired by reason  
 hereof.

*Cyrus H. Peake*  
 CYRUS H. PEAKE  
 Chairman



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GENERAL HEADQUARTERS  
SUPREME COMMANDER FOR THE ALLIED POWERS  
Government Section  
Public Administration Division

MEMORANDUM TO THE CONSTITUTION DRAFTING COMMITTEE:

We dissent from the provisions of this draft which deny to the Prime Minister authority to dissolve the Diet and appeal to the people when major legislation introduced by him fails to receive favorable consideration from the Diet. This omission gravely compromises the workability of a cabinet system. It reproduces the very weakest feature of French experience by inducing the executive to resign while denying him any bargaining power in cases of disagreement with the Diet. Or it inflicts on the Japanese the most difficult feature of the American system, the possibility of a deadlock between the executive and the legislature, the Diet rejecting the Prime Minister's bills, the latter, though discredited, clinging to office. It is not likely, in our opinion, that the Prime Minister would abuse his power to dissolve, since every dissolution endangers his continuity in office as well as that of the legislature. Under the proposed system, a Diet will seldom vote non confidence, since it may by other devices reject government measures without risking its own tenure.

Government under modern conditions requires a strong and responsible executive. Responsibility is amply provided in the draft proposal. But the effectiveness of an executive depends on his ability to pilot a consistent policy through the legislature. A

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body, representing the political, sectional and economic interests, will tend to pull in many directions. Under these conditions an irresponsible Diet is as much to be feared as an irresponsible executive. The irresponsible tendencies of the Diet, in keeping with decades of

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experience in Parliamentary government, can best be disciplined by an executive who enjoys the power to dissolve a Diet which fails to act favorably on his major proposals. This power and the threat of its use tend to assure a stable yet responsible executive.

The omission of this important power may, contrary to our intention, saddle the feeble and inexperienced Japanese democracy with devices which have seriously tried the most delicate political skill of veteran democratic peoples. There is a greater likelihood of success if we provide the Japanese with governmental devices which long experience has indicated are most likely to develop stable democratic institutions.

*Milton J. Egan*  
MILTON J. EGAN  
1st Lt, IC

*Jacob I. Miller*  
JACOB I. MILLER

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GENERAL HEADQUARTERS  
 SUPREME COMMANDER FOR THE ALLIED POWERS  
 Government Section  
 Public Administration Division

MEMORANDUM FOR THE CHIEF, GOVERNMENT SECTION.

The committee for preparing the section on "The Judiciary" submits the following report:

Chapter V  
 THE JUDICIARY

Article LVII. A strong and independent judiciary being the bulwark of the people's rights, the whole judicial power of Japan is vested in a Supreme Court and in such inferior courts as the Diet shall from time to time establish. No extraordinary tribunal shall be established, nor shall any organ or agency of the Executive Branch be given final judicial power. All judges shall be independent in the exercise of their conscience and shall be bound only by this Constitution and the laws enacted pursuant thereto. The Supreme Court is vested with the rule-making power under which it determines the rules of practice and of procedure, the admission of attorneys, the internal discipline of the courts, the administration of judicial affairs, and such other matters as may properly affect the free exercise of the judicial power. Public procurators shall be officers of the court and subject to its rule-making power. The Court may delegate the power to make rules for inferior courts to such courts. No disciplinary action shall be administered by any executive organ or agency, and removals shall be accomplished by public impeachment only.

Article LVIII. No Objection To Declassification in Full 2011/05/31 : HIA-ROWELL-4-A -2-4-8 and such number of associate justices as may be determined by the Diet.

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All such justices shall be appointed by the Cabinet and shall hold office during good behavior, or upon the attainment of the age of 65 years whichever is the sooner provided however that the name of each incumbent shall be submitted to the electorate to determine his retention in office at the first general election following his appointment and every 10 years thereafter. Upon a majority vote of the electorate not to retain the incumbent the office shall become vacant. All such justices shall receive, at regular, stated intervals, adequate compensation which shall not be decreased during their terms of office.

Article LIX. The judges of the inferior courts shall be appointed by the Cabinet from a list which for each vacancy shall contain the names of at least two persons nominated by the Supreme Court. All such justices shall hold office for a term of 10 years with privilege of reappointment and shall receive, at regular, stated intervals, adequate compensation which shall not be decreased during their terms of office. No judge shall hold office after attaining the age of 65 years.

Article LX. The Supreme Court is the court of final resort. Where the determination of the constitutionality of any law, ordinance, regulation or official act is in question, the judgment of the Supreme Court in all cases arising under or involving Chapter of this Constitution is final; in all other cases where determination of the constitutionality of any

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the judgment of the Court is subject to review by the Diet. A judgment of the Supreme Court which is subject to review may be set aside only by the concurring vote of two-thirds of the whole number of representatives of the Diet.



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The Diet shall establish rules of procedure for reviewing decisions of the Supreme Court. In all cases affecting ambassadors, consuls, and ministers of state, the Supreme Court has exclusive original jurisdiction.

Article LXI. Trials shall be conducted and judgment declared publicly. Where, however, the Court unanimously determines publicity to be dangerous to public order or morals, a trial may be conducted privately, but trials of political offenses, offenses of the press, and cases wherein the rights of citizens as reserved in Chapter II of this Constitution are in question, shall be conducted publicly without exception.

A. R. HUSSEY, Jr  
Comdr, USNR

MARGARET STONE

WILCO E. POWELL  
Lt Col., AUS

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GENERAL HEADQUARTERS  
 SUPREME COMMANDER FOR THE ALLIED POWERS  
 Government Section  
 Public Administration Division

MEMORANDUM FOR THE CHIEF, GOVERNMENT SECTION.

1. The Committee on Public Finance submits the following report:

CHAPTER

FINANCE

Article      The powers of the State to levy taxes, borrow money, appropriate funds, issue and regulate the value of coins and currency shall be exercised through the Diet.

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

The raising of national loans and the contraction of other liabilities to the charge of the National Treasury shall require the consent of the Diet.

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

Article      The expenditure and revenue of the State require the consent of the Diet by means of an annual Budget which shall reflect the fiscal program for the next ensuing fiscal year, including all proposed expenditures and anticipated income.

The entire income of the Imperial Household shall be turned into the public fund. No Objection To Declassification in Full 2011/05/31 : HIA-ROWELL-4-A -2-4-8  
 The public fund shall be appropriated by the Diet in the annual Budget.

Article      The Diet may disapprove, reduce, increase or

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reject any item in the Budget or add new items.

The Diet shall appropriate no money for any fiscal year in excess of the income provided for that period.

**Article** No public money or property shall be appropriated for the use, benefit or support of any system of religion, or religious institution or association, or for any charitable, educational or benevolent purposes not under the control of the State.

**Article** In order to supply unavoidable deficiencies in the Budget and to meet requirements unprovided for in the same, a Reserve Fund may be provided in the Budget.

If a Reserve Fund should be paid, it shall be necessary to obtain approval of the Diet later.

**Article** If the budget should fail to secure parliamentary approval within the fiscal year, the government shall make and enforce a temporary budget covering a period of three months within the limits of the budget of the preceding fiscal year under such conditions as the Diet may prescribe. In the case of the preceding item if the Diet should be out of session, the government shall immediately convoke a session and submit the Budget from which is removed the part concerning the period of that fiscal year fixed in the preceding item.

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

together with the report of verification of the said Board.

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

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Article At regular intervals no less than yearly the government shall report to the Diet and the people on the state of the public finances.

*Frank Rizzo*  
FRANK RIZZO  
Capt, CMP

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*original committee  
draft*LOCAL GOVERNMENTTOP SECRET

## Section I

POWERS

In order to provide for the lawful administration of government in their respective jurisdictions, the prefectural, city, town and village governments in order to meet local conditions will have the power to levy and collect taxes; the power to establish and maintain a local police force; and such other powers of government not specifically reserved in this Constitution or at variance with the laws passed by the Diet.

## Section II

LAWS

In order to provide for the lawful administration of government in their respective jurisdictions, the prefectures, cities, towns and villages in order to meet local conditions will have the power to establish laws and ordinances in conformity with this constitution and the laws passed by the Diet.

## Section III

ELECTIVE OFFICES

The governor of each prefecture, the mayor of each city, the head-men of the towns and villages and all the members of each respective assembly will be elected to office by popular vote. All other officials will receive office by either popular election or by local appointment.