

Interim Report

November 2002

**Research Commission on the Constitution
The House of Representatives**

November 1, 2002

The Honorable WATANUKI Tamisuke
Speaker of the House of Representatives

Dear Mr. Speaker:

I hereby submit the Interim Report of the Research Commission on the Constitution of the House of Representatives prepared in accordance with the provisions of Article 2, paragraph 2 of the Regulations of the Research Commission on the Constitution of the House of Representatives.

Respectfully,

NAKAYAMA Taro
Chairman
Research Commission on the Constitution
House of Representatives

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Foreword

On the day when the 147th session of the National Diet was convoked, 20 January 2000, the Research Commission on the Constitution was established by the House of Representatives for the purpose of conducting broad and comprehensive research on the Constitution of Japan. The task of the Commission is to conduct research in accordance with the purpose of its establishment, and make a report of the proceedings and results of its research, and submit that report to the Speaker of the House of Representatives.

The Research Commission of the House of the Representatives has proceeded steadily up to today with its research on the Constitution of Japan since its inception on 20 January 2000 when the first meeting of the Commission was convened. Chapter 1 of Part 3 of this report describes how it went about the research. It began by examining “How the Constitution of Japan was enacted.” It went on to look at the “principal cases of constitutional reviews.” Then, the House of Representatives was dissolved for a general election, after which the Commission resumed its research this time on “A vision for Japan in the 21st century.” Since January this year, when the 154th session of the Diet was convoked, four subcommittees have been established within the Commission to conduct specialized and effective research in order to take a more detailed look at various issues which had by then emerged. Among the research methods, experts in constitutional law, politics and other related fields, as well as in population, the genomes and information technology, have been invited to give information, to stimulate a vigorous and free discussion among subcommittee members.

To expand its activities, the Commission conducted Open Hearings in several cities in order to hear opinions directly from people in all walks of life; it also dispatched members of the Commission overseas, from the standpoint of comparative study of the Constitution, to look at the constitutional background of other countries. The Commission is now pursuing its research based in part on the findings of these missions.

The research period of the Commission is “regarded as approximately five years as a time framework.” The mid-point of this period, two and a half years, fell during the 154th session of the Diet. On this occasion the Commission has prepared an Interim Report containing its proceedings and deliberations to date in order to present it to the Speaker of the House. The Report deals mainly with the activities of the Commission from the 147th session of the Diet to the current 155th session as of 24 October 2002, and includes as many research results as possible produced by the overseas mission of the Commission which went after the 154th session of the Diet ended.

The core part of this Report is Chapters 2 and 3 of Part 3. Chapter 2 includes not only an overview of the research of the Commission and the subcommittees, but gives also

an account of the Open Hearings and the overseas missions. Chapter 3 of Part 3, comprising most of the Report, is a compilation based on the themes of discussion over two years and a half, following the order of the chapters and articles of the Constitution, with various statements and opinions of informants and the Commission members. Here, I would like to make a summary of the principal themes which were discussed by the Commission.

First, our research on the “details of the formulation and enactment of the Constitution of Japan” centered on examinations of the historical facts pertaining to the enactment of the current Constitution. Japan entered World War Two in December 1941, and in August 1945 surrendered to the Allied Powers by accepting the Potsdam Declaration. Accordingly, Japan came under the indirect rule of General Headquarters which in effect wielded the supreme power during the Occupation of Japan. Under the indirect rule, in March 1946 the Government of Japan announced its “Outline of a Draft for a Revised Constitution” based on the draft of the GHQ. In the following month of April, elections were held for the House of Representatives. During the 90th session of the Imperial Diet convoked after the elections, a “Bill to Amend the Imperial Constitution,” following the pattern of the “Outline of a Draft for a Revised Constitution,” was submitted. After deliberation in both Houses the Constitution of Japan was promulgated in November the same year. My understanding here is that the members of the Commission have come to a generally common perception regarding the series of objective and historical facts surrounding the enactment of the Constitution, regardless of how we evaluate them.

At the same time we should remember that Okinawa, where we held an Open Hearing this year, had to wait to come under the Constitution of Japan until 1972 when the islands reverted to Japan. We moved on to research “Major postwar judgements of unconstitutionality,” where we examined cases of judgements of unconstitutionality handed down by the Supreme Court regarding the application of the Constitution from its enactment to this day, and have clarified the review system for legislation to decide on unconstitutionality as well as its operation and application. It seems that in future we may have a lot of work to consider when we make a comparative study of the activities of constitutional courts in several countries, because those activities have become clearer to us as a result of our overseas missions.

We conducted vigorous discussions on “A vision for Japan in the 21st century,” along with specialized and effective discussion from various points of view in subcommittees on a great many themes concerning the Constitution of Japan. One of the viewpoints expressed was how, or whether, we should reflect in the Constitution the far greater changes of situation that have so far taken place in and out of Japan than could have been foreseen at the time of when the Constitution was enacted more than 50 years ago. Among the many changes, to cite just a few, are a national framework and the guarantee of human rights, both of which have an impact on the fundamental ideas that support the Constitution. The concepts of security also have undergone a great

deal of change, targeting first “security of the nation-state,” “regional security,” and finally “human security.” This change has a serious influence on what kind of security and what form of international cooperation Japan should contemplate. As for developments in science and technology, the innovations of information technology have brought about a highly information-based society. The other side of the coin is that it has led to serious encroachment on the privacy of individuals. Furthermore, technical advances in bioscience and medical fields are, through innovation, getting perilously close to uprooting the foundation of human dignity and life ethics, so that human security has been threatened by the effects of innovation. This point has often been made in sittings of the Commission by a number of Commission members and informants.

Three times in the past the members of the Commission sent overseas conducted a wide range of fact-finding research on the constitutions of different countries. The countries concerned included monarchies, Western nations including those that have kept a policy of neutrality, the former communist countries such as Russia and the East European countries, Israel in the Middle East, South East Asian countries, and the People’s Republic of China and the Republic of Korea, both neighbors of Japan. One of the points that has impressed us is that every one of these nations has offered its people a chance to discuss constitutional amendments trying to accommodate the various changes stemming both from international society and from its own domestic situation; through popular debate it has amended its constitution from time to time. Another point that gave us food for thought is the constitutional court that many countries have for the purpose of the constitutional review of such legislation as statutes and administrative ordinances. This institution not only contributes to checks and balances of powers, but functions as a bastion of human rights by accepting directly from the people appeals for remedy of rights abuses. Furthermore, in regard to the popular election of the prime minister, which caught a great deal of attention when Mr. Koizumi took office, we went to Israel to meet leaders of the administration and the Knesset as well as scholars, and made a detailed study of the public election of the prime minister by investigating the process by which Israel had introduced the system and later came to abolish it, along with evaluation and other matters concerned in the issue. Although the Commission conducted a robust discussion from various standpoints based on the results of its research, the majority opinion seems to be in favor of a conservative or negative attitude towards the introduction of the popular election of the prime minister.

We will continue our research on the Constitution of Japan after submission of this Report, and would like to keep up broad and comprehensive research on a new vision of Japan from the standpoint of the whole people, bearing in mind the principles of respect for human rights, popular sovereignty, and the solemn affirmation that Japan will never revert to being an aggressor country.

In concluding my foreword, I offer my deep appreciation to the informants who kindly accepted our invitation to take part in the Commission's work, and to all others who contributed to the activities of the Commission.

November 1, 2002

Taro Nakayama
Chairman
Research Commission on the Constitution
House of Representatives

Notes

1. The official names of the political parties referred to by abbreviation in this interim report are as follows:

LDP: Liberal Democratic Party

DPJ: Democratic Party of Japan and Club of Independents
(Official name through the 147th Session: Democratic Party of Japan)

NK-RN: New Komeito and Reformers' Network

NK: New Komeito

LP: Liberal Party

JCP: Japanese Communist Party

SDP: Social Democratic Party

NCP: New Conservative Party

Club 21: 21st Century Club

2. The official names of the subcommittees referred to by abbreviation in this interim report are as follows:

Human Rights Subcommittee:

Subcommittee on Guarantee of Fundamental Human Rights

Politics Subcommittee:

Subcommittee on Fundamental and Organizational Role of Politics

International Society Subcommittee:

Subcommittee on Japan's Role in International Society

Local Autonomy Subcommittee:

Subcommittee on Local Autonomy

3. Regarding use of this report, please note the following.

- (1) The translation has been made as accurate as possible, but there may be cases where the names of systems in other countries and the organizations visited and titles of persons concerned differ from the English normally used.
- (2) Explanatory notes are included in parentheses where they are considered necessary.

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Appendix The Constitution of Japan

PART 1

BACKGROUND TO THE ESTABLISHMENT OF THE COMMISSION

Part 1 Background to the establishment of the Commission

On the occasion of the fiftieth anniversary of the enforcement of the Constitution of Japan, a cross-party parliamentary Group for the Establishment of a Research Committee on the Constitution was formed, and the movement to create in the Diet a forum for discussions on the Constitution gained momentum.

Originally, the Group aimed to make the Research Committee a standing committee, but there was strong opposition to this as some feared that it would result directly in constitutional revision. In February 1999, the Liberal Democratic Party, the Democratic Party of Japan, the New Komeito, the Liberal Party, and the Reformers' Club agreed that (1) the Research Commission on the Constitution would not have the authority to submit bills, and (2) the matter would be discussed at the Committee on Rules and Administration and the Council on the Parliamentary System. Based on this agreement, the secretaries general of the LDP, DPJ, NK-RC (New Komeito and Reformers' Club), and LP submitted a proposal to the Chairman of the Rules and Administration Committee of the House of Representatives.

In response, discussions were initiated in March 1999 at the Council on the Parliamentary System, a private advisory body to the Speaker of the House of Representatives. Based on a report submitted by the Council on its discussions, the Subcommittee on Amendment to the Diet Law within the Rules and Administration Committee of the House of Representatives began discussions in June of that year.

As a result of those discussions, on July 6, 1999, it was decided that the draft bill to amend the Diet Law to establish the Research Commission in the House of Representatives as well as the draft Regulations of the Research Commission on the Constitution of the House of Representatives would be used as the subcommittee's drafts. That same day, the Rules and Administration Committee of the House of Representatives decided that the two draft documents would be submitted by the Committee to the House. The two documents were passed at the House of Representatives plenary session and sent to the House of Councillors that same day as well.

The House of Representatives documents were referred to the Rules and Administration Committee of the House of Councillors on July 13. After a question-and-answer session on July 26 with the Chairman of the Rules and Administration Committee of the House of Representatives, who had introduced the bill, the bill was amended by the House of Councillors to establish a similar commission in that House as well. The amended bill was passed at the House of Councillors plenary session that same day.

The amended bill was passed at the House of Representatives plenary session on July 29 and promulgated on August 4, 1999.

The directors' meeting of the Rules and Administration Committees of the two Houses agreed that (1) the Commission would not have the authority to submit bills; (2) the Commission would conduct research for about five years; and (3) the Commission chairman would appoint a deputy chairman from among the directors of the largest opposition party.

PART 2

PURPOSE, ORGANIZATION, AND OPERATION OF THE COMMISSION

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Part 2 Purpose, Organization, and Operation of the Commission

Chapter 1 Purpose

The Research Commission on the Constitution (hereinafter “Commission”) was established in both Houses of the National Diet (Article 102, Paragraph 6 of the Diet Law) to conduct broad and comprehensive research on the Constitution of Japan (Article 1, Regulations of the Research Commission on the Constitution of the House of Representatives [hereinafter “Commission Regulations”]).

Upon completion of its research, the Commission shall prepare a written report on its research process and findings, and the Chairman of the Commission shall submit the report to the Speaker of the House (Article 2, Paragraph 1 of the Commission Regulations). The Commission may also prepare an interim report on its research process, and the Chairman of the Commission may submit it to the Speaker of the House (Article 2, Paragraph 2 of the Commission Regulations).

Chapter 2 Organization

Section 1 Members

The Commission is composed of fifty members (Article 3 of the Commission Regulations). Membership is allocated to political parties and groups in the House in proportion to their numerical strength, and members are appointed by the Speaker of the House at the beginning of a session (Article 4 of the Commission Regulations).

(1) Allocation of Membership

- a. 147th Session, January 20, 2000 (At the time of the inauguration of the Commission)

LDP	DPJ	NK-RN	LP	JCP	SDP
27	9	5	4	3	2

- b. 147th Session, April 5, 2000 (Change of allocation due to the establishment of the New Conservative Party)

LDP	DPJ	NK-RN	JCP	NCP	LP	SDP
27	9	5	3	2	2	2

- c. 148th Session, July 5, 2000 (New composition following the 42nd general election of the House of Representatives)

LDP	DPJ	NK	LP	JCP	SDP	Club 21	NCP
24	14	3	3	2	2	1	1

- d. 150th Session, November 8, 2000 (Change of allocation due to the change of political parties and groups to which some Diet members belonged)

LDP	DPJ	NK	LP	JCP	SDP	Club 21	NCP
25	14	3	2	2	2	1	1

- e. 153rd Session, December 5, 2001 (Change of allocation due to the dissolution of the 21st Century Club)

LDP	DPJ	NK-RN	LP	JCP	SDP	NCP
26	14	3	2	2	2	1

f. 154th Session, January 24, 2002 (Change of allocation due to the death of a Diet member)

LDP	DPJ	NK-RN	LP	JCP	SDP	NCP
25	14	4	2	2	2	1

(2) Members at the Time of the Inauguration of the Commission (January 20, 2000)

Chairman	NAKAYAMA Taro	LDP			
Director	AICHI Kazuo	LDP	Director	SUGIURA Seiken	LDP
Director	NAKAGAWA Shoichi	LDP	Director	HANASHI Nobuyuki	LDP
Director	YASUOKA Okiharu	LDP	Director	KANO Michihiko	DPJ
Director	SENGOKU Yoshito	DPJ	Director	HIRATA Yoneo	NK-RN
Director	NODA Takeshi	LP			
	ISHIKAWA Yozo	LDP		ISHIBA Shigeru	LDP
	ETO Seiichi	LDP		OKUDA Mikio	LDP
	OKUNO Seisuke	LDP		KYUMA Fumio	LDP
	KOIZUMI Junichiro	LDP		SATO Megumu	LDP
	SHIRAKAWA Katsuhiko	LDP		TANAKA Makiko	LDP
	NAKAGAWA Hidenao	LDP		NAKASONE Yasuhiro	LDP
	HIRANUMA Takeo	LDP		FUNADA Hajime	LDP
	HOZUMI Yoshiyuki	LDP		MITSUZUKA Hiroshi	LDP
	MURAOKA Kanezo	LDP		MORIYAMA Mayumi	LDP
	YANAGISAWA Hakuo	LDP		YAMASAKI Taku	LDP
	YOKOUCHI Shomei	LDP		ISHIGE Eiko	DPJ
	EDANO Yukio	DPJ		NAKANO Kansei	DPJ
	HATA Eijiro	DPJ		FUKUOKA Soya	DPJ
	FUJIMURA Osamu	DPJ		YOKOMICHI Takahiro	DPJ
	ISHIDA Katsuyuki	NK-RN		OTA Akihiro	NK-RN
	KURATA Eiki	NK-RN		FUKUSHIMA Yutaka	NK-RN
	ABE Motoo	LP		NAKAMURA Eiichi	LP
	FUTAMI Nobuaki	LP		SASAKI Rikukai	JCP
	SHII Kazuo	JCP		HIGASHINAKA Mitsuo	JCP
	ITO Shigeru	SDP		FUKADA Hajime	SDP

(3) Commission Members Following the 42nd General Election of the House of Representatives (July 5, 2000)

Chairman	NAKAYAMA Taro	LDP			
Director	ISHIKAWA Yozo	LDP	Director	TAKAICHI Sanae	LDP
Director	NAKAGAWA Shoichi	LDP	Director	HANASHI Nobuyuki	LDP
Director	EDANO Yukio	DPJ	Director	KANO Michihiko	DPJ
Director	SENGOKU Yoshito	DPJ	Director	AKAMATSU Masao	NK

Director	SHIOTA Susumu	LP		
	OTA Seiichi	LDP	OKUNO Seisuke	LDP
	KYUMA Fumio	LDP	SHINDO Yoshitaka	LDP
	SUGIURA Seiken	LDP	TANAKA Makiko	LDP
	NAKASONE Yasuhiro	LDP	NAKAYAMA Masaaki	LDP
	NUKAGA Fukushima	LDP	NEMOTO Takumi	LDP
	HATOYAMA Kunio	LDP	HIRASAWA Katsuei	LDP
	HORI Kosuke	LDP	MITSUZUKA Hiroshi	LDP
	MIZUNO Ken'ichi	LDP	MIYASHITA Sohei	LDP
	MURAKAMI Seiichiro	LDP	YANAGISAWA Hakuo	LDP
	YAMASAKI Taku	LDP	ISHIGE Eiko	DPJ
	SHIMA Satoshi	DPJ	NAKANO Kansei	DPJ
	NAGATSUMA Akira	DPJ	FUJIMURA Osamu	DPJ
	YAMAUCHI Osamu	DPJ	YAMADA Toshimasa	DPJ
	YAMATANI Eriko	DPJ	YAMAHANA Ikuo	DPJ
	YAMAMURA Takeshi	DPJ	YOKOMICHI Takahiro	DPJ
	OTA Akihiro	NK	SAITO Tetsuo	NK
	TAKEYAMA Yuriko	LP	FUJISHIMA Masayuki	LP
	HARUNA Naoaki	JCP	YAMAGUCHI Tomio	JCP
	TSUJIMOTO Kiyomi	SDP	DOI Takako	SDP
	KONDO Motohiko	Club 21	NODA Takeshi	NCP

(4) Commission Members for the 155th Session (October 24, 2002)

Chairman	NAKAYAMA Taro	LDP			
Director	SUGIURA Seiken	LDP	Director	NAKAGAWA Shoichi	LDP
Director	NISHIDA Mamoru	LDP	Director	HANASHI Nobuyuki	LDP
Director	YASUOKA Okiharu	LDP	Director	OIDE Akira	DPJ
Director	SENGOKU Yoshito	DPJ	Director	NAKAGAWA Masaharu	DPJ
Director	AKAMATSU Masao	NK			
	ITO Kosuke	LDP		ISHIKAWA Yozo	LDP
	OKUNO Seisuke	LDP		KAWASAKI Jiro	LD
	KURATA Masatoshi	LDP		KONDO Motohiko	LDP
	SATO Tsutomu	LDP		SHIMOJI Mikio	LDP
	TANIKAWA Kazuo	LDP		NAKASONE Yasuhiro	LDP
	NAKAYAMA Nariaki	LDP		NAKAYAMA Masaaki	LDP
	NAGASE Jinen	LDP		NUKAGA Fukushima	LDP
	NODA Seiko	LDP		HIRAI Takuya	LDP
	FUKUI Teru	LDP		MORIOKA Masahiro	LDP
	YAMAGUCHI Taimei	LDP		EDANO Yukio	DPJ
	KOBAYASHI Kenji	DPJ		KONNO Azuma	DPJ
	SUTO Nobuhiko	DPJ		TSUTSUI Nobutaka	DPJ
	NAKANO Kansei	DPJ		NAKAMURA Testsuji	DJP
	NAGAI Eiji	DPJ		BANNO Yutaka	DPJ

MATSUZAWA Shigefumi	DPJ	YAMADA Toshimasa	DPJ
EDA Yasuyuki	NK	OTA Akihiro	NK
SAITO Tetsuo	NK	TAKEYAMA Yuriko	LP
FUJISHIMA Masayuki	LP	HARUNA Naoaki	JCP
YAMAGUCHI Tomio	JCP	KANEKO Tetsuo	SDP
DOI Takako	SDP	INOUE Kiichi	NCP

(5) Major Changes in the Commission Membership (excluding temporary changes)

147 th Session	Members who resigned		New members who replaced them
Apr. 5, 2000	NODA Takeshi	NCP	TASSO Takuya LP
Apr. 7, 2000	NAKAGAWA Hidenao	LDP	TAKAICHI Sanae LDP
Apr. 11, 2000	FUKUOKA Soya	DPJ	SHIMA Satoshi DPJ
148 th Session	Members who resigned		New members who replaced them
July 6, 2000	MURAKAMI Seiichiro	LDP	MORIYAMA Mayumi LDP
July 26, 2000	NAGATSUMA Akira	DPJ	OIDE Akira DPJ
	YAMAUCHI Osamu	DPJ	HOSONO Goshi DPJ
	YAMADA Toshimasa	DPJ	MAKINO Seishu DPJ
	YAMATANI Eriko	DPJ	MAEHARA Seiji DPJ
	YAMAMURA Takeshi	DPJ	IGARASHI Fumihiko DPJ
150 th Session	Members who resigned		New members who replaced them
Nov. 8, 2000	FUJISHIMA Masayuki	LP	MURAI Jin LDP
Dec. 5, 2000	NUKAGA Fukushima	LDP	MOTEGI Toshimitsu LDP
	YANAGISAWA Hakuo	LDP	OSHIMA Tadamori LDP
Dec. 6, 2000	MURAI Jin	LDP	SATA Genichiro LDP
151 st Session	Members who resigned		New members who replaced them
Jan. 31, 2001	OSHIMA Tadamori	LDP	KANEKO Kazuyoshi LDP
	OTA Seiichi	LDP	FUTADA Koji LDP
	KYUMA Fumio	LDP	NISHIDA Mamoru LDP
	SATA Genichiro	LDP	ITO Tatsuya LDP
	SUGIURA Seiken	LDP	SUGA Yoshihide LDP
	TAKAICHI Sanae	LDP	NAKATANI Gen LDP
	NEMOTO Takumi	LDP	MORIOKA Masahiro LDP
	HIRASAWA Katsuei	LDP	YASUOKA Okiharu LDP
	HORI Kosuke	LDP	TSUSHIMA Yuji LDP
	MIZUNO Ken'ichi	LDP	SHIMOMURA Hakubun LDP
	MIYASHITA Sohei	LDP	ITO Kosuke LDP
	MOTEGI Toshimitsu	LDP	WATANABE Hiromichi LDP

	IGARASHI Fumihiko	DPJ	UBUKATA Yukio	DPJ
	ISHIGE Eiko	DPJ	OISHI Hisako	DPJ
	NAKANO Kansei	DPJ	KOBAYASHI Mamoru	DPJ
	FUJIMURA Osamu	DPJ	TSUTSUI Nobutaka	DPJ
	MAKINO Seishu	DPJ	NAKAGAWA Masaharu	DPJ
	YAMAHANA Ikuo	DPJ	NAKADA Hiroshi	DPJ
	YOKOMICHI Takahiro	DPJ	MATSUZAWA Shigefumi	DPJ
	AKAMATSU Masao	NK	UEDA Isamu	NK
	TAKEYAMA Yuriko	LP	FUJISHIMA Masayuki	LP
	TSUJIMOTO Kiyomi	SDP	KANEKO Tetsuo	SDP
Apr. 12, 2001	NODA Takeshi	NCP	KOIKE Yuriko	NCP
Apr. 16, 2001	KOIKE Yuriko	NCP	NODA Takeshi	NCP
Apr. 26, 2001	TANAKA Makiko	LDP	OKONOGI Hachiro	LDP
	NAKATANI Gen	LDP	MURATA Yoshitaka	LDP
	MORIYAMA Mayumi	LDP	SHICHIJO Akira	LDP
	NAKADA Hiroshi	DPJ	KUWABARA Yutaka	DPJ
May 1, 2001	MURATA Yoshitaka	LDP	YAMAMOTO Koichi	LDP
May 7, 2001	OKONOGI Hachiro	LDP	MATSUMOTO Kazuna	LDP
	SHICHIJO Akira	LDP	KOMURA Masahiko	LDP
	SHINDO Yoshitaka	LDP	IMAMURA Masahiro	LDP
	WATANABE Hiromichi	LDP	SATA Genichiro	LDP
May 31, 2001	NODA Takeshi	NCP	KOIKE Yuriko	NCP
June 5, 2001	KOIKE Yuriko	NCP	NODA Takeshi	NCP
152 nd Session	Members who resigned		New members who replaced them	
Sept. 26, 2001	SHIOTA Susumu	LP	TSUZUKI Yuzuru	LP
153 rd Session	Members who resigned		New members who replaced them	
Sept. 27, 2001	UBUKATA Yukio	DPJ	HOSOKAWA Ritsuo	DPJ
	EDANO Yukio	DPJ	OZAWA Sakihito	DPJ
	OISHI Hisako	DPJ	OKADA Katsuya	DPJ
	KUWABARA Yutaka	DPJ	KOBAYASHI Kenji	DPJ
	KOBAYASHI Mamoru	DPJ	KONNO Azuma	DPJ
	SHIMA Satoshi	DPJ	SUTO Nobuhiko	DPJ
	HOSONO Goshi	DPJ	NAKANO Kansei	DJP
	MAEHARA Seiji	DPJ	NAKAMURA Tetsuji	DPJ
	MATSUZAWA Shigefumi	DPJ	YAMADA Toshimasa	DPJ
Nov. 8, 2001	OZAWA Sakihito	DPJ	SHIMA Satoshi	DPJ
Nov. 21, 2001	KONDO Motohiko	Club 21	UDAGAWA Yoshio	Club 21
Nov. 29, 2001	UDAGAWA Yoshio	Club 21	KONDO Motohiko	Club 21
Jan. 8, 2002	IMAMURA Masahiro	LDP	OSHIMA Tadamori	LDP
	SATA Genichiro	LDP	KOSAKA Kenji	LDP
	SHIMOMURA Hakubun	LDP	TORASHIMA Kazuo	LDP

Jan. 18, 2002	SUGA Yoshihide	LDP	KITAMURA Naoto	LDP
	ITO Kosuke	LDP	TAKAICHI Sanae	LDP
	OSHIMA Tadamori	LDP	WATANABE Hiromichi	LDP
	KITAMURA Naoto	LDP	HIRAI Takuya	LDP
	KOSAKA Kenji	LDP	NUKAGA Fukushima	LDP
	TSUSHIMA Yuji	LDP	OKI Hiroshi	LDP
	TORASHIMA Kazuo	LDP	NAGASE Jinen	LDP
	FUTADA Koji	LDP	IWANAGA Mineichi	LDP
	MATSUMOTO Kazuna	LDP	NAKAYAMA Nariaki	LDP
	MITSUZUKA Hiroshi	LDP	MATSUSHIMA Midori	LDP
	YAMAMOTO Koichi	LDP	TANIGAKI Sadakazu	LDP
	OKADA Katsuya	LDP	MATSUZAWA Shigefumi	LDP
	HOSOKAWA Ritsuo	DPJ	NAGAI Eiji	DPJ
	UEDA Isamu	NK	AKAMATSU Masao	NK
	TSUZUKI Yuzuru	LP	TAKEYAMA Yuriko	LP
154 th Session	Members who resigned		New members who replaced them	
Jan. 22, 2002	NODA Takeshi	NCP	INOUE Kiichi	NCP
Jan. 24, 2002	IWANAGA Mineichi	LDP	EDA Yasuyuki	NK
Feb. 4, 2002	HATOYAMA Kunio	LDP	TSUCHIYA Shinako	LDP
Feb. 5, 2002	OKI Hiroshi	LDP	MOTEGI Toshimitsu	LDP
Feb. 7, 2002	KANO Michihiko	DPJ	BANNO Yutaka	DPJ
Feb. 21, 2002	MATSUSHIMA Midori	LDP	ITO Kosuke	LDP
Mar. 11, 2002	MOTEGI Toshimitsu	LDP	ISHIBA Shigeru	LDP
Apr. 16, 2002	KONDO Motohiko	LDP	KYUMA Fumio	LDP
Apr. 26, 2002	KYUMA Fumio	LDP	KONDO Motohiko	LDP
July 5, 2002	NAKAYAMA Nariaki	LDP	TANIKAWA Kazuo	LDP
Sept. 30, 2002	ISHIBA Shigeru	LDP	SHINDO Yoshitaka	LDP
	TANIGAKI Sadakazu	LDP	SATO Tsutomu	LDP
Oct. 2, 2002	ITO Tatsuya	LDP	KOSAKA Kenji	LDP
	TAKAICHI Sanae	LDP	HASE Hiroshi	LDP
Oct. 4, 2002	SHINDO Yoshitaka	LDP	SATA Genichiro	LDP
	TSUCHIYA Shinako	LDP	KAWASAKI Jiro	LDP
Oct. 17, 2002	KANEKO Kazuyoshi	LDP	FUKUI Teru	LDP
	KOSAKA Kenji	LDP	KURATA Masatoshi	LDP
	KOMURA Masahiko	LDP	SUNADA Keisuke	LDP
	SATA Genichiro	LDP	SHIMOJI Mikio	LDP
	HASE Hiroshi	LDP	SUGIURA Seiken	LDP
	YAMASAKI Taku	LDP	NAKAYAMA Nariaki	LDP
	WATANABE Hiromichi	LDP	YAMAGUCHI Taimei	LDP
	SHIMA Satoshi	DPJ	EDANO Yukio	DPJ

155 th Session	Members who resigned		New members who replaced them
Oct. 21, 2002	SUNADA Keisuke	LDP	NODA Seiko LDP

Section 2 Chairman and Deputy Chairman

(1) Chairman

The Chairman of the Research Commission on the Constitution is elected by its members from among themselves (Article 5 of the Commission Regulations). The chairman arranges the business of the Commission, maintains order in it, and represents it (Article 6 of the Commission Regulations).

The following chairman has been elected.

Date of Appointment	Chairman
147th Diet Session, January 20, 2000	NAKAYAMA Taro (LDP)
148th Diet Session, July 5, 2000	NAKAYAMA Taro (LDP)

(2) Deputy Chairman

The Diet Law and the Regulations of the Research Commission on the Constitution of the House of Representatives contain no provisions governing the deputy chairman. At the directors' meeting of the Rules and Administration Committee of the House of Representatives held on July 6, 1999 during the 145th Session of the Diet, it was agreed that the chairman would appoint a deputy chairman from among the directors of the largest opposition party.

The following deputy chairmen have been appointed.

Date of Appointment	Chairman
147th Diet Session, January 20, 2000	KANO Michihiko (DPJ)
148th Diet Session, July 5, 2000	KANO Michihiko (DPJ)
154th Diet Session, February 7, 2002	NAKANO Kansei (DPJ)
155th Diet Session, October 24, 2002	SENGOKU Yoshito (DPJ)

Section 3 Directors and Meetings of Directors

The Research Commission on the Constitution has one or more directors who are elected by its members from among themselves (Article 7, Paragraph 1 of the Commission Regulations). The chairman may hold a meeting of directors to consult on the management of the Commission (Article 7, Paragraph 2 of the Commission Regulations). In the event that the chairman is indisposed, one of the directors

discharges the functions of the chairman (Article 7, Paragraph 3 of the Commission Regulations).

At the Rules and Administration Committee of the House of Representatives held on January 20, 2000, during the 147th Diet Session, the number of directors of the Commission was set at nine, and it was decided that membership would be allocated among the political parties and groups as follows: LDP: 5; DPJ: 2; NK-RC: 1; and LP: 1. The JCP and the SDP were not allocated director positions because they were small parties. However, the two parties submitted a request that they be granted observer status, and such status was approved for both of these parties at the first meeting of directors to ensure the fair operation of the Research Commission through the participation of as many political parties and groups as possible. Observer status at the meeting of directors will be approved upon request for all new political parties and groups that are formed.

OSHIMA Tadamori, Chairman of the Rules and Administration Committee of the House of Representatives, made a verbal request to Commission Chairman NAKAYAMA Taro on February 10, 2000, that the observer members from the JCP and the SDP—the two parties which were not allocated director positions—be treated the same as directors at the Research Commission based on the details of the discussions at the directors' meeting of the Rules and Administration Committee on the allocation of director positions among the political parties and groups.

For the allocation of membership and changes therein, refer to 2. Allocation of Commission Directorships to Each Political Party and Changes of Directors in Part 4.

Section 4 Subcommittees

The Commission may set up subcommittees (Article 8 of the Commission Regulations).

To promote specialized and effective research on the individual points at issue regarding the Constitution of Japan, the Research Commission set up four subcommittees each composed of sixteen members at its meeting held on February 7, 2002 during the 154th Diet session. This decision was made in light of the three basic principles of the Constitution of Japan, the discussions at the Research Commission, and the concern of the Japanese people.

On the same day, the Research Commission decided that the chairmen and members of each subcommittee would be appointed by the Commission chairman. It was also decided that the chairman and the deputy chairman would have permanent seats on the subcommittees.

(1) The allocation of subcommittee membership is as follows.

LDP	DPJ	NK	LP	JCP	SDP	NCP
7	4	1	1	1	1	1

(2) The names of the subcommittees and their research issues and members are as follows.

Subcommittee name	Subcommittee on guarantee of fundamental human rights	Subcommittee on fundamental and organizational role of politics	Subcommittee on Japan's role in international society	Subcommittee on local autonomy
Research topic	To research the guarantee of fundamental human rights	To research the fundamental and organizational role of politics	To research Japan's role in international society	To research local autonomy
Chairperson	SHIMA Satoshi (DPJ)	TAKAICHI Sanae (LDP)	NAKAGAWA Shoichi (LDP)	YASUOKA Okiharu (LDP)
Members at the time of the inauguration of the subcommittees (Feb. 7, 2002)	KANEKO Kazuyoshi (LDP) KONDO Motohiko (LDP) NAKAYAMA Nariaki (LDP) NAKAYAMA Masaaki (LDP) NAGASE Jinen (LDP) HANASHI Nobuyuki (LDP) MOTEGI Toshimitsu (LDP) OIDE Akira (DPJ) KOBAYASHI Kenji (DPJ) KONNO Azuma (DPJ) OTA Akihiro (NK) TAKEYAMA Yuriko (LP) HARUNA Naoaki (JCP) KANEKO Tetsuo (SDP) INOUE Kiichi (NCP)	ITO Tatsuya (LDP) OKUNO Seisuke (LDP) TANIGAKI Sadakazu (LDP) NAKASONE Yasuhiro (LDP) NUKAGA Fukushima (LDP) MATSUSHIMA Midori (LDP) SHIMA Satoshi (DPJ) SENGOKU Yoshito (DPJ) BANNO Yutaka (DPJ) MATSUZAWA Shigefumi (DPJ) SAITO Tetsuo (NK) FUJISHIMA Masayuki (LP) YAMAGUCHI Tomio (JCP) DOI Takako (SDP) INOUE Kiichi (NCP)	ISHIKAWA Yozo (LDP) KOMURA Masahiko (LDP) KONDO Motohiko (LDP) TSUCHIYA Shinako (LDP) HANASHI Nobuyuki (LDP) HIRAI Takuya (LDP) SUTO Nobuhiko (DPJ) NAKAGAWA Masaharu (DPJ) NAKAMURA Tetsuji (DPJ) YAMADA Toshimasa (DPJ) AKAMATSU Masao (NK) FUJISHIMA Masayuki (LP) YAMAGUCHI Tomio (JCP) KANEKO Tetsuo (SDP) INOUE Kiichi (NCP)	TSUCHIYA Shinako (LDP) NISHIDA Mamoru (LDP) HANASHI Nobuyuki (LDP) HIRAI Takuya (LDP) MORIOKA Masahiro (LDP) WATANABE Hiromichi (LDP) TSUTSUI Nobutaka (DPJ) NAKAGAWA Masaharu (DPJ) NAKAMURA Tetsuji (DPJ) NAGAI Eiji (DPJ) EDA Yasuyuki (NK) TAKEYAMA Yuriko (LP) HARUNA Naoaki (JCP) DOI Takako (SDP) INOUE Kiichi (NCP)

Chairperson	SHIMA Satoshi (DPJ)	TAKAICHI Sanae (LDP)	NAKAGAWA Shoichi (LDP)	YASUOKA Okiharu (LDP)
Members at the conclusion of the 154 th Session (July 31, 2002)	ISHIBA Shigeru (LDP) KANEKO Kazuyoshi (LDP) KONDO Motohiko (LDP) TANIKAWA Kazuo (LDP) TSUCHIYA Shinako (LDP) NAGASE Jinen (LDP) HANASHI Nobuyuki (LDP) OIDE Akira (DPJ) KOBAYASHI Kenji (DPJ) KONNO Azuma (DPJ) OTA Akihiro (NK) TAKEYAMA Yuriko (LP) HARUNA Naoaki (JCP) KANEKO Tetsuo (SDP) INOUE Kiichi (NCP)	ITO Tatsuya (LDP) OKUNO Seisuke (LDP) TANIGAKI Sadakazu (LDP) NAKASONE Yasuhiro (LDP) NAKAYAMA Masaaki (LDP) NUKAGA Fukushima (LDP) SHIMA Satoshi (DPJ) SENGOKU Yoshito (DPJ) BANNO Yutaka (DPJ) MATSUZAWA Shigefumi (DPJ) SAITO Tetsuo (NK) FUJISHIMA Masayuki (LP) YAMAGUCHI Tomio (JCP) DOI Takako (SDP) INOUE Kiichi (NCP)	ISHIKAWA Yozo (LDP) KOMURA Masahiko (LDP) KONDO Motohiko (LDP) TSUCHIYA Shinako (LDP) HANASHI Nobuyuki (LDP) HIRAI Takuya (LDP) SUTO Nobuhiko (DPJ) NAKAGAWA Masaharu (DPJ) NAKAMURA Tetsuji (DPJ) YAMADA Toshimasa (DPJ) AKAMATSU Masao (NK) FUJISHIMA Masayuki (LP) YAMAGUCHI Tomio (JCP) KANEKO Tetsuo (SDP) INOUE Kiichi (NCP)	ITO Kosuke (LDP) NISHIDA Mamoru (LDP) HANASHI Nobuyuki (LDP) HIRAI Takuya (LDP) MORIOKA Masahiro (LDP) WATANABE Hiromichi (LDP) TSUTSUI Nobutaka (DPJ) NAKAGAWA Masaharu (DPJ) NAKAMURA Tetsuji (DPJ) NAGAI Eiji (DPJ) EDA Yasuyuki (NK) TAKEYAMA Yuriko (LP) HARUNA Naoaki (JCP) DOI Takako (SDP) INOUE Kiichi (NCP)

(3) Major changes in subcommittee membership (excluding temporary changes) are as follows.

a. Subcommittee on guarantee of fundamental human rights

	Members who resigned	New members who replaced them
Feb. 8, 2002	NAKAYAMA Masaaki (LDP)	MATSUSHIMA Midori (LDP)
Feb. 25, 2002	MATSUSHIMA Midori (LDP)	TSUCHIYA Shinako (LDP)
Mar. 14, 2002	MOTEGI Toshimitsu (LDP)	ISHIBA Shigeru (LDP)
July 11, 2002	NAKAYAMA Nariaki (LDP)	TANIKAWA Kazuo (LDP)

b. Subcommittee on fundamental and organizational role of politics

	Members who resigned	New members who replaced them
Feb. 8, 2002	MATSUSHIMA Midori (LDP)	NAKAYAMA Masaaki (LDP)

c. Subcommittee on local autonomy

	Members who resigned	New members who replaced them
Feb. 25, 2002	TSUCHIYA Shinako (LDP)	ITO Kosuke (LDP)

Section 5 Office

The Commission Regulations stipulate that an Office shall be created in the Research Commission on the Constitution to handle the Commission's business. The Office is staffed by a Director General and other necessary personnel. The Director General of the Office administers the business of the Office under the direction of the Chairman of the Commission. (Article 24 of the Commission Regulations)

Chapter 3 Basic Administrative Matters

(1) Basic matters concerning administration of the Research Commission

The directors' meeting of the Rules and Administration Committees of the House of Representatives held on July 6, 1999 during the 145th Session of the Diet reached an agreement to establish the Research Commission and confirmed that (1) the Commission would not have the authority to submit bills; (2) the Commission would conduct research for about five years; and (3) the chairman would appoint a deputy chairman from among the directors of the largest opposition party.

The first meeting of directors was held on February 10, 2000 during the 147th Session of the Diet. In addition to confirming the content of the above agreement, the meeting discussed various administrative matters related to the operation of the Commission, including the regular day for meeting. In addition to the decision to permit the JCP and the SDP to participate as observers in the meeting of Directors as mentioned earlier, the directors discussed and decided the following.

Following the procedure for directors' meetings of Diet committees, meetings of directors of the Research Commission shall be closed to the public.

The regular day for meeting of the Research Commission shall be Thursday, and meetings shall be held about twice a month.

Government representatives will, in principle, not be permitted to attend the Research Commission meeting or the meeting of directors. When deemed necessary, however, participation shall be permitted. Only personnel from the Secretariat of the House of Representatives shall be permitted a permanent seat.

Following the procedure for Diet committees, visitors wishing to attend a meeting of the Research Commission are required to have an introduction from a Diet member. This procedure will stay in place for the time being.

The Commission Regulations clearly state that the meetings of the Research Commission are to be open to the public in principle (Article 22), unlike Diet committee meetings which are closed in principle to the public. Some called for the relaxation of procedures for admitting visitors and the creation of procedures that did not require introduction by a Diet member; however, it was decided that introduction by a Diet member should be required due to such issues as the number of visitors' seats in the meeting room.

At the meeting of directors held on July 5, 2000 during the 148th Diet Session after the 42nd general election held following the dissolution of the House of Representatives in June 2000, it was confirmed that the same policy regarding these various

administrative matters would be used for the Research Commission during the 148th Session and thereafter.

(2) Basic matters concerning administration of the subcommittees

The Research Commission established the following four subcommittees at its meeting held on February 7, 2002 during the 154th Session: Subcommittee on guarantee of fundamental human rights; subcommittee on fundamental and organizational role of politics; subcommittee on Japan's role in international society; and subcommittee on local autonomy. At that time, the following basic matters were also discussed and decided regarding administration of the subcommittees.

The appointment of subcommittee members and chairmen as well as resignations and replacements shall be left to the discretion of the Research Commission Chairman.

The Research Commission Chairman and the deputy chairman shall have permanent seats on each subcommittee.

The meeting of directors of the Research Commission held the same day confirmed that the meeting of directors would discuss and decide matters related to the administration of the subcommittees in order to coordinate the pace of research by each subcommittee, including research topics, methods, and the selection of informants.

(3) Basic matters concerning administration of the open hearings

In order to hear the opinions of various levels of Japanese society and reflect these opinions in the research of the Research Commission on the Constitution, open hearings were held as outlined below.

a. Venues

Venues for the open hearings were discussed and decided at the meeting of directors on a case-by-case basis taking all circumstances into consideration.

b. Speakers

For the First and Second Open Hearings, the number of speakers was set at ten. Each of the eight political party or groups allotted a member at the Research Commission recommended one speaker. Applications were received from the public for the remaining two positions, and the speakers were selected at the meeting of directors based on the applications. At the First Open Hearing, applications from the public were received for three of the positions because the New Conservative Party (NCP) gave up its right to recommend a speaker in favor of having a speaker selected from the public. As a result, seven speakers were recommended by political parties and groups while the remaining three speakers were selected based on applications from the public.

The speaker selection process was as follows: Persons recommended by a political party or group were named as speakers by the meeting of directors with no further procedures needed. Regarding speakers selected based on applications received from the public, the process was as follows: The details of the open hearings were announced via press conferences, government gazettes, and the House of Representatives Website. Applicants were required to submit an essay of 800 Japanese characters in length outlining the views the applicant planned to express at the open hearing. The essays were screened, and speakers selected at the meeting of directors based on the essay as well as the applicant's age, gender, occupation, and other matters.

For the Third through Fifth Open Hearings, the number of speakers was reduced to six to increase the amount of time for each speaker's statement. The recommendation of speakers by the political parties and groups was eliminated, and all six speakers were selected based on applications received from the public. The final selection of speakers was made at the meeting of directors. The speaker selection process was the same as that for the First and Second Open Hearings.

c. Dispatching of Member Delegation

Dispatched to the First Open Hearing was a delegation of Commission members led by Chairman NAKAYAMA Taro and composed of the deputy chairman as well as one member from each political party and group. Dispatched for the other open hearings was a delegation led by Chairman NAKAYAMA Taro and composed of the deputy chairman, two LDP members as well as one member from each political party and group.

d. Proceedings

Each open hearing was structured as follows: Chairman NAKAYAMA Taro, who served as chairman of the open hearing, gave the opening greeting and explained the purpose of the open hearing. Following this, the views of each speaker were heard. After all speakers had expressed their views, the participating Commission members had an opportunity to ask questions. The amount of time allotted for each speaker to state his or her views and for each delegation member to ask questions to the speakers was ten minutes for the First and Second Open Hearings and fifteen minutes for the remaining open hearings.

After the Commission members had finished asking questions, the views of visitors were solicited, as time permitted. At each open hearing, a few visitors had the opportunity to comment on the day's proceedings and on the Constitution.

e. Admission of Visitors

Admission of Diet members and their secretaries, members of the press, as well as the general public to the open hearings required the permission of the Commission delegation leader. A total of from 200 to 300 seats, depending on the size of the venue,

were reserved for the general public. Some of these seats were apportioned for visitors who were selected by the political parties and groups while the remaining seats were for visitors from the general public who applied to the visitors' lottery. Regarding the visitors' lottery, the details of the open hearings were announced via press conferences, government gazettes, and the House of Representatives Website, and applications from the general public were solicited. In the event that there were too many applicants, visitors were selected by lottery.

For data concerning the open hearings, refer to 5. Open Hearings: Data and Reports by Members Participating in Part 4.

PART 3

PROGRESS AND CONTENTS OF RESEARCH CONDUCTED BY THE RESEARCH COMMISSION ON THE CONSTITUTION

Chapter 1

Progress of Research

Part 3 Progress and Contents of Research Conducted by the Research
Commission on the Constitution

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Part 3 Progress and Contents of Research Conducted by the Research Commission on the Constitution

Chapter 1 Progress of Research

From its establishment on January 20, 2000 to December 2001, the Research Commission on the Constitution conducted broad and comprehensive research on the Constitution of Japan based on the themes of “details of how the Constitution was formulated,” “major postwar judgments of unconstitutionality,” and “a vision for Japan in the 21st century.” From 2002, subcommittees were set up to conduct specialized research on the four themes of “Japan’s role in international society,” “fundamental and organizational role of politics,” “guarantee of fundamental human rights,” and “local autonomy.” Since then, these four subcommittees have been studying the Constitution of Japan from their respective viewpoints.

During the course of this research, in order to hear the opinions of various levels of Japanese society, open hearings were conducted in Sendai in Miyagi Prefecture, Kobe in Hyogo Prefecture and Nagoya in Aichi Prefecture in 2001, and in Nago in Okinawa Prefecture and Sapporo in Hokkaido in 2002.

In addition, House delegations made up of members of the Research Commission on the Constitution were dispatched overseas three times. These delegations conducted studies on the situation of the constitutions in (1) Germany, Switzerland, Italy, France and Finland in 2000; (2) Russia, Hungary and other Eastern European countries, and five countries, including the Netherlands and Spain, with monarchical systems, and Israel in 2001; and (3) the U.K., five Southeast Asian countries (including Thailand and Singapore), China and Korea in 2002.

Section 1 Research by the Research Commission on the Constitution and its Subcommittees

1. 147th Diet Session

At the meetings of the 147th Diet session convened on January 20, 2000, the following agenda were covered: (1) internal election of the chairman and directors; (2) statement of political party and group members' opinions; (3) research on the details of how the Constitution was formulated; (4) brainstorming discussions related to Constitution Day; and (5) research on "major postwar judgments of unconstitutionality."

The progress of research conducted in the 147th Diet was as follows.

Date	Meeting	Meeting Agenda	Proceedings
Thurs. Jan. 20, 2000	First Meeting	Internal election of the chairman and directors	
Thurs. Feb. 7, 2000	Second Meeting	Matters relating to the Constitution of Japan	Opinions from members HANASHI Nobuyuki, KANO Michihiko, HIRATA Yoneo, NODA Takeshi, SASAKI Rikukai, and ITO Shigeru were heard.
		Matters relating to the Constitution of Japan (Details of how the Constitution was formulated)	A decision was reached, after discussion, concerning requests for attendance of informants.
Thurs. Feb. 24, 2000	Third Meeting	Matters relating to the Constitution of Japan (Details of how the Constitution was formulated)	After statements were heard from informants, questions were put to them. Informants: NISHI Osamu, Ph.D., Professor of Constitutional Law at the Faculty of Law, Komazawa University; and Dean of the Division of Law, Graduate School, Komazawa University AOYAMA Takenori, Professor of Law at the College of Law, Nihon University
Thurs. Mar. 9, 2000	Fourth Meeting	Matters relating to the Constitution of Japan (Details of how the Constitution was formulated)	After statements were heard from informants, questions were put to them. Informants: KOSEKI Shoichi, Professor, Faculty of Law, Dokkyo University MURATA Koji, Assistant Professor, Faculty of Integrated Arts and Sciences, Hiroshima University
Thurs. Mar. 23, 2000	Fifth Meeting	Matters relating to the Constitution of Japan (Details of how the Constitution was formulated)	After statements were heard from informants, questions were put to them. Informants: HASEGAWA Masayasu, Emeritus Professor, Nagoya University TAKAHASHI Masatoshi, Professor, Faculty of Law, Kagawa University

Date	Meeting	Meeting Agenda	Proceedings
Thurs. Apr. 6, 2000	Sixth Meeting	Matters relating to the Constitution of Japan (Details of how the Constitution was formulated)	After statements were heard from informants, questions were put to them. Informants: KITAOKA Shinichi, Professor, Faculty of Law, The University of Tokyo SHINDO Eiichi, Professor, College of Social Sciences, University of Tsukuba
Thurs. Apr. 20, 2000	Seventh Meeting	Matters relating to the Constitution of Japan (Details of how the Constitution was formulated)	After statements were heard from informants, questions were put to them. Informants: IOKIBE Makoto, Professor of Political Science (political history/political process in Japan), Graduate School of Law, Kobe University AMAKAWA Akira, Professor of Political Science (postwar history in Japan), International Graduate School of Social Sciences, Yokohama National University
Thurs. Apr. 27, 2000	Eighth Meeting	Matters relating to the Constitution of Japan	A brainstorming discussion was held.
Thurs. May 11, 2000	Ninth Meeting	Matters relating to the Constitution of Japan (Details of how the Constitution was formulated)	A brainstorming discussion was held.
Thurs. May 25, 2000	Tenth Meeting	Matters relating to the Constitution of Japan (Major postwar judgments of unconstitutionality)	After an explanation was heard from an official of the Supreme Court, the official was asked questions.

2. 148th Diet Session

Following the 42nd House of Representatives election, the internal election of the chairman and directors was held in the 148th Diet session convened on July 4, 2000.

The research conducted in the 148th Diet was as follows.

Date	Meeting	Meeting Agenda	Proceedings
Thurs. July 5, 2000	First Meeting	Internal election of chairman and directors	

3. 149th Diet Session

In the 149th Diet session convened on July 28, 2000, a brainstorming discussion was held on the “future proceedings of the Research Commission on the Constitution.”

The research conducted in the 149th Diet was as follows.

Date	Meeting	Meeting Agenda	Proceedings
Thurs. Aug. 3, 2000	First Meeting	Matters relating to the Constitution of Japan (Future proceedings of the Research Commission on the Constitution)	A brainstorming discussion was held.

4. 150th Diet Session

At the meetings of the 150th Diet session convened on September 21, 2000, research was conducted on the theme “a vision for Japan in the 21st century.”

The progress of research conducted in the 150th Diet was as follows.

Date	Meeting	Meeting Agenda	Proceedings
Thurs. Sept. 28, 2000	First Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	After statements were heard from informants, questions were put to them. Informants: TANAKA Akihiko, Professor, Graduate School of Interdisciplinary Information Studies, The University of Tokyo ODA Makoto, Author
			A decision was reached, after discussion, concerning requests for attendance of informants.
		Matters relating to the Constitution of Japan	A brief report by Chairman NAKAYAMA on the findings of the House delegation dispatched to survey the constitutions of European nations was heard.
Thurs. Oct. 12, 2000	Second Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	After statements were heard from informants, questions were put to them. Informants: SONO Ayako, Writer and Chairperson of the Nippon Foundation KONDO Motohiro, Professor, Graduate School of Social and Cultural Studies, Nihon University
Thurs. Oct. 26, 2000	Third Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	After a statement was heard from an informant, questions were put to him. Informant: ICHIMURA Shin'ichi, Director of the International Centre for the Study of East Asian Development (ICSEAD)
Thurs. Nov. 9, 2000	Fourth Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	After statements were heard from informants, questions were put to them. Informants: SASAKI Takeshi, Professor, University of Tokyo KOBAYASHI Takeshi, LL.D., Professor, Nanzan University

Date	Meeting	Meeting Agenda	Proceedings
Thurs. Nov. 30, 2000	Fifth Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	After statements were heard from informants, questions were put to them. Informants: ISHIHARA Shintaro, Governor of Tokyo SAKURAI Yoshiko, Journalist
Thurs. Dec. 7, 2000 (Diet not in session)	Sixth Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	After statements were heard from informants, questions were put to them. Informants: MATSUMOTO Ken'ichi, Commentator and Professor, Reitaku University WATANABE Shoichi, Professor, Sophia University
Thurs. Dec. 21, 2000 (Diet not in session)	Seventh Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	After a statement was heard from an informant, questions were put to him. Informants: MURAKAMI Yoichiro, Professor, College of Liberal Arts, International Christian University

Note: The October 12, 2000 meeting of the Research Commission on the Constitution was held without the attendance of members belonging to the DPJ, LP, JCP, and SDP. This was due to the state of disorder that the National Diet was in, caused by the conflict over the bill to amend the Public Offices Election Law that had been submitted in order to introduce the open-list system to the House of Councillors' proportional representation.

5. 151st Diet Session

In the 151st Diet session convened on January 31, 2001, research was conducted on the theme "a vision for Japan in the 21st century" and open hearings were held in Sendai and Kobe.

The progress of research conducted in the 151st Diet was as follows.

Date	Meeting	Meeting Agenda	Proceedings
Thurs. Feb. 8, 2001	First Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	After statements were heard from informants, questions were put to them. Informants: NISHIZAWA Junichi, President, Iwate Prefectural University TAKAHASHI Susumu, Professor, University of Tokyo A decision was reached, after discussion, concerning requests for attendance of informants.

Date	Meeting	Meeting Agenda	Proceedings
Thurs. Feb. 22, 2001	Second Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	After statements were heard from informants, questions were put to them. Informants: HAYASHIZAKI Yoshihide, Project Director, Genome Exploration Research Group, Genomic Sciences Center, Institute of Physical and Chemical Research (RIKEN) OGAWA Naohiro, Professor, College of Economics, Nihon University; Deputy Director, Nihon University Population Research Institute (NUPRI)
			A decision was reached, after discussion, on a motion for approval of dispatch of members.
Thurs. Mar. 8, 2001	Third Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	After a statement was heard from an informant, questions were put to him. Informant: SON Masayoshi, President and Chief Executive Officer, Softbank Corporation
Thurs. Mar. 22, 2001	Fourth Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	After statements were heard from informants, questions were put to them. Informants: SAKAMOTO Takao, Professor, Faculty of Law, Gakushuin University KANG Sanjung, Professor, Institute of Socio-Information and Communication Studies, University of Tokyo
Mon. Apr. 16, 2001		Constitution of Japan	First open hearing was held in Sendai City, Miyagi Prefecture.
Thurs. Apr. 26, 2001	Fifth Meeting	Matters relating to the Constitution of Japan	Report was heard on the investigations concerning the Constitution of Japan from the dispatched members.
			A decision was reached, after discussion, on a motion for approval of dispatch of members.
Thurs. May 17, 2001	Sixth Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	After statements were heard from informants, questions were put to them. Informants: KIMURA Yoko, Member of the Local Finance Council OHKUMA Yoshikazu, Professor, Graduate School of Law, Kyushu University
Mon. June 4, 2001		The Constitution of Japan (A vision for Japan in the 21st century)	Second open hearing was held in Kobe City, Hyogo Prefecture.
Thurs. June 14, 2001	Seventh Meeting	Matters relating to the Constitution of Japan	A brainstorming discussion was held. A report on the investigations concerning the Constitution of Japan was heard from the dispatched members.

6. 152nd Diet Session

Since the 152nd Diet session convened on August 7, 2001, was short, the Research Commission on the Constitution did not meet.

7. 153rd Diet Session

In the 153rd Diet session convened on September 27, 2001, the following agenda were covered: (1) a report, followed by a brainstorming discussion, on the findings of the House delegation dispatched to survey the constitutions of Russia, several other European nations, and Israel; (2) regarding “a vision of Japan in the 21st century,” research on matters relating to the United Nations and national security, the system of government in Japan, and guarantee of human rights; and (3) holding of an open hearing in Nagoya.

The progress of research conducted in the 153rd Diet was as follows.

Date	Meeting	Meeting Agenda	Proceedings
Thurs. Oct. 11, 2001	First Meeting	Matters relating to the Constitution of Japan	Chairman NAKAYAMA Taro presented a brief report on the findings of the House delegation dispatched to survey the constitutions of Russia, several other European nations, and Israel; the report was followed by discussion.
		Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	A decision was reached, after discussion, concerning requests for attendance of informants.
Thurs. Oct. 25, 2001	Second Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	After statements were heard from informants, questions were put to them. Informants: ONUMA Yasuaki, Professor, University of Tokyo MORIMOTO Satoshi, Professor, Faculty of International Development, Takushoku University
			A decision was reached, after discussion, on a motion for approval of dispatch of members.
Thurs. Nov. 8, 2001	Third Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	After statements were heard from informants, questions were put to them. Informants: HASEBE Yasuo, Professor, Faculty of Law, University of Tokyo MORITA Akira, Professor, Graduate School of Law and Politics, University of Tokyo
Mon. Nov. 26, 2001		Japan's role in the international community	Third open hearing was held in Nagoya City, Aichi Prefecture.

Date	Meeting	Meeting Agenda	Proceedings
Thurs. Nov. 29, 2001	Fourth Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	After statements were heard from informants, questions were put to them. Informant: MUSHAKOJI Kinhide, Director of Chubu Institute for Advanced Studies, Chubu University HATAJIRI Tsuyoshi, Professor of Department of Economics, Josai University
		Matters relating to the Constitution of Japan	Report was heard on the investigations concerning the Constitution of Japan from the dispatched members.
Thurs. Dec. 6, 2001	Fifth Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	A brainstorming discussion was held.

8. 154th Diet Session

In the 154th Diet session convened on January 21, 2002, subcommittees of the Research Commission on the Constitution were set up in order to conduct specialized and effective research from each viewpoint of the Constitution of Japan. It was decided that the research method used by these subcommittees would be essentially the same as that used up to now, namely hearing statements from informants and then asking them questions, but that in this case the brainstorming discussions would be conducted only among members after the informants had left.

In this Diet, the subcommittees conducted research on (1) guarantee of fundamental human rights; (2) the fundamental and organizational role of politics; (3) Japan's role in international society; and (4) local autonomy. The Research Commission on the Constitution (1) held open hearings in Okinawa and Sapporo; (2) conducted brainstorming discussions on the report of the Okinawa Open Hearing and on Japan's national security; and (3) heard a report on the Sapporo Open Hearing and a report from the chairmen of each subcommittee, followed by brainstorming discussions.

The progress of research conducted in the 154th Diet was as follows

Date	Meeting	Meeting Agenda	Proceedings
Thurs. Feb. 7, 2002	First Meeting	Matters relating to the Constitution of Japan	It was decided, after discussion, to establish the Subcommittee on Guarantee of Fundamental Human Rights, the Subcommittee on Fundamental and Organizational Role of Politics, the Subcommittee on Japan's Role in International Society, and the Subcommittee on Local Autonomy. A decision was reached, after discussion, concerning requests for attendance of informants at subcommittee meetings.

Date	Meeting	Meeting Agenda	Proceedings
Thurs. Feb. 14, 2002	Human Rights Subcommittee First Meeting	Matters concerning the guarantee of fundamental human rights	After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members. Informant: MUNESUE Toshiyuki, Professor, Faculty of Law, Seijo University
	Politics Subcommittee First Meeting	Matters concerning the fundamental and organizational role of politics	After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members. Informant: TAKAHASHI Kazuyuki, Professor, Faculty of Law, University of Tokyo
Thurs. Feb. 28, 2002	International Society Subcommittee First Meeting	Matters concerning Japan's role in international society	After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members. Informant: MATSUI Yoshiro, Professor, Graduate School of Law, Nagoya University
	Local Autonomy Subcommittee First Meeting	Matters concerning local autonomy	After a statement was heard from an informant, questions were put to her; this was followed by discussion among the members. Informant: IWASAKI Mikiko, Professor, University of Tsukuba
Thurs. Mar. 14, 2002	Politics Subcommittee Second Meeting	Matters concerning the fundamental and organizational role of politics	After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members. Informant: YAMAGUCHI Jiro, Professor, Graduate School of Law, Hokkaido University
	Human Rights Subcommittee Second Meeting	Matters concerning the guarantee of fundamental human rights	After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members. Informant: ANNEN Junji, Professor, Seikei University
Tues. Mar. 19, 2002	Second Meeting		A decision was reached, after discussion, on a motion for approval of dispatch of members.
Thurs. Mar. 28, 2002	Local Autonomy Subcommittee Second Meeting	Matters concerning local autonomy	After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members. Informant: MORITA Akira, Professor, Graduate School of Law and Politics, University of Tokyo

Date	Meeting	Meeting Agenda	Proceedings
	International Society Subcommittee Second Meeting	Matters concerning Japan's role in international society	After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members. Informant: HATAKEYAMA Noboru, Chairman, Japan External Trade Organization (JETRO)
Thurs. Apr. 11, 2002	Human Rights Subcommittee Third Meeting	Matters concerning the guarantee of fundamental human rights	After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members. Informant: SAKAMOTO Masanari, Dean of the Faculty of Law, Hiroshima University
	Politics Subcommittee Third Meeting	Matters concerning the fundamental and organizational role of politics	After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members. Informant: OISHI Makoto, Professor, Kyoto University
Mon. Apr. 22, 2002		The Constitution of Japan (Japan and its constitution in the twenty-first century)	Fourth open hearing was held in Nago City, Okinawa Prefecture.
Thurs. Apr. 25, 2002	Third Meeting	Matters relating to the Constitution of Japan	Report was heard on the investigations concerning the Constitution of Japan from dispatched members; this was followed by discussion among members.
Thurs. May 9, 2002	International Society Subcommittee Third Meeting	Matters concerning Japan's role in international society	After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members. Informant: TERASHIMA Jitsuro, President, Mitsui Global Strategic Studies Institute
	Local Autonomy Subcommittee Third Meeting	Matters concerning local autonomy	After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members. Informant: JINNO Naohiko, Professor, University of Tokyo
Thurs. May 16, 2002	Fourth Meeting		A decision was reached, after discussion, on a motion for approval of dispatch of members.
Thurs. May 23, 2002	Politics Subcommittee Fourth Meeting	Matters concerning the fundamental and organizational role of politics	After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members. Informant: MATSUI Shigenori, Professor, Graduate School of Law, Osaka University

Date	Meeting	Meeting Agenda	Proceedings
	Human Rights Subcommittee Fourth Meeting	Matters concerning the guarantee of fundamental human rights	After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members. Informant: ITO Tetsuo, Director, Japan Policy Institute
Thurs. June 6, 2002	Local Autonomy Subcommittee Fourth Meeting	Matters concerning local autonomy	After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members. Informant: KATAYAMA Yoshihiro, Governor of Tottori Prefecture
	International Society Subcommittee Fourth Meeting	Matters concerning Japan's role in international society	After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members. Informant: TAKUBO Tadae, Professor of the Faculty of General Policy Studies, Kyorin University
Mon. June 24, 2002		The Constitution of Japan (Japan and its constitution in the twenty-first century)	Fifth open hearing was held in Sapporo City, Hokkaido.
Thurs. July 4, 2002	Human Rights Subcommittee Fifth Meeting	Matters concerning the guarantee of fundamental human rights	After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members. Informant: KUSANO Tadayoshi, General Secretary, RENGO or Japanese Trade Union Confederation
	Politics Subcommittee Fifth Meeting	Matters concerning the fundamental and organizational role of politics	After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members. Informant: YAGI Hidetsugu, Associate Professor, Takasaki City University of Economics
Thurs. July 11, 2002	International Society Subcommittee Fifth Meeting	Matters concerning Japan's role in international society	After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members. Informant: NAKAMURA Tamio, Associate Professor, Institute of Social Science, University of Tokyo

Date	Meeting	Meeting Agenda	Proceedings
	Local Autonomy Subcommittee Fifth Meeting	Matters concerning local autonomy	After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members. Informant: KITAGAWA Masayasu, Governor of Mie Prefecture
Thurs. July 25, 2002	Fifth Meeting	Matters relating to the Constitution of Japan	A brainstorming discussion was held. Reports were heard from the chairpersons of the Subcommittee on Guarantee of Fundamental Human Rights, the Subcommittee on Fundamental and Organizational Role of Politics, the Subcommittee on Japan's Role in International Society, and the Subcommittee on Local Autonomy. Report was heard on the investigations concerning the Constitution of Japan from the dispatched members.

9. 155th Diet Session

The research conducted in the 155th Diet session convened on October 18, 2002, was as follows.

Date	Meeting	Meeting Agenda	Proceedings
Thurs. Oct. 24, 2002	First Meeting	Resignation of directors and appointment of substitute directors	

Section 2 Open Hearings

In order to hear the opinions of various levels of Japanese society and reflect these opinions in the research of the Research Commission on the Constitution, open hearings were held in Sendai in Miyagi Prefecture, Kobe in Hyogo Prefecture, Nagoya in Aichi Prefecture, Nago in Okinawa Prefecture, and Sapporo in Hokkaido.

The participating members and speakers at these open hearings were as follows.

Sendai Open Hearing (151st Diet Session, April 16, 2001)

Participating Members	NAKAYAMA Taro (LDP) KANO Michihiko (DPJ) SAITO Tetsuo (NK) HARUNA Naoaki (JCP) KOIKE Yuriko (NCP)	HANASHI Nobuyuki (LDP) SENGOKU Yoshito (DPJ) FUJISHIMA Masayuki (LP) KANEKO Tetsuo (SDP) KONDO Motohiko (Club 21)
Speakers	TEJIMA Norio, chairman, Sendai Association of Corporate Executives KANO Fuminaga, mayor, Kashimadai Town, Miyagi Prefecture SHIMURA Kensuke, professor emeritus, Tohoku University TANAKA Hidemichi, professor, Faculty of Arts and Letters, Tohoku University ODANAKA Toshiki, professor, School of Law, Senshu University; professor emeritus, Tohoku University KUBOTA Manae, representative, Women's Net to Support 1946 Constitution YONETANI Mitsumasa, associate professor, Tohoku Fukushi University HAMADA Takehito, instructor, Hirosaki Gakuin Seiai High School ENDO Masanori, instructor, Senshu University Kitakami Senior High School; representative, Shimin Study Association SAITO Takako, chairwoman, Peace Activity Committee, Miyagi Consumers' Co-operative Society	

Kobe Open Hearing (151st Diet Session, June 4, 2001)

Participating Members	NAKAGAWA Shoichi (LDP) HANASHI Nobuyuki (LDP) NAKAGAWA Masaharu (DPJ) SHIOTA Susumu (LP) KANEKO Tetsuo (SDP) KONDO Motohiko (Club 21)	NAKAYAMA Taro (LDP) KANO Michihiko (DPJ) SAITO Tetsuo (NK) HARUNA Naoaki (JCP) KOIKE Yuriko (NCP)
Speakers	KAIHARA Toshitami, governor, Hyogo Prefecture SHIBAO Susumu, mayor, Kawanishi City SASAYAMA Kazutoshi, mayor, Kobe City OHMAE Shigeo, Chairman of the Board of Trustees of Ohmae Gakuin URABE Noriho, vice president, Kobe University; professor, Graduate School of Law, Kobe University NAKAKITA Ryutaro, lawyer HASHIMOTO Akio, chairman, Hyogo Prefecture Medical Association KOKUBO Masao, mayor, Hokudan Town, Hyogo Prefecture TSUKAMOTO Hideki, corporate executive NAKATA Narishige, associate professor, Osaka Institute of Technology	

Nagoya Open Hearing (153rd Diet Session, November 26, 2001)

Participating Members	NAKAYAMA Taro (LDP) HATOYAMA Kunio (LDP) SHIMA Satoshi (DPJ) TSUZUKI Yuzuru (LP) KANEKO Tetsuo (SDP)	HANASHI Nobuyuki (LDP) KANO Michihiko (DPJ) SAITO Tetsuo (NK) HARUNA Naoaki (JCP) UDAGAWA Yoshio (Club 21)
Speakers	TAGUCHI Fukuji, professor emeritus, Nagoya University NISHI Hideko, housewife NOHARA Kiyoshi, teacher, Gifu Prefectural High School KAWABATA Hiroaki, doctoral student, Graduate School of Law, Nagoya University KOIDO Yasuo, lawyer KATO Masanori, university student	

Okinawa Open Hearing (154th Diet Session, April 22, 2002)

Participating Members	KYUMA Fumio (LDP) HANASHI Nobuyuki (LDP) NAKANO Kansei (DPJ) FUJISHIMA Masayuki (LP) KANEKO Tetsuo (SDP)	NAKAYAMA Taro (LDP) SHIMA Satoshi (DPJ) AKAMATSU Masao (NK) HARUNA Naoaki (JCP) INOUE Kiichi (NCP)
Speakers	YAMAUCHI Tokushin, president of a research institute on Japan's peace constitution and local autonomy ARAKAKI Tsutomu, lawyer MEGUMI Ryunosuke, business school president KAKINOHANA Hojun, professor, College of Law, Okinawa International University INAFUKU Erika, university student ASHITOMI Osamu, member of the Okinawa Prefectural Assembly	

Sapporo Open Hearing (154th Diet Session, June 24, 2002)

Participating Members	NAKAGAWA Shoichi (LDP) HANASHI Nobuyuki (LDP) NAKANO Kansei (DPJ) TAKEYAMA Yuriko (LP) KANEKO Tetsuo (SDP)	NAKAYAMA Taro (LDP) NAKAGAWA Masaharu (DPJ) AKAMATSU Masao (NK) HARUNA Naoaki (JCP) INOUE Kiichi (NCP)
Speakers	INATSU Sadatoshi, managing director, Daitoa Shoji Co., Ltd. ISHIZUKA Osamu, farmer TANAKA Hiroshi, chairman, Hokkaido Federation of Bar Associations SATO Satomi, university student YUKI Yoichiro, professor, Otaru University of Commerce MASUGI Eiichi, lawyer	

For data concerning the open hearings, refer to 5. Open Hearings: Data and Reports by Members Participating in Part 4.

Section 3 International Affairs: Overseas Delegations and Reception of Parliamentary Missions

1. Survey Mission by the House Delegation on Constitutions of European Nations: September 10 to 19, 2000

The House of Representatives sent out a nine-member survey mission led by Chairman NAKAYAMA Taro to Europe to conduct a survey of constitutional matters of the Federal Republic of Germany, the Swiss Confederation, the Republic of Italy, the French Republic, and the Republic of Finland. The members were: Chairman NAKAYAMA Taro (Leader; LDP), Deputy Chairman KANO Michihiko (Deputy Leader; DPJ), ISHIKAWA Yozo (LDP), NAKAGAWA Shoichi (LDP), HANASHI Nobuyuki (LDP), SENGOKU Yoshito (DPJ), AKAMATSU Masao (NK), HARUNA Naoaki (JCP), and TSUJIMOTO Kiyomi (SDP).

The delegation visited the following:

Date	Country Visited	Meeting Held at	Met with
Sept. 11, 2000	Germany	Federal Constitutional Court	Jutta LIMBACH, President Udo STEINER, Justice
		Albrecht Tuckermann Wohnanlage	Conscientious objectors
Sept. 12, 2000		Japanese Ambassador's Residence	SUZUKI Toru, First Secretary, Embassy of Japan in Finland
		Bundestag	Alfred HARTENBACH, Member, (Chairman of the Legal Affairs Department, SPD)
Sept. 13, 2000	Switzerland	Federal Assembly (National Council)	Remo GYSIN, Member (Member of the Foreign Affairs Committee and Former Member of the Constitutional Reform Committee, SDP) Ulrich FISCHER, Member (Member of the Foreign Affairs Committee, FDP) Remo GALLI, Member (Member of the Foreign Affairs Committee, PDC) John CLERC, Deputy Secretary General of the Federal Assembly Alessandro DELPRETE, Head of Communications, Présence Suisse PRS
			(Federal Department of Justice and Police) Luzius MADER, Vice Director, Federal Office of Justice Dieter BIEDERMANN, Senior Advisor, (Former Deputy Leader of the Constitutional Reform Team) Rhida FRAUOA, Chief of Division of Federal Office of Justice

Date	Country Visited	Meeting Held at	Met with
Sept. 14, 2000	Italy	Japanese Ambassador's Residence	SHIONO Nanami, Author
Sept. 15, 2000		Constitutional Court	Cesare MIRABELLI, President Fernando SANTOSUOSS, Judge Riccardo CHIEPPA, Judge Franco BILE, Judge Giovanni Maria FLICK, Judge Maurizio NEVOLA, Protocol
		1st Commission of Chamber of Deputies	Rosa Russo JERVOLINO, Member, PPI (President) Giacomo GARRA, Member, FI
Sept. 18, 2000	France	National Assembly	Christine LAZERGES, Vice President, PS Etienne PINTE, Member, UMP (Vice President of France-Japan Parliamentary Friendship Group of the National Assembly and Mayor of Versailles)
		Constitutional Council	Yves GUENA, President Simone VEIL, Member Jean-Claude COLLIARD, Member

2. Survey Mission by the House Delegation on the Constitutions of Russia, Several Other European Nations, and Israel: August 28 to September 7, 2001

The House of Representatives sent out a nine-member survey mission led by Chairman NAKAYAMA Taro to five East European nations, including the Russian Federation and the Republic of Hungary, five monarchies including the Kingdom of the Netherlands and Spain, as well as the State of Israel to conduct a survey of constitutional matters of those countries. The members were: Chairman NAKAYAMA Taro (Leader; LDP), Deputy Chairman KANO Michihiko (Deputy Leader; DPJ), HANASHI Nobuyuki (LDP), YASUOKA Okiharu (LDP), SENGOKU Yoshito (DPJ), SAITO Tetsuo (NK), YAMAGUCHI Tomio (JCP), KANEKO Tetsuo (SDP), and KONDO Motohiko (Club 21).

The delegation visited the following:

Date	Country Visited	Meeting Held at	Met with
Aug. 29, 2001	Russia	State Duma	Mikhail Mikhaylovich ZADORNOV, Member Aleksandor Dmitrievich ZHUKOV, Member Ivan Andreyevich ZHAKAEV, Member Margarita Valeryevna BARZHANOVA, Member
			Vladimir Petrovich LUKIN, Deputy Chairman
			Anatoly Ivanovich LUKYANOV, Chairman, State Structure Committee
		Ministry of Justice	Vyacheslav Borisovich EVDOKIMOV, First Deputy Vladimir Petrovich ZIMIN, First Deputy Chief, International Relations Department Andrey Vladimirovich FEDOROV, Deputy Chief, Russian Federation Subjects Legislation and Federal Register Directorate Anatoly Vasilyevich PANCHENKO, Head, Legislation Department Andrey Yuryevich SHIRPITSIN, Deputy Head, Legislation Department Nataliya Vyacheslavovna BORODINA, Director in Charge of Legislation Governing National and Local Agencies Igor Germanovich GORDYUSHKIN, Senior Researcher, International Relations Department
		Scientific-Analytical Center of Constitutional Justice	Boris Aleksandrovich STRASHUN, Deputy Head Yury Vladimirovich KUDRYAVTSEV, Head, Constitutional Court Secretariat
Aug. 30, 2001	Hungary	Japanese Ambassador's Residence	YASUDA Kunihiro, First Secretary, Embassy of Japan in Hungary OSUGI Emi, First Secretary, Embassy of Japan in Poland SATO Teru, First Secretary, Embassy of Japan in the Czech Republic YOSHII Masanobu, First Secretary, Embassy of Japan in Romania
Aug. 31, 2001	Netherlands	First Chamber	F. Korthals ALTES, Chairman
		Cabinet of the Queen	Felix Edurd Robert RHODIUS, Director
		Ministry of the Interior and Kingdom Relations	Jit A.PETERS, Director, Constitutional Affairs and Legislation Department G.R.J. van WESEL, Legal Adviser
		Embassy of Japan	KAJIMOTO Hiroyuki, First Secretary, Embassy of Japan in Sweden FUJITA Junzo, Councilor, Embassy of Japan in Denmark OTSUKI Daisuke, First Secretary, Embassy of Japan in Belgium

Date	Country Visited	Meeting Held at	Met with
Sept. 2, 2001	Israel	Conference Room: Hotel	Joshua SCHOFFMAN, Deputy Attorney General, Ministry of Justice
		Ministry of Justice	Meir SHEETRIT, Minister of Justice
		Conference Room: Hotel	Shlomo SHOHAM, Legal Advisor, Knesset Ophir PINES, Chairman, Constitution Law and Justice Committee, Knesset
Sept. 3, 2001		Ministry of Foreign Affairs	Shimon PERES, Deputy Prime Minister and Minister of Foreign Affairs
		Conference Room: Hotel	Arye Z. CARMON, President, The Israel Democracy Institute Zeev SEGAL, Professor, Tel Aviv University Moshe ARENS, Member of Knesset, Chairman, Israel-Japan Parliamentary Friendship League
Sept. 5, 2001	Spain	Council of State	Iñigo CAVERO LATAILLADE, President Landelino LAVILLA ALSINA, Permanent Councillor Miguel RODRIGUEZ-PIÑERO, Permanent Councillor Miguel HERRERO, Councillor
		Congress of Deputies	Margarita MARISCAL DE GANTE, President of Constitutional Commission Gabriel CISNEROS, Deputy Juan Carlos VERA PRO, Deputy Jordi Jane I GUASCH, Deputy Jose Antonio BERMUDEZ DE CASTRO, Deputy Diego GARRIDO, Deputy Alberto DORREGO DE CARLOS, Secretariat

3. Survey Mission by the House Delegation on the Constitutions of the United Kingdom and Several Asian Nations: September 23 to October 5, 2002

The House of Representatives sent out a four-member survey mission led by Chairman NAKAYAMA Taro to the United Kingdom, five Southeast Asian countries, including the Kingdom of Thailand and the Republic of Singapore, as well as the People's Republic of China and the Republic of Korea to conduct a survey of constitutional matters of those countries. The members were: Chairman NAKAYAMA Taro (Leader; LDP), HANASHI Nobuyuki (LDP), NAKAGAWA Masaharu (DPJ), and HARUNA Naoaki (JCP).

The delegation visited the following:

Date	Country Visited	Meeting Held at	Met with
Sept. 24, 2002	United Kingdom	Parliament	Paul EVANS, MP, Commons Committee Clerk, Joint Committee on Human Rights
		Office of the Deputy Prime Minister	Ian SCOTTER, Head, Regional Assembly Division Michael DAWSON, Leader, Regional Policy Unit Nick RAYNSFORD, MP, Minister of State, Local Government and Regions
		Constitution Unit, University College London	Robert HAZELL, Professor, School of Public Policy
Sept. 25, 2002		Embassy of Japan	David BEAMISH, Clerk of Committees, Joint Committee on House of Lords Reform
			(House of Lords Reform Team, Lord Chancellor's Department) Judith SIMPSON Lola BEAUMONT Stephen BETTY Anthony ZACHARZEWSKY
			Charles COCHRANE, Secretary, Council of Civil Service Union
Sept. 27, 2002	Thailand		Constitutional Court
		King Prajadhipok's Institute	BORWORNSAK Uwanno, Secretary General
		In Bangkok	MARUT Bunnag, former Speaker of the House of Representatives
Sept. 28, 2002	Singapore	Japanese Ambassador's Residence	MAKITA Kunihiko, Ambassador TSUJI Masaru, Minister YOSHIDA Masaharu, Minister, Embassy of Japan in the Philippines USHIO Shigeru, First Secretary, Embassy of Japan in Malaysia WADA Mitsuhiro, Councilor, Embassy of Japan in Indonesia TANI Masanori, First Secretary, Embassy of Japan in Indonesia
Sept. 30, 2002		Attorney-General's Chambers	Jeffrey CHAN Wah Teck, Principal Senior State Counsel
		Ministry of Foreign Affairs	S JAYAKUMAR, Minister for Law and Minister for Foreign Affairs
		Embassy of Japan	THIO Li-ann, Associate Professor, National University of Singapore
		Japanese Ambassador's Residence	CHIN Tet Yung, MP R. RAVINDRAN, MP Charles CHONG, MP
Oct. 2, 2002	China	Renmin University of China	ZENG Xianyi, Dean, School of Law HAN Da-Yuan, Vice Dean, School of Law XU Chongde, Professor ZHANG Zhongzhao, Professor YANG Jianxun, Professor MO Yuchuan, Professor

Date	Country Visited	Meeting Held at	Met with
		Conference Room: Hotel	LIU Junjie, Professor, Social Development Institute, Central Party School LIU Zhigang, Researcher, Central Party School Press
Oct. 3, 2002		National People's Congress	ZHANG Chunsheng, Deputy Director, Commission of Legislative Affairs of the Standing Committee of the National People's Congress
Oct. 4, 2002	Korea	National Assembly	PARK Kwan-yong, Speaker KIM Chong-tu, Director General, Legislative Counseling Office
		Constitutional Court of the Republic of Korea	PARK Yong-sang, Secretary General
		National Human Rights Commission of Korea	KIM Chang-kuk, President PARK Kyung-seo, Senior Commissioner YOO See-chun, Senior Commissioner CHOI Young-ae, Secretary-General NA Yong-hee, Director General, Education and Cooperation Bureau

4. Visits of Parliamentarian Delegations

The Research Commission received courtesy calls of the following four foreign parliamentary delegations and exchanged views on constitutional matters.

(1) Republic of Indonesia: People's Consultative Assembly (MPR)

Fifteen members of the MPR's Working Committee on constitutional amendments led by Chairman RAMBE, paid a courtesy call on the Commission on April 17, 2000. Chairman NAKAYAMA Taro (LDP), Deputy Chairman KANO Michihiko (DPJ), NAKAGAWA Shoichi (LDP), HANASHI Nobuyuki (LDP), and ITO Shigeru (SDP) met with the delegation.

(2) Kingdom of Denmark: Parliament (Folketing)

A six-member Folketing delegation led by Deputy Speaker SIMONSEN paid a courtesy call on the Commission on March 7, 2001. Chairman NAKAYAMA Taro (LDP), Deputy Chairman KANO Michihiko (DPJ), HANASHI Nobuyuki (LDP), NAKAGAWA Masaharu (DPJ), SAITO Tetsuo (NK), FUJISHIMA Masayuki (LP), HARUNA Naoaki (JCP), KANEKO Tetsuo (SDP), and KONDO Motohiko (Club 21) met with the delegation.

(3) Federal Republic of Germany: Bundestag

An eight-member Bundestag delegation led by Chairman SCHOLZ (Committee on Legal Affairs) paid a courtesy call on the Commission on April 5, 2002. Chairman NAKAYAMA Taro (LDP), Deputy Chairman NAKANO Kansei (DPJ), NAKAGAWA

Shoichi (LDP), HANASHI Nobuyuki (LDP), YASUOKA Okiharu (LDP), AKAMATSU Masao (NK), FUJISHIMA Masayuki (LP), HARUNA Naoaki (JCP), KANEKO Tetsuo (SDP), and INOUE Kiichi (NCP) met with the delegation.

(4) Democratic Socialist Republic of Sri Lanka: Parliament

A two-member Parliament delegation led by Deputy Chairman Andra HENNADI of the Standing Committee paid a courtesy call on the Commission on July 18, 2002. Chairman NAKAYAMA Taro (LDP), Deputy Chairman NAKANO Kansei (DPJ), and HANASHI Nobuyuki (LDP) met with the delegation.

Section 4 Other Activities

1. Commission's Public Forum

On February 25, 2000, the Research Commission on the Constitution set up the Commission's Public Forum as a channel through which members of the public can express their opinions about the Constitution. Opinions can be sent by post, fax or e-mail. These opinions are collected and put in order by the Office of the Research Commission on the Constitution, regularly reported to the chairman, directors and observers, and provided as reference materials for the discussions of the Research Commission. As of October 24, 2002, a total of 1,813 opinions have been submitted. (For the contents of these opinions, refer to 8. Opinions Received in the Commission's Public Forum in Part 4.)

2. Call for Essays

In 2000, as part of the PR activities for the first Constitution Day following the establishment of the Research Commission on the Constitution, members of the general public were invited to submit essays on "What I Expect of the Research Commission on the Constitution." A total of 214 essays were submitted. With the cooperation of the meeting of directors, 19 essays of particular interest were selected from these and were included for reference in the minutes of the Research Commission on May 11, 2000.

3. Production and Distribution of Poster

In 2000, together with the above-mentioned call for essays, in order to stimulate public interest in Research Commission on the Constitution, a poster was produced with the message: "To care about the Constitution is to consider your country and think about your life - May 3 is Constitution Day." The poster was distributed to members of the House of Representatives, political parties, government ministries and agencies, urban and rural prefectures, cities, major organizations, university law departments, etc.

4. *News of the House of Representatives' Research Commission on the Constitution*

From the 150th Diet Session, as part of public relations activities aimed at all levels of Japanese society and in pursuit of the open disclosure of information, *News of the House of Representatives' Research Commission on the Constitution* outlining the discussions of the Commission has been issued after each meeting. It is sent to those who are interested by fax or e-mail and distributed to those attending the meetings as observers.

5. House of Representatives Research Commission on the Constitution Website

Viewing the Internet as an important means of linking citizens with the Research Commission on the Constitution, a Research Commission page was set up on the House of Representatives Website (<http://www.shugiin.go.jp>) established at the same time as the Research Commission on the Constitution on January 20, 2000. The Website currently provides information such as outlines of the discussions at each meeting of the Research Commission, materials distributed, and the schedule for future meetings.

In July 2000, an English version of the Website was established.

Chapter 2

Overview of Research

Chapter 2 Overview of Research

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Chapter 2 Overview of Research

As stated in the preceding chapter, the Research Commission on the Constitution has conducted research on “Details of how the Constitution was formulated,” “Major postwar judgments of unconstitutionality,” and “A vision for Japan in the 21st century.” In addition, its four subcommittees have been engaged in research, and other activities have included the holding of open hearings in various regions of Japan, and the conduct of research overseas.

The four sections below contain summaries of discussions and other matters forming part of these research activities, under the headings “Research by the Research Commission on the Constitution,” “Research by Subcommittees,” “Open Hearings,” and “Overseas Research.”

Section 1 Research by the Research Commission on the Constitution

147th Diet, First Meeting, January 20, 2000 (First meeting since start of Commission)

- Internal election of chairman and directors.

147th Diet, Second Meeting, February 17, 2000 (Second meeting since start of Commission)
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- A decision was made, after consultation, on a proposal to request the attendance of informants.
- On “Matters relating to the Constitution of Japan,” opinions were stated by the representatives of each political party and group upon the start of the research of the Research Commission on the Constitution.

Amid the expression of opinions by the representatives of the political parties and groups with respect to the way in which the Commission should conduct its research, comments were made as to the necessity to discuss, from various viewpoints and angles, the role the Commission should assume and the Constitution as the basis of the configuration of the country; the necessity to conduct an historical investigation into the circumstances in which the Constitution came into being; the significance of the three key principles of the Constitution; the necessity to discuss the Constitution with the people; the necessity to conduct international comparative research on the Constitution; whether it is necessary to revise the Constitution; the necessity to clarify the pioneering content of the Constitution; the necessity to study the gap between the Constitution and reality; etc.

- On “Matters relating to the Constitution of Japan (Details of the formulation and enactment of the Constitution),” the opinions of the following informants were heard, and they were then questioned.

NISHI Osamu, Informant (Professor of Constitutional Law at the Faculty of Law, Komazawa University; and Dean of the Division of Law, Graduate School, Komazawa University)

Professor NISHI stated the view that in light of documents such as the report of the Commission on the Constitution that was set up within the Cabinet and the House of Peers minutes, it could be said that the process through which the Constitution came into being was “imposed.” He pointed out that through censorship, the General Headquarters (GHQ) of the Occupation sought to conceal the fact that it was imposed, and that in some respects there were questions as to why foreigners created the Japanese constitution.

With respect to the process of formulating Article 9, he pointed out that the MacArthur Note even included the renunciation of war in self-defense, but as that was not realistic it was deleted from the GHQ draft. Also that, with respect to the Ashida amendment, Ashida’s intention is unclear, but the Far Eastern Commission sensed the possibility of maintaining armed forces for the purpose of self-defense by means of a revision, and demanded that the provision for civilian control be included. He then stated his opinion that, given this evolution, it is natural to interpret the Constitution as permitting the maintenance of war potential for self-defense.

He was then questioned on matters such as whether the Constitution was influenced by occupation policy, the reason the Constitution was accepted by the people, the differences between Germany and Japan in the process of formulating constitutions, the reason why the Constitution has not been revised hitherto, the appropriateness of revising the Constitution for the reason that it was “imposed.”

AOYAMA Takenori, Informant (Professor of Law at the College of Law, Nihon University)

Professor AOYAMA pointed out that although the Socialist Party of Japan and the Japanese Communist Party are mainstays of support for the Constitution, at the time it was formulated they opposed and took a critical stance towards the draft. He stated his view that at the time of its formulation, restrictions on expression by such means as GHQ censorship meant that the draft was tamely accepted by the people, and although the Potsdam Declaration required in essence that there be constitutional revision, it did not demand the complete revision of the Constitution of the Empire of Japan (Meiji Constitution), and therefore it was only natural that the Matsumoto committee planned to make constitutional revisions within the framework of that constitution.

In addition, he voiced his opinion that the Far Eastern Commission and GHQ acted contrary to the Hague Convention clauses on the laws and customs of war on land and the Potsdam Declaration, and since even the formulation of a constitution by means of revising the Meiji Constitution exceeded the limits of revision, the act of formulating the Constitution included acts that were illegal.

He was then questioned on matters such as the effectiveness of the present constitution, the meaning of “imposed,” the relationship between the acceptance of the Potsdam Declaration and the necessity of constitutional revision, and the support of the people for the “renunciation of war” at the time the constitution was formulated.

147th Diet, Fourth Meeting, March 9, 2000 (Fourth meeting since start of Commission)
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- On “Matters relating to the Constitution of Japan (Details of the formulation and enactment of the Constitution),” the opinions of the following informants were heard, and they were then questioned.

KOSEKI Shoichi, Informant (Professor, Faculty of Law, Dokkyo University)

Professor KOSEKI pointed out that since the signing of the peace treaty and the Japan-U.S. Security Treaty, and subsequently the Mutual Security Agreement, the relationship between the Self-Defense Forces and Article 9 of the Constitution has become problematic, and that the origin of the “imposed constitution” argument are to be found in the testimony of Matsumoto Joji at the time the Liberal Party and Progressive Party were aiming to revise the Constitution. He also stated his opinion that although Matsumoto testified that the person of the Emperor could not be guaranteed unless the GHQ draft was accepted, insofar as the Constitution is something formed through the national will, discussion today should not be conducted in the context of what happened at the time it was formulated, and in an emotional way.

Among the other matters he pointed out were that GHQ wanted the Constitution to be drawn up before the Far Eastern Commission was established, that MacArthur strove to maintain the Emperor system, that many revisions were made on the GHQ draft by the Imperial Diet, and that in a Diet reply, Prime Minister Yoshida declared that he had no intention of revising the Constitution. In the informant’s view, although it could not be said that under the Occupation Japan was on an equal footing with the United States, it should be taken into consideration that when the Constitution was formulated, Japan followed the proper procedure for determining the national will.

He was then questioned on matters such as the appropriateness of the present Constitution as the constitution of an independent nation, the extent to which GHQ understood Japanese public opinion, the significance of the present Constitution’s having become so firmly established in Japan, and the relationship between the debate on constitutional revision and the peace treaty and the Mutual Security Agreement.

MURATA Koji, Informant (Assistant Professor, Faculty of Integrated Arts and Sciences, Hiroshima University)

Professor MURATA stated his view that since individual laws take precedence over general laws, the enactment of the Japanese Constitution as the performance of the requirements of the Potsdam Declaration was not contrary to the Hague Convention clauses on the laws and customs of war on land, a general law, and that the assertion that the Constitution is invalid is not constructive and would lead to the denial of Japan's postwar democracy.

He then pointed out that MacArthur's intentions in also wanting Japan to renounce wars of self-defense were (1) to ensure thorough adherence to pacifism, with the swift ending of the Occupation and the maintenance of the Emperor system, and (2) the protection of Japan by U.S. nuclear weapons. He also pointed out that the Far Eastern Commission inferred from the Ashida amendment that there was a possibility of rearmament by Japan, and although it did not oppose the amendment itself, it requested the insertion of the provision for civilian control.

In addition, he stated his view that (1) Japan should acknowledge that the Asia-Pacific War was aggressive in character, and that after setting out clearly the definition of "war of aggression," the distinction between war prohibited by Article 9 and permitted war should be clarified, and (2) that the international perception reflected in the wording in the Preamble that "we have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world" is mistaken, and must be revised.

He was then questioned on matters such as the "imposed" constitution argument, Ashida's actual intention with the Ashida amendment, the people's perception at that time with respect to the maintenance of the Emperor system, the kind of view of the nation to be adopted when debating the Constitution, and the connection between the moves to revise Article 9 and the Asia strategy of the United States.

147th Diet, Fifth Meeting, March 23, 2000 (Fifth meeting since start of Commission)

- On "Matters relating to the Constitution of Japan (Details of the formulation and enactment of the Constitution)," the opinions of the following informants were heard, and they were then questioned.

HASEGAWA Masayasu, Informant (Emeritus Professor, Nagoya University)

Professor HASEGAWA pointed out that the following three criteria are important for examining constitutions: (1) national sovereignty, (2) principles for controlling state power (separation of powers, parliamentarianism), and (3) the guarantee of freedom and rights of the individual, and that in light of this one could identify that a problem in prewar Japan was the existence of a dual system: the system of laws based on the Meiji Constitution and the system based on the Imperial Household Law, including the

prerogative of supreme command. He also pointed out that in modern Japan there is also a dual system--the system of laws based on the Constitution and the system based on the Japan-U.S. Security Treaty, with which it is inconsistent, and this resembles the dual system in existence during the Occupation, when the Constitution coexisted with the Potsdam imperial rescript and government ordinances.

He then gave his opinion to the effect that (1) in researching the Constitution it is important to examine whether its provisions have been observed and realized, and based on that one should consider whether to revise the reality or the text, (2) just as Japan's sovereignty is restricted, in reality, under the Japan-U.S. Security Arrangements, given the present situation in Japan in which the provisions of the Constitution are not being observed, for example the violation of human rights in large corporations, it is strange to be discussing revising the Constitution.

He was then questioned on matters such as the effectiveness of a constitution enacted under an occupation, the relationship between the Japan-U.S. Security Treaty and national sovereignty, the advisability of establishing an institution with the functions of a constitutional court, the current situation in Okinawa from the standpoint of the Constitution, and the current status with respect to the protection of fundamental human rights.

TAKAHASHI Masatoshi, Informant (Professor, Faculty of Law, Kagawa University)

Professor TAKAHASHI started by explaining that the Potsdam Declaration was a conditional agreement for the suspension of hostilities, but during its implementation phase it was enforced as an unconditional surrender, with the result that a program to remodel the country was initiated by the Allies, and the Imperial Constitution was revised.

He then stated his opinion that with respect to the formulation of the Constitution of Japan, the following should be considered from the viewpoint of jurisprudence. (1) During the Occupation the Imperial Constitution and the Constitution of Japan were administrative ordinances within the system of laws from the time of the Potsdam Declaration to the GHQ administrative ordinances. Although the Constitution of Japan following the conclusion of the peace treaty was in legal terms not a continuation of the same constitution during the Occupation, and after the conclusion of the peace treaty Japan entered a period in which it should have decided how to deal with the Constitution as an administrative law, no particular action was taken. (2) In the event of the discontinuation of a law in this manner, its legal validity should be understood as not springing from the attributes stemming from the procedures for enacting the law or its contents, but from its environment--the will and various forces--supporting it. As the present Constitution was formulated during a period when it served as an administrative ordinance, there is little reason to argue that it was "imposed," etc., and the "will and various forces" to support the present Constitution clearly existed among the people after the end of Occupation.

He was then questioned on matters such as the necessity for revising the provisions of the Constitution that deviate from actual circumstances, the meaning of the assertion that Japan “did not have a constitution,” since the Constitution of the Empire of Japan was effectively incorporated into GHQ’s administrative ordinances, and the requirement for constitutional revision in the Potsdam Declaration.

147th Diet, Sixth Meeting, April 6, 2000 (Sixth meeting since start of Commission)
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- On “Matters relating to the Constitution of Japan (Details of the formulation and enactment of the Constitution),” the opinions of the following informants were heard, and they were then questioned.

KITAOKA Shinichi, Informant (Professor, Faculty of Law, The University of Tokyo)

Professor KITAOKA first stated his view that the Constitution should not be revised solely because it was an “imposed” constitution. He then stated the following opinions. (1) MacArthur intended to have the Constitution formulated before the Far Eastern Commission assumed power over Occupation policy, but out of fear of contravening the Hague Convention clauses on the laws and customs of war on land and the Potsdam Declaration, he disguised this as if it was the spontaneous intent of the Japanese government. (2) It is fallacy to claim that Prime Minister Shidehara was the originator of the provision to renounce the maintenance of war potential. (3) The process of formulating the Constitution was conditional insofar as the acceptance of the Constitution was in exchange for the maintenance of the Emperor system and the supply of economic assistance. (4) As regards the Ashida amendment it is unclear what Ashida’s true intention was, but a series of actions have been interpreted as being artificial, and Colonel Kades tacitly approved it on the grounds that it was obvious that a country should have the right of self-defense, though other allied countries considered this dangerous, and demanded that the civilian-control provision be incorporated. He also took the view that a prerequisite for considering the Constitution is to understand relationships such as that between the Constitution and treaties and laws, and the relationship of the Kellogg-Briand Pact and the UN Charter with Article 9.

He was then questioned on matters such as the reason why the Constitution approved by the Far Eastern Commission and GHQ was not reexamined, the relationship between Article 9 and the right of collective self-defense, and the change in the policy of the U.S. government between the time of the enactment of the Constitution and the time of the establishment of the Self-Defense Forces.

SHINDO Eiichi, Informant (Professor, College of Social Sciences, University of Tsukuba)

Professor SHINDO pointed out with respect to the Constitution’s international significance it is essential to examine the “3 Ds”: Democratization, Demilitarization,

and Decolonization, and that in the process of formulating the present Constitution, GHQ translated these into reality in such ways as inserting the civilian-control provision and promoting the decentralization of power. He went on to state the following views. (1) Although it is asserted that the process of formulating the present Constitution was “imposed,” only foreigners were in a position to change fundamentally the country’s systems, and therefore the creation of a constitution by foreigners was not anomalous, but rather a customary practice in constitution formulation. (2) In the discussion about the process of formulating the Constitution it is essential to understand the universality of the ideals of the Constitution, setting aside all ideas of time and place. In doing that it is essential to examine two external factors: “Localization” (How did it take root among the people?) and “Internationalization” (What were the influences from outside the country?).

He also stated the view that (1) we must recapture the foresight and international vision shown by the Japanese people during the formulation process, and implement a “second postwar reform,” and (2) as regards the rights and wrongs of revising the Constitution, although a revision may not be totally wrong, merely to tamper with systems is meaningless; it is important to implement policies aimed at realizing the ideals of the Constitution.

He was then questioned on matters such as the intention of the Ashida amendment and whether Article 9 should be revised, whether the Japanese side and GHQ had a common view during the process of formulating the Constitution, and the relationship between the Japan-U.S. Security Arrangements and the Constitution.

147th Diet, Seventh Meeting, April 20, 2000 (Seventh meeting since start of Commission)

- On “Matters relating to the Constitution of Japan (Details of the formulation and enactment of the Constitution),” the opinions of the following informants were heard, and they were then questioned.

IOKIBE Makoto, Informant (Professor of Political Science, Graduate School of Law, Kobe University)

Professor IOKIBE pointed out that MacArthur initially ruled out even wars of self-defense, but Colonel Kades agreed that the Ashida amendment would clarify the maintenance of the right of self-defense and would make it easier for Japan to participate in international security. He stated his view that MacArthur and Yoshida distinguished between their overt and covert positions, the overt stance being the expression of absolute pacifism, and the covert one being the ability to maintain the right of self-defense.

Also, in Professor IOKIBE’s opinion, the Shidehara Cabinet had no choice but to accept the GHQ draft in order to ensure the continuation of the state, and as they decided to bring a valid constitution into being, the argument that the Constitution is invalid for

the reasons that it was “imposed” is inappropriate. The present Constitution received strong public support when it was announced, and it became well established as a constitution that underpinned Japanese society in the postwar period.

In addition, he referred to the fact that the Gulf War sparked growth in public opinion in favor of permitting Article 9 to be revised to enable Japan to make a contribution to the international community. He stated his view that with respect to security, Japan should develop a self-defense capability at its own expense, and as a nonnuclear industrialized nation should seek the creation of an international system in which nuclear weapons are unnecessary. In his view, the argument for the revision of the Constitution should not be the “heretical” one based on the reason that it was “imposed,” but an “orthodox” argument that advocates its conversion into the type of constitution necessary for the people’s security and prosperity, while retaining the fundamental spirit of its predecessor.

He was then questioned on matters such as the importance of the “imposed” viewpoint, the importance of freeing ourselves from ideology-dominated arguments in constitutional discussions, and whether there was a difference of understanding between MacArthur and Shidehara concerning the war-renunciation clause.

AMAKAWA Akira, Informant (Professor of Political Science, International Graduate School of Social Sciences, Yokohama National University)

Professor AMAKAWA was of the view that it was of great significance that the chapter on local self-government was included in the Constitution.

He made the following points. (1) The direct origin of the inclusion of the local self-government provisions in the Constitution was that GHQ attached importance to decentralization as a means of fostering the democratization of Japan. To that end, among other things it provided for a system of election by direct popular vote of the heads of local governments, the [citizens’] right of autonomy [to set down charters], and local referendums on special acts with limited applicability to the specified region. (2) During the discussions on amendments with GHQ, the Japanese government raised no particularly strong objections regarding local self-government. (3) In the aftermath of the wartime defeat there were increasingly vigorous moves in Japan in favor of demilitarization and democratization, and when differences between these forces and the thinking of GHQ became clear, the necessity for Japan to initiate reforms on its own was recognized. (4) The outline of the draft revised Constitution contained provisions such as the direct popular election of governors and mayors of municipalities, which had a major impact on Japan’s system of local government.

Professor AMAKAWA also stated his opinion that although it is important to adopt a macro approach of making a general interpretation of the process of formulating the Constitution, it is also important to have a micro approach, in which the formulation process of individual articles is examined.

He was then questioned on matters such as the relationship between a federation of devolved states with an administrative system based on larger administrative regions and the election of the governors by direct popular vote, the meaning of the “*honshi* (essence) of local autonomy,” the discussion about the prohibition of the repeated reelection of the same heads of local governments, and the role played in demilitarization and democratization by the local-government provisions in the Constitution.

147th Diet, Eighth Meeting, April 27, 2000 (Eighth meeting since start of Commission)

- There was a free discussion among Commission members on “Matters relating to the Constitution of Japan.”

In the free discussion among Commission members, the following were among the matters raised: with respect to the guarantee of fundamental human rights, the relationship between rights and public welfare; in respect of the basic political structure, issues such as the ideal bicameral system and the introduction of a system of direct election of the prime minister; in respect of security and international cooperation, whether the right of self-defense should be stated explicitly, and the relationship between Article 9 and participation in UN security operations; other assessments of the process through which the Constitution was formulated; matters that the Commission should discuss; the relationship between popular sovereignty and the “Emperor as symbol” system; and the pioneering character of the Constitution.

147th Diet, Ninth Meeting, May 11, 2000 (Ninth meeting since start of Commission)

- On “Matters relating to the Constitution of Japan (Details of the formulation and enactment of the Constitution),” a free discussion was held to conclude the Commission’s consideration of the details of the formulation and enactment of the Constitution of Japan.

In the free discussion among Commission members, the following were among the matters raised: whether GHQ did “impose” the Constitution during the course of its formulation; an assessment of the “imposed Constitution” argument; the validity of the Constitution; the intention of the Ashida amendment and issues such as its relationship with the constitutionality of the Self-Defense Forces; ways in which research should be conducted and points that should be researched; an assessment of the present Constitution; the reason why the Constitution was not revised; the merits and demerits of revising the Constitution; the form that national security should take; the form the governmental system should take; and the desirable form of local self-government.

- On “Matters relating to the Constitution of Japan (Major postwar judgments of unconstitutionality),” the opinions of the Director of the Administrative Affairs Bureau of the General Secretariat of the Supreme Court were heard, and he was then questioned.

Director of the Administrative Affairs Bureau of the General Secretariat of the Supreme Court

The Director of the Administrative Affairs Bureau of the General Secretariat of the Supreme Court gave the following explanation.

- (1) The judgment in the National Police Reserve constitutionality case (1952) indicated that the power of judicial review in Japan is incidental in nature.
- (2) From the mid-1940s to the mid-1970s, partly because the interpretation of the new Constitution and the new Code of Criminal Procedure was not yet established, there were a relatively large number of judgments of unconstitutionality in criminal cases, such as the finding that the determination of guilt by using only the record of a confession as evidence was unconstitutional (1950).
- (3) Thereafter, as the new Constitution permeated national life, there were very many constitutional challenges relating to the principle of equality and human rights provisions, such as the judgment of the unconstitutionality of Article 200 of the Penal Code providing for punishment for killing a linear ascendant (1973), of the regulations that limited the number of pharmacies in a given area (1975), and of the restrictions on the partition of forests (1987).
- (4) Further, during more or less the same period, not only were suits brought by individuals whose rights had been infringed, but constitutional questions affecting public institutions also began to be widely raised, such as the judgment of the unconstitutionality of the apportionment of Diet seats (1976), and of a prefecture’s disbursement from public funds to religious corporations which held ritual ceremonies (1997).

He was then questioned on matters such as the judicial precedents for the court’s not reaching decisions on constitutionality because of the “act of state” doctrine; the cause of the long duration of trials in Japan and the measures to improve the situation; the judicial review systems in other countries such as the United States and Germany, and how they actually operate; and the advisability of introducing a system of abstract judicial review.

148th Diet, First Meeting, July 5, 2000 (11th meeting since start of Commission)

- Internal election of chairman and directors.

149th Diet, First Meeting, August 3, 2000 (12th meeting since start of Commission)

- There was a free discussion among Commission members on “Matters relating to the Constitution of Japan (Future proceedings of the Research Commission on the Constitution).”

In the free discussion among Commission members, the following were among the matters raised: the necessity of look ahead to the 21st century; the importance of basing discussion on the three key principles prescribed by the Constitution; points that should be discussed; ways of improving the way the Commission operates; the need to research the discrepancy between the Constitution’s provisions and reality; the necessity of hearing the views of the people by such means as holding open hearings in various regions of Japan; and other points regarding whether the Constitution requires revision.

150th Diet, First Meeting, September 28, 2000 (13th meeting since start of Commission)

- Matters relating to requests for attendance by informants were decided upon after discussion.
- Brief explanation by Commission Chairman NAKAYAMA Taro on the findings of the House delegation dispatched to survey the constitutions of European nations.
- On “Matters relating to the Constitution of Japan (A vision for Japan in the 21st century),” the opinions of the following informants were heard, and they were then questioned.

TANAKA Akihiko, Informant (Professor, Graduate School of Interdisciplinary Information Studies, The University of Tokyo)

Professor TANAKA pointed out that in the 21st century world (1) as a result of the end of the Cold War, the prioritization of the resolution of global issues has become more vague, (2) the advance of globalization has accelerated the spread of global influences, (3) liberal democracy has been spreading, and (4) as the entities playing leading roles in the world have become more diverse, three kinds of area have been emerging: those with stable peace, those in the process of modernization, and those suffering from civil war and famine.

He stated his opinion that the role of the state is to ensure and maintain the security and interests of the people, and that for a major state like Japan to maintain its present prosperity, it is important (1) to welcome talented people from foreign nations

and build a new nation-state (a state composed of citizens with a shared sense of identity), and (2) contribute to the world in diverse fields.

He was then questioned on matters such as whether under the present Constitution it is possible for Japan to contribute personnel to international operations, whether the Constitution should include explicit stipulation of national goals, and the role that Japan should play in the world.

ODA Makoto, Informant (Author)

Mr. ODA stated the view that Japan should be a “conscientious objector state,” putting into practice the pacifism of the Constitution through the renunciation of war and armaments, and addressing the resolution of problems and disputes by nonmilitary means and methods.

Pointing to the German system of conscientious objection to military service, which has been accepted by society because objectors perform welfare and other civic services, he stated the opinion that Japan should not simply proclaim unarmed neutrality, but should contribute to the world by vigorously putting into practice “civic service activities” as a nation, including refugee relief, debt forgiveness for developing countries, nuclear disarmament, and dispute intermediation.

Mr. ODA was then questioned on matters such as the status of U.S. forces in Japan, the role of the Self-Defense Forces, and the method of realizing pacifism.

150th Diet, Second Meeting, October 12, 2000 (14th meeting since start of Commission)

- On “Matters relating to the Constitution of Japan (A vision for Japan in the 21st century),” the opinions of the following informants were heard, and they were then questioned.

SONO Ayako, Informant (Writer and Chairperson of the Nippon Foundation)

Ms. SONO stated the view that for the sake of the wellbeing of Japanese society in the 21st century, it is essential to establish self-reliance as a state by facing up to realities such as the world’s power-based relationships and the problem of poverty. In addition, she stated the opinion that it is important for Japanese people to arm themselves with the power of “virtue,” and to think deeply about the universal values of “love” (spiritual love) and “courage” (the motive force of “love”).

Ms. SONO was questioned on matters such as the significance of self-reliance in international economic relationships, the desirable form of human education, and the direction of education reform.

KONDO Motohiro, Informant (Professor, Graduate School of Social and Cultural Studies, Nihon University)

Professor KONDO stated his opinion that in response to the vicissitudes of Japanese society that followed wartime defeat--the period of reconstruction, the period of rapid economic growth, the period of stagnation, the period of the bubble economy, and the period after the bubble--Japanese people's assessment of themselves fluctuated between positive and negative, but this has been a search for a culture and identity of their own, and the manifestation of a desire for a spiritual foundation.

For Japan in the 21st century he also recommended that the Commission should look repeatedly to the past to draw lessons from it, and that both the tenor of public opinion and ideas have aspects that are immutable and those that are merely ephemeral, fashions, and we should look not only at the ephemeral, but also at those immutable elements. In addition, he stated his opinion that it would be desirable for Japan's constitution to be something that would regulate the system of the state in a concise manner.

He was then questioned on matters such as the reason why numerous theories attempting to explain the nature of Japan and the Japanese been put forward in the postwar era, the impact they have had on Japan, and also the relationship between the tenor of these and the state of the Japanese economy at the times they have appeared.

150th Diet, Third Meeting, October 26, 2000 (15th meeting since start of Commission)
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- On "Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)," the opinions of the following informant were heard, and he was then questioned.

ICHIMURA Shin'ichi, Informant (Director of the International Centre for the Study of East Asian Development [ICSEAD])

Dr. ICHIMURA stated his opinion that the following policies should be implemented in the 21st century.

(1) Since the world is moving towards the formation of a tripolar structure with North America, Western Europe, and East Asia as the poles, Japan's geopolitical choice should be to maintain its alliance with the United States, and while holding its own on friendly terms with Russia and China, to bring the nations of East Asia together to create an East Asian economic bloc. (2) Japan's birthrate is declining, and in tandem with that the morality of the people is deteriorating. To arrest the birthrate decline, the family and the community should be rehabilitated, and educational reform implemented in order to raise moral standards. (3) To enable Japan to deal with unforeseen situations such as the outbreak of conflicts, Japan's political, economic, and social institutions need to be enhanced, and to that end the Constitution should be

revised to become a clear statement of the fundamental structure of the state suited to Japan's history and traditions.

He was then questioned on matters such as the status of values such as the "family" in the Constitution, and the role in postwar reconstruction that was played by the Constitution, with its espousal of pacifism.

150th Diet, Fourth Meeting, November 9, 2000 (16th meeting since start of Commission)

- On "Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)," the opinions of the following informants were heard, and they were then questioned.

SASAKI Takeshi, Informant (Professor, University of Tokyo)

It was the position of Professor SASAKI that the system of bureaucratic control is the root of the structural problems afflicting Japan, and that to resolve them it is necessary to do away with the compartmentalization of the bureaucracy, enhance the strategic orientation of government, and reform bureaucratic control into political leadership. Based upon this fundamental perception, he stated the following opinions.

(1) Under the existing stringent conditions for proposing amendments to the Constitution there is no political risk involved in the constitutional debate, which lowers our ability to solve problems through politics. Therefore, it is worth considering easing the conditions for proposing amendments. (2) The status of political parties should be defined in the Constitution. (3) It is essential to review the principle of discontinuous Diet sessions, and to reconsider the provisions relating to the Diet, including the arrangement of the roles of the upper and lower houses. (4) It is necessary to correct the mutually dependent relationship between the center and the regions. (5) Before abandoning the parliamentary system and considering arguments for the direct election of the prime minister by popular vote and a system of national referendums, we should first try to rehabilitate the system.

He was then questioned on matters such as the difficulty of a change from bureaucratic control to political leadership and the specific methods of achieving it, and the advantages and disadvantages of a system of direct election of the prime minister by popular vote.

KOBAYASHI Takeshi, Informant (LL.D., Professor, Nanzan University)

Professor KOBAYASHI stated his opinion that postwar politics has diverged from the Constitution, the reasons for which are that postwar governments and ruling parties have had a consistently unfavorable attitude towards the Constitution, and the Supreme Court has shown excessive leniency toward the political sector.

He also expressed the view that 21st century Japan should put faithfully into practice the norms of the Peace Constitution, lobby for nuclear disarmament and arms reduction, and endeavor to bring about the resolution of poverty and structural violence, thereby fulfilling Japan's role in the building of world peace.

Questions were then posed to him on matters such as what the exercise of the right of self-defense without arms would entail, and what the reasons were for the high regard with which Article 9 is held around the world.

150th Diet, Fifth Meeting, November 30, 2000 (17th meeting since start of Commission)

○ On "Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)," the opinions of the following informants were heard, and they were then questioned.

ISHIHARA Shintaro, Informant (Governor of Tokyo)

Governor ISHIHARA stated his opinion that to express opinions concerning the Constitution unreservedly and to revise the Constitution are essential for the nation's prosperity. Among the points he made were that (1) since the present Constitution has come to be known as the "Peace Constitution," many people have fallen under the illusion that the ideal of peace is a reality, (2) we should look back at the process through which the Constitution was formulated, and have an accurate understanding of who played the central role in making the Constitution, (3) a nation that does not have the power of self-determination based on its own individual character cannot be called a nation, and (4) the United States made the present Constitution in order to restrain Japan's strength; it contains almost no reflection of the will and the autonomy of the Japanese people.

He also stated the view that the National Diet, as the body that represents the people, should pass a resolution to "negate" the Constitution on the grounds that it lacks historical legitimacy, and on that basis it should commence the work of making a new constitution.

Questions were then posed to Governor ISHIHARA on matters such as his own view of what the Constitution should be, the desirable form of Japan's security policy, and the form that decentralization should take.

SAKURAI Yoshiko, Informant (journalist)

Ms. SAKURAI expressed the view that from the Manchurian Incident to the HIV-contaminated blood products scandal, the lack or distortion of information has caused Japan to make mistakes, and therefore a thorough commitment to the public disclosure of information should be written explicitly into the Constitution. She also stated her opinion that the present Constitution was formulated amid a climate in which a strict censorship system prevented the public from being provided with

adequate information, with the result that they could not debate it. She desires that in future information of all kinds is shared with the people, and that discussion on the Constitution, including security issues, be conducted through a transparent, clear, and fair process.

She was also of the opinion that in the international community in the 21st century, Japan should display leadership by taking the initiative in seeking the resolution of environmental problems.

She was then questioned on matters such as the problems affecting the right of collective self-defense, Japan's foreign policy stance, and the issue of extending local voting rights to foreigners who are permanent residents.

150th Diet, Sixth Meeting, December 7, 2000 (18th meeting since start of Commission)
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○ On “Matters relating to the Constitution of Japan (A vision for Japan in the 21st century),” the opinions of the following informants were heard, and they were then questioned.

MATSUMOTO Ken'ichi, Informant (Commentator and Professor, Reitaku University)

Professor MATSUMOTO expressed the opinions below premised upon the following understanding: that Japan experienced a “first opening” in the late Edo and early Meiji periods (i.e., the mid-19th century) and a “second opening” after World War II, and these are now being followed by a “third opening” in the wake of the Cold War; and that amid the progressive global fusion of cultures, if Japan does not rebuild and protect its own cultural identity, it will descend into oblivion in world history.

(1) In order to rebuild a cultural identity and to achieve the “third opening,” with the aid of the people we should enact a “People's Constitution” designed to protect the people. (2) The “People's Constitution” should make explicit provision for the maintenance of an army of self-defense, and should introduce systems for national referendums and direct popular election of the prime minister. (3) Some people argue that if the Emperor is regarded as the head of state, a system of popular election of the prime minister would be contrary to the Emperor system, but since historically the Emperor has functioned as a protector of culture separated from power, the introduction of a system of popular election of the prime minister would not be inconsistent with the Emperor system.

He was then questioned on matters such as the advantages and disadvantages of a system of popular election of the prime minister, the relationship between a system of popular election of the prime minister and the Emperor system, and the reaction among other Asian countries if the Constitution were to make express provision for possessing an army of self-defense.

WATANABE Shoichi, Informant (Professor, Sophia University)

Professor WATANABE expressed the opinion that (1) Democratization was making progress in prewar Japan, but democracy stagnated under the weight of policies that were national socialist in character and attached little importance to a system of private property, and this led to war. (2) Postwar Japan achieved miraculous reconstruction and became a major economic power, but because the bureaucracy has placed little importance on private ownership, and socialistic policies have created a climate of financial rigidity, the Japanese economy has broken down amid the rapid change that has occurred since the collapse of the Cold War structure.

He also stated the view that to ensure a bright future, Japan must break free of the mind control exercised by “Marxist” ideas, give importance to private ownership, and reform its tax system, in which it is essential to totally abolish inheritance tax, and also to make a provision in the Constitution that sets a ceiling of 10% on income tax.

He was then questioned on matters such as the balance between regulation and protection on the one hand, and free competition on the other, the defects of the Meiji Constitution in that it was unable to halt the slide into militarism, and the relationship between the tax system and the Constitution.

150th Diet, Seventh Meeting, December 21, 2000 (19th meeting since start of Commission)

- On “Matters relating to the Constitution of Japan (A vision for Japan in the 21st century),” the opinions of the following informant were heard, and he was then questioned.

MURAKAMI Yoichiro, Informant (Professor, College of Liberal Arts, International Christian University)

Professor MURAKAMI stated his opinion that in contradistinction to science in its original form as the true home of intellectual curiosity on the part of researchers, the postwar period has seen the emergence of a new type of science whose purpose is to accomplish missions set for it by the nation and society.

In his opinion, in Japan in the 21st century, (1) in education the division between the humanities and the sciences should be removed, (2) a genuine information society should be created, (3) the inviolability of human dignity should be a national ideal, and (4) scientific research for the pleasure of seeking knowledge should be respected.

He was then questioned on matters such as the negative aspects of scientific and technological progress and his thoughts on how to address them, and how to promote comprehensive education that transcends the humanities/sciences framework.

- Matters relating to requests for attendance by informants were decided upon after discussion.
- On “Matters relating to the Constitution of Japan (A vision for Japan in the 21st century),” the opinions of the following informants were heard, and they were then questioned.

NISHIZAWA Junichi, Informant (President, Iwate Prefectural University)

Dr. NISHIZAWA set out the view that in order to eliminate the proliferation of egoism, which is concerned only with self-interest, the Preamble to the Constitution should state clearly that each of the people has the responsibility to work for the betterment of society in order to improve his or her own lot, and also for the betterment not only of Japan but also of other nations. In his opinion, by such means as the reform of the education system and use of the capabilities of elderly people, Japan should aim to improve the qualities of the people and become a nation that earns the respect of other countries.

He also expressed the following opinions. (1) In the 21st century the decisive contests between nations will be wars in the realm of science and technology, and thus there is a need for a compassionate approach to research and development that unites science and humanism. (2) In order to ensure the discovery of important research of a kind that does not attract much notice, such as the research of Nobel Prizewinner Dr. SHIRAKAWA Hideki, it will be important to establish a retrospective system of evaluation, and through that to discover astute judges with the ability to properly discern the value of research in advance.

He was then questioned on matters such as current problems in the education system, and methods of promoting the development of science and technology.

TAKAHASHI Susumu, Informant (Professor, University of Tokyo)

With respect to the impact on the nation-state of globalization, Professor TAKAHASHI expressed the following opinions, using certain Western European countries as examples.

(1) The role of the nation-state will be transformed, becoming coordinative and procedural in nature. (2) As globalization advances, there are moves to achieve regional integration based on the strengthening of economic and other relationships, in order to bring about the formation of regions, and this requires “multilevel governance”—governance by a diversity of entities. (3) It is essential to deal with globalization by monitoring closely the direction in which the nation-state moves.

He was then questioned on matters such as the formation of regions in East Asia and the possibility of multilevel governance, the desirable way of addressing globalization, and future trends in the European Union and East Asia.

151st Diet, Second Meeting, February 22, 2001 (21st meeting since start of Commission)
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- Matters relating to a motion for approval of the dispatch of members to attend a regional hearing were discussed, and a decision taken.
- On “Matters relating to the Constitution of Japan (A vision for Japan in the 21st century),” the opinions of the following informants were heard, and they were then questioned.

HAYASHIZAKI Yoshihide, Informant (Project Director, Genome Exploration Research Group, Genomic Sciences Center, Institute of Physical and Chemical Research [RIKEN])

Dr. HAYASHIZAKI explained that the life sciences are currently entering a new era in which the advance of life sciences is bringing about substantial change, both in the realm of scholarship and the industrial realm, and from the perspective of a researcher in the genomic sciences expressed the following opinions. (1) Investment in the life sciences is the right choice for the nation, as the elucidation of the gene network will undoubtedly enhance the welfare of the Japanese people. (2) At the same time, however, from the standpoint of bioethics we must pay close attention and thought to the manner in which the results are utilized. (3) In addition, the time has come to examine closely the nature of the science that will be needed after the explanation of the genome has been completed, and the nature of the administration and industries that will be needed to put that science into effect.

He was then questioned on matters such as the conflict between pursuing research on the human genome and human dignity, the desirable form that the structure of genomic research should take in the future, and the public disclosure of the results of genomic research.

OGAWA Naohiro, Informant (Professor, College of Economics, Nihon University; Deputy Director, Nihon University Population Research Institute [NUPRI])

Professor OGAWA stated the opinion that one of the reasons for the current decline in the birthrate is the economic insecurity caused by the bursting of the economic bubble and subsequent restructuring. Therefore, within the next five-year period—when the number of women of childbearing age will reach its peak—policies should be formulated to stabilize the economy and create an environment that facilitates childbearing.

He also expressed the view that since the aging of society and population decline in Japan is proceeding at a pace unprecedented worldwide, it is incumbent upon politicians to show leadership in taking measures to counter the decline in the

birthrate and the aging of society, given the variety of problems that give cause for anxiety, such as the deterioration of government finances and the shortage of manpower to provide nursing care.

He was then questioned on matters such as the causes of the decline in the birthrate and effective countermeasures, the need to study the acceptance of foreign workers, and the growth in the world's population and the impact that will have.

151st Diet, Third Meeting, March 8, 2001 (22nd meeting since start of Commission)

○ On “Matters relating to the Constitution of Japan (A vision for Japan in the 21st century),” the opinions of the following informant were heard, and he was then questioned.

SON Masayoshi, Informant (President and Chief Executive Officer, Softbank Corporation)

Mr. SON expressed the view that in the 21st century Japan should formulate a constitution predicated on the IT revolution and on globalization, and that in doing so the following points should be taken into consideration.

(1) The Constitution should provide expressly for the right of Internet access and the protection of privacy, and should establish Internet security. (2) An electronic voting system should be introduced, and a system for the direct popular election of national leaders created. (3) Voting should effectively be made compulsory, and voting rights should be granted to all citizens aged 18 years and over. (4) With an exception in the case of self-defense, the settlement of disputes should be entrusted to collective security in such forms as participation in United Nations forces in which other countries also take part. (5) Japan should contribute to the international community. (6) Education should be reformed to meet the demands of the age of the Internet. (7) To secure human resources, Japan should accept immigrants. (8) The Constitution should make express provision for the prohibition of monopolistic corporate practices.

Mr. SON was then questioned on matters such as the role of the government and private sector in furthering the IT revolution, what kind of welfare policies are appropriate for an IT society, and methods to ensure that the IT revolution leads to the creation of employment.

151st Diet, Fourth Meeting, March 22, 2001 (23rd meeting since start of Commission)

○ On “Matters relating to the Constitution of Japan (A vision for Japan in the 21st century),” the opinions of the following informants were heard, and they were then questioned.

SAKAMOTO Takao, Informant (Professor, Faculty of Law, Gakushuin University)

Professor SAKAMOTO expressed the following opinions from the standpoint of the question “What is a state?” (1) In a world undergoing globalization, a state remains important as an entity to protect people, who are unable to move freely in the same way as goods and money. (2) The individual possesses a number of identities that correspond with the multiple layers of society, such as the family, the local community, and the state, and is only a “citizen” to the extent that that identity relates to the state. (3) It is important to recognize that a real state is composed of people who are the bearers of a culture nurtured in the geographical and historical environment of a specific region (i.e., an ethnic group).

Based on these points, Professor SAKAMOTO recommended that in order to address issues facing it in the 21st century, such as the threats from China and North Korea and the acceptance of immigrants, Japan must form a “state” in the sense that the term is used in external relations.

He was then questioned on matters such as the necessity of discussing the “state” in an era of globalization, the problem of the diminishing national awareness of Japanese people, and the necessity of having a common understanding of history with other peoples of Asia.

KANG Sanjung, Informant (Professor, Institute of Socio-Information and Communication Studies, University of Tokyo)

Professor KANG stated his opinion that with the progress of trends such as globalization and decentralization, the centralized power of the state is diminishing, and as we enter an era in which there is a shift from politics that shares the available “pluses” among the Japanese people to a politics that imposes “minuses” on them, there is a need to clarify a vision for Japan in the 21st century. From this understanding he expressed the following views.

Japan should (1) establish a partnership (a Northeast Asian “common house”) with neighboring countries such as South and North Korea, while maintaining its relationship with the United States as pivotal, (2) take decisive action to implement structural reform aimed at internationalizing the yen and transforming itself into a major importing country, and (3) create an integrated multiethnic, multicultural society.

He was then questioned on matters such as the possibility of realizing the creation of a “common house” in Northeast Asia, the propriety of granting permanent foreign residents the right to vote in local elections, and the necessity for education that will deepen mutual understanding of perceptions of history in Japan and other Asian countries.

151st Diet, Fifth Meeting, April 26, 2001 (24th meeting since start of Commission)

- A report on the open hearing in Sendai was delivered.
- Matters relating to a motion for approval of the dispatch of members to attend the next open hearing were discussed, and a decision taken.

151st Diet, Sixth Meeting, May 17, 2001 (25th meeting since start of Commission)

- On “Matters relating to the Constitution of Japan (A vision for Japan in the 21st century),” the opinions of the following informants were heard, and they were then questioned.

KIMURA Yoko, Informant (Member of the Local Finance Council)

Professor KIMURA expressed the opinion that in a “super-aged society” the labor of elderly persons with the will to work should be utilized by abolishing age restrictions on job applicants.

She went on to state the following views premised on the advent of a “super-aged society.” (1) With respect to the question of the extent to which the state should become involved in the lives of individuals, it is essential to discuss whether the guarantee of a national minimum (a system of providing minimum benefits to individuals, irrespective of why the individual requires benefits) and universal medical insurance should be maintained. (2) Japan should revise schemes that undermine the will to work, including the system of preferential tax treatment for full-time housewives and the pension scheme for employed elderly people.

She also expressed the opinion that it is necessary to study such matters as policies to deal with the diversification of care-providing organizations, and how to shape local governments in a way suitable for the provision of services for home nursing care.

Professor KIMURA was then questioned on matters such as policies for preventing the “hollowing-out” of the pension system, determining the optimum scale of local governments, the meaning of “guarantee of a national minimum,” the relationship between the idea of self-responsibility in social security and the idea of livelihood rights referred to in Article 25 of the Constitution.

OHKUMA Yoshikazu, Informant (Professor, Graduate School of Law, Kyushu University)

Professor OHKUMA put forward the following opinions based on the premise that “local” citizens in the 21st century will play a central role in politics as the driving force of democracy. (1) Local autonomy constitutes an inalienable right of local governments and a fundamental institution that supports the foundations of democracy, and therefore no constitutional amendment can deny its existence. (2) Local autonomy

must be strengthened and our understanding of the principle of popular sovereignty must be revised to incorporate the meaning of direct democracy, and in addition we should positively reevaluate citizen participation, particularly in the form of general referendums. (3) The people responsible for operating the political process are expected by citizens at both the national and local level to have the ability to judge accurately what should be protected for the sake of national and local citizens—that is, great discernment and high ethical standards and integrity.

He was then questioned on matters such as the form that local referendums should take as part of local autonomy, the elucidation of “the principle of local autonomy, and the question of granting permanent foreign residents the right to vote in local elections.

151st Diet, Seventh Meeting, June 14, 2001 (26th meeting since start of Commission)

- A report on the open hearing in Kobe was delivered.
- There was a free discussion among Commission members on “Matters relating to the Constitution of Japan.”

In the free discussion among Commission members, the following were among the points made: with respect to the guarantee of fundamental human rights, the question of whether new human rights should be put in statutory form, and the establishment of institutions to provide assistance in the sphere of human rights; with respect to the desirable basic form of the country’s political structure, the review of the bicameral system, the introduction of direct popular election of the prime minister, and the establishment of a constitutional court; with respect to security and international cooperation, the constitutional status of the Self-Defense Forces, the propriety of exercising the right of collective self-defense, and participation in UN peacekeeping operations; with respect to local autonomy, the promotion of decentralization; and other matters that included the evaluation of the process through which the Constitution was formulated; the necessity for public participation in the constitutional debate; the need to protect Japan’s positive traditions; and the desirable form that the Preamble should take.

153rd Diet, First Meeting, October 11, 2001 (27th meeting since start of Commission)
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- Matters relating to requests for attendance by informants were decided upon after discussion.
- Chairman NAKAYAMA Taro presented a report outlining the findings of the House delegation dispatched to survey the constitutions of Russia, several other European nations, and Israel; the report was followed by a free discussion among delegation and Commission members.

In the free discussion, the following were among the points about which comment was made: institutional guarantees (constitutional courts, etc.) of human rights; the ceding

of national sovereignty to international institutions; the advance of decentralization; policies for the sciences, arts, and culture; the frequency of constitutional amendments and procedures for making them; the pioneering nature of the Constitution of Japan; the need to understand the culture and history that lies behind a country's constitution; and the necessity for adopting a global view when considering a constitution.

153rd Diet, Second Meeting, October 25, 2001 (28th meeting since start of Commission)

- Matters relating to a motion for approval of the dispatch of members to attend an open hearing were discussed, and a decision taken.
- On “Matters relating to the Constitution of Japan (A vision for Japan in the 21st century),” the opinions of the following informants were heard, and they were then questioned.

ONUMA Yasuaki, Informant (Professor, University of Tokyo)

Professor ONUMA stated the view that a constitution is the expression of the basic ideals of a state, and should thus be determined by each generation. Describing developments in the international community and Japan since World War II until the present day, with respect to the desirable form of Japan's constitution he set out “the case for constitutional revision from a protectionist standpoint.” The following is a summary of this standpoint: the Constitution played a very substantial role for Japan in the postwar period, but problems have now arisen, in particular (1) the fact that reality has diverged from the norms espoused in Article 9, with the result that the people are becoming increasingly cynical towards the Constitution, and (2) partiality by Japanese people towards their own country, manifested in one-nation pacifism; therefore, although the role the Constitution has played is highly laudable, it should be revised. He also stated the view that Article 9 has a dual significance, for Japan's self-defense and for the security of the international community, a demarcation should be explicitly recognized; from the standpoint of the latter, Japan should participate actively in collective security led by the United Nations.

He was then questioned on matters such as the relationship between the terrorist incidents in the United States and UN-centered collective security, and the attitude that Japan should adopt towards UN-centered collective security.

MORIMOTO Satoshi, Informant (Professor, Faculty of International Development, Takushoku University)

Professor MORIMOTO explained his view that since the Cold War the international community has endeavored to reconcile a unipolar structure centered on the United States, and multilateralism, and that it has been compelled to face the negative factors in globalization, such as regional conflicts, terrorism, and the proliferation of weapons of mass destruction. Premised on this perception, he expressed his opinion that (1) the

success or failure of U.S. military strategy for dealing with the terrorist attacks in the United States will determine the future direction of international order, (2) whatever the outcome, this will lead to the formation of a new international order in which the demarcation line is determined by whether or not nations share the same values as the United States, and (3) the outlook for the United Nations does not warrant optimism. In addition, with respect to Japan's security he voiced the opinion that (1) we should clarify the national interest and devise a clear national strategy, and then discuss the legal framework and other factors for realizing it, and (2) the Japan-U.S. alliance should be redefined and revised from the standpoint of strengthening it, after assessing threats and ascertaining changes in the international situation.

He was then questioned on matters such as the qualitative changes in the concept of security in recent years, the desirable form of Japan's international contributions, and the strengthening of the functions of the United Nations.

153rd Diet, Third Meeting, November 8, 2001 (29th meeting since start of Commission)
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- On "Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)," the opinions of the following informants were heard, and they were then questioned.

HASEBE Yasuo, Informant (Professor, Faculty of Law, University of Tokyo)

Prefacing his remarks with the statement that he held a negative view of the introduction of a system of popular election of the prime minister, which would cause the loss of some of the functions of political parties, Professor HASEBE expressed the opinion that various astute measures need to be employed in order to take best advantage of the virtues of a bicameral system.

He voiced the criticism that parliamentary democracy has changed from its classical image, in which the public good is realized through open deliberation in a parliament on the diverse opinions that exist in a society, as the rise of organized mass parties has reduced deliberations to a mere shell. In his view this has led to the emergence of advocates of "deliberative democracy," which makes it possible to realize the public good objectively through democratic debate and the taking of majority decisions.

He was then questioned on matters such as the problem of the combination of a system of popular election of the prime minister and the Emperor system, and methods to eliminate the closed nature of politics and the reform of the House of Councillors, both of which lie behind the argument in favor of a system of popular election of the prime minister.

MORITA Akira, Informant (Professor, Graduate School of Law and Politics, University of Tokyo)

Professor MORITA explained that the Diet and the Cabinet, whose basis lies in elections, should be understood as forming a unified whole, the “political sector,” and it is important for this to seek a balanced relationship with the “executive sector,” which in the narrow sense comprises the professional administrators of the executive branch of government. Based on this understanding, he set out the following views on points at issue regarding the cabinet system. (1) The political sector should, as a unified whole, direct and oversee the executive sector. (2) Since only the prime minister is appointed by the Diet, the prime minister’s leadership should be accorded strong recognition, and study should be given to the relationships within the Cabinet between the prime minister and other ministers, and to the appropriateness of Article 6 of the Cabinet Law, which stipulates that the prime minister shall exercise control and supervision over Cabinet ministers in accordance with policies decided upon by the Cabinet. (3) Cabinet ministers have a dual character of being “ministers of state” as members of the political sector, and at the same time “ministers in charge” in charge of matters allocated to their jurisdiction; the former of these should be given emphasis, so as to enhance the Cabinet’s functioning as a unified body. Professor MORITA also expressed the view that in order to bring about the creation of a system of government administration under political leadership formed by the unity of the Diet and the Cabinet, it would be undesirable to have a system of popular election of the prime minister, since that would place the basis of the prime minister’s legitimacy outside the Diet.

He was then questioned on matters such as his assessment of the recent reform of the central ministries and agencies, the suitability of Article 6 of the Cabinet Law in relation to the prime minister’s right of control and supervision, and problems relating to a system of popular election of the prime minister.

153rd Diet, Fourth Meeting, November 29, 2001 (30th meeting since start of Commission)
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- A report on the open hearing in Nagoya was delivered.
- On “Matters relating to the Constitution of Japan (A vision for Japan in the 21st century),” the opinions of the following informants were heard, and they were then questioned.

MUSHAKOJI Kinhide, Informant (Director of Chubu Institute for Advanced Studies, Chubu University)

Professor MUSHAKOJI made the points that the framework of the guarantee of human rights in Japan encompasses only the average Japanese person, and the United Nations had expressed concern that it pays scant regard to resident foreigners in Japan, ethnic minorities, and others. Further, as a result of the need to coalesce the

Japanese people in order to resist external pressures, since the Meiji period Japan has pursued a self-centered policy in which “respect for harmony” has applied only among Japanese people themselves. With the advance of globalization today, however, it is essential also to think of that “harmony” with the numerous non-Japanese people living in Japan. Therefore, Japan should breathe life into the right of peaceful existence espoused in the Preamble to the Constitution, which recognizes that “all peoples of the world have the right to live in peace, free from fear and want,” by establishing common “human security” that also pays due regard to the safety of minorities.

He was then questioned on matters such as the relationship between “human security” and “national security,” traditional discrimination against ethnic minorities in Japan, and the necessity for separate legislation to eradicate each type of discrimination.

HATAJIRI Tsuyoshi, Informant (Professor of Department of Economics, Josai University)

Professor HATAJIRI first explained that in view of the perception that the Supreme Court’s exercise of the right of judiciary review is in a state of “blockage,” (1) some are of the opinion that to eliminate this situation and facilitate rapid and appropriate judgments on constitutional matters, a constitutional court system must be introduced, while (2) others take a contrary view prompted by a number of concerns, for example that swift judgments affirming constitutionality may strengthen the function of the courts in upholding the status quo.

He said he believed it to be necessary to design a system which most closely conforms to arguments of both sides. He then expressed the opinion that to that end, through legislative rather than constitutional amendment a “Constitutional Department” of the Supreme Court should be established to deal exclusively with constitutional matters, its members being constitutional judges appointed through a neutral and transparent process; this should be coupled with the establishment of a system for the conduct of deliberations on the constitutionality of laws through procedures based on specific standards and control procedures.

Professor HATAJIRI was then questioned on matters such as the pros and cons of the introduction of the system he advocated, and the procedure of the appointment of judges if the “Constitutional Department of the Supreme Court” were established.

153rd Diet, Fifth Meeting, December 6, 2001 (31st meeting since start of Commission)
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○ There was a free discussion among Commission members on “Matters relating to the Constitution of Japan (A vision for Japan in the 21st century).”

In the free discussion among Commission members, the following were among the points made: with respect to the guarantee of fundamental human rights, the relationship between progress in the life sciences and academic freedom, the desirable

form of Japan's guarantees of human rights by comparison with global standards, the pros and cons of making express mention in the Constitution of new rights such as environmental rights, the scope of human rights for foreigners, and the need for provisions relating to the family; with respect to the desirable structure of politics, the introduction of a system of popular election of the prime minister; with respect to security and international cooperation, the way of interpreting Article 9 in relation to the right of self-defense, the necessity for the resolution of international disputes through nonmilitary contributions, and the desirable form of international cooperation from the standpoint of human security; with respect to local autonomy, the need for ongoing decentralization for the sake of furthering democracy; and other matters that included the method of appointing judges, the necessity for constitutional revision to keep in step with changes in the times, and the way in which the Commission's discussions should proceed.

154th Diet, First Meeting, February 7, 2002 (32nd meeting since start of Commission)

- It was decided, after discussion, to establish the Subcommittee on Guarantee of Fundamental Human Rights, the Subcommittee on Fundamental and Organizational Role of Politics, the Subcommittee on Japan's Role in International Society, and the Subcommittee on Local Autonomy.
- Matters relating to requests for attendance by informants at subcommittee meetings were decided upon after discussion.

154th Diet, Second Meeting, March 19, 2002 (33rd meeting since start of Commission)

- Matters relating to a motion for approval of the dispatch of members to attend the next open hearing were discussed, and a decision taken.

154th Diet, Third Meeting, April 25, 2002 (34th meeting since start of Commission)

- A report on the open hearing in Okinawa was delivered.
- There was a free discussion among Commission members on "Matters relating to the Constitution of Japan," on the subject of "Japan's security."

In the free discussion among Commission members, the following were among the points made: the desirable way of establishing security; an evaluation of pacifism and way it has been put into practice; policies for giving concrete form to the spirit of the Peace Constitution; the furtherance of active international cooperation; the inclusion of express provision for the Self-Defense Forces, the right of belligerency, and responses to emergencies; the rights and wrongs of the exercise of the right of collective self-defense; the contradictions between the Constitution and agreements such as the Japan-U.S. Security Treaty; and an assessment of the three emergency response bills;

and other points included the advisability of making the Commission a permanent body, and the making of express provision for the right of diplomatic protection.

154th Diet, Fourth Meeting, May 16, 2002 (35th meeting since start of Commission)

- Matters relating to a motion for approval of the dispatch of members to attend the next open hearing were discussed, and a decision taken.

154th Diet, Fifth Meeting, July 25, 2002 (36th meeting since start of Commission)

- A report on the open hearing in Sapporo was delivered.
- The chairpersons of subcommittees reported on the progress and summarized the findings of their subcommittees.
- There was a free discussion among Commission members on “Matters relating to the Constitution of Japan.”

In the free discussion among Commission members, the following were among the points made: with respect to the guarantee of fundamental human rights, the question of whether the duty to protect the nation and new human rights should be put in statutory form, the desirable form of refugee policy, education problems, and the relationship between progress in science and technology and academic freedom; with respect to the desirable basic form of the country’s political structure, the political system needed to ensure the leadership of the prime minister, and the desirable forms of the bicameral system and election system; with respect to security and international cooperation, the desirable form of international cooperation, the relationship between international cooperation and the Constitution, the relationship between the emergency response bills and Article 9, and the necessity for putting the ideals of Article 9 into practice; with respect to local autonomy, matters requiring consideration when promoting decentralization, and the significance of the provisions of Chapter 8; and other points that included the desirable manner of conducting the constitutional debate, respect for the opinions of speakers at open hearings, the way of proceeding with the work of the Commission, and the easing of the strict conditions placed on the amendment process.

155th Diet, First Meeting, October 24, 2002 (37th meeting since start of Commission)

- Approval of the resignation of directors and the appointment of substitute directors.

Section 2 Research by Subcommittees

1. Subcommittee on Guarantee of Fundamental Human Rights

154th Diet, First Meeting, February 14, 2002
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- On “Matters concerning the guarantee of fundamental human rights,” the opinions of the following informant were heard, he was then questioned, and a free discussion followed.

MUNESUE Toshiyuki, Informant (Professor, Faculty of Law, Seijo University)

With respect to the characteristics and limits of the present Constitution, Professor MUNESUE expressed the following opinions. (1) The Constitution combines the ideals of classical Western liberalism with provisions on social rights characteristic of the 20th century, but does not succeed in integrating the two systematically. (2) With regard to economic freedoms, judicial precedent and scholarly opinions have tolerated active government regulation, with the result that the original ideal of liberalism has not been realized. (3) Spiritual freedom has not been regarded as a civil right, and the correlation with democracy has been weak. (4) The guarantee of human rights is an introverted one between state and people only, lacking an international dimension. (5) The guarantee of human rights in relationships between private persons is inadequate.

As issues to address in respect of the present Constitution, in his view these include the necessity for “freedoms provided by the state,” or “positive freedoms” in which the state actively guarantees freedoms; the necessity for a compound human-rights ideal that transcends the conventional categories of human rights; the necessity for linkage between international and domestic guarantees of human rights; and the necessity for the Constitution to guarantee the three-sided relationship between the State, civil society, and the individual.

He was then questioned on matters such as the relationship between the freedom of the press and privacy, the reasons why the ideals of the Constitution have not been widely accepted, and the relationship between the International Covenants on Human Rights and the Constitution.

In the course of the free discussion based on the interpellation of the informant, the following were among the points about which comment was made: the ideal form of the family and the individual, the rights and wrongs of making explicit provision in the Constitution for the guarantee of new human rights and the human rights of foreigners, and the necessity for making express provision for environmental rights.

154th Diet, Second Meeting, March 14, 2002

- On “Matters concerning the guarantee of fundamental human rights,” the opinions of the following informant were heard, he was then questioned, and a free discussion followed.

ANNEN Junji, Informant (Professor, Seikei University)

Professor ANNEN stated the opinion that both judicial precedent and scholarly opinion held that “foreign nationals enjoy rights under the Constitution, but they are granted only within the scope of the system for the sojourn of foreign nationals,” however, because foreign nationals do not have the right to enter the country or to stay, it is logical to conclude that they do not possess rights under the Constitution. He was further of the opinion that (1) it is possible to treat foreign nationals equally with Japanese citizens under the law, and (2) since nationality is determined according to the law, even the status of Japanese people is vague in the Constitution, so for this reason foreign nationals should be recognized as having the same rights as Japanese people to the greatest extent possible.

He also stated the view that even if the Constitution were amended to make express provision for the status of foreign nationals, any such provision would inevitably be abstract, and its substance would be determined by a judge. However, if the status were determined by legislation, that determination would be made by the Diet. Therefore, he stated his opposition to a constitutional amendment to provide for the status of foreign nationals on the grounds that it would be preferable to entrust such a determination to the elected representatives in the Diet, rather than to judges who have qualified for the bench by passing examinations.

He was then questioned on matters such as the desirable way of guaranteeing the rights of foreign nationals, the rights and wrongs of extending the franchise to foreign permanent residents, the form of the system for accepting refugees, and the criteria for determining nationality.

In the course of the free discussion based on the interpellation of the informant, the following were among the points about which comment was made: the correction of the government’s exclusionist stance towards North and South Koreans and others residing in Japan, the necessity for studying the question of the inadequacy of postwar reparations, and the recognition of dual citizenship.

154th Diet, Third Meeting, April 11, 2002

- On “Matters concerning the guarantee of fundamental human rights,” the opinions of the following informant were heard, he was then questioned, and a free discussion followed.

SAKAMOTO Masanari, Informant (Dean of the Faculty of Law, Hiroshima University)

Professor SAKAMOTO first explained that (1) modern constitutionalism retains the sharp distinction between public law, which governs the public sphere, and private law, which governs the private sphere, and therefore the resolution of issues in the private sphere should be dealt with by private law, and (2) civil liberties in the public sphere, meaning the right to complain of governmental nonfeasance or to claim relief against nuisance from the state, should be regarded as forming the nucleus of human rights. Premised on this perception, he expressed the view that the benefit and protection of the law in such forms as the right to privacy and the right of self-determination, which are known generally as “new human rights,” can be protected by dealing with them legally based on private rights or private law, and therefore there is little need to claim that they are “fundamental human rights.”

He indicated points to be borne in mind if “new human rights” are codified in a constitution, including the following. (1) If the state intervenes and seeks constitutional solutions for issues that could be left to private autonomy, that may give rise to ills such as “human rights inflation,” excessive government, and the statalization of society. (2) For that reason, the benefit and protection of the law should be sought by means of private rights or the workings of private law, and if there are cases in which that kind of legal handling is not possible, the first priority should be to resolve them by enacting laws. (3) For a “new human right” to be recognized as a constitutional right, a number of conditions must be satisfied, including that the right has a high degree of precedence, its denotation and connotations are clear, and it does not improperly restrict the constitutional freedoms of other parties.

He was then questioned on matters such as the intrinsic nature of rights, what he considered to be the nature of “new human rights,” the rights and wrongs of prescribing new duties in the Constitution, and the necessity for making specific legal provision for environmental rights.

In the course of the free discussion based on the interpellation of the informant, the following were among the points about which comment was made: the question of having a system allowing married couples to use separate surnames, and the need to perfect “new human rights” through interpretation rather than through express mention in the Constitution.

154th Diet, Fourth Meeting, May 23, 2002
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- On “Matters concerning the guarantee of fundamental human rights,” the opinions of the following informant were heard, he was then questioned, and a free discussion followed.

ITO Tetsuo, Informant (Director, Japan Policy Institute)

Mr. ITO criticized the generally held view that fundamental human rights are rights that all individuals are born with as a matter of course, constituting natural rights that precede the state, and that the Constitution of Japan is also premised on this. He stated the view that “rights” should be understood as being generated gradually in the context of a community’s history, culture, and traditions, in the background to which there exists that community’s own unique “spirit of the law,” and in view of this we must move away from the “natural rights” argument. In his opinion, rights can only be guaranteed if a peaceful and orderly state exists, and therefore in interpreting “public welfare” it is essential that well-defined status is given to state and public benefit, and morality.

He also expressed his opinion that a fundamental principle of democracy is that the people protect their own country themselves, and therefore the Constitution should include express provision for the “duty to defend the country,” while for the protection of the family there should also be express provision concerning “respect for the family.”

He was then questioned on matters such as the state of abuse of human rights, the essence of the culture that provides a backdrop for the Japanese community, the importance of the duty to defend the nation, the meaning of constitutional government, and the necessity for stipulating obligations in the Constitution.

In the course of the free discussion based on the interpellation of the informant, the following were among the points about which comment was made: the necessity for the inclusion of obligations concerning environmental preservation, concern that anonymous protest activity will harm freedom of expression, the need for measures to eradicate discrimination against minorities, and questions about the constitutionality of the Bill to Respond to Armed Attacks.

154th Diet, Fifth Meeting, July 4, 2002

- On “Matters concerning the guarantee of fundamental human rights,” the opinions of the following informant were heard, he was then questioned, and a free discussion followed.

KUSANO Tadayoshi, Informant (General Secretary, RENGO [Japanese Trade Union Confederation])

Mr. KUSANO expressed the view that it is problematic that although Article 28 of the Constitution guarantees the right to organize, to bargain collectively, and to strike, public employees are legally prohibited from striking, and the government’s stance of not addressing this is drawing international criticism.

He further stated the view that Article 27, Paragraph 1, of the Constitution can be interpreted as obligating the government to (1) create a structure that enables the

people to have full employment, (2) provide job opportunities for the unemployed, and (3) pay a living allowance to the unemployed, and therefore the government should implement employment measures accordingly.

He stated opinions as to the necessity for legislation to prevent abuses such as gender inequality, *karoshi* (sudden death from overwork), sexual harassment, and other workplace issues. He stated his belief as to the necessity to study such matters as new forms of the right to work, such as gender equality and the development of professional skills, and called upon the Commission to give full consideration to the right to work and social rights.

He was then questioned on matters such as the rights and wrongs of giving public employees the right to strike, the desirable way of reforming the public-servant system, the method of introducing work sharing, and the necessity for new legislation for the protection of workers.

In the course of the free discussion based on the interpellation of the informant, the following were among the points about which comment was made: the necessity for realizing the Constitution's guarantee of the right to work and fundamental labor rights, the necessity for studying desirable ways of guaranteeing the human rights of resident foreign nationals, and the rights and wrongs of amending the Constitution.

2. Subcommittee on Fundamental and Organizational Role of Politics

154th Diet, First Meeting, February 14, 2002

- On “Matters concerning the fundamental and organizational role of politics,” the opinions of the following informant were heard, he was then questioned, and a free discussion followed.

TAKAHASHI Kazuyuki, Informant (Professor, Faculty of Law, University of Tokyo)

Professor TAKAHASHI stated the following opinion. In the making and conduct of policy in an “active state” like present-day Japan, political leadership is required within a schema in which the Cabinet governs, and that process is controlled by the Diet. To carry that out, it would be valuable to introduce a “national cabinet system” (a form of operation of the parliamentary cabinet system by direct democracy) that would effectively be chosen directly by the people through elections, and would comprise the policy program and the prime minister, who is the main agent of implementing the program as a unified package.

He pointed out that in introducing this system it would be necessary to study (1) the desirable form of an election system that would make clear the will of the majority, (2) the role of political parties in devising policy programs that receive majority support, and (3) the mental attitude of the people who would be required to express their will clearly through elections and other means with the intention of forming a majority.

He also expressed the view that a constitutional amendment would not be necessary for introducing a national cabinet system, though “constitutional conventions,” for example requiring the House of Councillors to practice self-restraint in the exercise of its powers, should be established.

He was then questioned on matters such as the compatibility of the changes in the role of the Diet and ruling party upon the introduction of a national cabinet system on the one hand, and the separation of powers on the other, and the points of difference with the popular election of the prime minister.

In the course of the free discussion based on the interpellation of the informant, the following were among the points about which comment was made: the importance of considering the ideal form of a mechanism of government that can reflect the will of the people, and points to be borne in mind when proceeding with the discussion of the Constitution.

154th Diet, Second Meeting, March 14, 2002

- On “Matters concerning the fundamental and organizational role of politics,” the opinions of the following informant were heard, he was then questioned, and a free discussion followed.

YAMAGUCHI Jiro, Informant (Professor, Graduate School of Law, Hokkaido University)

Professor YAMAGUCHI pointed out some of the problems inherent in the operation of Japan's parliamentary cabinet system, namely (1) the unrestrained dominance of the governing parties and the frequent changes of leader, (2) the weakening of the Cabinet accompanying the excessively large growth of the bureaucracy, and (3) the lack of transparency in the relationship between the Cabinet and the ruling parties. In his view Japan should try to emulate the parliamentary cabinet system in Britain by (1) integrating the Cabinet and the ruling party or parties, (2) realizing policy through participation in the administration by the ruling party, and (3) establishing a relationship in which politicians direct the bureaucracy. In doing so it would be essential to create new "constitutional conventions," etc., and to consider the desirable form of government administration from the viewpoint of popular sovereignty.

He put forward the following proposals for reform with respect to institutions, and then practices. Institutions: (1) supersede the principle of allocating charge of administrative affairs to ministers of state in the Cabinet, (2) integrate the policy-making process, and (3) strengthen the Diet's function as a check on the executive branch. Practices: (1) have elections in which a political party, leader, and policies can be chosen as a single package, (2) conjoin the ruling parties' decision-making bodies with the Cabinet, (3) operate the ruling parties in such a way that Diet members who belong to those parties shape policy through membership of the Cabinet, and (4) make the ruling parties' selection of their leaders transparent and open.

He was then questioned on matters such as the desirable form of the relationship between politicians and the bureaucracy under political leadership, and the role of the Diet in a British-style parliamentary cabinet system.

In the course of the free discussion based on the interpellation of the informant, the following were among the points about which comment was made: the desirable form of the mechanism of government, and the desirable form that a prime minister's leadership should take.

154th Diet, Third Meeting, April 11, 2002

- On "Matters concerning the fundamental and organizational role of politics," the opinions of the following informant were heard, he was then questioned, and a free discussion followed.

OISHI Makoto, Informant (Professor, Kyoto University)

Professor OISHI stated his belief that the bicameral system should be maintained, since it is doubtful that the will of a diverse electorate can coalesce under a unicameral system. Based on this understanding, he stated the view that to ensure that each

House performs independent functions, thereby making the bicameral system meaningful, the method of organization (election of members) of the two Houses should be organized on principles that differ as much as possible, giving consideration to ensuring that the interests and opinions of the people are reflected fairly and effectively in the administration.

He further expressed the view that (1) it is important to ensure that the role expected of the House of Councillors, namely acting as a moderating influence on the dynamism of the House of Representatives, be reflected in the election system, and (2) the present powers of the House of Councillors should be revised, the repassage of bills by the lower house by a majority should be recognized, and only the lower house should have the right to designate the prime minister.

He was then questioned on matters such as the form of the electoral system he envisaged, the significance of the bicameral system, and the desirable form of party politics.

In the course of the free discussion based on the interpellation of the informant, the following were among the points about which comment was made: the necessity for considering the method of organization of the two Houses from the standpoint of reflecting the popular will, and the relationship between the significance of the bicameral system and the electoral system.

154th Diet, Fourth Meeting, May 23, 2002
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- On “Matters concerning the fundamental and organizational role of politics,” the opinions of the following informant were heard, he was then questioned, and a free discussion followed.

MATSUI Shigenori, Informant (Professor, Graduate School of Law, Osaka University)

Professor MATSUI stated his understanding that the provisions of Article 81 of the Constitution confirm the power of “judicial review” exercised in conjunction with the exercise of judicial powers based on a “legal dispute or suit,” but that since at present there are very few rulings of unconstitutionality, and it is difficult for the public to petition for judicial review, the power of judicial review is not being exercised properly.

Based on this understanding he set out a “process-based theory of judicial review.” This theory holds that the courts have the responsibility to preserve and protect, through rigorous review, the rights that are indispensable to the democratic process, and with respect to rights other than these, laws duly enacted by the Diet, which is composed of the representatives of the entire people, should be respected. If it happens that these harm the interests of the people, this should be corrected through elections. He contended that in order to prompt the courts to take an active stance in exercising their judicial powers in line with the responsibilities referred to above, it is essential to undertake a reform of the system, coupled with “consciousness raising.” This would

include rectifying the rigidity of the personnel system at the Supreme Court, and by flexible interpretation of matters deemed to be a “legal dispute or suit,” making it easier to file suits for the confirmation of the unconstitutionality of laws and for their suspension.

He was then questioned on matters such as the grounds on which the judicial branch bases its validity, the pros and cons of establishing a constitutional court, and his assessment of the “act of state” doctrine.

In the course of the free discussion based on the interpellation of the informant, the following were among the points about which comment was made: the connection between the rigorousness of the procedures for revising the Constitution and judicial passivity, and the pros and cons of establishing a constitutional court.

154th Diet, Fifth Meeting, July 4, 2002

- On “Matters concerning the fundamental and organizational role of politics,” the opinions of the following informant were heard, he was then questioned, and a free discussion followed.

YAGI Hidetsugu, Informant (Associate Professor, Takasaki City University of Economics)

Professor YAGI began by stating his view that the constitutional debate must first be a discussion about the “constitution” (with the same meaning as that word in English, meaning “the character of the nation”), and that we should learn a lesson from the importance that was placed on discussing “the character of the nation” during the process of formulating and enacting the Meiji Constitution.

He expressed the following opinions with respect to the system established by the Meiji Constitution. (1) With regard to the relationship between the Cabinet and the Emperor there was a lack of clarity in interpretation and application regarding the central position of politics. (2) In the actual practice of government administration the prime minister was central, but he could exercise only weak control. (3) The Emperor’s advisory bodies had separate spheres of influence, and as the elder statesmen responsible for coordinating them died off, a void developed at the center of government. (4) The Emperor was the nominal chief executive, and therefore the system of government was that of a constitutional monarchy.

In his view, the “Emperor as symbol” system in the Constitution of Japan does not simply mean that the British-style concept of the ruler as the “visible symbol of unity” was adopted, but that it was a continuation of the system of constitutional monarchy under the Meiji Constitution.

He was then questioned on matters such as the defects inherent in the Meiji Constitution, the necessity for education in “the character of the nation” in history and tradition, and his assessment of the “Emperor as symbol” system.

In the course of the free discussion based on the interpellation of the informant, the points made included a comment concerning universal principles, inspired by Japan’s ancient wisdom and thought and including the principle of building peace, that should be incorporated when formulating a new constitution.

3. Subcommittee on Japan's Role in International Society

154th Diet, First Meeting, February 28, 2002

- On "Matters concerning Japan's role in international society," the opinions of the following informant were heard, he was then questioned, and a free discussion followed.

MATSUI Yoshiro, Informant (Professor, Graduate School of Law, Nagoya University)

Professor MATSUI's initial comments included observations that peacekeeping operations since the end of the Cold War have changed from the Cold War period with respect to factors such as type of activity and role, and that problems have arisen owing to vacillations in the principles for the operations (noncoerciveness principle, in particular the consent principle; neutrality principle; and internationality principle), together with proposals as to how to resolve those problems. Based on these he expressed the following opinions concerning Japan's efforts in the sphere of international cooperation.

(1) Japan should act with initiative in international cooperation in a broad range of fields on the basis of the principles enshrined in the Constitution, such as pacifism, acting in concert with the international community, and sovereign equality. (2) Spheres in which Japan's active cooperation is both possible and necessary are the implementation of measures to prevent the outbreak of conflicts, peaceful resolution of conflicts, and support for post-conflict social and economic development. (3) With respect to peacekeeping operations, Japan should call on the United Nations to observe the peacekeeping principles, and encourage active utilization of civilian personnel in these operations.

He was then questioned on matters such as the desirable form of Japan's international cooperation, constitutional problems relating to Japan's engaging in international cooperation such as peacekeeping operations, and the actual state of peacekeeping operations.

In the course of the free discussion based on the interpellation of the informant, the following were among the points about which comment was made: whether it is necessary to revise the Constitution to enable international cooperation to be undertaken, the constitutional status of the Self-Defense Forces, and problems relating to Japan's becoming a permanent members of the Security Council.

154th Diet, Second Meeting, March 28, 2002

- On "Matters concerning Japan's role in international society," the opinions of the following informant were heard, he was then questioned, and a free discussion followed.

HATAKEYAMA Noboru, Informant (Chairman, Japan External Trade Organization [JETRO])

Mr. HATAKEYAMA explained that amid the recent global proliferation of free-trade agreements, Japan has lost out by taking the position that free trade should be promoted under the WTO system. This has led to Japan's international isolation, delay in domestic structural reforms, missed opportunities to experiment in new fields such as those involving competition and trade, and actual losses of trade and investment.

Based on this perception he stated the view that Japan must shift to a multilayered structure in which free-trade agreements complement the WTO. When doing so, in the agricultural sector certain products will require protection for reasons of food security, but it will be important to liberalize the other products, while implementing transitional measures to soften the impact of sudden changes. In addition, he expressed the hope that Japan will change its passive approach to the negotiation of free-trade agreements, which have been based on proposals made by other countries, and that by taking the initiative in negotiating free-trade agreements under the leadership of politicians, Japan will assume international leadership.

He was then questioned on matters such as the difficulty for Japan in participating in the process of economic integration in Asia, given the diversity of the countries of the region; and problems for national sovereignty when free-trade agreements develop into regional integration outside the economic sphere, and the relationship of this with the Constitution.

In the course of the free discussion based on the interpellation of the informant, the following were among the points about which comment was made: the desirable ways of addressing economic problems; and the necessity, when promoting free-trade agreements, to give consideration to the fact that agriculture is intimately connected with the people's wellbeing and with Japan's traditions and culture.

154th Diet, Third Meeting, May 9, 2002
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- On "Matters concerning Japan's role in international society," the opinions of the following informant were heard, he was then questioned, and a free discussion followed.

TERASHIMA Jitsuro, Informant (President, Mitsui Global Strategic Studies Institute)

Mr. TERASHIMA first summed up Japan's international relations during the 20th century in the statement that "the perception is that Japan achieved success through alliances with Britain and the United States." He expressed the view that three points should be kept in mind when considering the Japan-U.S. alliance in the 21st century. (1) The relationship with China should be taken into consideration. (2) Japan should redesign the alliance, taking into account two points that are the accepted thinking internationally, namely that it is not normal for a foreign military force to be stationed

for a long time in an independent country, and the United States will protect Japan only within the framework of its own strategy and domestic public opinion. (3) Japan must approach the United States and the international community with its own autonomous identity.

With respect to the desirable form of Japan's security policy in the future, he stated his opinion that Japan (1) should place a review of the Japan-U.S. Security Treaty on the agenda for discussion with the United States, (2) should redefine its Asia strategy, while maintaining an exclusively defensive capacity, and (3) should seek to create a multilateral forum, based on the principle of preventive diplomacy, in the East Asian region.

He was then questioned on matters such as the desirable forms of the Japan-U.S. relationship and the multilateral forum, the merits and demerits of revising Article 9 and other aspects of the Constitution, and problems in relation to the three emergency-response bills.

In the course of the free discussion based on the interpellation of the informant, the following were among the points about which comment was made: the rights and wrongs of the exercise of the right of collective self-defense, the desirable form of Japan's security, and direction in which to put the Peace Constitution into practice.

154th Diet, Fourth Meeting, June 6, 2002
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○ On "Matters concerning Japan's role in international society," the opinions of the following informant were heard, he was then questioned, and a free discussion followed.

TAKUBO Tadae, Informant (Professor, Faculty of General Policy Studies, Kyorin University)

Professor TAKUBO set out his perception of the international situation as follows. With the advent of a unipolar era of U.S. predominance the United States is pursuing a diplomatic stance backed by power, and with this an element of cooperation has entered U.S.-Russia relations, while duality has begun to characterize U.S.-China relations, the United States attaching importance to China as a market, but in the security sphere reclassifying it from being a "strategic partner" to being a "strategic competitor." Amid these international conditions the United States has expressed the expectation that Japan play a larger role in the security sphere, but Japan has reconciled itself to the status of a "handicapped nation," given that it is unable to engage in military cooperation under the Constitution, and there are limits to the extent to which it can go in establishing emergency-response laws and engaging in counter-terrorism measures solely on the basis of interpretations of the Constitution.

In light of the above, he expressed the opinion that (1) Japan should follow the example of Germany in the way it has responded to changes in the international environment,

and should outgrow its former self and become a normal democratic nation, and (2) should gradually shift Japan-U.S. security relations from being one-sided towards being truly bilateral in character.

He was then questioned on matters such as the rights and wrongs of revising the Constitution with respect to the right of collective self-defense, future Sino-Japanese relations and Sino-U.S. relations, and his perception of the three nonnuclear principles.

In the course of the free discussion based on the interpellation of the informant, the following were among the points about which comment was made: the significance of the three nonnuclear principles, and the form that Japan's response to emergency situations should take.

154th Diet, Fifth Meeting, July 11, 2002
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- On "Matters concerning Japan's role in international society," the opinions of the following informant were heard, he was then questioned, and a free discussion followed.

NAKAMURA Tamio, Informant (Associate Professor, Institute of Social Science, University of Tokyo)

Professor NAKAMURA stated his view that the European Union, formed from the three pillars of the European Community, common foreign and security policies, and cooperative police and criminal justice system, (1) has a unique system of government based upon mutually complementary relationships with member states, and (2) is a "grand experiment" still in progress, and is feeling its way towards an ideal form by such means as debating the formulation of a constitution. With respect to the transformation of individual countries' constitutions through EU integration, in the case of Britain the principle of "parliamentary sovereignty," which gives parliament unlimited legislative powers, has been transformed as a result of the direct effect and supremacy of EC law.

On the basis of the experience of the European Union in the course of its integration, he also proposed two factors that may have implications for Japan. (1) Given that today cooperation across national borders has become essential, Japan should study EU mechanisms. (2) The process of formation of the European Union, in which a public order is developed by repeated consultation between the member states, is instructive for Japan for shaping the principles of its international cooperation.

He was then questioned on matters such as the action taken by individual member countries during the course of EU integration, future trends in the European Union, and the possibility of the establishment of communities in the Asian region.

In the course of the free discussion based on the interpellation of the informant, the following were among the points about which comment was made: the implementation

of an active foreign policy; and the necessity for constitutional discussions based on the existence of regional communities, and the desirable form that politics should take.

4. Subcommittee on Local Autonomy

154th Diet, First Meeting, February 28, 2002

- On “Matters concerning local autonomy,” the opinions of the following informant were heard, she was then questioned, and a free discussion followed.

IWASAKI Mikiko, Informant (Professor, University of Tsukuba)

Professor IWASAKI indicated that following the recent decentralization reforms, among whose cornerstones was the abolition of the delegation of tasks by the government to agencies, issues to be addressed include (1) the transfer of powers in the tax and fiscal spheres, (2) the broadening of the geographical scope of local governments, and (3) the participation of civil society in local government. She expressed the view that after classifying and examining the configurations of the basic units of local government in certain foreign countries, Japan should aim for the type of system in northern Europe, the scale of which had been expanded after the reorganization of basic units of local-government bodies to give them the capability of providing social services.

After mentioning issues arising in the event of the adoption of the *do-shu* system (a system which integrates the prefectures into a small number of states or prefectures) or a federal system, she stated her opinion that Japan could, without introducing a federal system, which would necessitate the revision of the Constitution, achieve decentralization by (1) recognizing the discretion of local governments in policy execution, and (2) establishing a system under which local governments could influence central decisions.

She was then questioned on matters such as the rights and wrongs of top-down central-government measures to promote municipal mergers, the desirable form of the financial resources of local governments, and the appropriate scale of local governments.

In the course of the free discussion based on the interpellation of the informant, the following were among the points about which comment was made: the need to study prohibiting the repeated reelection of the heads of local governments, the pros and cons of introducing a system for holding local referendums, and the question of granting permanent foreign residents the right to participate in local government.

154th Diet, Second Meeting, March 28, 2002

- On “Matters concerning local autonomy,” the opinions of the following informant were heard, he was then questioned, and a free discussion followed.

MORITA Akira, Informant (Professor, Graduate School of Law and Politics, University of Tokyo)

Professor MORITA expressed the opinion that (1) reforms by the Committee for the Promotion of Decentralization had achieved results to a certain extent pursuant to the Comprehensive Decentralization Law, for example the abolition of the delegation of tasks by the government to agencies, but (2) in part because of inadequate fiscal reform, local finances are on the brink of a crisis, and therefore steps such as the transfer of taxes and revenue sources to local governments need to be taken.

He also stated the view that it is essential to promote municipal mergers for reasons that include the need to maintain the current level of administrative services, changes in the extent of the geographical areas in which residents conduct their daily lives, population decline, and the aging of society, but that in carrying these out the government should avoid such stances as promoting uniform mergers and attaching too much significance to numerical goals such as a required number of municipalities; an approach finely tuned to the circumstances of each local government is needed.

He pointed out that criticisms include those (1) that promotion of mergers by the central government runs counter to the principle of local autonomy, and (2) that such mergers destroy local communities. His counterarguments were that the ongoing promotion of mergers must be undertaken not solely from the perspective of the individual municipalities, but also from the perspective of the region and country as a whole, and therefore it will be necessary for the central and prefectural governments to coordinate mergers, always respecting the principle of local autonomy. He was also of the opinion that it will be essential to give very careful study to the desirable forms of municipality and prefecture that will eventually emerge from the merger process.

He was then questioned on matters such as the transfer of taxes and revenue sources to local governments, the ways in which to undertake municipal mergers, and the significance of the provisions on local autonomy in the Constitution.

In the course of the free discussion based on the interpellation of the informant, the following were among the points about which comment was made: the implementation of a *do-shu* system, the transfer of sources of tax revenue to local governments, and the necessity for joint activity by volunteers and nonprofit organizations and local governments.

154th Diet, Third Meeting, May 9, 2002
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- On “Matters concerning local autonomy,” the opinions of the following informant were heard, he was then questioned, and a free discussion followed.

JINNO Naohiko, Informant (Professor, University of Tokyo)

Professor JINNO expressed the opinion that in order to promote decentralization it is essential to (1) transfer taxes and revenue sources to local governments, and (2) to create a system to correct the disparities in fiscal strength between local governments. This is in light of lessons from the past (the Taisho Democracy movement and the Shoup Report), and the advance of globalization and the parallel advance of localization in recent years in certain other countries (enactment of the European Charter of Local Self-Government, etc.).

He offered the following opinions with respect to issues that Japan must address in the future. The recent abolition of the delegation of tasks by the government to agencies under recent decentralization reforms has transferred numerous administrative responsibilities and decision-making powers to the local level, but adequate tax-raising powers have not yet been transferred. To overcome this it will be important to transfer the taxation of personal income and the consumption tax to local governments, thereby shifting from the present “centralized dispersion system,” in which local authorities have no right to levy taxes or decision-making powers, to a “decentralized dispersion system,” in which local authorities do have those powers.

He was then questioned on matters such as the desirable way in which to allocate taxation and financial resources between central and local governments, and the desirable form of financial adjustment between local governments.

In the course of the free discussion based on the interpellation of the informant, the following were among the points about which comment was made: the suitability of the central-government promoting mergers of municipalities, and concern that the emergency response laws may harm local autonomy.

154th Diet, Fourth Meeting, June 6, 2002
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- On “Matters concerning local autonomy,” the opinions of the following informant were heard, he was then questioned, and a free discussion followed.

KATAYAMA Yoshihiro, Informant (Governor of Tottori Prefecture)

Governor KATAYAMA stated that, based upon his experience as a governor, he considered the following to be among the principal issues to address in order to achieve decentralization. (1) The provisions of the Local Autonomy Law requiring uniformity should be revised in order to ensure, among other things, that the organization of local governments has diversity and localized character. (2) Independent administrative commissions are not functioning adequately because they lack expertise and the relevant capabilities. Therefore, in order to introduce democratic principles, consideration should be given to measures such as the popular election of commission members. (3) The form of local government assemblies should make way for more diversity and independence, and changes should be made to allow for businessmen and

others with close contact with ordinary life to serve as members of assemblies while retaining their own jobs. (4) Local finances should be neutral towards the policy choices of local governments, for example as to whether they place emphasis on policy for developing infrastructure through public works, or give more importance to policy in intangible dimensions, such as human-resource development. (5) Prefectural government tax revenues should be stabilized by such means as incorporating tax assessments based on business size into corporate enterprise taxation, or allocating corporate enterprise taxation to the national government, and transferring personal income taxation to local governments.

Governor KATAYAMA was then questioned on matters such as his assessment of the government's measures to promote mergers of municipalities, the desirable way in which to allocate taxation and financial resources between central and local governments, decentralization in the field of education, an evaluation of the measures for housing-reconstruction support following the earthquake in the western part of Tottori Prefecture, and the role of local governments in international interchange.

In the course of the free discussion based on the interpellation of the informant, the following were among the points about which comment was made: the necessity for the transfer of powers to local governments, the necessity for housing-reconstruction support and other assistance for disaster victims, and the concern that the emergency response laws may harm local autonomy.

154th Diet, Fifth Meeting, July 11, 2002
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○ On “Matters concerning local autonomy,” the opinions of the following informant were heard, he was then questioned, and a free discussion followed.

KITAGAWA Masayasu, Informant (Governor of Mie Prefecture)

Governor KITAGAWA premised his remarks with the perception that in future it will be important for government administration to adopt the viewpoint of the people who pay taxes, considering their satisfaction as having first priority. From his own experience he gave examples of how this was being put into practice in Mie Prefecture. (1) Information on the outcome of decision-making is not made public only on request; the prefecture provides information actively of its own accord, including information on the process through which policy is shaped. (2) The prefecture has introduced “New Public Management (NPM),” incorporating private-sector corporate management methods, and conducts administration that is based on performance-evaluation, switching from a budget-oriented approach to a balance sheet-oriented approach.

He also expressed the view that Japan should change from a reliance on centralized powers and bureaucratic rule toward decentralization and local autonomy, with the aim of creating a “mosaic nation” that takes best advantage of the distinctive features of each region, and pursuing the development of those regions.

Governor KITAGAWA was then questioned on matters such as measures to transfer taxes and revenue sources to local governments, an assessment of NPM, difficulties encountered in reforming attitudes within the prefectural government, and the form that prefectures should take as they view the prospect of the *do-shu* system.

In the course of the free discussion based on the interpellation of the informant, the following were among the points about which comment was made: the assignment of public servants in central government ministries to local governments, the necessity for the Diet to improve its deliberations on financial accounts, and the pros and cons of the introduction of the *do-shu* system.

Section 3 Open Hearings

1. Open hearing held in Sendai City (April 16, 2001)

Main points of statements by Speakers

○ **TEJIMA Norio (Chairman, Sendai Association of Corporate Executives)**

Conditions in Japan and overseas have changed substantially since the Constitution was formulated, and the Constitution should address them.

○ **KANO Fuminaga (Mayor, Kashimadai Town, Miyagi Prefecture)**

Fostering the development of municipalities firmly rooted in decentralization is what will preserve and nurture the Constitution.

○ **SHIMURA Kensuke (Professor Emeritus, Tohoku University)**

As regards environmental issues, we should not take a human-centered approach, but also take co-existence with other forms of life into consideration.

○ **TANAKA Hidemichi (Professor, Faculty of Arts and Letters, Tohoku University)**

Based on an outlook rooted in Japan's traditional thinking, the Constitution should be revised to enable Japan to devote its energies to world peace.

○ **ODANAKA Toshiki (Professor, School of Law, Senshu University, and Professor Emeritus, Tohoku University)**

The ideological and idealistic structure of the present Constitution gives it a systematic coherence, and the Constitution plays a role in coping with contemporary issues.

○ **KUBOTA Manae (Representative, Women's Net to Support 1946 Constitution)**

The ideals of the Constitution should be protected, given that it recognizes the rights of women, and includes the internationally acclaimed Article 9.

○ **YONETANI Mitsumasa (Associate Professor, Tohoku Fukushi University)**

We should not create a constitution which transcends society; we need to revise the Constitution into something more familiar and accessible.

○ **HAMADA Takehito (Instructor, Hirosaki Gakuin Seiai High School)**

Article 9 is a source of dreams and ideals for teachers who wish to reach out seriously to their students.

- **ENDO Masanori (Instructor, Senshu University Kitakami Senior High School, and Representative of the Shimin Study Association)**

For the people to become the true sovereigns of the nation, the procedure for revising the Constitution should be improved quickly.

- **SAITO Takako (Chairwoman, Peace Activity Committee, Miyagi Consumers' Co-operative Society)**

What should be done now is not to revise the Constitution, but to abide by it faithfully.

Summary of questions by Members

The following were among the matters about which Members asked Speakers to give their opinions: the relationship between the Constitution's provision that public officials have the obligation to respect and uphold it, and its provision for procedures for its amendment; Article 9; environmental rights; the public disclosure of information; the popular election of the prime minister; and a constitutional-court system.

After the questions by Members, the following were among the comments made from the floor: the view that "I would like to ask the Commission to inform the public more widely of its proceedings," and the view that "I would like more opportunities to be provided for direct discussion between Diet members and the public about fundamental national issues."

2. Open hearing held in Kobe (June 4, 2001)

Main points of statements by Speakers

○ **KAIHARA Toshitami (Governor of Hyogo Prefecture)**

In the 21st century, Japan should make an international contribution by providing the “art of peace” for resolving problems in such areas as medical care, welfare, and disaster prevention, and decentralization should be pursued.

○ **SHIBAO Susumu (Mayor of Kawanishi City)**

It is important that the Constitution be put into practice in local government administration, and we should take steps to protect children’s human rights and to cooperate with the international community for the attainment of peace and human rights.

○ **SASAYAMA Kazutoshi (Mayor of Kobe City)**

A lesson learned from the Great Hanshin-Awaji Earthquake is the importance of giving adequate powers to mayors of municipalities in times of disaster, and of assisting disaster victims based on the right of livelihood contained in the Constitution.

○ **OHMAE Shigeo (Chairman of the Board of Trustees, Ohmae Gakuin)**

The good qualities of the Japanese people that are highly regarded worldwide should be looked at again, and the Constitution should be amended in such ways as to make express mention of the fact that Japan is a constitutional monarchy, and to include provisions concerning obligations.

○ **URABE Noriho (Vice President of Kobe University; Professor, Graduate School of Law, Kobe University)**

From the perspective of “human security,” instead of allocating huge amounts to military preparedness, Japan should play a leadership role worldwide in tackling situations such as large-scale disasters and food and energy problems.

○ **NAKAKITA Ryutaro (Lawyer)**

Overcoming the mistakes of the 20th century, Japan should implement policies to give life to its Peace Constitution, including by enacting into law the Kobe-formula nuclear-free policy, and transforming the Japan-U.S. Security Treaty into a friendship treaty.

○ **HASHIMOTO Akio (Chairman, Hyogo Prefecture Medical Association)**

The Constitution should include provisions concerning the duties of the state in times of major disaster, should improve the guarantee of the right to livelihood, and should make express provision to guarantee the people's "right to health."

○ **KOKUBO Masao (Mayor of Hokudan Town, Hyogo Prefecture)**

The Constitution should be revised in line with changes in the times, and should include explicit mention of such matters as that the Emperor is the head of state, that Japan has the right of belligerency in self-defense, and that it can maintain military forces for defensive purposes.

○ **TSUKAMOTO Hideki (Corporate executive)**

In view of changes in social conditions, Japan should embark upon constitutional revision, dividing the process into the stages: "items to be revised immediately," "items to be added," and "items to be discussed in the future."

○ **NAKATA Narishige (Associate Professor, Osaka Institute of Technology)**

The Constitution provides the foundation for citizens' actions, and so constitutional revision must not be discussed hastily, and the government should not make light of the Constitution, but should shift reality closer to its ideals.

Summary of questions by Members

The following were among the matters about which Members asked Speakers to give their opinions: the popular election of the prime minister, the desirable form of local autonomy, the necessity for including in the Constitution explicit provisions for natural disasters, the allocation of powers between the national and local governments in the event of natural disasters, the advisability of stipulating that the Emperor is the head of state, the question of public assistance for disaster victims from the standpoint of the Constitution, and the constitutional suitability of strengthening the Japan-U.S. Security Arrangements.

After the questions by Members, the following were among the comments made from the floor: the inadequacies of the legal system for times of natural disaster and the relationship with the Constitution, the enactment of a Constitution that embodies Japan's national history and traditions, and the method of conducting the open hearings.

3. Open hearing held in Nagoya (November 26, 2001)

Main points of statements by Speakers

○ TAGUCHI Fukuji (Professor Emeritus, Nagoya University)

The Constitution does not envision the making of an international contribution of a military nature. Japan should continue to make contributions of a nonmilitary nature through such channels as the UN High Commissioner for Refugees and UNICEF.

○ NISHI Hideko (Housewife)

Japan should play a role in the international community that lives up to the ideals of the Preamble of the Constitution, such as the guarantee of the right to live in peace. When giving economic aid to developing countries it is essential to take care that help reaches the poor strata, and that it does not lead to the destruction of traditional lifestyles and the natural environment.

○ NOHARA Kiyoshi (Teacher, Gifu Prefectural High School)

Given that data show that adults are failing to teach rules and manners to the young, there is a problem with the Preamble and Article 9, which leave our national security in the hands of others. The Constitution should make clear mention of right of self-defense that any normal nation possesses, and we should revise the Preamble to give it a dignified style with a clearly Japanese identity.

○ KAWABATA Hiroaki (Doctoral student, Graduate School of Law, Nagoya University)

Based on my encounter with terrorist bombings at the time I worked at the Japanese embassy in Peru, I believe we should resolve terrorism not with violence but with dialogue.

○ KOIDO Yasuo (Lawyer)

Japan should consider its role in the international community not in terms of how it is regarded by that community, but in terms of its national interest. Japan's international contributions should not focus on financial assistance, but should also give importance to the international contribution of personnel; for that it is necessary to develop the human resources.

○ KATO Masanori (University student)

Japan should become a permanent member of the UN Security Council and show leadership in the elimination of nuclear weapons. For that Japan should introduce a system of popular election of the prime minister, through which we could expect to choose a prime minister with strong leadership qualities.

Summary of questions by Members

The following were among the matters about which Members asked Speakers to give their opinions: the specific methods Japan should adopt to deal with terrorism, the rights and wrongs of making express mention in the Constitution of environmental rights and obligations, the advisability of having the Self-Defense Forces participate in UN policing operations, the role of the United Nations in dealing with the problem of terrorism, the relationship between the Anti-Terrorism Special Measures Law and the Constitution, and the actual state of education concerning the Constitution in classrooms.

After the questions by Members, the following were among the comments made from the floor: the view that “The ideals of the Peace Constitution must be realized in concrete ways,” the view that “The Constitution should be taught more thoroughly in junior and senior high schools,” the view that “In light of the circumstances of the formulation of the Constitution, the Japanese people should discuss and revise it,” and the view that “There should be more women speakers.”

4. Open hearing held in Okinawa (April 22, 2002)

Main points of statements by Speakers

○ **YAMAUCHI Tokushin (President of a research institute on Japan's peace constitution and local autonomy)**

Article 9 of the Constitution is the life-blood of the Japanese people, and politicians should respect and uphold it. As a model peace-loving nation, Japan should spread the spirit of Article 9 to the world.

○ **ARAKAKI Tsutomu (Lawyer)**

A lesson from the Battle of Okinawa is that military force cannot protect the lives of the people, and from the standpoint of the dignity of the individual we should protect Article 9, given that it embodies unarmed pacifism.

○ **MEGUMI Ryunosuke (Business school president)**

The right of belligerency is a natural right of states, and the independence and peace of states cannot be maintained without the backing of military strength. Therefore, Article 9 should be revised.

○ **KAKINOHANA Hojun (Professor, College of Law, Okinawa International University)**

Diet members, teachers, and others should respect and uphold the dignity of the individual espoused by the Constitution, in order to ensure that respect for the dignity of the individual, a fundamental ideal of the Constitution and the Fundamental Law of Education, is spread and adhered to thoroughly.

○ **INAFUKU Erika (University student)**

Learning is not an obligation but a right, and thus service activities should not be made compulsory. It is important that volunteer activities be supported by the community, and there be a relationship of living in harmony with the community.

○ **ASHITOMI Osamu (Member of the Okinawa Prefectural Assembly)**

While retaining the ideal of the renunciation of war, the Constitution should make explicit provision for the minimum armed force necessary for Japan to defend itself, and for direct civilian control in those circumstances. Express provision should also be made for the complete separation of legislative and executive powers, and for the realization of local autonomy.

Summary of questions by Members

The following were among the matters about which Members asked Speakers to give their opinions: Japan's system of security, the constitutionality of the Self-Defense Forces and the Japan-U.S. Security Treaty, whether or not provisions other than Article 9 should be revised, the role of the Self-Defense Forces in times of disaster, the desirable form of the state's protection of the people's security, international contributions in the nonmilitary sphere, the revision of the U.S.-Japan Status of Forces Agreement, problems with the emergency response legislation, and education problems.

After the questions by Members, the following were among the subject of comments made from the floor: the importance of the Peace Constitution, the necessity for establishing national sovereignty, the fact that the Constitution has not been observed adequately in Okinawa, and problems with the emergency response legislation.

5. Open hearing held in Sapporo (June 24, 2002)

Main points of statements by Speakers

○ **INATSU Sadatoshi (Managing director, Daitoa Shoji Co., Ltd.)**

We should enact a new Constitution whose fundamental principles are universal values based on Japan's traditions and culture, and make an active contribution to maintaining the world order at the beginning of the 21st century.

○ **ISHIZUKA Osamu (Farmer)**

Japan should persist with the staunchly pacifist ideals in the Preamble and Article 9 of the Constitution, and become an independent country both politically and economically.

○ **TANAKA Hiroshi (Chairman, Hokkaido Federation of Bar Associations)**

Rather than revise Article 9 of the Constitution and study the emergency-response legislation, the government should reflect on its past treatment of the Ainu and develop more benign ethnic policies towards them.

○ **SATO Satomi (University student)**

To ensure that the guarantee of the equality of the sexes in Article 14 is realized, there is a further need to improve legislation and change attitudes, so as to guarantee women their due rights.

○ **YUKI Yoichiro (Professor, Otaru University of Commerce)**

Article 9 of the Constitution is something that Japan can proudly display as a model to the world, and should be maintained, but there is scope for improving the Constitution with respect to, for example, the introduction of a referendum system, the establishment of a constitutional court, and the introduction of a presidential system.

○ **MASUGI Eiichi (Lawyer)**

The ideal of pacifism in the present Constitution should show its worth more than ever in the 21st century. It is essential to reform the judicial system in order to protect the Constitution and human rights.

Summary of questions by Members

The following were among the matters about which Members asked Speakers to give their opinions: the question of internationalization in Hokkaido, Article 9 and the Self-Defense Forces, the form that Japan's international contributions should take,

Japan's nonnuclear policy, the reform of the judicial system, the increasing participation in society by women, education reform, and agricultural policy.

After the questions by Members, the following were among the subject of comments made from the floor: the significance of Article 9, problems with the emergency-response legislation, and the fear that the holding of open hearings will lead to the revision of the Constitution.

Section 4 Overseas Study Missions

1. The House delegation dispatched to survey the constitutions of European nations: September 10 to 19, 2000

From the 10th to the 19th of September, 2000, the above members' delegation was dispatched by the House of Representatives under the leadership of NAKAYAMA Taro, Chairman of the Research Commission on the Constitution. As outlined below, the delegation surveyed the actual situation of the constitutions of five nations: Germany, Switzerland, Italy, France, and Finland.

The Federal Republic of Germany

- (1) Meeting with Prof. Dr. Jutta LIMBACH, President of the Federal Constitutional Court, and one colleague

At the Federal Constitutional Court, a question-and-answer session was held with its president, Prof. Dr. LIMBACH, and one colleague.

First, the Federal Constitutional Court's structure and its work were explained. The main points were as follows: (1) The selection of the judges who sit on the Court can sometimes be politically contentious, but care has been taken to guarantee their political neutrality; in particular, half the judges are elected by the Bundestag (the directly elected lower house) and half by the Bundesrat (the upper house made up of representatives from the state governments), and in both cases the judges are elected by a two-thirds majority. (2) Each year, the Court handles about 5,000 cases brought by the general public (although it proceeds to an examination of the merits in only about 2.7 percent of these cases). Hearing these "complaints of unconstitutionality" is one of the characteristics of the Court's work. (3) Past decisions that have attracted particular attention have included: (a) the decision that the deployment of German military forces outside of NATO territory is constitutional, and (b) the decision that the Maastricht Treaty, which partially cedes State sovereignty to a supranational organization, the European Union, is constitutional; another area of public concern is (c) cases concerning the relationship between privacy and the mass media or criminal investigations.

Regarding other issues related to Germany's constitution or Basic Law (*Grundgesetz*) as a whole, it was learned that: (1) The Basic Law has undergone forty-six revisions; about four of these were what could be called major revisions, dealing with rearmament and the introduction of military conscription, legislative provisions for states of emergency, and legislative provisions on German reunification and the integration of the EU. (2) Conscription is seen as an important system, with compulsory military service forming a node that connects the military and democracy.

- (2) Informal discussion with Dr. Ingolf REIMER, leader of the Albrecht Tuckermann Wohnanlage, and three persons performing alternative civilian service

At the Albrecht Tuckermann Wohnanlage (an institution for handicapped children), the delegation heard views on the state of the alternative civilian service system from the institution's leader, Dr. REIMER, and from three young conscientious objectors who were performing their alternative civilian service there.

They commented in particular that (1) lately, an increasing number of people have been refusing military service; (2) people doing alternative civilian service play an important role in the welfare sector.

- (3) Meeting with Bundestag member Mr. Alfred HARTENBACH

At the Bundestag Building, Mr. HARTENBACH explained the record of revisions of the Basic Law and described the Law's provisions for the guarantee of human rights, especially social rights; this was followed by a question-and-answer session.

The major points of Mr. HARTENBACH's explanation were as follows: (1) One reason why the Basic Law has been revised so many times is that it contains provisions reconciling the interests of the federal government and those of the Lander or states, and these provisions have been subject to frequent revision. (2) Fundamental social rights are construed not as specific entitlements but as rights to demand certain actions by the State. (3) With regard to the Basic Law's framework for states of emergency, (a) in an "external emergency," the Federal army acts within the framework of NATO, the Organization of Security and Cooperation in Europe (OSCE), and the United Nations; (b) in an "internal emergency," the Federal police take action; (c) in the case of a natural disaster affecting more than one Land, the federal government empowers the Lander ministries for internal affairs and the Federal defense ministry to carry out relief operations. (4) Provisions of the Basic Law that were enacted at the time of EU integration allow EU nationals to vote in local elections under the principle of reciprocity.

The Republic of Finland

○ Explanation by a Secretary of the Embassy of Japan to Finland

Mr. SUZUKI, Secretary of the Embassy of Japan to Finland, was invited to the residence of the Japanese Ambassador to Germany, in Berlin, in order to explain the process leading to the March 2000 enactment of the new Finnish constitution, which combines four older basic laws, and the features of the new constitution. A question-and-answer session followed.

Mr. SUZUKI explained that the key points of the revisions (i.e., the enactment of the new constitution) can be reduced to the following three essentials: the four basic laws were (1) integrated and (2) simplified by reducing the number of articles, in order to

make the constitution easier for the people to understand, and (3) it was decided to strengthen the powers of the national assembly and limit those of the president, which had previously been very extensive.

Responding to questions, Mr. SUZUKI described how, based on the new constitution's provisions for the right of information access, efforts are being made to expand the scope of application of the Freedom of Information Act, to disclose information at the deliberation stage to the public, and to make information accessible on-line.

The Swiss Confederation

- (1) Meeting with Dr. Remo GYSIN, member of the National Council of the Federal Assembly, and five colleagues

At the Parliament Building, Dr. GYSIN and his colleagues explained the process of enactment and the features of the new Swiss constitution, which entered force in January 2000 as the result of a complete revision. A question-and-answer session followed.

It was explained that the key points of the constitutional revision are as follows: (1) Switzerland is a confederation of cantons that have strong powers; (2) the people have a strong influence on government (through the initiative and referendum systems); (3) cultural and linguistic diversity is protected.

In response to questions, in addition to further explaining these points, Dr. GYSIN and his colleagues noted that: (1) the constitution contains detailed provisions on bioethics; (2) in connection with Switzerland's unique system of universal national service, there is controversy over various issues, including whether or not to develop a professional army.

- (2) Meeting with Prof. Dr. Luzius MADER, Vice Director, Federal Office of Justice, Federal Department of Justice and Police, and two colleagues

Also at the Parliament Building, the delegation heard an explanation from Prof. Dr. MADER and two of his colleagues, followed by a question-and-answer session.

It was explained that reform of the old constitution by the recent revision (enactment of a new constitution) was part of a package of five constitutional reforms, together with judicial reform, reforms concerning the rights of the people, reforms of the federalist system, and reforms of the system of government.

During the question time, among other points, it was explained that: (1) The provisions in the chapter on "social goals" (which stipulate, for example, that the Federation and the cantons should strive to supply housing) are only guidelines, but because they set goals for the State, they gave rise to a national debate at the deliberation stage. (2) With regard to the relationship between the cantons and the Federation, under the

new federalism, the constitution explicitly sets forth the principles of complementarity, mutual respect and cooperation between the cantons and the Federation, and the participation of the cantons in foreign policy, among other matters. (3) With regard to compulsory military service, the people are not free to choose between military and alternative service, and when a person refuses military service on eligious or similar grounds, there is a strict investigation of the validity of those grounds.

The Republic of Italy

- (1) Meeting with Prof. Cesare MIRABELLI, President of the Constitutional Court, and five colleagues

At the Constitutional Court, its president, Prof. MIRABELLI, and his colleagues explained the Court's organization, its exercise of its powers, and related matters, followed by a question-and-answer session.

With regard to the Court's organization and exercise of its powers, it was learned in particular that: (1) The Court does not accept cases brought by the general public; instead, cases are referred to it by judges in the regular courts when they find the constitutionality of a law doubtful, but the Court can also act directly in cases of suspected conflicts between State laws and regional laws or in jurisdictional disputes between State agencies. (2) About 800 to 900 cases are instituted annually, of which about 250 are heard and about 50 result in rulings of unconstitutionality. (3) In selecting judges for the Constitutional Court, five highly qualified persons are chosen by each of the legislative, executive, and judicial branches, and their neutrality is ensured by prohibiting them from concurrently holding political office.

In response to questions, in addition to further clarification of the above points, it was explained that alternatives to military service are recognized against the background of a changing public perception of compulsory military service, as the duty to defend the nation is being increasingly viewed as a duty to perform community service or a duty of social solidarity, rather than as a duty to defend the nation militarily.

- (2) Meeting with the Hon. Rosa RUSSO JERVOLINO, President of the First Commission of the Chamber of Deputies (the Lower House), and one colleague

At the Chamber of Deputies, an explanation was received from Ms. JERVOLINO and her colleague, followed by a question-and-answer session.

Among the points covered were the following: (1) Italy, like Japan, was defeated in the war, but in a 1946 referendum the Italian people abolished their monarchy and chose a republican system. (2) Unlike Japan, Italy has carried out rearmament from the beginning of the postwar era, as neither the peace treaty with the Allies nor the 1946 constitution prohibited this.

In answer to questions, it was explained, in particular, that: (1) The republic is understood to be one and indivisible; thus, although Italy may be moving toward a decentralization of powers that strengthens the autonomy of the regions, it is not moving toward a federal system, in which the State is subdivided. (2) Current debate over constitutional revision concerns the structure of the republic, rather than rights and duties, and revision is being pursued starting with small reforms on which consensus is readily obtained.

(3) Informal discussion with Ms. SHIONO Nanami

Ms. SHIONO Nanami, who currently resides in Italy, was invited to the official residence of the Japanese Ambassador to Italy and her views on constitutional issues were heard, followed by questions and answers.

First, Ms. SHIONO made the following comments: (1) With regard to the concept of law in ancient Rome, in contrast to the Judaic view of law as a sacred, God-given thing to which human beings should adapt, the Romans viewed the law as a man-made thing which should be changed when necessary or, in other words, adapted to human beings. (2) In this context, Ms. SHIONO argued that the Constitution of Japan should be made into a “normal constitution” that can be revised easily when necessary, and that, to that end, revision of the constitution should be focused on the amendment procedures stipulated in Article 96, and the possibility of initially revising this article alone should be studied.

During the question time, in addition to comments on the above points, there was an exchange of views on such matters as (1) the system of government and the state of welfare and education in the Roman Empire; (2) an ideal vision for Japan in the 21st century.

The French Republic

(1) Meeting with Ms. Christine LAZERGES, Vice President of the National Assembly, and one colleague

At the Palais Bourbon, an explanation was received from Ms. LAZERGES and her colleague, followed by a question-and-answer session.

With regard to the aims of the constitutional amendment to shorten the President’s term of office, which is now under debate, it was explained that: (1) a seven-year presidency is not sufficiently responsive to changes at home and abroad; (2) by making the president’s term the same as that of members of the National Assembly, the proposed amendment aims to avoid the politically unstable arrangement known as *cohabitation*, in which a president from one party shares power with a prime minister from an opposing party.

During the question-and-answer session, the thirteen previous constitutional revisions were explained in outline. In addition, the following main points were covered: (1) With regard to the constitutional implications of European integration, (a) all the EU members had to revise their constitutions because the integration of the EU under the Amsterdam Treaty entailed certain restrictions on State sovereignty; (b) however, there are various levels of EU decision-making, not all of which require a constitutional revision. (2) With regard to the rights and duties of the people, rights and duties are two sides of the same coin, and they are at once civic, political, and social in nature. The schools provide civic education, which teaches respect for others, the *raison d'être* of human rights, and so on. Two further points were of special note: (a) Until now, compulsory military service has been a duty of the people (a duty prescribed by law, not the constitution), but due to the cost-benefit ratio and other problems, France is presently in the process of abolishing compulsory service in favor of an all-professional force. (b) Although the French constitution does not make provision directly for human rights, the Preamble establishes a constitutional guarantee of human rights by proclaiming the French people's "attachment" to the Rights of Man as defined by the Declaration of 1789, confirmed and complemented by the Preamble to the Constitution of the Fourth Republic. (3) While bioethical issues are recognized as important, French public opinion is fairly cautious in this area at present, and there appears to be a general perception that gene manipulation and related techniques should be used only for purposes of medical treatment.

- (2) Meeting with Mr. Yves GUENA, President of the Constitutional Council, and two colleagues

At the Constitutional Council, an explanation was received from its president, Mr. GUENA, and his colleagues, followed by a question-and-answer session.

Among other points, it was explained that: (1) The Council's two major roles are reviewing the constitutionality of laws and treaties, and monitoring presidential elections and various other domestic elections. (2) To guarantee the Council's impartiality, three each of its nine members are appointed by the President of the Republic, the President of the Senate (the Upper House), and the President of the National Assembly (the Lower House).

Among the points explained during the question time were the following: (1) matters related to concrete procedures for the review of constitutionality of laws and treaties, etc.; (2) the fact that, since deciding that the criteria for its reviews of constitutionality include not only the main text of the present constitution (the Constitution of the Fifth Republic) but also its Preamble, which refers to the 1789 Declaration of the Rights of Man and the Preamble of the Constitution of the Fourth Republic, the Council has also conducted reviews of compliance with these human rights provisions, and has thus come to function as a body that protects democratic freedoms and human rights.

2. The House delegation dispatched to survey the constitutions of Russia, other European nations, and Israel: August 28 to September 7, 2001

From August 28 to September 7, 2001, the above members' delegation was dispatched by the House of Representatives, under the leadership of NAKAYAMA Taro, Chairman of the Research Commission on the Constitution. As outlined below, the delegation surveyed the actual situation of the constitutions of eleven nations: Russia, four Eastern European nations including Hungary, five monarchies including the Netherlands and Spain, and Israel.

The Russian Federation

(1) The State Duma

A. Meeting with Mr. Mikhail Mikhaylovich ZADORNOV, Member of the State Duma, and three colleagues

At the State Duma Building, an explanation was received from Mr. ZADORNOV and his fellow members, followed by a question-and-answer session.

In addition to (1) an account of the process that led from the Soviet-era "Stalin Constitution" (1936) to the December 1993 enactment of a new post-Soviet constitution, the following main points were covered: (2) A constitutional court empowered to interpret the constitution and review the constitutionality of laws and ordinances has been established. (3) The Russian people can be said to be very interested in the present constitution, in view of the growing number of human rights cases being brought before the Constitutional Court and the level of public attention to constitutional debates in the Duma. (4) With regard to the relationship between the central and local governments, the economic and political influence of the center is increasing; for example, in the past four years, 15 percent of the State budget has been transferred from local to central government jurisdiction. (5) Constitutional provisions on "the family" are reflected in various policies with the goal of placing "the family" under State protection.

B. Meeting with Mr. Vladimir Petrovich LUKIN, Deputy Chairman of the State Duma

Also at the State Duma Building, a general explanation of the Russian constitution was heard from Mr. LUKIN.

He described the present Russian constitution as very strongly president-centered, citing among other reasons the facts that: (1) the Audit Chamber does not have the power to bring a case to court; (2) parliamentary committees have limited powers; and (3) appointments of Cabinet members other than the prime minister do not require parliamentary approval. Further, he expressed the view that the powers of the legislature to check and supervise the executive branch are still inadequate.

C. Meeting with Mr. Anatoly Ivanovich LUKYANOV, Chairman of the State Structure Committee

Also at the State Duma Building, Mr. LUKYANOV described the organization and work of the State Structure Committee, which is responsible for various constitutional issues, and gave a general explanation of the Russian constitution. This was followed by a question-and-answer session.

Among other points, (1) Mr. LUKYANOV explained that a constitution's relationship to the changing times can take more than one form. Russia and the Eastern European nations took the approach of destroying their old constitutions and enacting new ones, but an alternative method is to build up a new constitution gradually by design. (2) He also commented that the active work of the Research Commission on the Constitution, particularly in a nation as tradition-centered as Japan with its Emperor as symbol system, surely makes it a unique entity.

In response to questions, Mr. LUKYANOV's explanation covered the following main points: (1) With regard to the problem of scientific progress and social change, commentators have long emphasized the "atomization" or "nuclearization" of present-day Russian society due to scientific and technological progress; this is considered contrary to Russian tradition and incompatible with it. (2) With regard to the problem of the limitation or transfer of State sovereignty due to ongoing globalization, because State sovereignty is a fundamental principle of every nation, and because the world is richer when it is multipolar, it is not appropriate for principles of international law to take precedence over those of domestic law. (3) The "superpresidential powers" given to the Russian president by the constitution make him a kind of "fourth branch" combining the powers of the legislative, executive, and judicial branches. In Mr. LUKYANOV's view, this is due to a contradiction in the constitution itself, but the debate about this situation is making no progress. (4) With regard to the relationship between the central and local governments, agencies of the Russian Federation's members (regional governments) act both in the capacity of the State and, simultaneously, in the capacity of local governments, and the relationship between Russia's central and local governments should be adjusted economically, not politically. (5) The system of "plenipotentiary representatives for human rights" is an adaptation of the Scandinavian ombudsman system, but it remains to be seen whether it will take root in Russia.

(2) Meeting with Mr. Vyacheslav Borisovich EVDOKIMOV, State Secretary and First Deputy of the Ministry of Justice, and six colleagues

At the Ministry of Justice, Mr. EVDOKIMOV and his colleagues described the Ministry's history and role and also gave a general explanation of the Russian constitution, followed by a question-and-answer session.

Among other matters, it was explained that: (1) While it is true that the Russian Federation had no constitution of its own in the period of constitutional vacuum between the Soviet Union's collapse in 1991 and the enactment of the new constitution in 1993, the old constitution of its member state Russia remained in effect. (2) With regard to the relative power of laws and presidential decrees, the president is allowed to issue presidential decrees without a basis in law for matters relating to states of emergency and to the military, and for matters on which no law has been enacted. (3) In the area of judicial reform, matters under debate include: (a) the restoration of a system to deal with minor crimes according to simple trial proceedings; (b) the introduction of a jury system for crimes carrying heavy penalties; and (c) the introduction of limited terms of office for high court judges.

- (3) Meeting with Mr. Boris Aleksandrovich STRASHUN, Deputy Head of the Scientific-Analytical Center of Constitutional Justice, Constitutional Court of the Russian Federation, and one colleague

At the Scientific-Analytical Center of Constitutional Justice, an explanation was received from Mr. STRASHUN and his colleague, followed by a question-and-answer session.

The explanation covered the following points, among others: (1) In the Soviet era, the Supreme Soviet functioned as a constitutional court, and the Russian Federation Constitutional Commission played this role during perestroika. After the collapse of the Soviet Union, the Constitutional Court was established as a separate body in 1991. (2) Over 3,000 cases have been brought in the past decade, a large proportion of which concern human rights. These cases most commonly deal with (in descending order): (a) criminal proceedings, (b) social rights, and (c) economic rights.

Points explained in response to questions included the following: (1) The Constitutional Court's powers extend even to presidential decrees; in fact, the Court has ruled unconstitutional a presidential decree concerning state organizations, and the president accepted this ruling. (2) Although there have been allegations of "politicized" judges on the Constitutional Court, such fears are completely groundless as appointments are decided by the Council of Federation and the president cannot dismiss a judge.

The Republic of Hungary, the Republic of Poland, the Czech Republic, and Romania
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○ Explanations by staff of the Embassies of Japan to Hungary, Poland, the Czech Republic, and Romania

Secretaries from the Japanese Embassies to the above four Eastern European nations (Mr. YASUDA, Ms. OSUGI, Mr. SATO, and Mr. YOSHII, respectively) were invited to the official residence of the Japanese Ambassador to Hungary to explain the process by which these nations enacted new constitutions or revised existing ones as part of the

wave of democratic reforms after the collapse of the Soviet Union, together with the characteristics of their present constitutions, among other topics. The explanations were followed by question-and-answer sessions.

A. Hungary

It was explained that: (1) With regard to the process that led to the current Hungarian constitution, there was initially no time to draft a new constitution in view of the need to expedite the change of political system; thus, it was decided to amend the old constitution of the Hungarian People's Republic, which had been revised thirty-seven times, and subsequently there was a movement to enact a new constitution. (2) The constitution is characterized by, on the one hand, a provision stipulating that the Parliament is the supreme body of State power and popular representation, and on the other hand, a system of national referendums; in practice, when Hungary joined NATO, the referendum system was utilized and efforts were made to obtain a national consensus.

B. Poland

Next, it was explained that: (1) With regard to the process that led to the current Polish constitution, the approach of revising the old constitution was adopted in the period directly after the change of political system in 1989, because it was difficult to enact a new constitution while President Lech Walesa and the former United Workers' Party government were sharing power. Aspects remaining from the days of the old constitution were then gradually removed by repeated amendments. The rise of the current president, Aleksander Kwasniewski, paved the way for the enactment of a new constitution in 1997 following a national referendum. (2) One characteristic of the new constitution is its reference, in the Preamble, to Poland's Catholic heritage.

C. The Czech Republic

It was further explained that: (1) The work of enacting the Czech constitution was initially pursued on the assumption that the federation with Slovakia would be maintained, but it was eventually decided that the two republics would separate. (2) The Czech Republic's constitutional order is characterized by having three components, each in a different legal form. That is, in addition to the Constitution of the Czech Republic, which chiefly lays down the system of government, there are (1) the Charter of Fundamental Rights and Freedoms, which provides for the rights of the people, and (2) the Constitutional Law of the Czech National Council, which is equal in value to the Constitution and stipulates the organization and activities of the State and the rights and freedom of the people.

D. Romania

Lastly, it was explained that: (1) In the enactment process of the Romanian constitution in 1991, there was a debate over whether to make the post-Ceausescu

system a republic or a monarchy. (2) Among the constitution's characteristics are political pluralism and an emphasis on protecting the rights of national minorities.

The Kingdom of the Netherlands

- (1) Courtesy visit to Mr. F. Korthals ALTES, Chairman of the First Chamber (Upper Chamber)

At the First Chamber (Upper Chamber), the delegation paid a courtesy visit to Mr. ALTES and discussed topics including: (1) the relationship between the upper and lower chambers of the Dutch parliament; (2) the legal status of the Dutch constitution under German occupation during World War II.

- (2) Meeting with Mr. Felix Edurd Robert RHODIUS, Director of the Cabinet of the Queen

At the Cabinet of the Queen, an explanation was received from Mr. RHODIUS. In particular, it was learned that: (1) Two characteristics of the Dutch monarchy which emerge from its history (from its inception in 1813 to the present day) are: (a) the Dutch people chose to adopt a monarchy while they were under a republican system; and (b) the limits that have always been imposed on the powers of the monarch by the constitution are considered to be a major reason for the monarchy's continued existence to the present day. (2) With regard to the monarch's status and powers under the constitution: (a) the monarch, with the Cabinet ministers, is a member of the government, but the ministers bear responsibility for all of the monarch's acts; (b) however, the monarch exercises at his or her discretion the right to be consulted, the right to encourage the people, and the right to warn, which are said to be powers of the sovereign according to unwritten law.

- (3) Meeting with Dr. Jit A. PETERS, Director, Constitutional Affairs and Legislation Department, Ministry of the Interior and Kingdom Relations, and one colleague

At the Ministry of the Interior and Kingdom Relations, an explanation was received from Dr. PETERS and his colleague, followed by a question-and-answer session.

In particular, the explanation covered the following points: (1) Although not politically accountable, the monarch is a member of the government and plays a certain role in forming a Cabinet, which includes advising the heads of political parties and the speakers of both Chambers. (2) The Dutch parliament is characterized by the fact that the Second Chamber (the lower chamber) has the right to conduct prior deliberation of proposed legislation and the right to amend bills and budget proposals, and it can also force the Cabinet to resign by passing a no-confidence motion, while the First Chamber (the upper chamber) is no more than a reviewing body which has the right to veto bills sent to it by the Second Chamber. (3) With regard to the executive branch, parliamentary approval is required before the monarch appoints Cabinet ministers, and the ministers cannot simultaneously be members of parliament, so that the Cabinet is separated from the Parliament. (4) The Dutch constitution is fairly rigid; the

amendment procedure requires, first, the consent of a simple majority in both Chambers, and then, after dissolving parliament and holding elections for the Second Chamber, the consent of a two-thirds majority in both Chambers of the newly convened parliament.

The Kingdom of Sweden, the Kingdom of Denmark, and the Kingdom of Belgium

○ Explanations by staff of the Embassies of Japan to Sweden, Denmark, and Belgium

Staff members of the Japanese Embassies to the above three European monarchies (Mr. KAJIMOTO, Secretary of the Embassy to Sweden; Mr. FUJITA, Councillor of the Embassy to Denmark; and Mr. OTSUKI, Secretary of the Embassy to Belgium) were invited to the official residence of the Japanese Ambassador to the Netherlands to explain the constitutional status of the respective monarchies, including the powers and status of the monarch, and the actual operation of their systems, among other topics. The explanations were followed by question-and-answer sessions.

A. Sweden

First, it was explained that in the Swedish monarchy: (1) The monarch is the titular head of State, according to the provision that “the King or Queen . . . shall be the Head of State” which, together with popular sovereignty and the parliamentary Cabinet system, forms one of the basic principles of Sweden’s fundamental laws; however, the monarch has a purely representative and ceremonial function, with no actual political power. (2) Female succession was recognized in 1979. (3) The public is fond of the royal family, and a proposal to abolish the monarchy that was presented to the Riksdag this March was overwhelmingly rejected.

B. Denmark

Next, it was explained that in the Danish monarchy: (1) The Danish constitution, which dates back over 150 years to its enactment in 1849, has consistently adopted a constitutional monarchy system. (2) Female succession was recognized in a 1953 amendment. (3) Because a strict procedure must be followed to amend the constitution, it has not been revised in almost half a century, nor is there currently any national debate about the possibility of revision.

In the question-and-answer session, among other topics, there was an exchange of views on the fact that the constitution provided for steps toward decentralization as early as 1849.

C. Belgium

Lastly, it was explained that in the Belgian monarchy: (1) The constitution states that the King’s person is inviolable and his ministers are responsible. (2) The constitution

clearly stipulates the principle of popular sovereignty, stating “All power emanates from the nation”; thus, the system is not based on the precedence of the monarch, but takes the position that the people came first and delegated their power to the monarch. (This is also clear from the historical record. When Belgium gained its independence from the Netherlands in 1830, there was a debate over whether to adopt a republican or monarchist system, and the nation accepted a king after first creating a constitution on the basis of a constitutional monarchy.) (3) Female succession was recognized in a constitutional amendment of 1991.

In the question-and-answer session, there was an exchange of views on topics including: (1) the 1993 constitutional amendment that clearly establishes that Belgium is a federal State; (2) the Court of Arbitration, which is equivalent to a constitutional court was established in 1980; in addition to constitutional review of statutes, the Court also decides disputes over rights that arise between the federal government, the communities, and the regions due to the transformation of Belgium into a federal State.

The State of Israel

(1) Meeting with Mr. Joshua SCHOFFMAN, Deputy Attorney General

In a hotel conference room, Mr. SCHOFFMAN gave a general explanation of: (1) the structure of Israel’s Basic Law; and (2) the process by which direct popular election of the prime minister was introduced and then abolished.

(1) With regard to the structure of Israel’s Basic Law, it was explained that the legal format of a “basic law” was adopted in preference to a constitution (code) because the latter would have been difficult to create in the early years of the nation’s founding, due to broad differences of opinion on issues of security, human rights, and religion. This led to the approach of first enacting a number of “basic laws” and then, at some time in the future, creating a constitution or code by integrating them.

(2) Next, the following main points were explained in regard to popular election of the prime minister: (a) The system was introduced to establish a stable foundation for government after many tiny parties arose in the 1980s and early 1990s, leading to the regular formation of coalition governments, accompanied by such practices as “horse-trading” of Knesset seats for Cabinet posts by small parties. (b) However, in the new system voters cast two ballots, one for a member of the Knesset and one for the prime minister, and it became common to vote for a prime ministerial candidate from a major party and a Knesset member from a small party more closely identified with one’s interests. As a result, contrary to expectations, all the major parties lost strength, and the prime minister, who is the head of the executive branch, was in fact weakened. Thus, the introduction of direct election of the prime minister was judged by the majority of the public to be a failure. (c) It was therefore decided to abolish the system in 2001, immediately after the third direct election, in which Prime Minister Ariel

Sharon was elected. An amendment to the Basic Law was passed accordingly, essentially reinstating the previous system.

(2) Meeting with Mr. Meir SHEETRIT, Minister of Justice

At the Ministry of Justice, Mr. SHEETRIT explained the process that led to introduction and then abolition of direct popular election of the prime minister, and other matters. This was followed by a question-and-answer session.

The main points covered were as follows: (1) Because Israel has a nationwide proportional representation system, new political parties arise before every election, and the Knesset had become highly fragmented. (2) Further, Israel has a parliamentary Cabinet system. With so many small parties in the Knesset, coalition governments are inevitable, but the small parties were demanding specific policy measures or Cabinet posts before they would join a coalition, and prime-ministerial candidates were forced to accept these conditions. (3) In light of this situation, direct election of the prime minister was introduced to ensure the stability of the government. However, in every one of the three elections held under this system, the electorate voted differently in the prime ministerial election and the election for the Knesset, with the result that the prime ministers came to act on their own initiative rather than taking the wishes of their party into consideration. (4) At present, the possibility of changing from proportional representation to small constituencies in order to curtail the excessive influence of small parties is being discussed.

(3) Meeting with Mr. Shlomo SHOHAM, Legal Advisor to the Constitution Law and Justice Committee of the Knesset

In a hotel conference room, Mr. SHOHAM gave an explanation of the process leading to the introduction and then abolition of direct popular election of the prime minister.

The following points were among those explained: (1) The three direct elections that were held did nothing to improve the situation in which the large parties are “held hostage” by small parties; in fact, the situation became more serious. (2) As a result, Prime Minister Sharon decided to abolish direct election, and, during a short period of discussion, preparations were made to return to the original electoral system. In drawing up the repeal bill, however, care was taken not to merely return to the previous system, but to improve its shortcomings.

(4) Meeting with Mr. Ophir PINES, M.K., Chairman of the Constitution Law and Justice Committee of the Knesset

Also in a hotel conference room, a question-and-answer session was held with Mr. PINES on matters including the process from introduction to abolition of the direct election of the prime minister by popular vote.

The main points covered in this session were as follows: (1) When asked about the relationship between the positions of the popularly elected prime minister and president, Mr. PINES explained that the powers of Israel's president have always been ceremonial in nature, and he therefore does not expect any particular problems to arise in the president's relationship with a popularly elected prime minister. (2) In introducing popular election, more consideration was given to the risk that granting strong powers to a popularly elected prime minister might lead to dictatorial rule. (3) Under the system in which voters cast one ballot for the prime minister and one for a Knesset member, there was an even greater proliferation of tiny parties than before, and they have come to have even more power. (4) The public supported popular election of the prime minister, hoping for political stability, but because it turned out to have the opposite effect, most people are now opposed to such a system. (5) The Basic Law was revised in a very short time after it was decided to repeal the system, but, in effect, at least five years had been spent drafting the amendment and making other preparations for repeal.

- (5) Meeting with Mr. Shimon PERES, Minister of Foreign Affairs and Deputy Prime Minister

At the Ministry of Foreign Affairs, Mr. PERES began by explaining how the direct election system had made both the prime minister and the Knesset ineffective, and how the system of checks and balances had ceased to function properly.

Next, there was an exchange of views on topics such as the ideal conduct of politics and the future outlook for world affairs. Mr. PERES's comments included the following: (1) Discussing his political ideals as an elder statesman, he acknowledged that, on the positive side, politics in the television era makes absolutist rule impossible, but he noted that we must also beware of its negative side, such as the fact that it allows one almost no time to think. (2) With regard to building future peace in Asia and the Middle East, he said that, just as the European Union is now a reality even though fifty years ago it was dismissed as a dream, we, too, must create something new without being preoccupied by the past.

- (6) Meeting with Dr. Arye Z. CARMON, President of the Israel Democracy Institute

In a hotel conference room, Dr. CARMON explained matters including the process that led to introduction and then abolition of direct popular election of the prime minister. This was followed by a question-and-answer session.

The explanation covered the following main points: (1) Direct election was introduced because the public, growing increasingly frustrated with political paralysis, hoped to see the impasse broken by enabling the prime minister to exercise strong political leadership. However, as a result, the basis of legitimacy for taking the helm of State affairs was split in two, and a situation arose in which the makeup of the governing coalition was renegotiated almost every week. (2) The public's support for the system

turned to disapproval, and it was this public backing for repeal that made it possible to quickly reverse the change and reinstate the original system.

At the end of the meeting, Dr. CARMON summed up by saying that, in his opinion, the parliamentary Cabinet system makes possible compromises and concessions, and that it contains intrinsic elements necessary for democracy to succeed.

- (7) Meeting with Prof. Zeev SEGAL, School of Government and Policy, Faculty of Social Sciences, Tel Aviv University

At a hotel conference room, the delegation concluded its studies on the system of popular election of the prime minister with an overview provided by Prof. SEGAL, followed by a question-and-answer session.

The explanation covered the following main points: (1) Direct election of the prime minister was introduced for the dual purpose of strengthening the prime minister and curbing the power of small parties. (2) The reasons for its failure were that voters cast their two ballots for candidates from different parties, and that the law that created the system was flawed because it was prepared in a short time. (3) Ideally, proportional representation in elections for the Knesset should have been replaced with a small constituency system, but it was impossible to pass a reform bill to that effect because opposition in the Knesset was too strong at the time. (4) Under these circumstances, in introducing direct election of the prime minister, the possibility of striking a balance between the legislature and the executive with an American-style system should have been considered, as such a system (a) results in an efficient government by granting extensive powers to the prime minister, (b) decides the prime ministership solely on the basis of election results, and (c) is a form of participatory democracy. (5) If Japan were to consider introducing a system of direct election of the prime minister, Prof. SEGAL would advise: (a) giving the prime minister as many powers as possible by law but, at the same time, not allowing him or her to exercise powers in excess of those provided by law; (b) taking precautions such as ensuring that the check functions of the parliament work well.

Spain

- (1) Meeting with Mr. Iñigo CAVERO LATAILLADE, President of the Council of State, and three colleagues

At the Council of State, an explanation was received from Mr. CAVERO and his colleagues, followed by a question-and-answer session.

The explanation included the following main points: (1) Many different political forces collaborated in the process of drafting the present constitution, while finding points of agreement. (2) One of the features of the present constitution is the fact that it contains ample provisions for human rights, since various human rights standards, and especially the European Convention on Human Rights, were consulted in the

drafting process. (3) With regard to local autonomy, some of the autonomous communities into which Spain is divided have been granted extensive powers of self-government while others have not, and this disparity has become a problem. (4) The Constitutional Court is a major force in curbing autocratic rule; as a body independent of the national assembly and regular courts, it has been entrusted with the protection of democracy.

Among the points explained in answer to questions, it was learned that, since the death of General Franco, the present King, Juan Carlos, has won broad popular support through his consistent stance of respecting and upholding the constitution, as shown by his decisive actions as a champion of reforms including the liberalization of political parties.

- (2) Meeting with Ms. Margarita MARISCAL DE GANTE, President, Constitutional Commission of the Congress of Deputies, and six colleagues

At the Congress of Deputies, Ms. MARISCAL and her fellow Commission members from several parties explained the process of drafting the present constitution, among other matters, followed by a question-and-answer session.

It was explained that the draft of the present constitution was written entirely by the national assembly, and that it was realized on the basis of a consensus among many political parties. For example, the sections concerning fundamental human rights by and large reflect the views of parties on the Left, while those concerning the system of government largely reflect the thinking of the Union of the Democratic Center.

In answer to questions, explanations were received on such points as: (1) the difference between the Council of State, an advisory body which the government consults on matters including the constitutionality of laws, and the Constitutional Court, which rules on constitutionality cases; (2) the actual workings of the "constructive no-confidence vote," which is similar to the German system.

3. The House delegation dispatched to survey the constitutions of the United Kingdom and several Asian nations: September 23 to October 5, 2002

From September 23 to October 5, 2002, the above members' delegation was dispatched by the House of Representatives, under the leadership of NAKAYAMA Taro, Chairman of the Research Commission on the Constitution. As outlined below, the delegation surveyed the actual situation of the constitutions of a total of eight nations: the United Kingdom, Thailand, Singapore, China, the Republic of Korea, the Philippines, Malaysia, and Indonesia.

- (1) Meeting with Mr. Paul EVANS, Commons Committee Clerk, Joint Committee on Human Rights

At the Houses of Parliament, Mr. EVANS provided an explanation of Britain's guarantees of human rights. This was followed by a question-and-answer session.

The following main points were explained: (1) After ratifying the European Convention on Human Rights when it was enacted shortly after World War II, for many years Britain took no steps to incorporate its provisions into its own laws, contending that the issues raised could be dealt with by existing legislation centered on common law. Then, Prime Minister Blair's Labour government studied the possibility of enacting specific legislation and, in 1998, passed the Human Rights Act. (2) Before the Act was passed, there was debate over what the relationship should be between Britain's traditional doctrine of parliamentary sovereignty and the binding force of decisions by the courts. It was decided that the courts may declare that a statute contravenes the Convention, but that it is Parliament that decides whether or not to amend it accordingly. (3) The Joint Committee on Human Rights is a parliamentary body established to secure the implementation of the Human Rights Act. Its full program of activities includes preparing reports on bills that might infringe the Human Rights Act.

- (2) Meeting with Mr. Ian SCOTTER, Head of the Regional Assembly Division, Regional Policy Unit, Office of the Deputy Prime Minister

At the Office of the Deputy Prime Minister, Mr. SCOTTER explained regional policy under the Blair administration, followed by a question-and-answer session.

The explanation covered the following main points: (1) The Blair administration is promoting the devolution of authority via the creation of regional assemblies in Scotland, Wales and Northern Ireland, and now in England. (2) The White Paper it has already published on the subject considers how to increase opportunities for residents to participate in regional politics, e.g., by establishing popularly elected "regional assemblies" in eight regions of England and selecting the executives responsible for local government from the assemblies. (3) Whether or not to establish regional assemblies will ultimately be decided by local referendums, but some regions are not enthusiastic about the proposal. (4) In many parts of England, there is a two-tiered system of local government at present, and critics say that to establish regional assemblies while retaining the two-tiered system would merely add another layer of bureaucracy.

- (3) Meeting with the Rt. Hon. Nick RAYNSFORD, MP, Minister of State for Local Government and the Regions, Office of the Deputy Prime Minister

Mr. RAYNSFORD joined the above meeting with Mr. SCOTTER for an exchange of views with the delegation.

The main points learned from this discussion were: (1) The public are concerned not only that government be efficient but also that it be participatory, and creating regional assemblies in England is a way of responding to these expectations. (2) The reforms will allow the regions considerable discretion in spending the budgets allocated to them by the central government, but it is intended to stop short of devolving the right to levy taxes.

- (4) Meeting with Prof. Robert HAZELL, Director of the Constitution Unit, School of Public Policy, University College London

At his office at University College London, a question-and-answer session was held with Prof. HAZELL, centering on reform of the House of Lords and the relationships between elected officials and civil servants.

Prof. HAZELL gave the following explanations: (1) With regard to House of Lords reform, Britain's Lord Chancellor has a role in all three branches of government, being (a) a Cabinet member (Minister of Justice), (b) Speaker of the House of Lords, and (c) the head of the Law Lords, Britain's equivalent of a Supreme Court. This arrangement has come under challenge as defying the doctrine of the separation of powers. (In particular, there is a strong trend of opinion that the Lord Chancellor should customarily exercise his authority with restraint.) (2) With regard to the relationships between elected officials and civil servants, the British traditionally expect their civil service to be impartial and politically neutral, but there are signs of dissatisfaction with the way this operates in practice. (In this connection, the Blair administration has created a growing number of politically appointed "special advisors.") (3) With regard to the possibility of Britain adopting a written constitution, although there seems to be a movement seeking this among some sectors of the public, in light of Britain's constitutional history, it is unlikely ever to come about.

- (5) Meeting with Mr. David BEAMISH, Clerk of Committees, Joint Committee on House of Lords Reform

In a conference room at the Embassy of Japan, Mr. BEAMISH gave an explanation of House of Lords reform as seen from Parliament's perspective, followed by a question-and-answer session.

Among other matters, it was explained that: (1) There have been three previous attempts to reform the House of Lords, but they ended in failure as no consensus could be reached. (2) The Blair government has adopted a two-stage approach consisting of (a) abolishing the hereditary peerage, and (b) studying long-term reforms of the House

of Lords. For the present, a certain amount of progress has been made with (a), on which consensus can be reached with relative ease. (3) Debate on (b) is now under way, and the forum has shifted from the government to Parliament (the Joint Committee), drawing on the report of the Royal Commission on House of Lords Reform (the Wakeham Report). (4) There are a number of sticking points in the debate, including concerns in the Commons that popular election of the House of Lords might lead to a loss of status for the House of Commons.

- (6) Meeting with Ms. Judith SIMPSON, Head of the House of Lords Reform Team, Lord Chancellor's Department, and three colleagues

Following the above session, in a conference room at the Japanese Embassy, Ms. SIMPSON and her colleagues gave an explanation of House of Lords reform from the perspective of the government, followed by a question-and-answer session.

Among other points, it was learned that: (1) There is concern that an elected House of Lords might detract from the House of Commons' dominant status, but public opinion supports election to the Lords by popular vote. (2) At present, the government team is awaiting a study by the Joint Committee.

- (7) Meeting with Mr. Charles COCHRANE, Secretary, Council of Civil Service Unions

In a conference room at the Japanese Embassy, Mr. COCHRANE provided a general explanation of the relationships between elected officials and the civil service, followed by a question-and-answer session.

The main points covered were as follows: (1) British civil servants are proud of their political neutrality, and the transition from a Conservative to a Labour administration in 1997 was carried out smoothly. (2) With regard to the relationships between elected officials and civil servants, (a) civil servants are considered to serve particular ministers in their roles as Cabinet members and not to be permitted to do any work of a party-political nature; (b) "special advisors" who are political appointees are available for work of a political nature. (3) Despite these customary practices, civil servants are sometimes criticized by the media and others for acting in an excessively political way. (4) The "agency system" separates the planning of policies from their execution, but it tends to lead to friction during Britain's frequent reorganizations of its ministries, particularly as the agencies are established under separate ministries and have different pay scales and other conditions.

- (1) Meeting with Prof. SUCHIT Bunbongkarn, Judge of the Constitutional Court, and one colleague

At the Constitutional Court, a question-and-answer session was held with Prof. SUCHIT on the subject of the Court's actual exercise of its powers, among other matters.

The main points explained were as follows: (1) The powers of the Constitutional Court include (a) judicial review of statutes, (b) final review of the veracity of politicians' asset statements submitted to the National Counter Corruption Commission, and (c) deciding jurisdictional disputes among State agencies. (2) The Court is actively exercising its powers of judicial review of statutes, having examined over 200 cases to date. Recently, it reviewed the question of whether land ownership rights extend to a depth of 100 meters below ground. (3) Last year, the Court acquitted Prime Minister Thaksin of a charge of falsely reporting his assets, but Prof. SUCHIT himself returned a guilty verdict.

- (2) Meeting with Prof. Dr. BORWORNSAK Uwanno, Secretary General, King Prajadhipok's Institute, and two colleagues

At King Prajadhipok's Institute, Prof. Dr. BORWORNSAK gave an explanation of the Thai electoral system and other matters, followed by a question-and-answer session.

The explanation covered the following main points: (1) Three problems of political corruption are cited in Thailand: (a) there is no limit on the amount or methods of political donations; (b) candidates for Parliament need to spend enormous sums to win election; (c) the public, in its turn, has the idea that it can beg favors from Parliament members. (2) With regard to the role of the king, Thailand's monarch, like Japan's, has no political powers but plays a social role and enjoys the respect and affection of the people.

- (3) Meeting with Prof. MARUT Bunnag, former Speaker of the House of Representatives, and one colleague

At the Marut Bunnag International Law Office, Prof. MARUT explained Thailand's constitutional history, followed by a question-and-answer session.

Among other points, it was explained that: (1) Since enacting its original constitution in 1932, Thailand has experienced many coups d'etat, and each time it has been forced to revise the constitution. However, the present 1997 constitution was the result of a growing popular movement for the enactment of a democratic constitution, and it has the solid support of the people. (2) Politically, there is a movement to revise the existing constitutional ban on concurrently holding a Cabinet post and a parliamentary seat, but there is little need for this.

○ **Explanations by staff of the Embassies of Japan to the Philippines, Malaysia, and Indonesia**

Staff members of the Japanese Embassies to the above three Asian nations (Mr. YOSHIDA, Minister of the Embassy to the Philippines, Mr. USHIO, Secretary of the Embassy to Malaysia, and Messrs. WADA and TANI, Councillor and Secretary of the Embassy to Indonesia) were invited to the official residence of the Japanese Ambassador to Singapore to explain the constitutional affairs of the respective nations. This was followed by question-and-answer sessions.

A. The Philippines

First, it was explained that: (1) The constitution of the Philippines contains strong checks on the executive branch, including an impeachment system for certain public officers and an ombudsman system, due to the nation's experience under the Marcos dictatorship. (2) There are many provisions concerning the rights of the people, but few concerning their duties. (3) As basic principles, the constitution declares the sovereignty of the people, a pacifist stance renouncing wars of aggression, civilian authority over the military, freedom from nuclear weapons, and social justice, with a call for the equitable distribution of wealth. (4) The constitution also prohibits, in principle, the stationing of foreign combat troops and the establishment of foreign military bases on Philippine territory.

B. Malaysia

Further, it was explained that: (1) The Malaysian constitution stipulates Islam as the national religion, and there are districts where Islamic law applies; nevertheless, the constitution is the highest law of the land and its provisions take precedence. (2) The constitution stipulates a special status for the Malay community and gives them preference in appointments to the public service and certain other areas. (3) Provisions on sensitive issues exist as a constitutional restraint, and it is forbidden to question the designation of Malay as the national language or the prerogatives and powers of sultans.

C. Indonesia

Lastly, it was explained that: (1) Democratizing institutional reforms, including placing limits on the powers of the president, have been under way since the collapse of the Suharto regime; the constitution has been revised four times in successive years, and these efforts were essentially completed with this year's revision. However, at present, the official text of the revised constitution has not been released. (2) There is serious corruption among the judiciary, and the rule of law has not yet been established.

- (1) Meeting with Mr. Jeffrey CHAN Wah Teck, Principal Senior State Counsel, Civil Division, Attorney-General's Chambers, and three colleagues

At the Attorney-General's Chambers, Mr. CHAN provided an overview of Singapore's constitutional system, followed by a question-and-answer session.

The explanation covered the following main points: (1) Many of Singapore's political and legal institutions were inherited from Britain, but others are homegrown and unique. The "group election system" is one such institution, designed to promote racial harmony in Singapore's multiracial population of Chinese, Malays, and Indians. To ensure that ethnic minorities can always gain representation in Parliament, in each electorate a fixed number of candidates (from three to six people) per party stand as a group, and one of them is always from an ethnic group other than the Chinese majority, who make up over 70 percent of the population. (2) With regard to "Asian values" such as public trust in government, it was suggested that these are the result of a historical experience different from that of Europe, which has known government oppression of the people.

- (2) Informal discussion with Prof. S. JAYAKUMAR, Minister for Law and Minister for Foreign Affairs, and one colleague

At the Ministry of Foreign Affairs, the delegation exchanged views with Prof. JAYAKUMAR on the international situation and the Singaporean constitution as a whole.

The following main points were covered: (1) Singapore has adopted a "total defense" framework with compulsory national service, in which all of the people serve the cause of national defense. However, amid the changing world situation, Singapore is adjusting its capability to meet new security threats, such as terrorism, in addition to conventional threats. (2) With regard to family-related legislation, a law stipulating the obligation to support one's elderly parents has been enacted, but Prof. JAYAKUMAR considers that such issues are a question of education, and that the constitution and laws should play a limited role in this regard.

- (3) Meeting with Dr. THIO Li-ann, Associate Professor, Faculty of Law, National University of Singapore

At the Japanese Embassy in Singapore, a question-and-answer session was held with Prof. THIO on the Singaporean constitution as a whole.

The following main points were explained: (1) The "group election system," which the government describes as a form of protection for ethnic minorities, is actually advantageous to the ruling People's Action Party and cannot be said to be democratic; in Prof. THIO's opinion, a simple system based on single-seat constituencies should be

adopted. (2) From the viewpoint of constitutional law, a field based on skepticism toward and restraint of State power, one cannot give unqualified assent to “Asian values,” according to which the people should trust and depend on the government in keeping with the Confucian doctrine of the fundamental goodness of human nature. An adequate body of law should always be available to deal with the advent of a “worst-case” government.

The People’s Republic of China

- (1) Meeting with Prof. ZENG Xianyi, Dean and Professor of Law, Renmin University of China, and seven colleagues

At the School of Law, Renmin University of China, the delegation received an explanation from Prof. ZENG and his colleagues regarding the Chinese constitutional system as a whole, followed by a question-and-answer session.

The explanation covered the following main points: (1) The 1982 constitution currently in force is the culmination of all the Chinese constitutions since the first, which was enacted in 1954. The will of the people has been distilled therein by a system of popular representation under “democratic centralism.” (2) With regard to the “socialist market economy,” the introduction of a market economy is necessary and inevitable for advancing China’s reform and market-opening policies, and the socialist market economy is a form of development to that end.

- (2) Meeting with Prof. LIU Junjie, Social Development Institute, Central Party School, Communist Party of China, and one colleague

At a hotel conference room, a question-and-answer session on the Chinese constitutional system overall was held with Prof. LIU and his colleague.

Among other points, it was learned that: (1) As a theoretical issue related to revision of the constitution, discussions are taking place regarding how private property should be protected, and China is also addressing the protection of intellectual property rights as an important issue from its standpoint as a nation founded on science and technology. (2) With regard to the relationship between the Communist Party and the constitution, even though it is the ruling party, the Communist Party is required to act within the framework of the constitution.

- (3) Meeting with Mr. ZHANG Chunsheng, Vice Chairman, Legislative Affairs Commission of the Standing Committee of the National People’s Congress, and three colleagues

At the Great Hall of the People, Mr. ZHANG and his colleagues gave an explanation of the historical process leading to the present (1982) constitution, among other matters. This was followed by an exchange of views with Mr. NAKAYAMA on behalf of the delegation.

(1) First, Delegation Leader NAKAYAMA noted that, with regard to Article 9 of the Constitution of Japan, the Japanese public's interest is focused on the question of whether the existence of the Self-Defense Forces should be made compatible with the provisions of the Constitution. In response, Mr. ZHANG praised Japan's pacifist constitution as having made major contributions not only to Japan's economic development but also to peace in Northeast Asia and throughout the world. (2) Next, Mr. NAKAYAMA asked how China, as a permanent member of the Security Council, viewed Japan's international cooperation based on requests by the United Nations, and Mr. ZHANG responded that the Chinese saw no problem whatsoever with Japanese participation in peacekeeping operations based on UN resolutions. (3) Lastly, the two sides reaffirmed their common recognition of the need for close talks to promote friendship and mutual trust between China and Japan.

The Republic of Korea

- (1) Informal discussion with Mr. PARK Kwan-yong, Speaker of the National Assembly, and three colleagues

At the National Assembly Building, an exchange of views took place between Mr. PARK and Mr. NAKAYAMA on behalf of the delegation.

Mr. PARK commented that: (1) In the Republic of Korea (ROK), there is an ongoing debate over a constitutional amendment to make the president's term four years, the same as that of members of the National Assembly. (2) The ROK praises Japan's peace constitution and Japan's other international contributions in accordance with its status as an economic power, and also firmly supports Article 9 of the Japanese constitution as a neighboring Asian country. (3) With regard to the situation on the Korean Peninsula, it is important that the ROK, Japan, and the United States, on a basis of trilateral cooperation, hold ongoing talks with China and Russia.

- (2) Meeting with Mr. KIM Jong-du, Director General, Legislative Counseling Office of the National Assembly, and seven colleagues

Also at the National Assembly Building, the delegation received an explanation from Mr. KIM regarding the status of member-sponsored bills in the National Assembly, the role of the Legislative Counseling Office in the drafting process, and related matters, followed by a question-and-answer session.

- (3) Meeting with Mr. PARK Yong-sang, Secretary General of the Constitutional Court, and six colleagues

At the Constitutional Court, an explanation was received from Mr. PARK, followed by a question-and-answer session.

The explanation covered the following points: (1) The ROK's Constitutional Court was created by the 1987 constitution based on the German and Austrian models. As of

August 31, 2002, it had received about 8,000 cases and had processed over 7,500 of these. (2) With strong public support, it has been carrying on productive work that includes rulings of unconstitutionality on many statutes, especially those enacted under the former military governments. (3) The “constitutional petition” system, which permits ordinary citizens to submit cases directly to the Constitutional Court, was based on a German model but is developing in a way unique to the ROK.

- (4) Meeting with Mr. KIM Chang-kuk, President, National Human Rights Commission, and four colleagues

At the National Human Rights Commission, an explanation was received from Mr. KIM, followed by a question-and-answer session.

The explanation covered the following main points: (1) President Kim Dae-jung pledged to establish a National Human Rights Commission in his presidential campaign, in light of the human rights violations that were committed under the military governments, and after many complications the Commission became a reality on November 25, 2001. (2) There was a debate over whether to make it an independent body or an agency of the Ministry of Justice, but in the end it was established as an independent body. (3) As measures to redress human rights violations, the Commission is limited to making nonbinding recommendations to the State agencies that it oversees, but in actual practice it has considerable influence.

Chapter 3

Summary of Comments by Members, Informants, and Others at the Research Commission on the Constitution

Chapter 3 Summary of Comments by Members, Informants, and Others at the Research Commission on the Constitution

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The comments by members, informants, and others made at meetings of the Research Commission on the Constitution of the House of Representatives (including subcommittee meetings and open hearings) held from the 147th Diet session to the 155th Diet session (through October 24, 2002) are organized as follows: (1) Mainly comments related to the Constitution were selected and (2) summarized to the extent that the intent of the comment was not compromised. (3) The comments were organized (i) by establishing categories based on the chapters and articles of the Constitution of Japan and also with reference to the categories in constitutional law textbooks and (ii) appropriately consolidating or segmenting the said categories taking into account the intent and length of the comments included under that category.

“Comments by Members” were selected mainly from opinions expressed, including comments made during questioning of informants. “Comments by Informants and Others” include comments by the Director of the Administrative Affairs Bureau of the General Secretariat of the Supreme Court and speakers at the open hearings in addition to comments by informants.

Notes

1. The information in parentheses inserted after each comment is, in principle, as follows: (Speaker’s name.Diet session.Date of comment).
 - For “Comments by Members,” the abbreviated name of the political party to which the member belonged at the time the comment was made is included after the member’s name.
 - For cases where comments by one member made on different days have been summarized together as one comment, the following notation is used: (Member’s name [abbreviated name of political party].Diet session.Date of comment, Diet session.Date of comment,...).
 - For cases where more than one comment by the same member has been summarized together as one comment and that member has different political affiliations on the dates of the various comments due to changes in the names of the political group or the member’s transfer to a different political group, the following notation is used: (Speaker’s name [abbreviated name of former affiliation].Diet session.Date of comment/[abbreviated name of current affiliation].Diet session.Date of comment).
 - For comments made at subcommittee meetings, the name of the subcommittee (abbreviated as Human Rights Subcommittee, Politics Subcommittee, International Society Subcommittee, or Local Autonomy Subcommittee) is indicated after the date. For comments made at open hearings, the name of

the open hearing (abbreviated as Sendai Hearing, Kobe Hearing, Nagoya Hearing, Okinawa Hearing, or Sapporo Hearing) is indicated after the date.

2. The comments under each discussion point are, in principle, listed in the following order: For “Comments by Members”: Order of political party size as of October 24, 2002 → Japanese alphabetical order → Order of date of comment. For “Comments by Informants and Others”: (Informants and Director of the Administrative Affairs Bureau of the General Secretariat of the Supreme Court -> Speakers at the open hearings) → Order of date of comment.
 - Comments by members belonging to the NK-RN and NK are listed together under NK for convenience’ sake.
 - For cases where more than one comment by the same member has been summarized together as one comment and that member has different political affiliations on the dates of the various comments due to the member’s transfer to a different political party, the composite comment is listed under the member’s political affiliation as of October 24, 2002.
3. Additional explanation of specialized terminology has been inserted in the form of a parenthetical note immediately following the term.

Section 1

Discussions Concerning Stance towards Constitutional Debate and Methodology of the Research Commission on the Constitution

Section 1 Discussions Concerning Stance towards Constitutional Debate and Methodology of the Research Commission on the Constitution

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Section 1 Discussions Concerning Stance towards Constitutional Debate and Methodology of the Research Commission on the Constitution

I. Stance towards Constitutional Debate

- a. Comments advocating discussions with focus on Japan's future

<Comments by Members>

- Domestic conditions have changed significantly since the promulgation of the Constitution. Instead of amending the problems that exist in the present Constitution, the basic stance should be to define a vision for the future of Japan and, based on this vision, to draft a completely new constitution. As we undertake the task of framing a new constitution, we should learn from the drafting process of the Meiji Constitution whose authors started by studying the Japanese classics. (AICHI Kazuo, Member/LDP/147/27.Apr.2000)
- Times have changed, and domestic and international conditions have undergone great changes. We must discuss the principles that our nation and our people can espouse for the future, and how to realize these principles. We must deepen our discussion of what we believe Japan should be in the future. A new constitution will be born out of such discussions. (SUGIURA Seiken, Member/LDP/147/27.Apr.2000)
- These are the issues that should be discussed by this Commission: What should Japan strive to become in the 21st century? What kinds of norms and standards must be adopted to realize this vision? (TAKAICHI Sanae, Member/LDP/149/3.Aug.2000)
- I agree with what Informant KOSEKI Shoichi has stated in the newspapers. With our eyes fixed on the 21st century, portions of the Constitution that need changing should be changed, necessary additions should be made, and thought should be given to making the language of the Constitution easier to understand. For this purpose, debate with a broad scope which the people can find acceptable should be pursued. Such debate should include discussions of constitutional amendment. (NAKAGAWA Shoichi, Member/LDP/147/9.Mar.2000)
- More than fifty years have passed since the end of the war and Japan is now the world's second largest economy. How should Japan provide for its security and perform its other responsibilities in today's world? Against the backdrop of this watershed, I look forward to discussing the Constitution together with the people of Okinawa. (HANASHI Nobuyuki, Member/LDP/154/25.Apr.2002)
- Since the promulgation of the present Constitution, there has been much progress in globalization, social conditions have been transformed, and the American and

European models have ceased to function as a goal. There is great historic significance in pursuing a new constitution for Japan in the 21st century by reviewing the problems of the current Constitution. (YASUOKA Okiharu, Member/LDP/147/24.Feb.2000)

- The Constitution is the basic law of the land that provides a foundation for the nation. It should be drafted with a vision of what objectives we wish to pursue as a nation. It is important to discuss the Constitution in light of our vision for Japan's nation-building in the new century. (KANO Michihiko, Member/DPJ/149/3.Aug.2000)
- The Democratic Party of Japan believes that we must engage in thorough discussions of the following matters: (1) examination of contemporary views of what a constitution should be in the age of international cooperation and new global issues; (2) examination of the restructuring of the basic framework of the nation in light of the dynamic social changes occurring in all fields; (3) examination of desirable forms of administrative agencies and organizations without being bound by current interpretations of the Constitution; (4) proposal of amendments and revisions based on analysis and evaluation of the current status of judicial review of the constitutionality of laws, and constitutional lawsuits necessary for ensuring the effective operation of the Constitution as a legal standard. (KANO Michihiko, Member/DPJ/149/3.Aug.2000)
- In the 21st century, problems must be approached from global and universal perspectives. Hence, we must determine what role Japan wants to play in the world, and we must create a solid identity for Japan and the Japanese. (KOBAYASHI Kenji, Member/DPJ/153/6.Dec.2001)
- Japan must develop its will and strategies as a nation. Dialogue can start only when this will, as seen from abroad, can effectively convey what Japan is thinking. The structure of the world has changed, and Japan is groping for new directions in light of the diversification of the values of its own people. In the stage that we presently find ourselves, the challenge is for us to define the will of our nation and to express it in the Constitution. (NAKAGAWA Masaharu, Member/DPJ/153/6.Dec.2001)
- The Constitution is the basic law of the land and must be dignified and compelling. Hence, it is necessary to examine the history and ongoing development of the constitutions of other countries in the international community, and to focus on what Japan should strive to become in the future. (NAKANO Kansei, Member/DPJ/147/23.Mar.2000)
- In our examinations of the Constitution of Japan, we should discuss the ideal Constitution not from the standpoint of reflecting on the past but from the perspective of envisioning how Japan should be in the future. (NAKANO Kansei, Member/DPJ/147/11.May.2000, 150/7.Dec.2000)

- It is predicted that Japan's population a century from now will drop below 70 million. If so, Japan will be pressured to accept immigrants and to develop a far more culturally and ethnically diverse society than what we have today. How would the principles of the Constitution be applied to such a society? We need to base our discussions on projections of what our future society will look like. (YOKOMICHI Takahiro, Member/DPJ/147/6.Apr.2000)
- Instead of focusing on the clash between the Constitution and contemporary reality, we must understand that both the Constitution and reality are subject to change. We should return to the original principles enunciated at the launching of the Research Commission on the Constitution which was to examine the Constitution from the perspective of what we want Japan to be in the 21st century. For the remainder of the discussions of this Commission, I am hoping that we can keep our eyes firmly fixed on what is real today, as well as on the function of the Constitution as a source of change. (AKAMATSU Masao, Member/NK/154/25.July.2002)
- The Constitution should be discussed in light of the following discussions concerning the nation: (1) It is important to examine Japan's national identity in the context of globalization. That is, the ideological, philosophical, cultural and historical factors which form the backdrop to the Constitution should be discussed. We must consider a national identity that differs from that of a 20th century nation-state. (2) The Constitution should be examined in light of the fact that Japan's legal system, social system and the form of the nation are being affected by four inexorable flows of magma: information technologies, genome research, the environment, and grassroots participation. When we think about the future shape of our country, these are major features which present themselves on the threshold of the 21st century. (OTA Akihiro, Member/NK-RN/147/6.Apr.2000, NK/149/3.Aug.2000, 150/9.Nov.2000)
- The following are major issues in discussing the Constitution: (1) What kind of country is Japan, and what kind of country should it be? (2) What position should Japan take in the international community? (KURATA Eiki, Member/NK-RN/147/6.Apr.2000)
- Article 9 symbolizes Japan's peace constitution and must be upheld. Also, the three key principles of popular sovereignty, permanent peace, and basic human rights should be recognized as immutable. Having done that, we should then engage in a national debate, lasting perhaps ten years. This debate would focus on the Constitution, which now has a history of 50 years, and on a vision for Japan and the Japanese in the 21st century. (HIRATA Yoneo, Member/NK-RN/147/17.Feb.2000)
- The Constitution should be broadly discussed from some very diverse perspectives including the perspective of the protection of the dignity of all individuals residing in Japan, regardless of national origin; the perspective of Japanese history; and, the

perspective of projected future changes. (HIRATA Yoneo, Member/NK-RN/147/17.Feb.2000)

- In the 21st century, the information society will override the industrial society. Therefore, the new constitution, that may be called the “Japanese Constitution - 2000,” should obviously conform with the requirements of the information society, and should be revised at five-year intervals. This will be a key to Japan’s survival in the 21st century by ensuring and supporting the dynamism of the nation. (TASSO Takuya, Member/LP/147/2002.4.27)
- What is needed now is not a debate on the amendment of the Constitution. Rather, what we need to do is to discuss a concrete vision for the future of Japan. (ITO Shigeru, Member/SDP/147/17.Feb.2000)
- The key issue is the direction Japan should take in the 21st century. Hence, we need to identify the axes that define the views of the majority of the people. To that end, we must be prepared to engage in heated debate and even in a tumultuous exchange of views on a national scale. (ITO Shigeru, Member/SDP/147/9.Mar.2000, 147/6.Apr.2000)
- Discussion of the Constitution should not become an ideological debate. Our focus should be the world and Japan in the 21st century. We must direct our discussions along the axes defining our vision of what Japan should be. We must not be bogged down by constitutional interpretations. Our concrete vision for the future, such as Japan’s relations with the Asian countries in the new century, should be integrated into the discussions. (ITO Shigeru, Member/SDP/147/6.Apr.2000, 27.Apr.2000, 11.May.2000)
- We should not stop at abstractions, such as saying that the people are important. We must focus on the future and examine social structures and systems in a real sense. This is what constitutional debate is all about. (ABE Motoo, Member/NCP/147/6.Apr.2000)
- Two things are needed in discussing the Constitution: an awareness of international conditions, and a correct appreciation of conditions pertaining to domestic development. The Constitution must be open to amendment in line with this awareness. (ABE Motoo, Member/NCP/147/27.Apr.2000)

<Comments by Informants and Others>

- There are certain prerequisites to examining the contents of the Constitution. That is, discussions of the Constitution should begin with an examination of the government, our ideals, the management of the State, and what we want Japan to be in the 21st century. (AMAKAWA Akira, Informant/147/20.Apr.2000)

- We should ensure Japan's security by committing ourselves to the establishment of world peace. This does not mean that we should immediately discard all weapons. Given the global trend towards disarmament, we should take a long-term view of the 21st century and examine the present Constitution which is in itself an extremely precious declaration of world peace. (ODA Minoru, Informant /150/28.Sept.2000)
 - With the end of the Cold War, world history has entered a new stage and Japan is undergoing its "third opening" to the world. In line with these developments, we need a "people's constitution" which is framed by the people and for the protection of the people. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
 - Before discussing what to do with the Constitution, we need to clarify the direction in which Japan should be moving. If we are able to reach a conclusion on this issue, then the matter of amending the Constitution becomes a simple legal and technical matter. (MORIMOTO Satoshi, Informant/153/2.Oct.2001)
- b. Comments advocating discussions in light of Japan's history and traditions

<Comments by Members>

- I agree with the statement made by Informant YAGI Hidetsugu that discussions of the Constitution must be discussions of our national character. (OKUNO Seisuke, Member/LDP/154/4.July2002/Politics Subcommittee)
- The Constitution is the foundation of the nation. Therefore, before discussing the Constitution, the Japanese people must develop their awareness as a people and as a nation. (TANAKA Makiko, Member/LDP/147/11.May.2000)
- We stand on the threshold of the 21st century thinking what to do. I believe we must frame a Constitution to be the source of new pride for the people and based squarely on the traditions and culture of the Japanese people. We must have the courage to amend what needs amending, and the commitment to preserve what needs to be preserved. (SHINDO Yoshitaka, Member/LDP/150/9.Nov.2000)

<Comments by Informants and Others>

- We have arrived at the age of globalism and Japan's "third opening" to the world. We need to rebuild our national identity at this juncture. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
- Given that the Constitution is a matter of national character, any discussion of the Constitution should be prefaced by a discussion of our national character and identity. As we begin to discuss the Constitution today, we must learn from the Meiji Constitution which was framed to conform to Japan's national character. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)

- Our discussion of the Constitution today is meant to be part of an investigative study. Therefore, as was done in the case of the Meiji Constitution, we must not allow ourselves to lose sight of the Japanese perspective. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- c. Comments advocating discussions in light of the significance of the Japanese Constitution

<Comments by Members>

- The present Constitution has taken root among the people and has been supported for fifty years. We should discuss and investigate the reasons for this in detail. (HIRATA Yoneo, Member/NK-RN/147/17.Feb.2000)
- The Constitution is there to benefit the people. This is the starting point that must not be forgotten. A vital mission of the Commission is to examine in detail what are the conditions of the people and what benefits them. (HIRATA Yoneo, Member/NK-RN/147/11.May.2000)
- Basic human rights and pacifism should not be taken as a priori truths in discussions of constitutional amendment. Rather, such discussions should be focused on what these principles mean. (FUTAMI Nobuaki, Member/LP/147/23.Mar.2000)
- It is necessary to recognize that the basic provisions of the current Constitution came into being as part of the historical and global development of democracy. Thus, Article 9 reflects the movement towards outlawing war, and the principles of popular sovereignty, the respect for basic human rights, and the guarantee of right to life originate in the development of democracy. (SASAKI Rikukai, Member/JCP/147/9.Mar.2000)
- When investigating the direction we should take in the 21st century, we must be mindful of the major principles of the current Constitution, which are popular sovereignty, permanent peace, and the respect for basic human rights. While it is important to discuss what we should do in the future, it is as important to consider what we should do now. I would like to make the following two points. (1) If we consider the direction that Japan should take in the 21st century in light of the pioneering nature of the commitment to permanent peace centered on Article 9, we find ourselves oriented towards a 21st-century Japan contributing to peace in the world and in Asia. (2) The following human rights provisions of the Constitution will provide us with a foundation for detailed discussions of problems pertaining to the life and basic human rights of the people in the 21st century: Article 25 regarding living rights, Articles 14 and 24 regarding the equality of men and women and equality before the law, and the provisions for the right to the pursuit of happiness under Article 13 which provide the basis for the right to privacy. (YAMAGUCHI Tomio, Member/JCP/149/3.Aug.2000)

- “Bringing the Constitution into play in our daily lives and in politics.” this is probably what will define our identity in the 21st century. (YAMAGUCHI Tomio, Member/JCP/150/7.Dec.2000)
- The phrase “the people of this and future generations” appears in all key passages of the Constitution of Japan. The Constitution thus demands that the expressed views of the people of each age be taken into account. I agree with Informant ONUMA Yasuaki that this is an extremely important point in considering the issues of the Constitution. (YAMAGUCHI Tomio, Member/JCP/153/25.Oct.2001)
- The Social Democratic Party has always advocated that the Research Commission on the Constitution should actively investigate the following questions: Has the Constitution taken root among the people? What efforts are being made to realize the principles of the Constitution? Have these principles been realized? If a gap exists between the Constitution and contemporary reality, why is that? (KANEKO Tetsuo, Member/SDP /151/14.June.2001)
- To abide by the commitment to peace and pacifism, it is necessary to call to mind Japan’s self-criticism of the path that it once chose to war. This must be the starting point of any discussion on the Constitution. (KANEKO Tetsuo, Member/SDP /153/6.Dec.2001)
- One of the functions of this Commission is to discuss how the Constitution went through the past fifty-odd years, and how the life of the people progressed during this period. (KANEKO Tetsuo, Member/SDP/154/23.May.2002/ Politics Subcommittee)
- We must remember that the present Constitution contains wonderful expressions of certain universal principles. We should engage in active debate with this fact firmly in mind. (NISHIDA Takeshi, Member/NCP/147/11.May.2000)

<Comments by Informants and Others>

- The present Constitution upholds the principle of pacifism and other ideals. In various provisions of the Constitution, one can witness the spirit that animates the Constitution in pursuit of the realization of these ideals. I believe this Commission should serve as a forum for considering problems that have arisen when people animated by this spirit undertook voluntary services and activities. (ODA Minoru, Informant/150/28.Sept.2000)
- The ultimate objective in discussing the Constitution is to improve upon the happiness and welfare of the people and residents in the context of their actual lives. (OHKUMA Yoshikazu, Informant/151/17.May.2001)
- The Constitution of Japan has and is capable of continuing to play a real role in creating, maintaining, and establishing an extremely distinguished pattern of State

and society. As such, our foremost duty must be to uphold and preserve the Constitution. (ODANAKA Toshiki, Speaker/151/16.Apr.2001/Sendai Hearing)

- The function of this Commission should not be to examine the directions of amendments and revisions. As politicians duty bound to uphold and to protect the Constitution, the members of the Commission should carefully examine what must be done to translate the provisions and principles of the Constitution into reality. (NAKAKITA Ryutaro, Speaker/151/4.June.2001/Kobe Hearing)
- What is needed now is to put the provisions of the Constitution into practice and to put the democratic system upheld by the Constitution into practice. Discussions of the Constitution should be founded on this consciousness and should be carried out with a readiness to face up to the lives of the people and to respond to their voices. (SHIBAO Susumu, Speaker/151/4.June.2001/Kobe Hearing)
- Everyone should review the Constitution. In particular, the implications of the following provisions of Article 12 should be carefully savored: “The freedoms and rights guaranteed to the people by this Constitution shall be maintained by the constant endeavor of the people.” (NAKATA Narishige, Speaker/151/4.June.2001/Kobe Hearing)
- We must understand that advocates of constitutional revision are convinced that the nation cannot be protected without military force. When discussing revision, it is necessary to look straight into this key issue. (ARAKAKI Tsutomu, Speaker/154/22.Apr.2002/Okinawa Hearing)

- d. Comments advocating that discussions should not be bound by framework of revision or preservation

<Comments by Members>

- Constitutional debate should be based on approaches which are not bound by the framework of constitutional revision versus preservation. It is desirable that the Constitution be discussed by the people as such approaches become generally known among the people. (HANASHI Nobuyuki, Member/LDP/151/14.June.2001)
- The discussions of this Commission should not be bound by the conventional framework of revision versus preservation. Instead, our discussions should be broadly based. (KANO Michihiko, Member/DPJ/147/17.Feb.2000)
- Our approach to constitutional debate should be based on discussions of the relation between the Constitution and principles concerning our society and nation in the 21st century. I believe the times demand this form of debate. (KANO Michihiko, Member/DPJ/147/20.Apr.2000)

- The Democratic Party advocates “constitutional debate.” The past investigations of this Commission have deepened my conviction that this is the right approach. I believe the following matters to be of decisive importance to the work of this Commission. Based on the review and evaluation of the 20th century, we must discuss and develop principles and ideas concerning the State, the value of human life, and human rights. Then, if at all possible, this Commission should present these principles and ideas for the development of a national consensus. (SENGOKU Yoshito, Member/DPJ/151/14.June.2001)
- The creation of the Research Commission on the Constitution is highly commended. As Informant TAKAHASHI Masatoshi has stated, I believe this Commission should adopt the attitude of “inter-subjectivity” which calls for the fostering of consensus views based on discussion and mutual advocacy. (DOI Ryuichi, Member/DPJ/147/23.Mar.2000)

<Comments by Informants and Others>

- The present Constitution guarantees the freedom of speech and contains provisions for amendment. Hence, the position of “constitutional debate” for free and unfettered discussion of the Constitution is irrefutable. Basically, all political parties should subscribe to this position. (MURATA Koji, Informant/147/9.Mar.2000)

e. Miscellaneous comments

<Comments by Members>

- “Constitution survives and the nation is destroyed:” we cannot let this happen. We should remain ever aware that the Constitution exists for the people, and for the peace of Japan and the happiness of the Japanese people. (ISHIBA Shigeru, Member/LDP/147/11.May.2000)
- I would be happy if constitutional debate becomes an opportunity for reorganization of the political parties based on real discussion of policies and our views of the State. (TAKAICHI Sanae, Member/LDP/150/30.Nov.2000)
- The Liberal Democratic Party is committed to the principles of popular sovereignty, pacifism, democracy, and the respect for basic human rights. In this sense, the Liberal Democratic Party takes the position of upholding the current Constitution. (HANASHI Nobuyuki, Member/LDP/154/28.Feb.2002/International Society Subcommittee)
- Although I do think it necessary to take time and discuss the Constitution from various angles, I believe the purpose of this Commission should be to frame a new constitution for the achievement of true national independence. It is our responsibility in the Diet to draft such a constitution and to build a nation which

can withstand the challenges of the 21st century. (HIRANUMA Takeo, Member/LDP/147/27.Apr.2000)

- I realize the importance of thoroughly reviewing the present Constitution by learning from constitutions of other nations, for example, and for we ourselves in the Diet to draft a new constitution as a truly independent nation. (HIRANUMA Takeo, Member/LDP/147/11.May.2000)
- How should the present Constitution be evaluated, and how should we approach the question of revision? First, we must take into consideration the relation of the Constitution to individual citizens, views on life, views on the world, and views on Japanese and world history. Next, we must examine the history of the Constitution. Having done that, we should then proceed to survey the future of the Constitution. (HOZUMI Yoshiyuki, Member/LDP/147/23.Mar.2000)
- We should take the views of the informants into consideration in our future discussions to determine whether the current Constitution is suited to the new Japan of the 21st century. If we find things that are lacking, we should take a very practical approach to discussing how to correct these points. (MORIYAMA Mayumi, Member/LDP/147/27.Apr.2000)
- This Commission is investigating a constitution that will provide the framework for Japan in the 21st century. Hence, an inflexible commitment to preserving the Constitution as it stands contradicts the original purpose of the Commission. (YAMASAKI Taku, Member/LDP/149/3.Aug.2000)
- We should share a clear awareness of the following two points: (1) the Constitution is a tool for us, (2) the Constitution provides limits to the exercise of state power. (EDANO Yukio, Member/DPJ/147/27.Apr.2000)
- The Commission should proceed with its discussions with the purpose of framing a constitution drafted by the people. (SHIMA Satoshi, Member/DPJ/147/27.Apr.2000)
- As Chairman NAKAYAMA Taro did in the case of the Organ Transplantation Law, each individual citizen and each member of the Diet must come to his or her own conclusion on the issue of the Constitution and be willing to stake his or her life on it. In order to interest all members of the Diet in the proceedings of this Commission, we should engage other Diet members by asking them, for example, to respond to questionnaires. (DOI Ryuichi, Member/DPJ/147/23.Mar.2000)
- The principles of the Constitution are very important and should be preserved. But we have to verify the extent to which these principles have been realized in our society. Our discussions of the Constitution should be based on such a reality check. (NAKAGAWA Masaharu, Member/DPJ/151/4.June.2001/Kobe Hearing)

- The right of constitutional amendment is given to the Diet. Hence, discussions of this Commission must not end as a study session. Rather, we should look forward to an active and concrete debate on constitutional matters. (NAKAGAWA Masaharu, Member/DPJ/151/14.June.2001)
- Our constitutional debate should take into consideration “regional states” which can play a complementary role in the realization of such national objectives as the welfare of the people and the establishment of peace. Based on this, we should nurture a constitutional awareness suited to the needs of the new age. (NAKANO Kansei, Member/DPJ/154/11.July.2002/International Society Subcommittee)
- The Commission should investigate and scrutinize the environment in which the Constitution has been placed and the conditions of its implementation. It is also extremely important for the Commission to engage the people in constitutional debate and draw out their views and opinions. (NAKANO Kansei, Member/DPJ/154/14.Feb.2002/Politics Subcommittee)
- Before considering the direction that Japan should take in the 21st century, what we must do is to review and evaluate what the 20th century was all about. (YAMAHANA Ikuo, Member/DPJ/150/26.Oct.2000)
- Our discussions should be conducted in light of the fact that the Constitution was born of history and exists in history. (YOKOMICHI Takahiro, Member/DPJ/147/27.Apr.2000)
- This Commission must transcend differences in approach and engage in calm debate aimed at creating a constitution which can survive for at least the next fifty years. (ISHIDA Katsuyuki, Member/NK-RN/147/27.Apr.2000)
- Public opinion polls indicate that the time is ripe for constitutional amendment. Continued debate on how the present Constitution was drafted is not very meaningful. Instead of sticking adamantly to positions in favor of or opposed to revision, we should engage in constructive debate in the direction of amendment. (ISHIDA Katsuyuki, Member/NK-RN/147/11.May.2000)
- The following are two of the key issues that should be considered: (1) Why was public opinion so clearly split in the debate concerning the enactment of the Law Concerning the National Flag and National Anthem? (2) Given this split, what can be done to forge a national consensus and draft a new constitution? (FUKUSHIMA Yutaka, Member/NK-RN/147/20.Apr.2000)
- The research process must be accelerated, and these sessions should not become study sessions for the sake of study. Rather, we should engage in concrete debate on specific articles and provisions of the Constitution and discuss specific improvements and amendments. (FUJISHIMA Masayuki, Member/LP/154/25.July.2002)

- Constitutional debate must not be hurried. We should each present our own position to the people so that the Constitution will become a key subject for debate in the general elections held over the next five years. (FUTAMI Nobuaki, Member/LP/147/27.Apr.2000)
- Diet Law and the Rules of the House of Representatives Commission on Constitutional Revision contain the following provision: “conduct broad and comprehensive research on the Constitution of Japan.” This Commission should not overstep the bounds of its mandate and must not become a symposium for constitutional amendment. (HIGASHINAKA Mitsuo, Member /JCP/147/11.May.2000)
- Designing a constitution involves the tremendous task of grappling with contemporary problems. (YAMAGUCHI Tomio, Member/JCP/154/4.July.2002/ /Politics Subcommittee)
- What I want to emphasize about this Commission is that it is completely and fundamentally different from the Constitutional Commission appointed under the Hatoyama Cabinet. As written into the law, the purpose of this Commission is to engage in broad and comprehensive research, and this Commission is not empowered to introduce legislative bills. We must be fully aware of these differences. Under no circumstance must this Commission engage in discussions of proposed amendments, nor must it at any time engage in the discussion of constitutional revision. (ITO Shigeru, Member/SDP/147/17.Feb.2000)
- Conducting concrete discussions on reviewing the Constitution violates the mandate of this Commission as it exceeds the bounds of research. It is important that we limit our research to the mutual exchange of views with the Chairman acting as moderator. (FUKADA Hajime, Member/SDP/147/27.Apr.2000)
- Interpretations of the Constitution differ considerably when viewed from different perspectives such as those of the government or the people. (YAMAGUCHI Wakako, Member/SDP/150/30.Nov.2000)
- My understanding of the various positions is as follows. “Constitutional preservation” connotes not even touching the Constitution; “constitutional revision” connotes dramatically revising the Constitution; and “constitutional debate” connotes that some changes must eventually be made. (NAKAMURA Eiichi, Member/LP/147/9.Mar.2000)
- The following points are important to the research of this Commission: (1) to review the path trodden by Japan in the 20th century and to work towards drafting a new constitution to serve as the foundation for Japan’s nation-building in the 21st century; (2) to endeavor, as much as possible, to reach a consensus among Members concerning objective facts, and to simultaneously disclose our discussions to the people; (3) to adopt the position of working with the people for the building of a new

nation in the 21st century, and to endeavor to absorb the views and opinions of the public by holding meetings of this Commission in various parts of the country and by making effective use of the Internet. (NODA Takeshi, Member/LP/147/17.Feb.2000)

- Let's remember that the 21st century will dawn on us six months from now. Of course it's fine for the Commission to engage in cautious discussion. But I fear that we may become ensnared by our own discussions and fail to reach any conclusions. (NODA Takeshi, Member/NCP/149/3.Aug.2000)

<Comments by Informants and Others>

- The very fact that we possess a written constitution is proof of the world's acceptance of Western thinking and approaches. Popular sovereignty, human rights and many other principles of the Constitution have been widely accepted by the people and have taken firm root. It is meaningless to argue about these principles on the basis of their geographic place of origin. (MURATA Koji, Informant/147/9.Mar.2000)
- Debating the details of how the Constitution was formulated and the interpretation of the Constitution only from the perspective of legal issues is not productive. (MURATA Koji, Informant/147/9.Mar.2000)
- Negative debate saying that all is unacceptable because the start was wrong should be avoided. The debate should be positive in tone and seek to develop the good points of the Constitution which guided Japan's postwar progress. (MURATA Koji, Informant/147/9.Mar.2000)
- From the perspective of a legal scholar, the process of interpreting the Constitution is as follows. The best method would be to allow the people, with whom sovereignty resides, to express their views through a national referendum. The second best method would be to assign this function to the Diet as the highest organ of state power. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- If the preservation of the Constitution can be debated only within the framework of the Liberal-Democratic Party, there is the possibility that all types of subjects will be debated in complete disregard of the realities of the Constitution. I believe the discussions will be more compelling if the level of the discussion were to be lowered and the questions on hand examined objectively. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- I hope the research of this Commission will feature the frank exchange of views by all participants, and that the discussions will be carried out in a spirit of fairness. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)

- We should not allow emotions to get the better of us in constitutional debate. The starting point should be the acknowledgment of the fact that, in the drafting process of the current Constitution, Japan was unable to produce a draft capable of convincing the General Headquarters of the Allied Powers. Having done that, we should proceed to discussing the revision of the Constitution with the aim of producing something that is most suited to contemporary conditions and the sentiments of the Japanese people. (TAKAHASHI Masatoshi, Informant/147/23.Mar.2000)
- The provisions of the Constitution should not be interpreted literally. They should be understood in the context of natural law and the basic conventions of State and society. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- It does not make sense to refrain from constitutional debate until a national consensus is formed on the future vision of national policies. Instead of waiting, action should be taken on points where action is possible. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- When members of parliament, as representatives of the people, are to engage in constitutional debate, each member must be aware of his responsibility to explain to the people his past and present interpretations of the Constitution, and how these interpretations have been translated into policy and thereafter implemented. Those engaging in this debate should not adopt the stance of a judge pronouncing, from high above, what the Constitution should look like. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- The Constitution is one of many existing national laws. In order to rethink the Constitution in the process of debate and to identify specific issues, it is necessary to first develop an accurate understanding of the history of the framing and adoption of the Constitution. With this understanding in hand, it is necessary to analyze history, identify the intent of the present Constitution, and to determine its principal actors. (ISHIHARA Shintaro, Informant/150/30.Nov.2000)
- The United States will probably want Japan to play a dynamic role in defense. Whether Japan accepts or rejects this role is basically a question of the Constitution. What we understand the Constitution to mean will have an important bearing on this question. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)
- The Peace Constitution is taken to mean that everything about the Constitution is good, leading to blind faith in the Constitution. Whatever the subject of research, we must discard the excess adjectives and focus on the facts. We Japanese must engage in this form of mental exercise. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)
- The State is a mechanism of action which contains the government as an important element, and comprises a set of laws which define the rules and discipline which

must exist mutually between the government and the people. (SAKAMOTO Takao, Informant/151/22.Mar.2000)

- Constitutional debate should not be taboo. However, I am concerned with the prospect of proceeding with constitutional debate without first evaluating the 1990s during which time numerous reforms were implemented. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002)
- The Constitution is a tool for the management and preservation of the nation and should not be viewed as sacrosanct. The contents of the Constitution should be amended in response to changing times. It is nonsense to view the Constitution as an “immutable code of laws.” (KOKUBO Masao, Speaker/151/4.June.2001/Kobe Hearing)
- “Truth, individual and harmony:” these are universal truths common to all forms of human education which uphold the dignity of the individual and pursue truth and peace. Discussions concerning education or the Constitution should be undertaken in this framework. (KAKINOHANA Hojun, Speaker/154/22.Apr.2002)

II. Procedures of the Research Commission on the Constitution

1. Duration of Research

(1) Justification of duration of research

- a. Comments advocating five years of research as initially agreed

<Comments by Members>

- We must make the best use of the five years and engage in active discussion. (ISHIKAWA Yozo, Member/LDP/147/27.Apr.2000)
- The Commission should start by understanding the conditions surrounding the framing of the Constitution fifty years ago. But instead of arguing whether the Constitution was imposed upon Japan or not, we should focus on how the Constitution has actually performed. Also, we should engage in deep and thorough discussions to determine what kind of nation Japan is and what we want Japan to be in the 21st century. The five-year period is necessary to accomplish all of this. (OTA Akihiro, Member/NK-RN/147/27.Apr.2000)

<Comments by Informants and Others>

- I understand the responsibility of the Commission to be as follows. With a commitment to translating the Constitution into reality, the Commission must examine the attitude and actions of each cabinet and each party towards the Constitution since its promulgation. It must examine the demands of the people concerning the Constitution and to what extent these demands were realized. These matters must be researched objectively and in detail for each article in the Constitution or each issue concerning the Constitution. Finally, the results must be reported to the people. The five-year period is certainly not too long for the accomplishment of these tasks. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- The Research Commission of the Constitution was established under the Diet Law as an investigative organ for conducting broad and comprehensive research on the Constitution of Japan. Thereafter, it was confirmed that the Commission is not empowered to introduce legislative bills. These facts and the five-year period stand as the fundamental rule which the Commission must constantly re-affirm. It is my understanding that the Commission has, through these provisions, placed upon itself certain legal restrictions which prohibit it from proposing constitutional amendments and engaging in research for this purpose. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)

- b. Comments advocating shortening of duration of research regardless of initial agreement

<Comments by Members>

- I feel that the Law Concerning Measures to Deal with Situations in Areas Surrounding Japan and the Anti-terrorism Special Measures Law contain various matters that pose major problems for the Constitution. This has convinced me that the deliberations of this Commission must be speeded up. (ITO Kosuke, Member/LDP/153/25.Oct.2001)
- We should avoid making haste in amending the Constitution. However, on the condition that a national debate is conducted, I believe that the five-year period should be somewhat shortened. (OKUDA Mikio, Member/LDP/147/27.Apr.2000)
- Both domestically and internationally, this is a tumultuous age that we live in. Given that the Constitution cannot cope adequately with various urgent issues, such as environmental problems and national crisis management, the initial agreement for a five-year period of research should be viewed with due flexibility. Matters on which a consensus has been reached should be acted on before the end of the five-year period. (MITSUZUKA Hiroshi, Member/LDP/147/27.Apr.2000)
- To keep up with the pace of social change, we cannot allow time to go by. I believe the problem of national emergency has now become extremely serious. From this perspective, I hope that the deliberations can proceed without being bound by the five-year period. (FUJISHIMA Masayuki, Member/LP/153/6.Dec.2001)

- c. Comments advocating scheduling of research within five-year period

<Comments by Members>

- The Commission should spend two years discussing the Constitution. In the following three years, the political parties should each present their proposals for revision. This Commission must act as the driving force in this process. (NAKASONE Yasuhiro, Member/LDP/147/27.Apr.2000)
- The process should be speeded up as follows. Discussion of the Constitution should be completed in the third year. In the fourth year, political parties should submit outlines of their proposed revisions for discussion. Beginning in the fifth year, preliminary action should be launched towards revising the Constitution. (NAKASONE Yasuhiro, Member/LDP/153/6.Dec.2001)
- A very concrete timetable should be established concerning the deliberations, and this Commission should arrive at some very clear conclusions. For instance, the Commission should present the outline of a new constitution in the third year of its

deliberations, and the new constitution should be adopted in the fifth year. (NODA Takeshi, Member/LP/147/17.Feb.2000)

(2) Research Commission of the Constitution as a standing commission

a. Comments advocating establishment as standing commission

<Comments by Members>

- Constructive debate on the Constitution should continue forever as long as Japan exists as a nation. Hence, this Commission should be established as a standing commission. (NAKANO Kansei, Member/DPJ/147/23.Mar.2000, 154/25.Apr.2002)

b. Comments against establishment as standing commission

<Comments by Members>

- I cannot agree with establishing this Commission as a standing commission because the committees of the Diet should each engage in deliberations based on the Constitution. (YAMAGUCHI Tomio, Member/JCP/154/25.Apr.2002)

(3) Miscellaneous comments

<Comments by Members>

- The Commission is working to reach an agreement within five years. Therefore, the position taken by the New Komeito that discussions should continue for ten years is inappropriate. I hope that the Commission will adopt a positive stance on constitutional revision. (YAMASAKI Taku, Member/LDP/149/3.Aug.2000)

2. Research Methodology

(1) Research on specific themes

<Comments by Members>

- Frankly, I feel that conditions of the Commission are not conducive to fruitful discussion. Measures should be taken to promote fruitful discussion. We should begin by breaking down the deliberation into the following four areas and reaching a consensus on what we are going to specifically discuss: (1) Preamble and other fundamental principles; (2) human rights; (3) system of government; (4) pacifism. Furthermore, we should consider issues that are being presented today. These include: (1) matters of special interest to the people as identified in public opinion polls; (2) issues presented by the current Cabinet, such as popular election of the prime minister and collective security. To serve as capable counterparts in these debates, this Commission should avoid unrealistic and dreamy-eyed discussions. (HOSONO Goshi, Member/DPJ/151/14.June.2001)
- We should take ample time to develop a consensus on each of the constitutional issues in order, starting from those issues on which we do not have major differences of opinion. (UEDA Isamu, Member/NK/153/6.Dec.2001)
- The Commission will be remiss in its duties if it fails to reach concrete conclusions. Therefore, our deliberations should be structured in a way to lead us to concrete conclusions. For that purpose, we should select specific issues and engage in thorough discussions on those issues. (INOUE Kiichi, Member/NCP /154/25.July.2002)

<Comments by Informants and Others>

- The Commission should develop a more systematic activities plan. In particular, it should be more systematic in identifying research themes. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)

(2) Article-by-article or subject-by-subject research

<Comments by Members>

- Starting next year, we should select specific topics for research to be discussed over a period of several months and begin to specifically examine each article and paragraph. I believe it will be necessary to hold public hearings in various parts of the country when discussing such themes as local autonomy, the rights of foreigners,

national security, and property rights. (TAKAICHI Sanae, Member/LDP/149/3.Aug.2000)

- We should keep specific issues in mind as we take a general approach, and conversely, we should maintain an overall perspective as we deliberate on specific issues. Both approaches are important. I hope that a two-directional method can be adopted so that both approaches are implemented. (YANAGISAWA Hakuo, Member/LDP/149/3.Aug.2000)
- The Commission must engage in earnest debate so that it can arrive at a certain direction within the five-year period. For this purpose, beginning in the next session of the Diet, we should start discussing specific issues. This will make it easier for the public to appreciate what we are doing. (FUTAMI Nobuaki, Member/LP/147/11.May.2000)

<Comments by Informants and Others>

- The drafting process of each chapter of the Constitution was unique. It is an oversimplification to ignore these differences and to speak of a single drafting process. It is necessary to review the drafting process by chapter and article. (AMAKAWA Akira, Informant/147/20.Apr.2000)
- The discussions should start with the principles enunciated in the Preamble and thereafter proceed to the chapters and articles. Starting with the chapters and articles would be a case of putting the cart before the horse. (ODA Minoru, Informant/150/28.Sept.2000)

(3) Establishment of subcommittees

<Comments by Members>

- It is difficult to engage in follow-up questions and debate in our free discussions. Therefore, we should consider establishing subcommittees responsible for various specific themes to ensure more thorough discussion. (SHIMA Satoshi, Member/DPJ/149/3.Aug.2000)
- Free discussion in subcommittees was a new approach, and one that I think was successful. However, new approaches must be tried and greater efforts must be made, such as in avoiding empty seats. (KANEKO Tetsuo, Member/SDP/154/25.July.2002)

(4) Invitation of expert informants
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<Comments by Members>

- I would like to propose that this Commission invite expert informants to present their views to the Commission and to engage in questions and answers. Such informants would be nominated by each of the parties. Details of the system should be left to the discretion of the Chairman. (HANASHI Nobuyuki, Member/LDP/147/17.Feb.2000)
- We should engage in comprehensive discussions concerning the nation and all aspects of the Constitution. We should consider and implement arrangements which would call on representatives of various fields, scholars and other expert informants to present their views, and also allow the voices of a broad range of people to be reflected in our discussions. (KANO Michihiko, Member/DPJ/147/17.Feb.2000)
- When we are discussing issues related to government and governance, Prime Minister Koizumi should be invited as an informant to discuss the following two matters: firstly, (1) the reality of the prime minister's leadership, and (2) inclusion of political parties in the Constitution, including the integration of the ruling party and the Cabinet; secondly, the concept of collective security. (SHIMA Satoshi, Member/DPJ/153/6.Dec.2001)
- The environment surrounding the Constitution has changed considerably and many things are now happening that were not considered when the Constitution was framed. In light of this fact, it is necessary for us to once again engage in exhaustive research on the components of contemporary Japanese society and what is needed to preserve our peace and security. For this purpose, we should invite informants from various NPO and NGO groups and others who are working in the field and are caught between the Constitution and contemporary reality. (SUTO Nobuhiko, Member/DPJ/154/25.July.2002)

(5) Joint sessions of upper and lower house commissions
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<Comments by Members>

- There is a concern that some differences in thinking may emerge between the House of Representatives and the House of Councillors. To avoid this, the Research Commissions on the Constitution of the two houses should meet in joint sessions from time to time at appropriate junctures. (MORIYAMA Mayumi, Member/LDP/149/3.Aug.2000)

<Comments by Informants and Others>

- It is desirable for the Research Commissions of the two houses to meet in joint sessions to discuss matters that are directly related to the election system, such as the bicameral system. (OISHI Makoto, Informant/154/11.Apr.2002)

(6) Research of specific subjects proposed by political parties
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<Comments by Members>

- The political parties should present their basic positions on the Constitution in the forthcoming House of Councillors election of 2001. In the general election to be held after the next election, the parties should present proposed constitutional revisions or drafts of a new constitution to invite the judgment of the people. Based on the outcome, a new constitution should be drafted jointly by the Research Commissions of the Constitution of the two houses. The draft, outlining a vision for Japan in the 21st century both to the Japanese people and to the world, would be then submitted to the people. (YAMASAKI Taku, Member/LDP/147/11.May.2000)
- The political parties should present concrete statements outlining their positions on the Constitution. The Commission should discuss these and invite informants to present their views on these positions. The basic direction should be to allow members of Diet to lead the discussions. At the end of this process, individual members of Diet or political parties should present their own positions which would then be submitted to the people for gauging their reactions and views. (SHIMA Satoshi, Member/DPJ/154/25.July.2002)
- Regarding specific matters, each political party should identify certain issues for internal discussion. Following this process of internal discussion, the outcome should be presented to the Commission for further discussion. (NAKAGAWA Masaharu, Member/DPJ/153/6.Dec.2001)
- Specific proposals should be presented for discussion, having first clarified the position of the persons submitting the proposal as being in favor of amendment or preservation. I believe the political parties should come forward with draft proposals. (SHIOTA Susumu, Member/LP/151/14.June.2001)

(7) Categorizing sections of the Constitution according to the need for amendment

<Comments by Members>

- The Commission is a place for discussion. It is indeed the mission of the Commission to start from zero and engage in free and unfettered discussion of what is necessary, what should be retained, what should be added, and what should be changed. (NAKAGAWA Shoichi, Member/LDP/147/11.May.2000)
- The research of this Commission should proceed along the following categories: (1) sections of the Constitution which should be amended; (2) portions of laws based on provisions of the Constitution which should be revised to correspond to the spirit of the Constitution; (3) areas in which interpretations of the Constitution need to be changed. (SHIMA Satoshi, Member/DPJ/153/6.Dec.2001)
- We have come to a juncture where it is now necessary to clearly identify the sections of the Constitution which do not correspond to real conditions, and sections which no longer suit the age that we live in. (SHIMA Satoshi, Member/DPJ/154/25.July.2002)
- The Commission has already finished roughly half of its five-year period of research. Upon completion of research, I believe it will be necessary to clearly identify, as soon as possible, those sections that need amendment and those that should be left untouched. (AKAMATSU Masao, Member/NK/154/24.June.2002/Sapporo Hearing)

<Comments by Informants and Others>

- In considering the Constitution, it is inappropriate to take a bipolar view of “constitutional preservation” versus “constitutional revision.” The Constitution should be viewed in terms of specific points of amendment and the level of amendment required, such as: (1) correcting the wording “general election of members of the Diet” (Article 7 Paragraph 4) by removing the word “general” (correction of Constitution); (2) addition of new provisions on human rights not envisioned at the time of the framing of the Constitution (addition to Constitution); (3) revision of points which, since the promulgation of the Constitution, have been the source of disagreement and debate by the political parties and the public (amendment of Constitution). (MURATA Koji, Informant/147/9.Mar.2000)
- After engaging in fundamental discussions concerning various themes, it then becomes extremely important to go through the process of categorizing the issues into those requiring constitutional revision and issues that can be taken care of through revision of existing laws. As the next step, sections of the Constitution for which a consensus on amendment can be reached should then be amended. (SON Masayoshi, Informant/151/8.Mar.2001)

(8) Research based on comparative study of constitutions

<Comments by Members>

- The present Constitution should be studied in comparison with the provisions of the U.N. Charter. The relation between the two documents should be considered in our discussions of the drafting process. (FUNADA Hajime, Member/LDP/147/6.Apr.2000)
- It is important to examine the gap between the principles and provisions of the Constitution and present reality. In this process, it would be useful to look at current conditions in foreign countries and instances of legislative action taken. (YANAGISAWA Hakuo, Member/LDP/149/3.Aug.2000)
- The question of what position Japan occupies in the world community today provides an important framework for considering the direction that Japan should take in the 21st century and for surveying the outlook for people living in Japan. Hence, we should adopt the approach of examining how certain issues are handled in the Constitution and laws of Japan and compare this to the treatment given the same issues by the United Nations and other international organizations and by various foreign countries. It is important to employ such a comparative approach to verify the differences between current conditions in Japan, the Constitution of Japan and various other laws of Japan as compared to global realities and developments. (ISHIGE Eiko, Member/DPJ/149/3.Aug.2000)
- Research of foreign Constitutions was very useful and enlightening in the following areas: (1) institutional guarantee of human rights; (2) the transfer of national sovereignty to international organizations; (3) promotion of decentralization. Against the backdrop of globalization and the diversification of the values of the people, one observes that many efforts have been made to create efficient and strong governments and to ensure diversity through the “democratization of democracy.” I felt that one of the constitutional issues that we will have to examine is the relation between international organizations and national sovereignty. (SENGOKU Yoshito, Member/DPJ/153/11.Oct.2001)
- Its important to examine the Constitution of Japan in the context of the Constitutions of foreign countries. The number of times a Constitution has been amended is not the issue. What is important is to carefully examine the contents of such amendments, the political and historical background, and the specific reasons for amendment. (YAMAHANA Ikuo, Member/DPJ/149/3.Aug.2000)
- As a member of the international community, Japan must certainly accept a fair share of its burden in the 21st century. For this reason, I believe it is particularly important to undertake international comparative studies on such issues as security

and crisis management, and rights and obligations. Amendment procedures should also be studied in this manner. (NODA Takeshi, Member/LP/147/17.Feb.2000)

- The Dutch Constitution is closely related to historical European upheavals, and Holland reportedly continues to have problems in adjusting its internal laws to the framework of the international community. I was impressed by the need to develop an international perspective in constitutional matters. In the case of Israel, I felt that very careful review of pertinent conditions would be necessary if we were to choose Israel as a subject for comparison of systems and other research. (YAMAGUCHI Tomio, Member/JCP/153/11.Oct.2001)
- My impressions from our international research are as follows. (1) It is important to heighten public interest in the political process by considering a wide range of views in parliamentary debate for policy-making; institutional change should not be the only means used for combating political apathy. (2) The constitutional courts of the European countries are very interesting; the question of how to incorporate the function of a constitutional court is an extremely vital issue for Japan. (3) Understanding the constitution of a country must be preceded by an understanding of its culture and history. (KANEKO Tetsuo, Member/SDP/153/11.Oct.2001)

(9) Miscellaneous matters

<Comments by Members>

- Constitutional research should be premised on shared views concerning some objective facts. Common understanding must be developed in the following areas. (1) What has become of the actions taken during Japan's Occupation? (2) What were the Occupation policies of the United States? (3) How has the relation between Japan and the world changed between the time of the framing of the Constitution and the present? I would like to ask the Secretariat to gather materials on these questions and present them to Commission members. (OKUNO Seisuke, Member/LDP/154/25.July.2002)
- The United States should be made to disclose information pertaining to the fact that the Constitution was imposed upon Japan. (NAKAYAMA Masaaki, Member/LDP/153/11.Oct.2001)
- It is necessary to carefully study the report of the Research Commission on the Constitution which was established as an organ of the Cabinet during the late 1950s. (HANASHI Nobuyuki, Member/LDP/147/17.Feb.2000)
- The following approaches should be taken in the broad and comprehensive research of the Constitution of Japan: (1) broad and comprehensive research to identify the pioneering nature of the Constitution of Japan; (2) verification of current political

realities in light of the five major constitutional principles of popular sovereignty, permanent peace, respect for basic human rights, parliamentary democracy, and local autonomy; (3) in connection with the argument that the Constitution was imposed upon Japan, we should engage in very thorough research of the drafting process of the present Constitution and the origins of arguments for detrimental revision of the Constitution. (SASAKI Rikukai, Member/JCP/147/17.Feb.2000)

- The Commission should be mindful of the following three points in its deliberations. (1) When discussing the 21st century, the Commission should abide by its stated purpose of broad and comprehensive research. It should focus on the principles of the present Constitution and contemporary realities, and should earnestly discuss how these principles can be specifically applied to Japanese politics and society in the 21st century. (2) Regarding the content of research, broad and comprehensive research should be conducted to determine how the Constitution of Japan has been neglected and how a gap has been allowed to emerge between the Constitution and actual conditions. (3) The operation of the Commission should be improved to ensure in-depth and comprehensive research, and to allow sufficient time to Members to present the positions of their parties as befits the Commission's mandate of broad and comprehensive research. (HARUNA Naoaki, Member/JCP/149/3.Aug.2000)
- Given the importance of researching the Constitution: (1) membership on the Commission should also be allocated to independents and minority political groups; (2) important lawsuits involving constitutional arguments should be researched; (3) research should be conducted to verify whether the Constitution has acted as a barrier to new legislation; (4) research should be conducted on how successive governments have perceived the Constitution. (FUKADA Hajime, Member/SDP/147/11.May.2000)

3. Matters to Be Discussed by the Commission

(1) References to specific matters to be discussed

A. Comments Advocating Discussion of Drafting Process of Constitution

<Comments by Members>

- Before proceeding with its research, the Commission should develop a shared awareness of the historical background leading up to the promulgation of the Constitution. This means studying Japan's political and economic conditions in the period immediately after the war, and the Occupation policies of the United States. (HANASHI Nobuyuki, Member/LDP/147/17.Feb.2000)

<Comments by Informants and Others>

- For a scholar, what does it mean to study the history of the Constitution, in particular, the history of its drafting? It means to understand the history that stands behind the Constitution, to identify various problems that exist there, and to open up new vistas. I hope that this Commission will adopt this same perspective and work towards opening up new vistas through its discussions. (TAKAHASHI Masatoshi, Informant/147/23.Mar.2000)
- More than fifty years have passed since the promulgation of the present Constitution. In the interim, the Constitution of Japan has come to be viewed as a possible guideline for all the peoples of the world, and is seen as a Constitution that can well survive the 21st century. We must go back to 1946 and carefully research the drafting process to understand why this was possible. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)

B. Comments Advocating Discussions Concerning Pioneering Nature of Constitution

<Comments by Members>

- The Constitution of Japan is based on the five fundamental principles of state powers and sovereignty of the people, permanent peace, basic human rights, parliamentary democracy, and local autonomy. This places the Constitution of Japan at the forefront of all national constitutions in the world. I believe we must conduct research to protect the pioneering status of our Constitution. (HIGASHINAKA Mitsuo, Member/JCP/147/27.Apr.2000)
- The present Constitution establishes the equality of men and women and contains various other forward-looking principles. This Commission should conduct research to determine to what extent these principles have been translated into policy action. (TSUJIMOTO Kiyomi, Member/SDP/147/20.Apr.2000)

C. Comments Advocating Discussion of Constitutional Problems Arising After Its Promulgation

<Comments by Members>

- We should develop a shared awareness on what we can learn from studying the drafting process of the present Constitution. Also, we must not fail to examine the developments in the fifty years since its promulgation, as well as the role played by the Constitution in this period. (KURATA Eiki, Member/NK-RN/147/9.Mar.2000, 147/6.Apr.2000, 147/27.Apr.2000)
- We must conduct realistic research on the unconstitutional actions of the government. (HARUNA Naoaki, Member/JCP/153/6.Dec.2001)
- Given the duty to uphold and to protect the Constitution, the first priority in research should be to identify and examine the causes of the numerous incidents of unconstitutionality which have occurred since the promulgation of the present Constitution. (ITO Shigeru, Member/SDP/147/17.Feb.2000)
- The Osaka District Court ruling on Korean atomic-bomb victims (1.June.2000) concerned the question of whether the Law for the Protection of Atomic-Bomb Victims was applicable to victims residing in foreign countries. In light of the fact that constitutional questions were argued in this case, I believe it is the duty of this Commission to conduct detailed research on the relation between the Constitution and laws, and concerning the application of laws. (KANEKO Tetsuo, Member/SDP/151/14.June.2001)
- This Commission must engage in determined research on such statements on the Constitution as made by Prime Minister Koizumi in the course of the debate concerning the Anti-terrorism Special Measures Law. (KANEKO Tetsuo, Member/SDP/153/6.Dec.2001)
- The Commission should conduct research on how the Constitution is actually being put into practice in politics, economics and in society, and how it functions in relation to the lives of the people. The Constitution must become part of a common value system shared by all the people of Japan. (KANEKO Tetsuo, Member/SDP/153/6.Dec.2001)

<Comments by Informants and Others>

- We should examine the present Constitution in light of the following three standards which arise out of the study of the history of the Constitution: (1) sovereignty of the people; (2) regulation of powers of the State; (3) guarantee of individual freedom and rights. In addition, we must verify whether the total of five standards, including (4) pacifism and (5) democracy, have been achieved. The time

has come for us to evaluate the results engendered by the postwar changes that took place fifty years ago. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)

D. Comments Advocating Discussions of the Gaps between the Constitution and Current Reality

<Comments by Members>

- We should engage in detailed examination of problematic words and expressions contained in the Constitution. (TANIKAWA Kazuo, Member/LDP/154/25.July.2002)
- The three central principles of the Constitution must be preserved. On the other hand, it is necessary to examine whether the present Constitution has been able to keep up with the rapid changes in the international environment and the changes that have occurred in our social and living environments. (KANO Michihiko, Member/DPJ/147/17.Feb.2000)
- I admit the beauty of the present Constitution, but it is important to discuss various points where systemic fatigue can be clearly observed. (OTA Akihiro, Member/NK-RN/147/27.Apr.2000)
- Our discussions should follow this order: drafting process of the Constitution; vision for the 21st century; developments in the constitutional interpretations of the government and the Cabinet Legislation Bureau; and, gaps between current reality and the provisions of the Constitution, including the Constitution as currently interpreted. After this is completed, we should return to individually examining the Preamble and successive chapters and articles with a commitment to upholding the three basic principles of the Constitution. (SHIOTA Susumu, Member/LP/149/3.Aug.2000)
- Japan's past economic and social systems have proven unable to cope with various recent changes, such as the end of the Cold War, the change in Japan's position in East Asia, and the end of uninterrupted economic growth. Similarly, we have seen a major shift in the thinking of the people. The Constitution, as the nation's fundamental law, is also being forced to adapt to these changes. From this perspective, it becomes necessary to clearly identify the gap that exists between the provisions of the Constitution and contemporary reality. (FUJISHIMA Masayuki, Member/LP/151/14.June.2001)
- Realization of the principles of the Constitution is still work in progress, and it is the duty of politicians to ensure that the principles are realized fully. In total disregard of this fact, we have failed to discuss in detail the realities of the contemporary political system that have ignored and neglected the Constitution. Instead, quite a few comments have been heard advocating that the Constitution be twisted and distorted to fit the present condition. We should earnestly investigate

why the Constitution remains unrealized in Okinawa and what the political reasons are for this failure. (HARUNA Naoaki, Member/JCP/154/25.Apr.2002)

- This Commission should very directly review the problems which exist between the provisions of the Constitution and the realities of politics, government administration, and the lives of the people. The Commission must conduct research on the following: (1) whether the principles of the Constitution are actually functioning in the realm of politics and in people's lives; (2) where unconstitutionality persists, why have these not been rectified. Where we find inconsistencies and gaps between the principles of the Constitution, such as peace, basic human rights and democracy, and contemporary realities, it is the responsibility of politicians to undertake broad and comprehensive research in order to support and foster the Constitution by endeavoring to change current conditions to match the provisions of the Constitution. (YAMAGUCHI Tomio, Member/JCP/151/14.June.2001)
- There are many problems which cannot be properly handled under the existing provisions of the Constitution, and others that must now be rethought. To name a few, these include crisis management in the event of a major disaster, the human rights of victims of crime and other issues pertaining to the framework of the human rights provisions, the status of the family, and traditional values. In addition to discussing our vision for Japan in the 21st century, we must also discuss such specific problems. (NODA Takeshi, Member/NCP/149/3.Aug.2001)

<Comments by Informants and Others>

- Of course it is very important to live by the Constitution, but it is unrealistic to try to mold the contemporary world according to a document written over fifty years ago. The Commission should identify the specific points of the Constitution which are unrealistic. (NISHI Osamu, Informant/147/24.Feb.2000)
- The Commission is mandated by the provisions of Article 102-6 of the Diet Law to undertake broad and comprehensive research on the Constitution. Therefore, it does not make sense for this Commission to put aside the historical developments pertaining to the Constitution since its promulgation and to instead focus on a vision for the future, to identify gaps between the Constitution and contemporary realities, and to thereby advocate the revision of the Constitution. This is tantamount to putting the cart before the horse. Efforts should be made to pursue the possibility of living by this Constitution in the 21st century. For this purpose, the fifty-year history of the Constitution should be objectively examined, and reasons why certain provisions have been realized while others have not should be clearly identified. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- Discussions of a 21st century vision for Japan should develop out of research on how the Constitution can be made to function for Japanese society in the next century,

which in turn should follow examination of what has transpired in the past fifty years in the arena of the Constitution and politics. In preparing for such research, it is important to keep in mind that various legislation have already been enacted which presumes the eventual revision of the Constitution. The Law Concerning Measures to Deal with Situations in Areas Surrounding Japan is an example of this. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)

- If the Commission wishes to precondition its research on the preservation of the principles of the Constitution, before all else the Commission should conduct research on how the Constitution has been established, carried through, and taken root in the area of the human rights and welfare of the people. If in this process the Constitution is found to have not been fully established, carried through, or taken root, or if gaps are found to exist between the provisions of the Constitution and contemporary conditions, then the Commission should proceed to examine the reasons for the same and consider effective countermeasures for rectification. (ODANAKA Toshiki, Speaker/151/16.Apr.2001/Sendai Hearing)

E. Comments Advocating Discussions on Vision for Future of Nation and Constitution

a. Positive comments

<Comments by Members>

- The Constitution is the basic law of the land and it is quite natural for the State to include in it its ideals and its vision of the State. Therefore, the Commission should deliberate on future directions and a vision for Japan. The State should endeavor to do the following: (1) guarantee individual security; (2) pursue affluence; (3) define the national identity. As such, the direction that this country should take should be determined in the course of discussions concerning the status of education and other matters as provided for in the Constitution. It is necessary to engage in national debate to establish a vision of the nation for the future and to work towards rebirth of the nation. (SHIMOMURA Hakubun, Member/LDP/153/6.Dec.2001)
- The sessions of the Commission scheduled between this fall and the end of the year should be geared towards discussing the direction of the nation in the 21st century: that is, the form of the State and people in the coming age. This should be conducive to direct discussion concerning the current gaps between the Constitution and reality. (TAKAICHI Sanae, Member/LDP/149/3.Aug.2000)
- During the second half of this year, the Commission should discuss new directions for the country under the following two themes: new types of human rights, such as privacy and environmental rights, and government institutions. (SHIMA Satoshi, Member/DPJ/149/3.Aug.2000)

- Canada has adopted PKO in its national strategy as a means of asserting its presence and of contributing to the international community. Taking this as an example, we should conduct our discussions from the perspective of national strategies. (NAKAGAWA Masaharu, Member/DPJ/153/6.Dec.2001)
- We must discuss whether the Constitution is acting as an obstruction to the reforms that Japan must now undertake. It is also important to discuss those points on which we can all agree must be added to the present Constitution. (YOKOMICHI Takahiro, Member/DPJ/147/27.Apr.2000)
- The political system must respond effectively to the following conditions and changes of the past decade: (1) Japanese society has never before been so affluent at any previous time in its history, and in fact, such affluence is rare even on the international level; (2) the advancing information revolution is shaking the foundations of various values and human relations; (3) the collapse of the Cold War structure has brought regional conflicts and religious and ethnic conflicts into sharp focus; (4) society is being affected by the decline in birth rates and aging. We must earnestly consider what role the Constitution can play in coping with these challenges. (TSUZUKI Yuzuru, Member/LP/153/6.Dec.2001)
- In our discussions, the Commission should avoid becoming embroiled in the ideological debates that occurred under the 1955-system by undertaking to examine the Constitution article by article. Rather, our focus should be on generating a national debate concerning a future vision for Japan. Having done that, we can then proceed to discussing in detail the shape the Constitution should take. (ITO Shigeru, Member/SDP/147/9.Mar.2000)

<Comments by Informants and Others>

- In considering Japan's future role in the world, examination of the future of the present Constitution or of a new Constitution has a very important meaning in impressing upon the world the determination of the Japanese people regarding the future directions of this nation. This Commission should undertake to frame a constitution which is rooted in the values of the Japanese people. Alternatively, such values should be injected into the present Constitution. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- It will be difficult for the Japanese to continue living together in a closed circle in the Japan of the future. Instead, people with all kinds of backgrounds will come to live in Japan in growing numbers. For that reason, Japan will need a very clear understanding of its own principles and ideals. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)

- b. Comments advocating caution and a passive approach in light of the Commission's aims and function

<Comments by Members>

- This Commission differs from the Research Commission of the Constitution which previously existed under the Cabinet in that its objective is to conduct broad and comprehensive research on the Constitution of Japan. This means that the Commission would be transgressing its bounds if it were to engage in debate concerning a new vision for the nation, or the review of the present Constitution. (SASAKI Rikukai, Member/JCP/147/17.Feb.2000)
- What direction should Japan take in the 21st century? In the context of the Constitution, instead of refuting the Constitution, our task is to build the nation on the existing principles of the Constitution and to act through it on the world with positive dynamism. (YAMAGUCHI Tomio, Member/JCP/150/30.Nov.2000)

<Comments by Informants and Others>

- In the 21st century, we must return to the origins of the present Constitution and use it to promote the happiness of mankind and world peace. The three branches of government face the challenge of translating the provisions of the Constitution into reality. Then, and only then, can we engage in discussing the revision of the Constitution for the purpose of further developing the Constitution's principles of peace, freedom and democracy. This Commission must fulfill its mission by conducting research which is useful to this process. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- Future-oriented discussions of the Constitution are necessary. But before embarking on such discussions, I believe there are special circumstances in the case of Japan that require politicians to first investigate how the Constitution has been treated in the past and the extent to which its provisions and principles have been thus far realized. For this purpose, Japan's principal laws should be investigated individually to determine what meaning they can have in the 21st century and what specific problems they entail. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- This Commission was formed under the aegis of the Diet and must conduct research in the spirit of respecting and upholding the Constitution. By the provisions of Article 99, members of Diet have the duty to uphold the Constitution. Research activities must take place within the clear confines of this duty. (ODANAKA Toshiki, Speaker/151/16.Apr.2001/Sendai Hearing)

(2) Comments indicating specific provisions of the Constitution to be discussed
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- * This section lists comments that merely indicate the articles and provisions of the Constitution that require discussion. For statements outlining reasons for why such articles and provisions should be discussed, see “Section 3: Principal Discussions Concerning Specific Articles of the Constitution of Japan.”**

<Comments by Members>

- The following matters should be discussed: (1) the Preamble; (2) whether or not the Emperor should be recognized as head of state; (3) pros and cons of participation of Self-Defense Forces in multinational forces; (4) environmental rights; (5) authority and organization of the House of Councillors; (6) popular election of the prime minister; (7) constitutional amendment in support of government subsidies to private schools and universities; (8) easing of procedures regarding constitutional amendment. (ITO Kosuke, Member/LDP/153/6.Dec.2001)
- After a brief review of the drafting and promulgation process, the Commission should affirm the preservation of the three main principles of the Constitution. Next, the Commission should identify specific points to be discussed, such as: relation between Japan's contributions to the international community and the present Constitution; collective security; popular election of prime minister; review of bicameral system; environmental rights; and the subsidization of private schools. Finally, the Commission should involve the people in discussions on these points. (OKUDA Mikio, Member/LDP/147/11.May.2000)
- The following matters should be examined: the Preamble; order of succession for the prime minister; the balance between the right to know and national interest; rights and limitations to the rights of foreigners; role of national and local governments; education; constitutional provisions justifying emergency-response legislation; rights and obligations; the balance between freedom of speech and privacy; welfare of the people; and the duty of public servants to respect and uphold the Constitution. (TAKAICHI Sanae, Member/LDP/147/27.Apr.2000)
- I am convinced that it would be inappropriate to avoid discussions of Article 9 in researching the Constitution. (YAMASAKI Taku, Member/LDP/149/3.Aug.2000)
- After discussing the origins of the chapter on local autonomy, we should consider the form this nation should take in the 21st century. In this connection, we should discuss a new prefectural system and the Article 95 provision for referendum on the application of special laws. (SHIMA Satoshi, Member/DPJ/147/11.May.2000)
- The Constitution consists of principles which define the form of the country and the State and constitutes the basic law of the land. By the form of the country, I mean: (1) form of human rights; (2) forms of central and local governments; (3) the relation between international organizations and Japan as a sovereign nation. The following

subjects should be covered in the future course of our discussions: (1) enrichment of popular sovereignty; (2) deepening of the rule of law; (3) national security based on the negation of war; (4) new forms of human rights and obligations of the State, such as environmental rights, bio-ethics, the right to know, and the rights of foreigners. (SENGOKU Yoshito, Member/DPJ/151/14.June.2001)

- I believe Chapters 1 and 2 represent the ultimate hurdles that this Commission must clear. (DOI Ryuichi, Member/DPJ/147/23.Mar.2000)
- Thus far we have been engaged in comprehensive discussions. Henceforth, we should engage in concrete discussions of matters of keen concern, such as: (1) Article 9 principle of pacifism and participation in PKO activities; (2) enrichment of popular sovereignty, including pros and cons of popular election of prime minister and public referendums; (3) status of the three branches of government, including countermeasures to over-expansion of government bureaucracies and extending the functions of the judiciary. (UEDA Isamu, Member/NK/151/14.June.2001)
- The procedures for amending the Constitution and issues related to exercising the right of self-defense should be discussed. (UEDA Isamu, Member/NK/153/6.Dec.2001)
- The promulgation of the Constitution marked a major conceptual transformation which created its own reality. In light of this fact, the Commission should engage in in-depth discussions concerning the following: (1) Article 9 and its contents; (2) definition of the individual under Article 13; (3) the Emperor in the Preamble and Chapter 1, and the relation between Emperor and popular sovereignty in Article 1; (4) freedom of religion, including education and the separation of State and religion. (OTA Akihiro, Member/NK/151/14.June.2001)
- As the Commission engages in debate during a five-year period, it should discuss contributions to the international community which are pivoted on the interpretation of Article 9. (FUKUSHIMA Yutaka, Member/NK-RN/147/20.Apr.2000)
- Issues to be discussed in critical areas include the following. (1) In the area of human rights: concept of the welfare of the public; the right to know and privacy; the rights of foreigners; economic freedom and the maintenance of fair markets; and environmental rights. (2) In the area of security: explicit mention of international cooperation based on Self-Defense Forces, national emergency system, and PKO while preserving the spirit of Article 9. (3) In the area of government and administrative structure: strengthening the system of parliamentary democracy by rendering the bicameral system more meaningful and using the national referendum system in a complementary role; maintaining the parliamentary cabinet system; reviewing the role of the central government and promoting

decentralization; establishment of a constitutional court. (FUJISHIMA Masayuki, Member/LP/151/14.June.2001)

<Comments by Informants and Others>

- Article 9, the elimination of the House of Councillors, and the popular election of the prime minister should be discussed. (TSUKAMOTO Hideki, Speaker/151/4.June.2001/Kobe Hearing)

(3) Miscellaneous matters

<Comments by Members>

- The discussions of this Commission may well serve as the foundation for future deliberations by the Diet. But if politicians are to play the leading role in constitutional amendment, we should discuss the amendment process itself and the question of who is ultimately going to draft the amendment. (SHINDO Yoshitaka, Member/LDP/150/9.Nov.2000)
- What must be done to ensure the Constitution takes firm root? We need to clarify the following matters: the drafting process of the Constitution, the postwar education system, and the reasons why the people remain unfamiliar with the Constitution. (NUKAGA Fukushima, Member/LDP/154/23.May.2002/Politics Subcommittee)
- We should go beyond confirming the facts of what actually happened in the drafting process. It would be better to discuss the need for a Constitution which meets the needs of the age. (SHIMA Satoshi, Member/DPJ/154/14.Feb.2002/Politics Subcommittee)
- I do not think that it is appropriate to argue the pros and cons of amendment based on what happened in the drafting process. (TARUTOKO Shinji, Member/DPJ/147/20.Apr.2000)
- It is important to thoroughly research various initiatives and activities aimed at enriching the content of local autonomy. (HARUNA Naoaki, Member/JCP/154/25.July.2002)
- It is worth our while to study the reasons for the enactment of various basic laws (for example, the National Public Servant Law) which were framed to complement and support the Constitution. (HOSAKA Nobuto, Member/SDP/147/23.Mar.2000)

<Comments by Informants and Others>

- The present Constitution is difficult to understand in many places. Hence, whenever Japan attempts to do something new, we always need to go through a long debate concerning interpretation of the Constitution. If the Commission is to move in the direction of drafting a new constitution, that would have to be closely linked to the goals and principles that Japan wishes to adopt in the 21st century. (KONDO Motohiro, Informant/150/12.Oct.2000)
- This Commission has been placed under the aegis of the highest organ of state power. As such, it should investigate the Constitution-related policies implemented and advocated by successive cabinets, political parties and individual members of Diet. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- In its future discussions, this Commission should make full and effective use of the knowledge of the historical background of Hokkaido: that Hokkaido is populated by the Ainu people; and, that in the course of developing Hokkaido, the Japanese people destroyed the culture of these aboriginal people. (TANAKA Hiroshi, Speaker/154/24.June.2002/Sapporo Hearing)

4. Holding of Hearings and Other Meetings

- a. Comments advocating discussion with the people at open hearings

<Comments by Members>

- As we engage in comprehensive discussions of the directions that the country should take, I believe it is very important to hear the views of people from various quarters and walks of life. Open hearings should be actively organized as it is vitally important for the Commission to show its willingness to discuss the Constitution with the people. (KANO Michihiko, Member/DPJ/149/3.Aug.2000)
- Local hearings should be held as soon as possible in order to stimulate widespread discussion of the Constitution among the people. (KONDO Motohiko, Member/Club 21/149/3.Aug.2000)

- b. Comments advocating changes in format of open hearings

<Comments by Members>

- Opinions stated in open hearings should not be viewed merely as expressions of local sentiment but must be considered earnestly. Therefore, we should consider how the opinions stated in local hearings can be appropriately reflected in the work of this Commission. (KANEKO Tetsuo, Member/SDP/154/25.July.2002)
- Regarding the choice of speakers at open hearings, I would like to ask that speakers representing the common and representative views of the region be chosen. Insofar as the Constitution is the basic law of the land, the discussions should be premised on national objectives. The speakers should address the Commission only after making known to us their visions for the nation. (INOUE Kiichi, Member/NCP/154/25.July.2002)

<Comments by Informants and Others>

- I have issues with the number of persons allowed to join the audience in open hearings and the methods used in selecting the speakers. The hearings must not become a mere formality, nor must they be used to set the stage for constitutional revision. (NAKATA Narishige, Speaker/151/4.June.2001/Kobe Hearing)
- It is meaningless to hold a hearing in Okinawa while turning a blind eye to what the people of Okinawa have experienced, including the catastrophic Battle of Okinawa fought during World War II, the postwar Occupation by the U.S. military, and the concentration of U.S. military bases in Okinawa even after its return to Japan. (ARAKAKI Tsutomu, Speaker/154/22.Apr.2002/Okinawa Hearing)

5. Informing the People and Public Participation

(1) Informing the people

<Comments by Members>

- As the Constitution belongs to the people, we must avoid giving the impression that the Commission is a closed and privileged group. It is important to send out the signal that this is a forum for the free exchange of views and discussion by everyone. (TANAKA Makiko, Member/LDP/147/11.May.2000)
- Given the major changes in international, social and economic conditions since its promulgation 53 years ago, the Constitution no longer is in accord with current realities. It is important for the Diet to accept its responsibility on this matter. As we are discussing the framing of Japan's basic law for the 21st century, we must disclose the discussions and procedures of this Commission to the people, and we must develop methods for promoting the participation of the people in this debate. These requirements must be met in order to underscore the principle of popular sovereignty. (ISHII Hajime, Member/DPJ/147/11.May.2000)
- The discussions of this Commission have not generated national interest. In addition to the holding of hearings, information technologies should be effectively used to receive the views of the people concerning the present Constitution and what they believe to be a desirable constitution. (SHIMA Satoshi, Member/DPJ/149/3.Aug.2000)
- The Commission should engage in an objective and calm study of the historical facts pertaining to the drafting and promulgation of the present Constitution. These findings should be disclosed by the participating representatives to their own regions. (FUJIMURA Osamu, Member/DPJ/147/9.Mar.2000)
- This Commission must play a leading role in generating a national debate on the Constitution. For this purpose, the discussions among the Diet members of this Commission should be widely made known to the public. (OTA Akihiro, Member/NK-RN/147/27.Apr.2000)
- Since a national referendum is required by the amendment procedures, the people should be informed of the discussions of this Commission. (KONDO Motohiko, Member/Club 21/150/30.Nov.2000)

<Comments by Informants and Others>

- While engaging in discussions, this Commission should perform two key functions: the function of disseminating information to the people concerning the problems of

the Constitution and areas of possible amendment, and the function of receiving the views of the people. (NISHI Osamu, Informant/147/24.Feb.2000)

- When the Law Concerning the National Flag and National Anthem was being debated, the Internet was used to gauge the views of the public. I would like to see a similar method developed for following the views of the people concerning the Constitution. (TAKAHASHI Masatoshi, Informant/147/23.Mar.2000)
- The Commission must restrict itself to research which complies with its original purpose and intent. It should not transcend these bounds to debate the pros and cons of constitutional revision. After conducting five years of research, the Commission should submit a voluminous and detailed report to the people. Such a report would stimulate a national debate. Discussions of constitutional revision should be reserved for this stage. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- To generate public interest, this Commission must engage in active debate so that it will be picked up and disseminated by the media. It would also be a good idea to arrange to debate the pros and cons of a question that the people could not help but be interested in. (ISHIHARA Shintaro, Informant/150/30.Nov.2000)
- I admit the present Constitution contains many wonderful things. But the people were not informed of the strict censorship that was in place when the Constitution was being framed, or that the draft was prepared by the United States. The essence of democracy consists of the people thinking and creating institutions on their own. Whatever type of constitution is to be drafted, it is important for all people to have access to information and to be able to join in the debate concerning the shape of this nation. Therefore, I would like to ask this Commission to provide all information to the people and to commit itself to transparent, fair and easy-to-understand processes. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)
- This Commission should not rush to conclusions. Its discussions should not be closed. Rather, they must be fully open to the public. (SAITO Takako, Speaker/151/16.Apr.2001/Sendai Hearing)

(2) Public participation

<Comments by Members>

- The Meiji Constitution was granted by the Emperor, while the current Constitution was the product of the Occupation. Now it is the people's turn to create a new people's Constitution oriented towards a new civilization. Public participation in this process is very important. Public hearings should be organized and the media

used to engage the people in the discussions of this Commission. (NAKASONE Yasuhiro, Member/LDP/147/27.Apr.2000)

- This Commission should discuss the directions for Japan and the Japanese in the 21st century and beyond, and should use this to determine the basic directions for constitutional amendment. Obviously, any amendment to be made must follow the procedures prescribed in the Constitution. Therefore, let us move towards forming a consensus of two-thirds or more of the members of Diet. We should not fear taboos as we engage in developing positions which properly reflect the views of the people as the sovereign power of this nation. (HOZUMI Yoshiyuki, Member/LDP/147/27.Apr.2000)
- Constitutional amendment will become the most hotly debated issue among political parties in the forthcoming general election. It is my hope that each party will fight the election based on its own draft proposals for constitutional amendment. This Commission should engage in discussion with such a sense of urgency. (YAMASAKI Taku, Member/LDP/149/3.Aug.2000)
- The views of the members of the Diet are of course important. But the Commission needs to have a mechanism for being constantly informed of the people's view of the Constitution. If this is not done, while a proposed amendment may be accepted by the Diet, it may ultimately fail to be ratified by the people. (DOI Ryuichi, Member/DPJ/147/23.Mar.2000)
- Times have changed dramatically in the fifty years since the promulgation of the Constitution and I believe we have come to a juncture where we must re-think the form of the nation. I hope this Commission will be able to devise methods for working together with the people to classify the principles and ideals of the Constitution into several categories: those that must be maintained, those that should be revised, and those that must be newly added to the Constitution. (NAKAGAWA Masaharu, Member/DPJ/154/24.June.2002/Sapporo Hearing)
- As Informant MURATA Koji has mentioned in his paper, the problems of the Constitution must be examined through continued communication among three groups: regionalist (referring here to constitutional scholars and other experts), functionalists (referring here to experts in fields other than the Constitution who can approach the problems of the Constitution from diverse angles), and laymen (the most important people for parliamentary democracy and democratic media). In other words, this discussion cannot be confined to the Diet. (FUJIMURA Osamu, Member/DPJ/147/9.Mar.2000)
- I highly appreciate the fact that basic discussions are being conducted concerning Japan in the 21st century, and that a national debate is being promoted through open hearings. It is important for this Commission to continue to function as the driving force in a national debate. (OTA Akihiro, Member/NK/151/14.June.2001)

- I believe that the political parties and others should present their concrete vision to generate a loud national debate. The Constitution should be discussed only after this has been done. (ITO Shigeru, Member/SDP/147/6.Apr.2000)
- It is important to understand and to accept the following: the environment in which the Constitution was born and the principles of the Constitution; how these principles have affected the lives of the people; the role of politics. Therefore, this Commission should arrange to hear the voices of the people of various groups and classes. (KANKEO Tetsuo, Member/SDP/149/3.Aug.2000)
- We must endeavor to deepen our discussions through various means. To add to the knowledge of Commission Members, this Commission should hear the views of experts on such problems as the environment, education and security which are integral parts of any discussion concerning the directions that Japan should take in the 21st century. The people should also be informed of these views and arguments. Finally, hearings should be held in various localities to expose this Commission to the voice of the people and engage in further debate. (KONDO Motohiko, Member/Club 21/151/14.June.2001)
- When the Constitution was first promulgated, a children's book *Stories about the New Constitution* was printed. This book reflects the zeal and excitement that existed at the time of explaining the new Constitution to children. As a precondition to discussing the Constitution, the people must develop a better understanding of the Constitution and must participate in the debate. Hearings of this Commission should be held in as many localities as possible so that we may be exposed to the voice of the people. It is necessary for the people to develop an interest and to gain a deeper understanding of the Constitution. (KONDO Motohiko, Member/Club 21/151/14.June.2001)

<Comments by Informants and Others>

- I believe it is important to respect the common-sense views of laymen (conscientious non-experts) concerning the Constitution. This will help avoid becoming entrapped in technical and arcane arguments, and will also serve to invigorate the discussions of experts. (MURATA Koji, Informant/147/9.Mar.2000)
- Perhaps a national referendum would be going too far, but in any case, it is necessary to devise some method to adequately reflect the views of the people in the various discussions of this Commission. (ODA Minoru, Informant/150/28.Sept.2000)
- The Constitution says that executive power resides in the Cabinet. But in reality, the Cabinet does not function to make real decisions. A reading of the Constitution draws one's attention to the various gaps with reality. In certain instances, efforts should be made to alter the present reality to bring it closer to the Constitution. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)

- What parts of the Constitution should be revised? I believe the only way to decide is to consign the matter to a national debate. Of course you do not want to spend too much time on this process. The final decision may be either to revise or to preserve the Constitution. In any case, what matters is to ensure a transparent and fair discussion. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)
- The decision of whether or not to revise the Constitution is a difficult one. But the point is that the Constitution must be decided by the people. So, the obvious and necessary thing to do is to ask the people to state their views. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)

6. Miscellaneous Matters

<Comments by Members>

- The Commission will have undermined its own meaning if it fails to at least arrive at its own conclusion (regarding its assessment of the drafting process). (OKUNO Seisuke, Member/LDP/154/14.Feb.2002/Politics Subcommittee)
- Discussions of the Constitution would be effectively deepened if the prime minister and other members of the Cabinet were to clearly present their own views on the Constitution. (FUTAMI Nobuaki, Member/LP/147/11.May.2000)

Section 2

Discussions Concerning the Formulation Process of the Constitution of Japan

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Section 2 Discussions Concerning the Formulation Process of the Constitution of Japan

1. Confirmation and Evaluation of Facts Related to the Formulation Process

(1) From what perspective should the formulation process of the Constitution of Japan be evaluated

a. Comments emphasizing “imposition” by GHQ

<Comments by Members>

- The Constitution as the supreme law of the nation was imposed upon Japan with great force by American New Dealers during the Occupation. This has had a detrimental influence on the spirit of the Japanese people. It is very important that this time we create our own constitution with our own hands. (ABE Shinzo, Member/LDP/147/11.May.2000)
- The basic policy of the U.S. Occupation was to weaken Japan to the point where it would no longer pose a threat to the United States. The Constitution was re-written as part of this effort. (OKUNO Seisuke, Member/LDP/147/27.Apr.2000, 154/14.Feb.2002/Politics Subcommittee, 154/25.July.2002)
- Japan under Occupation was not a sovereign nation. Therefore, even before discussing whether the Constitution was “imposed” upon Japan, we must realize that the Constitution of Japan cannot be said to be the Constitution of an independent nation. Japan should have framed a new constitution as an independent nation when it regained its sovereignty. (NAKAGAWA Shoichi, Member/LDP/147/9.Mar.2000, 147/11.May.2000)
- The present Constitution was imposed upon Japan by the United States. (NAKAYAMA Masaaki, Member/LDP/154/14.Feb.2002/Politics Subcommittee)
- The basic U.S. policy on Japan was to prevent Japan from ever again taking arms against the United States. The Japanese government at the time was induced to embark on framing a new Constitution which was adopted under conditions of strict censorship, control of the freedom of speech, and as a result of forced deliberations. (HANASHI Nobuyuki, Member/LDP/151/14.June.2001)
- The present Constitution was “imposed” upon Japan by the GHQ (General Headquarters of the Supreme Commander of the Allied Powers) for the purpose of weakening this nation. Various detestable social problems that we are currently seeing are not unrelated to this fact. Therefore, in order to achieve true independence as a nation under the rule of law, it is important for the Japanese people to frame and adopt a constitution which has been written by themselves.

(HIRANUMA Takeo, Member/LDP/147/20.Apr.2000, 147/27.Apr.2000, 147/11.May.2000)

- Because the present Constitution was written at a time when Japan did not have a mature democracy and had not regained its sovereignty, it should be considered null and void. At best, it should be viewed as a temporary document. We ourselves should rewrite the Constitution. (IWAKUNI Tetsundo, Member/DPJ/147/11.May.2000)
- The procedures taken for the adoption of the Constitution were legal in a formal sense, but it is undeniable that GHQ employed forcible means for its adoption. I believe that this Commission agrees this to be true. (SHIOTA Susumu, Member/LP/149/3.Aug.2000)
- As a matter of historical fact, GHQ did not order Japan to accept the Constitution. However, at the time, the people received a very strong impression that the Constitution had been forcibly imposed upon them by the United States. This feeling has become even stronger now. (NAKAMURA Eiichi, Member/LP/147/9.Mar.2000)
- Some people are not interested in the formulation process and argue that what is important is what is contained in the Constitution. But this argument misses the forest for the trees. We must verify the conditions under which the Constitution came into being. (NAKAMURA Eiichi, Member/NCP/147/27.Apr.2000)

<Comments by Informants and Others>

- How should the formulation process be evaluated? We cannot help but say that extreme force was used in its “imposition.” (NISHI Osamu, Informant/147/24.Feb.2000)
- At the time, the Japanese government believed that democratization could be achieved through the revision of laws. As pressure grew on the question of war responsibility, the need arose to protect the Emperor and it became impossible to retain the Meiji Constitution. In this sense, it is obvious that the Constitution was “imposed” upon Japan. (AOYAMA Takenori, Informant/147/24.Feb.2000)
- Because Japanese initiative did not extend to the Constitution when it was adopted, it lacks legitimacy as the basic law of the land. Hence, the Diet should first pass a resolution negating the present Constitution. Having done that, it should then embark on drafting a new constitution. (ISHIHARA Shintaro, Informant/150/30.Nov.2000)

- b. Comments denying the importance of “imposition” by GHQ or denying “imposition”

<Comments by Members>

- Although the present Constitution was not voluntarily adopted by Japan, the formulation process should not be used as a direct argument for the need to revise the Constitution. Arguing about “imposition” will get us nowhere. Let us avoid becoming entrenched here and move on. (OKUDA Mikio, Member/LDP/147/27.Apr.2000, 147/11.May.2000)
- It is true that GHQ “imposed” the Constitution. But let us not use this as an argument for revising the Constitution. Instead, we should adopt the position of investigating what kind of constitution Japan will need for its future, and we should draft a new constitution for the age in which we live. (TAKAICHI Sanae, Member/LDP/147/11.May.2000, 149/3.Aug.2000)
- Opinions differ on whether the Constitution was “imposed,” and this is not a very productive discussion. For better or for worse, the present Constitution has taken root in Japanese society. (FUNADA Hajime, Member/LDP/147/27.Apr.2000)
- In reviewing the formulation process, we should not limit ourselves to the question of whether or not the Constitution was “imposed,” as this provides for only a very partial view. Instead, we should take into consideration the various democratic movements that existed within Japan. (ISHIGE Eiko, Member/DPJ/147/9.Mar.2000)
- It is unimportant whether the Constitution was “imposed” upon Japan in the past. What matters is what the people, with whom sovereignty resides, think of the present Constitution. While I do not oppose discussing the formulation process, the essential issue is what we should do hereafter. (EDANO Yukio, Member/DPJ/147/24.Feb.2000)
- The present Constitution was adopted because the Diet voted in its favor. Instead of continuing to argue over whether it was “imposed,” let us move on to discuss what should be done with the Constitution. I believe that this represents the consensus of this Commission. (KANO Michihiko, Member/DPJ/147/11.May.2000, 149/3.Aug.2000)
- We cannot hope to win the support of the public so long as we engage in an emotional debate concerning “imposition.” The decision was made to accept the Constitution in view of the best interests of Japan, and we have lived under this Constitution for 53 years. This history should not be taken lightly. Let us now move on to discussing what should be done in the future. (SHIMA Satoshi, Member/DPJ/147/11.May.2000)
- Let us for a moment imagine what would have happened if postwar Japan had retained the provisions of the Meiji Constitution concerning the sovereignty and

right to rule of the Emperor, and that human rights were curtailed by the provisions of various laws. Under these conditions, would Japan have been accepted into the international community? When we look at the issue from this perspective, the anachronism inherent in the theory of “imposition” and arguments for the framing of an independent constitution becomes very clear. (SENGOKU Yoshito, Member/DPJ/147/27.Apr.2000, 151/14.June.2001)

- Instead of arguing about the issue of “imposition,” I believe it is more important to discuss the present Constitution from the perspective of the new age and what direction Japan should take in the future. If “imposition” is to be used as a rationale for revision, a new constitution should have been drafted at the end of the Occupation. (NAKANO Kansei, Member/DPJ/147/11.May.2000,154/14.Feb.2002/Politics Subcommittee)
- The present Constitution contains portions that reflect the thinking of Japan and portions that were imposed. From an overall perspective, the procedures taken were logically consistent and it would be mistaken to put “imposition” at the forefront of arguments for revision. (FUJIMURA Osamu, Member/DPJ/147/9.Mar.2000)
- The Constitution was born out of Japanese history and exists in Japanese history. The colonization of Korea, the invasion of China, the war with the United States that began with the attack on Pearl Harbor, and the history of Japanese aggression in Asia culminated in the acceptance of the Potsdam Declaration which constitutes a pledge made by Japan to the international community. (YOKOMICHI Takahiro, Member/DPJ/147/27.Apr.2000)
- It is true that the Constitution was imposed upon Japan by GHQ. However, I do not take the position that the Constitution must be revised because it was imposed. (ISHIDA Katsuyuki, Member/NK-RN/147/11.May.2000)
- What we see in the formulation process is a break in the flow of history. That is, no time was allowed for soul-searching or collision between modern European civilization and the Constitution of Japan. The question of “imposition” is not as important as the need to examine how this shortcoming manifests itself today. (OTA Akihiro, Member/NK-RN/147/27.Apr.2000, 147/11.May.2000)
- In the course of discussing the formulation process, I believe this Commission has completely refuted the argument that the Constitution should be revised because it was “imposed.” Insofar as it was adopted under the Occupation, it is obvious that it was enacted under conditions of restricted sovereignty. (HIRATA Yoneo, Member/NK-RN/147/11.May.2000)
- Given that Japan accepted the Potsdam Declaration, there is no justification in criticizing the fact that the Constitution was drafted under the supervision of GHQ. People who emphasize “imposition” 53 years after the Constitution was adopted lack an awareness of the significance of the dramatic changes that were taking place

then and the meaning of a war of aggression. Their position is based on 50 years of suspended thought or 50 years of revisionism. (SASAKI Rikukai, Member/JCP/147/9.Mar.2000, 147/11.May.2000)

- In connection to the “imposition” of the Constitution, we should also verify the fact that the United States has been the source not only of the formulation of the present Constitution but also of pressures for the revision of the Constitution. (SASAKI Rikukai, Member/JCP/147/17.Feb.2000)
- The Constitution of Japan came into being as a result of four forces: the United States, the ruling class of Japan, the Japanese people, and international developments. Arguments that the Constitution is null and void or that it must be revised because it was imposed upon Japan are not grounded in fact and make no sense. A far more serious matter is that the United States “imposed” the rearmament of Japan. (HARUNA Naoaki, Member/JCP/147/11.May.2000, 149/3.Aug.2000)
- It is true that the United States produced the draft of the Constitution, but this was received by the government and modified by the Diet, and it generated growing support among the people. From this perspective, the Constitution contains many matters of extreme importance regarding contrition for the war and for the survival of the nation in the 21st century, and cannot be called an “imposed” Constitution. (YAMAGUCHI Tomio, Member/JCP/154/14.Feb.2002/Politics Subcommittee)
- Arguments rejecting the Constitution because Japan’s self-esteem has been injured or because the formulation process was not right are counter-productive. (TSUJIMOTO Kiyomi, Member/SDP/147/20.Apr.2000)
- The Constitution of Japan has taken root and it appears the majority of the people feel that revision is unnecessary. Therefore, it is inappropriate to focus on the birth of the Constitution and the process of its enactment, or to label Japanese politics then and now as lacking in independence and autonomy. (FUKADA Hajime, Member/SDP/147/24.Feb.2000)
- Research conducted by this Commission on the formulation process has clearly shown that arguments for revision based on the alleged “imposition” of the Constitution are unworthy of consideration. The important thing is to translate the Constitution into policy and specific action. (FUKADA Hajime, Member/SDP/147/11.May.2000)
- With regard to the formulation process, we should not take the position that the Constitution must be revised because it was “imposed” or for some other ex-ante reason. Similarly, we must not take an adamant position of rejecting any and all revision of the Constitution. (KONDO Motohiko, Member/Club 21/149/3.Aug.2000)

<Comments by Informants and Others>

- We should not allow the humiliating experiences of the Occupation and various emotional arguments to lead us to conclude that the Constitution was in fact “imposed.” We must accept responsibility insofar as our predecessors approved and ratified the Constitution in compliance with proper procedures as contained in the Meiji Constitution. (KOSEKI Shoichi, Informant/147/9.Mar.2000)
- It is true that the Constitution of Japan was adopted under strong pressure from GHQ. But don’t forget the blossoming of Japan’s democratic spirit during the period of “Taisho democracy.” To argue that the spirit of the Constitution was totally “imposed” upon Japan would be tantamount to demeaning the history of modern Japan. (MURATA Koji, Informant/147/9.Mar.2000)
- Instead of arguing about who wrote the Constitution of Japan, the important thing is to examine whether what resulted has benefited the people. It is meaningless to discuss “imposition” without first clarifying whose relation to whom you are talking about. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- The question of “imposition” should not be tied to the issue of the need for revision. Obsession with the past can result in mistakes for the future. We should not allow an over-emphasis on “imposition” to lead us to lose sight of the fact that Japan decided to accept the Constitution in consideration of its own interests. (IOKIBE Makoto, Informant/147/20.Apr.2000)
- GHQ started by assigning the initiative for drafting a constitution to the Japanese side. However, this initiative was seized by GHQ because the Matsumoto Committee neither had the intention nor the ability to draw up a document in line with the principles of democracy and pacifism. Therefore, the argument that the Constitution was “imposed” upon Japan is groundless. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- While it is regrettable that Japan was unable to produce a document containing lofty principles on its own accord, so long as the contents are good, what does it matter whether it was “imposed” or not? (ISHIZUKA Osamu, Speaker/154/25.July.2002/Sapporo Hearing)

c. Miscellaneous comments

<Comments by Members>

- Japan’s acceptance of the GHQ proposal represents a decision made under duress. However, I believe this defect has been gradually healed in the course of repeated general elections as the people gave their ex-post approval. (ISHIBA Shigeru, Member/LDP/147/23.Mar.2000, 147/11.May.2000)

- There are some aspects of “imposition” by GHQ, but it is impossible to determine who among the following four was the enactor of the Constitution: the Emperor, the people, General MacArthur, or the Far East Committee. (ISHIBA Shigeru, Member/LDP/147/11.May.2000)
- Given the conditions of the Occupation, it is questionable whether Japan had sovereignty under the Occupation. Therefore, upon recovering full sovereignty in the San Francisco Peace Treaty, the Constitution should have been once again approved by some institution. (FUNADA Hajime, Member/LDP/147/6.Apr.2000)
- In a sense, the Constitution was “imposed” upon Japan by GHQ, and certainly no national constitutional debate was conducted at the time. Japan cannot become a truly democratic nation until such time as the people experience for themselves the process of drawing up a constitution on their own initiative. (MATSUZAWA Shigefumi, Member/DPJ/154/14.Feb.2002/Politics Subcommittee)
- A national consensus did not necessarily exist on all matters when the Constitution was adopted. At the time, the primary concern of the people was the preservation of the Emperor system, while the Constitution was more of a facade. Somewhere along the way, the real intent and the facade were reversed, leading to gridlock. (FUKUSHIMA Yutaka, Member/NK-RN/147/9.Mar.2000)
- I agree with the opinion of informant KITAOKA Shinichi that the Constitution of Japan resembles a bilateral treaty that was written by the U.S. military and accepted by the government and Diet. The United States involved itself in the formulation of the Constitution of Japan with its own national interests foremost in its thoughts. (TASSO Takuya, Member/LP/147/11.May.2000)
- Regardless of whether the Constitution was “imposed” or not, after regaining its sovereignty, Japan should have revised the Constitution as necessitated by changes in the environment. Failure to have done so can be said to constitute a form of ex-post approval. (ABE Motoo, Member/NCP/147/6.Apr.2000)

<Comments by Informants and Others>

- When an emotional issue is made of the question of “imposition,” it tends to deteriorate into an endless and futile debate. Before entering into this discussion, it is necessary to confirm some legal questions, such as whether one should espouse the revision theory or the August revolution theory. (TAKAHASHI Masatoshi, Informant/147/23.Mar.2000)
- The formulation process of the Constitution resembles a “treaty negotiation process.” Negotiations were carried out between the MacArthur side and the Shidehara-Yoshida side and were premised on the various interests of both sides. Ultimately, a consensus was reached in consideration of each other’s positions. (KITAOKA Shinichi, Informant/147/6.Apr.2000)

- When discussing the formulation process, it is necessary to understand the universality of the principles contained in the Constitution. It is also necessary to consider the factors of “localization” which allowed the Constitution to take root among the people, as well as the factors of “internationalization” which define how Japan was influenced by foreign countries. (SHINDO Eiichi, Informant/147/6.Apr.2000)
- It is necessary to understand what the people of the time were pursuing and what efforts they were making for this purpose by examining the formulation process of individual articles of the Constitution. As part of this, we must consider whether the potentialities of the Constitution have been fully translated into legislation. It is also important to review the formulation process in historical context. (AMAKAWA Akira, Informant/147/20.Apr.2000)

(2) Whether or not there was “imposition” by GHQ

- a. Comments concerning whether or not there was “imposition” upon government

<Comments by Members>

- During this period, the submission of legislative bills to the Diet and any revision made during deliberations was subject to prior GHQ approval. (OKUNO Seisuke, Member/LDP/147/27.Apr.2000)
- The constitutional draft submitted by the ruling parties, the Liberal Party and the Progressive Party, was not significantly different from the Meiji Constitution. This became the cause for intervention by GHQ. (SENGOKU Yoshito, Member/DPJ/147/24.Feb.2000)
- There was some push and pull between GHQ and the Japanese side. But the Constitution of Japan came into being because a significant consensus had been reached concerning what had to be done based on the Potsdam Declaration. (YOKOMICHI Takahiro, Member/LDP/147/23.Mar.2000)
- The Constitution of Japan was accepted because a national consensus existed on the rationality of its content. The impression that it had been “imposed” existed among the ruling class of the time because they in fact felt that the Constitution had been imposed upon them. (SASAKI Rikukai, Member/JCP/147/23.Mar.2000)

<Comments by Informants and Others>

- Tremendous pressure was brought to bear on the government and the Diet on whom enactment depended. The document was produced on the stage set by GHQ, under

the supervision of the Far East Committee and in complete absence of autonomy. (NISHI Osamu, Informant/147/24.Feb.2000)

- The draft produced by the Constitution Research Committee (Matsumoto draft) was not as progressive as the Constitution of Japan. But this does not justify “imposition” of the Constitution. (AOYAMA Takenori, Informant/147/24.Feb.2000)
- It cannot be denied some coercion existed in the formulation process. GHQ was disappointed by the fact that the government’s draft did not include provisions for human rights or popular sovereignty. This prompted GHQ to produce its own draft. (KOSEKI Shoichi, Informant/147/9.Mar.2000)
- It is a fact that the Constitution was formulated under the extremely strong influence of GHQ. Japanese leaders at the time were primarily concerned with preserving the Emperor system and ending the Occupation at a low cost. Therefore, they did not offer resistance on the Constitution, and intended to revise it upon regaining independence. (MURATA Koji, Informant/147/9.Mar.2000)
- Under the Occupation, the Constitution of Japan was no more than a secondary law existing within a legal framework topped by the Potsdam Declaration and the GHQ chain of command. Therefore, the formulation of the Constitution of Japan in this period of time was undertaken in the same way that various laws were enacted and abolished in compliance with GHQ orders. As such, there is little justification for the “imposition” argument and similar theories. (TAKAHASHI Masatoshi, Informant/147/23.Mar.2000)
- The formulation process was characterized by very powerful “imposition.” The Japanese government responded to the pressure and, to a degree, actively accepted the Constitution in order to save Japan. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- The people were unable to change the Constitution, so foreign experts were called in who proceeded to alter the basic framework of the nation. This is how it should be, and there is nothing abnormal about having foreigners draft a constitution. As for the question of the direction that postwar Japanese society should take, a broad consensus was shared between the Japanese and American sides. (SHINDO Eiichi, Informant/147/6.Apr.2000)
- The Constitution was not drafted according to the free will of the Japanese people. The Shidehara Cabinet could have resigned en masse in protest, but they chose to accept the Constitution as the price to be paid for the preservation of the Emperor system and the nation, and for launching the nation into the postwar world. Based on this decision, the proper legal procedures were taken for adopting the Constitution. (IOKIBE Makoto, Informant/147/20.Apr.2000)

- While the origins of the chapter on local autonomy can be traced to the GHQ draft, the government did not find this difficult to accept. The government made various requests for revision of the draft. All were accepted, with the exception of the request for revision of the provisions for the direct popular election of local government heads. (AMAKAWA Akira, Informant/147/20.Apr.2000)

b. Comments concerning whether or not there was “imposition” upon the Diet

<Comments by Members>

- The general election of April 1946 was originally scheduled for January, but was postponed several times by order of GHQ. The election took place under very opaque conditions. (AICHI Kazuo, Member/LDP/147/24.Feb.2000)

<Comments by Informants and Others>

- The general election of April 1946 took place after the public office purges. It was the intent of GHQ to establish a new power structure in the Diet through these purges. (NISHI Osamu, Informant/147/24.Feb.2000)
- Persons elected to the Diet in the general election held after the public office purges made up the members of the Constitutional Assembly. Hence, the Constitutional Assembly cannot be said to have reflected the will of the people. Furthermore, many members failed to oppose the draft because the Japanese government made a strong statement to the effect that the Constitution of Japan complied with the wishes of GHQ. (AOYAMA Takenori, Informant/147/24.Feb.2000)
- The original draft of the Constitution of Japan underwent considerable modification and revision in the course of deliberation by the Imperial Diet. Furthermore, there were some people in the Privy Council, such as MINOBE, who had the courage to oppose the draft, so it was possible to oppose it if one wished to do so. (KOSEKI Shoichi, Informant/147/9.Mar.2000)
- It should be emphasized that due process was served in incorporating the will of the people in the Imperial Diet. It is not productive to argue that everything must go because of irregularities at the time of enactment. (MURATA Koji, Informant/147/9.Mar.2000)
- The maintenance of the Emperor system was in doubt. Even under these conditions, the House of Representative’s Subcommittee for Constitutional Revision engaged in free and high quality discussions. (SHINDO Eiichi, Informant/147/6.Apr.2000)

- c. Comments referring to GHQ censorship and control as evidence of “imposition”

<Comments by Members>

- Strict controls were in place during the Occupation. A purge of public-office holders was carried out before the first general election, publications were subject to prior censorship, and criticism of Occupation policies and mention of the ties between GHQ and the Constitution were prohibited. (OKUNO Seisuke, Member/LDP/147/11.May.2000, 149/13.Aug.2000, 154/14.Feb.2002/Politics Subcommittee)
- At the time, I was working at the Osaka Posts and Communications Bureau. From my experiences there, I can say that GHQ continued to censor private correspondence notwithstanding the provision of the Constitution stating “No censorship shall be maintained.” (SATO Megumu, Member/LDP/147/27.Apr.2000)
- GHQ thoroughly suppressed freedom of expression through its system of prior censorship. After 1948, it continued to wield enormous influence over Japanese politics and social system by means of its ex-post censorship. (HIRANUMA Takeo, Member/LDP/147/20.Apr.2000, 147/27.Apr.2000)
- Severe coercion and constraints were in place under the Occupation Forces. The views and opinions of the people were also thoroughly manipulated by censorship and other means. (YASUOKA Okiharu, Member/LDP/147/24.Feb.2000)

<Comments by Informants and Others>

- The very fact that GHQ was involved in the drafting of the Constitution was subject to censorship under the Occupation. There is a study that says that less than 20 percent of all candidates running in the general election of 1946 mentioned the summary draft of the revised constitution in statements appearing in the official election gazette. (NISHI Osamu, Informant/147/24.Feb.2000)
- GHQ exercised control over the general election of 1946 by means of censorship and purge affecting all aspects of public discussion, information and education. The primary concern of the public at the time was finding enough food to eat, and there was no great interest in the Constitution. (AOYAMA Takenori, Informant/147/24.Feb.2000)
- GHQ censorship did not allow the slightest hint of the foreign origin of the Constitution. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- Information is a tool which develops the public’s capacity to think, and the people’s access to information is a precondition for democracy. However, because the GHQ conducted severe censorship during the drafting of the Constitution, the

Constitution was not exposed to public discussion. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)

d. Comments arguing there was no “imposition” on the people

<Comments by Members>

- The Constitution of Japan was certainly “imposed.” However, there was an atmosphere of willingness to accept the Constitution among the people. When Japan regained its independence, the Constitution was supported by a majority of the people. (HOZUMI Yoshiyuki, Member/LDP/147/23.Mar.2000)
- Because of their terrible war experiences, many people had a positive attitude towards the Constitution. This is an undeniable truth that we must cherish as part of our historical process. (ISHIGE Eiko, Member/DPJ/147/27.Apr.2000)
- GHQ exerted pressure on the people in power, not on the people to whom sovereignty was assigned. Was the Constitution “imposed?” To answer this, we must adopt as our standard the thinking of the people when the Constitution was promulgated. (EDANO Yukio, Member/DPJ/147/24.Feb.2000)
- Given the undemocratic content of the Matsumoto draft, it was to Japan’s benefit that the present Constitution was imposed upon the nation. It is a fact that GHQ exerted strong influence. However, it is also a historical fact that the Constitution was supported by the people of the time. (FUJIMURA Osamu, Member/DPJ/147/11.May.2000)
- A constitution drafted during a very short period of time has survived for more than 50 years without revision. This in itself is evidence that it is basically supported by the majority of the people. (YAMAHANA Ikuo, Member/DPJ/149/3.Aug.2000)
- Although the Constitution was drafted under what was very close to coercion by GHQ, its contents has been widely accepted and supported by the people and has taken root among the people. (ISHIDA Katsuyuki, Member/NK-RN/147/24.Feb.2000, 147/11.May.2000)
- While it is important to determine whether the Constitution was “imposed,” the very weighty fact of the matter is that the Constitution has played an undeniably important role in Japan’s 57 years of postwar development and is accepted by the people. We must engage in earnest debate with this fact in mind. (SAITO Tetsuo, Member/NK/154/14.Feb.2002/Politics Subcommittee)
- The “imposition” theory seems to be based on the personal experiences of Minister of State MATSUMOTO. The Constitution was overwhelmingly supported by the people, both when it was adopted and later. The present Constitution has always

been the “people’s Constitution” from the time of its adoption. (HIRATA Yoneo, Member/NK-RN/147/11.May.2000)

- The old regime that fought the war had no intention of revising the Imperial Constitution. For them, the Constitution of Japan was “imposed.” But for the people to whom power and sovereignty was newly assigned, the Constitution was by no means “imposed.” (HARUNA Naoaki, Member/JCP/147/6.Apr.2000)
- MacArthur’s constitution has taken root as the “peace Constitution” because it was what individual members of the public wanted and longed for. (ABE Tomoko, Member/SDP/150/30.Nov.2000)
- We should not forget that the Constitution was supported by more than two-thirds of the people when it was enacted. The principles of the new Constitution were the same principles that the people had longed for under the oppressive system that had continued since the Meiji Era. Even if it was the result of external pressure and the consequence of Japan’s defeat in war, it was the right thing. (FUKADA Hajime, Member/SDP/147/24.Feb.2000, 147/27.Apr.2000)
- Whatever the drafting process was, the Constitution was born out of the acceptance and approval of all the people. This Constitution is nothing other than the result of the decision of the Japanese people. (YAMAGUCHI Wakako, Member/SDP/150/30.Nov.2000)

<Comments by Informants and Others>

- There was a broadly-based consensus among the people which was expressed in the longing for popular sovereignty and international peace. The people have continued to share this consensus throughout the postwar period. (MURATA Koji, Informant/147/9.Mar.2000)
- I think that the reality of the people at the time was “give us food before a constitution.” But during the period between the adoption of the Constitution and the recovery of independence, a sense of confirmation was fostered wherein the people came to believe that the Constitution contained trustworthy principles of law. (TAKAHASHI Masatoshi, Informant/147/23.Mar.2000)
- The principles of democracy and pacifism was highly supported by the people of the time. The people’s support did not change after the end of the Occupation. Consequently, Japan went through its postwar reconstruction under the “peace Constitution.” (IOKIBE Makoto, Informant/147/20.Apr.2000)
- Democratization, which was advocated in the Potsdam Declaration and emphasized in the Occupation policies, gradually won the support of many people. (AMAKAWA Akira, Informant/147/20.Apr.2000)

- Japan was a signatory to the Kellogg-Briand Pact of 1928 but instigated the Manchurian Incident only three years later. Hence, from the perspective of world history, it cannot be helped that Article 9 was given to Japan as a punitive measure. But because of this very Article, the Constitution came to be cherished by the people for 50 years of the postwar period in a way that the previous Imperial Constitution was never accepted. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)

<p>(3) Relation between the Potsdam Declaration and enactment of the Constitution of Japan</p>

<Comments by Members>

- Reading the contents of the Potsdam Declaration, it is obvious that Japan's acceptance of the Declaration would inevitably affect the sovereignty of the Emperor and the Imperial Constitution. From an objective perspective, by accepting the Potsdam Declaration, Japan also accepted to revise the Imperial Constitution. (SASAKI Rikukai, Member/JCP/147/24.Feb.2000)
- By accepting the Potsdam Declaration, the Japanese government took upon itself the international obligation of undertaking unconditional military surrender, the transition to popular sovereignty, and the upholding of basic human rights. Based on this, Japan itself accepted the restriction of its sovereignty, and it was within those limits that the Constitution of Japan was adopted on the advice of GHQ. (HIGASHINAKA Mitsuo, Member/JCP/147/24.Feb.2000)

<Comments by Informants and Others>

- The argument that the acceptance of the Potsdam Declaration did not imply that the Imperial Constitution had to be revised has its limitations. However, the United States itself admitted that the Potsdam Declaration was not immediately equal to the abolition of the Emperor system. (NISHI Osamu, Informant/147/24.Feb.2000)
- Paragraph 10 of the Potsdam Declaration refers to "revival and strengthening of democratic tendencies." This was a call to revive and to strengthen the democratic tendencies that existed in the Imperial Constitution. It did not mean that the Imperial Constitution had to be revised. (AOYAMA Takenori, Informant/147/24.Feb.2000)
- The Potsdam Declaration refers to creating a government which abides by the freely expressed will of the people. This required the adoption of a constitution based on popular sovereignty. (KOSEKI Shoichi, Informant/147/9.Mar.2000)

- We should interpret that the Constitution was enacted under the Occupation for the purpose of meeting the obligations of the Potsdam Declaration. (MURATA Koji, Informant/147/9.Mar.2000)
- The Imperial Constitution was annulled by the acceptance of the Potsdam Declaration. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- The acceptance of the Potsdam Declaration was treated as an unconditional surrender. The Allied countries thereafter revised the Imperial Constitution as part of their program for national reform. (TAKAHASHI Masatoshi, Informant/147/23.Mar.2000)
- The Potsdam Declaration demanded the revision of the Imperial Constitution. (SHINDO Eiichi, Informant/147/6.Apr.2000)
- GHQ claimed that “remove all obstacles to democratization” mentioned under Paragraph 10 of the Potsdam Declaration meant that the Constitution had to be revised. Under the prevailing conditions, Japan could not refuse. (IOKIBE Makoto, Informant/147/20.Apr.2000)

<p>(4) Relation between formulation process of the Constitution of Japan and the Hague Convention of War on Land</p>

<Comments by Members>

- Japan accepted the Potsdam Declaration and adopted the Constitution on its own discretion. Therefore, there was no violation of the Hague Convention of War on Land. (SHIMA Satoshi, Member/DPJ/147/11.May.2000)
- The Hague Convention of War on Land applies to occupation during hostilities, and does not apply under conditions of truce or armistice. Japan accepted the Potsdam Declaration and signed the unconditional surrender. Having done that, it was Japan's international obligation to sincerely implement their terms. (HARUNA Naoaki, Member/JCP/147/6.Apr.2000)
- The Hague Convention of War on Land applies to wartime occupation. Japan had accepted the restriction of its sovereignty. GHQ adopted an indirect form of rule and acted to disarm the nation through the Japanese government. Hence, there was no violation of the Hague Convention. Rather, the atrocities enacted by the U.S. military in its occupation of Okinawa violate the Hague Convention. (HIGASHINAKA Mitsuo, Member/JCP/147/24.Feb.2000, 147/11.May.2000)

<Comments by Informants and Others>

- Actions of the Far Eastern Commission and GHQ were in violation of the Hague Convention of War on Land. Furthermore, the actions of General MacArthur infringed upon the authority of the Far Eastern Commission. Therefore, the very act of the formulation of the Constitution stands as a violation of law. (AOYAMA Takenori, Informant/147/24.Feb.2000)
- The provisions and prohibitions of the Hague Convention of War on Land apply to the occupying force, not to the occupied country. MacArthur was aware of this, and this is why he adopted an indirect form of rule. Great pains were taken to ensure due process. That is why the Imperial Constitution was not annulled and the Constitution of Japan was formulated on the basis of the procedural provisions of the Imperial Constitution. (KOSEKI Shoichi, Informant/147/9.Mar.2000)
- The Potsdam Declaration constitutes a specific law and therefore has priority over the Hague Convention of War on Land which is a general law. Therefore, because the Constitution of Japan was promulgated in order to meet the requirements of the Potsdam Declaration, there was no violation of international law in promulgating the Constitution under the Occupation. (MURATA Koji, Informant/147/9.Mar.2000)
- The Potsdam Declaration was implemented in the form of an unconditional surrender, and the Occupation of Japan was undertaken as treatment of a defeated nation. Taking this into consideration, we can say that the Potsdam Declaration had priority over the Hague Convention of War on Land, and that there are no grounds for the nullification of its implementation. (TAKAHASHI Masatoshi, Informant/147/23.Mar.2000)
- The adoption of the Constitution of Japan under the Occupation did not contravene the Hague Convention of War on Land. (SHINDO Eiichi, Informant/147/6.Apr.2000)
- The Hague Convention of War on Land is a general law and the Potsdam Declaration has priority as a specific law. The Hague Convention says that “revision of laws should be avoided as much as possible under occupation.” It would be very difficult to prove that this provision was violated. (IOKIBE Makoto, Informant/147/20.Apr.2000)

(5) Should the Constitution of Japan be viewed as null and void
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Comments arguing that the Constitution of Japan is not null and void

<Comments by Members>

- The question is whether the Constitution of Japan exceeds the limits of revision of the Imperial Constitution. Insofar as the due process for revision was faithfully carried out, I believe that there are no limits to revision. (SHIMA Satoshi, Member/DPJ/147/11.May.2000)
- Japan should have considered constitutional revision when it regained independence. But public opinion at the time did not want revision, and the Constitution played its proper role for fifty years thereafter. Therefore, the argument that the Constitution is null and void is totally absurd. (NAKANO Kansei, Member/DPJ/147/11.May.2000)
- Perhaps you arrive at the position that the “Constitution is null and void” when the theory that the Constitution was imposed is taken to its extreme. These arguments, however, are completely out of the question. (SASAKI Rikukai, Member/JCP/147/9.Mar.2000)

<Comments by Informants and Others>

- There was “imposition” in the formulation process, but that is a completely different issue from the evaluation of the present Constitution. (NISHI Osamu, Informant/147/24.Feb.2000)
- There were some violations of law in the formulation and promulgation of the Constitution. But no legal arguments have been made to say that the Constitution is null and void because of these violations. Furthermore, there is no organ with the authority to judge whether the act of promulgation is null and void. (AOYAMA Takenori, Informant/147/24.Feb.2000)
- The Constitution of Japan was promulgated in accordance with proper procedures. If the Constitution had been “imposed,” it should have been rejected. Insofar as it was not rejected, we ourselves must accept responsibility for the Constitution. (KOSEKI Shoichi, Informant/147/9.Mar.2000)
- If you argue that the Constitution was null and void retroactive to its very inception because it was not the product of completely free will, this would constitute a denial of the very foundations of Japan’s postwar development and its democratic politics. This should be avoided for both legal and political reasons. (MURATA Koji, Informant/147/9.Mar.2000)

- There were some procedural defects, but this does not lead me to conclude that the Constitution is null and void. In foreign countries, you see that constitutions are often created under extraordinary conditions, such as war and revolution. But procedural defects are not viewed as a problem. The important thing is whether the end result is beneficial to the people. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- The Constitution of Japan was drafted during the period when the Japanese legal system was under Occupation control. Hence, the procedures for constitutional revision and some of the contents of the Constitution may appear to be defective. But the Constitution retained the support of the will and powers of the people even after the end of the Occupation, and is fully valid. (TAKAHASHI Masatoshi, Informant/147/23.Mar.2000)
- The revision of the Imperial Constitution was legal and acceptable under the Hague Convention of War on Land, and was demanded under the Potsdam Declaration. The theory that the Constitution is null and void was long ago resolved. (SHINDO Eiichi, Informant/147/6.Apr.2000)
- I do not believe that strong external imposition or coercion of the Constitution immediately means that it is null and void, or that it should be promptly and totally revised. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- There was “imposition” in the formulation of the Constitution. But Japan accepted the Constitution on its own volition and its contents has taken root among the people. Therefore it is valid. Constitutions tend to be drafted under extraordinary conditions, such as war and revolution, and the validity of a constitution depends on whether its contents benefit the people. (IOKIBE Makoto, Informant/147/20.Apr.2000)

2. Issues Concerning the Formulation Process of Article 9

(1) MacArthur's second principle (renunciation of war)

<Comments by Members>

- It was General MacArthur's judgment that pacifism was a good way for Japan to regain the trust of the international community. I believe that is why he avoided the mention of the right to self-defense. (OKUDA Mikio, Member/LDP/147/27.Apr.2000)

<Comments by Informants and Others>

- The intent is that Japan must renounce both "war as a means of settling international disputes" and "war as a means of preserving the security of the nation." (NISHI Osamu, Informant/147/24.Feb.2000)
- MacArthur drafted the provisions for the renunciation of war based on an extremely realistic judgment of the political situation, not on some high ideal. The intent was to excuse the Emperor from responsibility for the war and to facilitate the conversion of Okinawa into a fortress. (KOSEKI Shoichi, Informant/147/9.Mar.2000)
- What was MacArthur's purpose in going to the extent of having Japan renounce wars of self-defense? The intent was to appeal to the international community that Japan had been thoroughly pacified so that the Occupation could be terminated quickly and the Emperor system saved. He also thought that the United States could protect Japan with its nuclear power without Japan rearming itself. (MURATA Koji, Informant/147/9.Mar.2000)
- It is a fabrication that Shidehara proposed the renunciation of armaments in his meeting with MacArthur. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- MacArthur decided that Japan should even renounce wars of self-defense because this would be conducive to Japan's recovery of international trust as a defeated nation, the preservation of the Emperor system, and generous treatment of Japan. (IOKIBE Makoto, Informant/147/20.Apr.2000)
- At the time, it was believed that militarism was intertwined with the Emperor system. Therefore, in considering the intent of MacArthur's second principle, it is necessary to examine the relation between the problems of the renunciation of war and the Emperor system. (AMAKAWA Akira, Informant/147/20.Apr.2000)
- It is said that Shidehara was the father of the principles of renunciation of war, non-maintenance of war potential, and the renunciation of the right of belligerency, while MacArthur made the decision to include these principles in the Constitution. (YAMAUCHI Tokushin, Speaker/154/25.Apr.2002/Okinawa Hearing)

(2) Removal of “renunciation of defensive wars” from GHQ draft

<Comments by Informants and Others>

- Colonel Kades revised MacArthur’s second principle because he thought the renunciation of war as a means of self-defense was unrealistic as this would prevent Japan from protecting itself in the event of attack. (NISHI Osamu, Informant/147/24.Feb.2000)
- Colonel Kades intentionally removed this provision because he believed that the renunciation of self-defense was going too far and that such a constitution would not be viable. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- Colonel Kades allowed for wars of self-defense because he thought the inclusion of such a provision would result in the immediate revision of the Constitution after the end of the Occupation and that the reforms implemented by GHQ would be brought to naught. (IOKIBE Makoto, Informant/147/20.Apr.2000)

(3) Intent of the “Ashida amendment”

<Comments by Members>

- Based on my own memories of the years between 1945 and 1965, Yoshida told the people around him that the Constitution needed to be revised. I believe he did not openly make a case for revision because public support could be gained by emphasizing pacifism. (NAKASONE Yasuhiro, Member/LDP/147/11.May.2000)
- (Comment made in response to the statement of Informant IOKIBE that Yoshida, MacArthur and other Japanese and U.S. leaders referred to Article 9 in terms of “public intent” and “hidden intent.”) Responding to questions in the Constitutional Assembly, Prime Minister Yoshida very clearly stated that Japan was also renouncing wars of self-defense. Hence, I find it difficult to accept the position expressed by the Informant. (SASAKI Rikukai, Member/JCP/147/20.Apr.2000)

<Comments by Informants and Others>

- Ashida made the following statement. “The following phrase was inserted: ‘to accomplish the aim of the preceding paragraph.’ Whereas the original draft stated that Japan would unconditionally forego the right to possess arms, the insertion changed this to mean that it would not bear arms under certain conditions. It is clear that the meaning is not that Japan unconditionally foregoes the right to arms.” (NISHI Osamu, Informant/147/24.Feb.2000)

- Why did Ashida introduce the amendment? My conclusion is that we are not sure. However, it is quite possible that Ashida feared that the deliberations would be thrown into turmoil if it became apparent that rearmament had been made possible. (MURATA Koji, Informant/147/9.Mar.2000)
- I think it is true that the Far Eastern Commission was concerned that the Ashida amendment would open the way to Japan's rearmament. However, on the Japanese side, no one other than Ashida was thinking along these lines. Later on, Ashida began to say the same kind of thing. Therefore, it is inappropriate to discuss the Ashida amendment based on what we think was going on in Ashida's mind. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- We do not know what Ashida was thinking at the time. But judging from his various actions, it seems to me that his actions were intentional. Colonel Kades immediately noticed the possibility of a reversed interpretation, but he remained silent because he believed that any nation had a natural right to self-defense. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- The Ashida amendment is based on the premise that Japan may exercise the right to self-defense after regaining independence. This is highly laudable in that it foreshadowed the international movement towards "demilitarization (maintenance of minimum defensive forces)." (SHINDO Eiichi, Informant/147/6.Apr.2000)
- MacArthur, Ashida, Yoshida and the others clearly differentiated between the "public intent" and "hidden intent" of Article 9. On the one hand, they emphasized absolute pacifism ("public intent") in order for Japan to regain the trust of the international community. At the same time, from the very beginning, they harbored the intent of allowing for self-defense ("hidden intent"). In the postwar Japanese society, the "hidden intent" came to constitute the view of the majority. (IOKIBE Makoto, Informant/147/20.Apr.2000)
- Ashida absolutely did not subscribe to the idealist view of renouncing wars of self-defense. However, fearing the opposition of public opinion, he did not reveal his true intent. On the other hand, Colonel Kades immediately approved the Ashida amendment because it conformed to GHQ's original thinking and made it easier for Japan to participate in the military actions of the United Nations after its eventual membership. (IOKIBE Makoto, Informant/147/20.Apr.2000)
- We should focus on the public debate that was carried out in the enactment process. What Ashida may have been thinking privately should not be made a factor in interpreting the Constitution. Therefore, the interpretation that Japan only renounced wars of aggression does not hold up. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)

(4) Ashida amendment and the Far Eastern Commission's proposed insertion of civilian clause
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<Comments by Members>

- Following the Ashida amendment, the Far Eastern Commission came forward with a demand to insert a civilian clause. In light of this exchange, many of our informants have argued that both GHQ and the Far Eastern Commission believed from the beginning that Japan would be allowed to possess defensive military potential. This fact should be properly reflected in the government's interpretation of the Constitution and in the revision of the Constitution. (YOKOUCHI Shomei, Member/LDP/147/11.May.2000)
- In connection with the Ashida amendment, it has become clear from the comments made by Informants KITAOKA and IOKIBE that both GHQ and the Far Eastern Commission were prepared to accept wars of self-defense and the maintenance of defensive military potential. We should give great weight to this matter, and we should go back to discuss the correct interpretation of Article 9. (HIRATA Yoneo, Member/NK-RN/147/11.May.2000)

<Comments by Informants and Others>

- The Far Eastern Commission became aware that the Ashida amendment was amenable to an interpretation which would allow Japan to maintain military forces for purposes of defense. That is when they demanded that a civilian clause be inserted. (NISHI Osamu, Informant/147/24.Feb.2000)
- The Far Eastern Commission interpreted the Ashida amendment to mean that Japan would be able to rearm itself. Nevertheless, neither the Far Eastern Commission nor GHQ demanded its removal. Having accepted the possibility of rearmament, they instead demanded the insertion of the civilian clause. (MURATA Koji, Informant/147/9.Mar.2000)
- The Far Eastern Commission believed that the Ashida amendment opened the way to rearmament. It was for this reason that it demanded the insertion of the civilian clause. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- More than a year before the end of the war, the United States had already decided on the principle of civilian control on the assumption that Japan would be permitted to maintain defensive military potential after the end of the war. (SHINDO Eiichi, Informant/147/6.Apr.2000)
- The Far Eastern Commission concluded that the Ashida amendment had opened the way to military activities by Japan in the form of self-defense and participation in the United Nations security initiatives. That is exactly the reason why they

demanded the insertion of the civilian clause. (IOKIBE Makoto, Informant/147/20.Apr.2000)

Section 3

Principal Discussions Concerning Specific Articles of the Constitution of Japan

Subsection 1 General Issues

Section 3 Principal Discussions Concerning Specific Articles of the Constitution of Japan

Subsection 1 General Issues

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Subsection 1 General Issues

- * This subsection records comments concerning the general evaluation and general issues concerning the Constitution of Japan. For comments concerning the evaluation of specific articles, see “Section 3: Principal Discussions Concerning Specific Articles of the Constitution of Japan.”

1. Evaluation of the Constitution of Japan

- a. Comments of affirmative and positive evaluation

<Comments by Members>

- The three basic principles of the Constitution, which are popular sovereignty, pacifism, and respect of basic human rights, have made important contributions to the building of a democratic and pacifist nation. We should continue to treasure this precious spirit of the Constitution. (KANO Michihiko, Member/DPJ/147/17.Feb.2000)
- In the formulation of the present Constitution, GHQ presented an original draft and the Constitution was thereafter adopted in accordance with due process as defined under the Meiji Constitution. In the context of the larger picture, this process should be positively evaluated. Putting the so-called “imposition” theory at the forefront maybe easy to understand for the voters, but I think this would be a mistaken approach. (FUJIMURA Osamu, Member/DPJ/147/9.Mar.2000)
- The present Constitution contains the three basic principles and other contents that we can boast of to the world. I believe we must respond appropriately within the scope of the spirit and principles of the Constitution. (AKAMATSU Masao, Member/NK/154/22.Apr.2002/Okinawa Hearing)
- At the bottom of the three basic principles of the Constitution is the support of the people for the protection of the principle of “respect of the individual.” The articles of the Constitution exist on this foundation. (HIRATA Yoneo, Member/NK-RN/147/17.Feb.2000)
- The principles of the Emperor, basic human rights, popular sovereignty, international cooperation and pacifism contained in the present Constitution should basically be preserved. (SHIOTA Susumu, Member/LP/151/14.June.2001)
- I am convinced that the principles of peace and democracy contained in the Constitution of Japan foreshadow and stand at the vanguard of humanity’s historic progress and achievements of the 20th century, such as the transition from monarchic sovereignty to popular sovereignty, the development and enrichment of

human rights, and outlawing of war. (HARUNA Naoaki, Member/JCP/149/3.Aug.2000)

- The contents of the Constitution of Japan, including the principles of peace and enrichment of human rights, are pioneering compared at a global level. The contents were born out of the 20th century's realization of the evils of despotic government and wars of aggression. As in the case of other countries, the Constitution of Japan exists in the flow of history and in reality. (YAMAGUCHI Tomio, Member/JCP/153/11.Oct.2001)
- I believe the principles of the Constitution of Japan stand at the vanguard of the 21st century. (ITO Shigeru, Member/SDP/147/17.Feb.2000)
- I am both proud and confident of the present Constitution. (UEDA Munenori, Member/SDP/150/26.Oct.2000)
- Prior to Okinawa's reversion to Japan, in 1965 the Legislative Council of Okinawa unanimously adopted a resolution making May 3 a holiday of the people. Hence, in the case of Okinawa, the Constitution was voluntarily affirmed and adopted by the general will of the people. (TOMON Mitsuko, Member/SDP/151/14.June.2001)
- The 21st century society that our generation is to lead must aim to achieve the hopes and aspirations of the people who were involved in formulating the present Constitution. That is, we must seek to establish a society in which human rights and diverse values are respected. The present Constitution is indispensable in creating a society in which these ideals can be realized. (HARA Yoko, Member/SDP/149/3.Aug.2000)
- The Constitution of Japan took root and is currently supported by a majority of the people because the people realized that wars of aggression are mistaken, and because they accepted the criticism of the Asian people on this matter. (FUKADA Hajime, Member/SDP/147/24.Feb.2000)
- I believe that people, the government and the Diet of Japan firmly established the Constitution of which we can be proud of in the world. (FUKADA Hajime, Member/SDP/147/24.Feb.2000)

<Comments by Informants and Others>

- Admittedly there are some issues, such as that the presentation of pacifism is somewhat too conceptual and that the principle of basic human rights tends to be biased in favor of the rights of the individual. Nevertheless, I believe that we must continue to protect and preserve the principles of popular sovereignty, pacifism and respect for basic human rights. (NISHI Osamu, Informant/147/24.Feb.2000)

- With the exception of the few specific issues such as the interpretation of Article 9 Paragraph 2, there is a very widely-based consensus among the people favoring the spirit and the basic principles of the Constitution. These have been widely shared by the people throughout postwar Japan. (MURATA Koji, Informant/147/9.Mar.2000)
- The present Constitution represents a terminal point which stands at end of humanity's inevitable long historical march. It also represents the starting point of another inevitable march toward the 21st century world. (SHINDO Eiichi, Informant/147/6.Apr.2000)
- The present Constitution reflects such developments of the age as "democratization" and "decolonization." (SHINDO Eiichi, Informant/147/6.Apr.2000)
- The most significant aspect of reviewing the formulation of individual articles of the Constitution is that we realize that, while the original draft may have been presented by GHQ, the Constitution reflects the efforts of the people of the time to make it a Japanese constitution. (AMAKAWA Akira, Informant/147/20.Apr.2000)
- As represented by the Preamble and Article 9, the Constitution makes a magnificent presentation of certain ideals and proceeds to show great determination for the realization of these ideals. This is the beauty of the Constitution and something that is not necessarily found in the constitutions of other countries. (ODA Minoru, Informant/150/28.Sept.2000)
- I basically believe that the Constitution of Japan is an outstanding constitution. (SON Masayoshi, Informant/151/8.Mar.2001)
- The Constitution of Japan affirmed the principle of constitutionalism which existed since the Meiji Era: that is, that nation-building would proceed in accordance with the principles of a modern constitution. (KANG Sanjung, Informant/151/22.Mar.2001)
- The so-called three basic principles of the Constitution took shape as enunciated at a certain period in the postwar era. There is no reason to adhere only to these three principles, and it is possible to include the system of the symbolic Emperor, parliamentary democracy and other principles among these three. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- Thorough provisions were included in the Constitution to ensure the ideals enunciated in the Preamble. The Constitution of Japan is unparalleled in the world for its systematic and thorough structure. This is where our Constitution excels. The Constitution contains a systematic presentation of humanity's historic experiences, its endeavors and its contemplation in the highest and best form. This is why the Constitution continues to be a source of great inspiration, not only to the Japanese, but also to the people of other countries. (ODANAKA Toshiki, Speaker/ 151/16.Apr.2001/Sendai Hearing)

- In Japan's postwar condition of destruction, my discovery of the Constitution was as a ray of light in the darkest night. The excitement I felt lives on in me clearly. For me, the Constitution represented Japan's glowing future characterized by the renunciation of war and of building a peace-loving and cultured nation. The glowing light radiating from the Constitution nurtured my dreams and hopes as a youth. (KANO Fuminaga, Speaker/151/16.Apr.2001/Sendai Hearing)
- The Constitution's principles of popular sovereignty, non-aggression and peace, and basic human rights are founded on the wisdom of humanity and are widely supported by the people. (KUBOTA Manae, Speaker/151/16.Apr.2001/Sendai Hearing)
- I believe the Constitution of Japan is a wonderful constitution which we can be proud of in the world. We must treat this Constitution with care and preserve it for the children of the 21st century, for the people of the world, and for ourselves. (SAITO Takako, Speaker/151/16.Apr.2001/Sendai Hearing)
- Under the present Constitution and the Basic Law on Education, Japan was able to achieve an incredible economic reconstruction, and the people are enjoying freedom. We can say Japan is a good country. (KAKINOHANA Hojun, Speaker/154/22.Apr.2002)
- The Constitution is based on six principles which stand at the zenith of humanity's intellectual and political endeavors over many, many years. These principles are: first, that basic human rights must not be infringed upon; second, popular sovereignty; third, permanent peace and pacifism; fourth, the separation of powers; fifth, upholding of local autonomy; sixth, international cooperation. These must be preserved under all conditions and difficulties, and must be passed on and further developed. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)

b. Comments of negative and skeptical evaluation

<Comments by Members>

- The present Constitution is based on Western concepts of democracy, such as popular sovereignty, respect for basic human rights, pacifism and internationalism. On the other hand, it seems to me that the Constitution contains elements which undermine and erase our Eastern traditions of the spirit of harmony and familial community, as well as Japanese traditions, culture and history. (SUGIURA Seiken, Member/LDP/147/9.Mar.2000)
- The Constitution may have been the supreme law under the Occupation. But its nature is completely contrary to the basic and supreme law that should have existed in Japan after the country regained its sovereignty and independence. This is not a constitution founded on the will of the people. (NAKAGAWA Shoichi, Member/LDP/147/9.Mar.2000)

- The present Constitution fostered numerous new institutions in postwar Japan which have played an extremely important role in the regaining of international trust. On the other hand, we must not lose sight of the fact that many things were erased and have disappeared. (HANASHI Nobuyuki, Member/LDP/151 /14.June.2001)

2. The Gap between the Ideals of the Constitution and Reality

(1) Recognizing the gap between the ideals of the Constitution and reality

- a. Comments advocating that the provisions of the Constitution are unrealistic

<Comments by Members>

- In the Commission's discussions to date on the process by which the Constitution was formulated and enacted, I believe we have arrived at a common understanding that there is a gap between the ideals of the Constitution and reality with regard to the Preamble and in such areas as security, local autonomy, government subsidization of private education, separation of church and state, public welfare, right to information, and the public election of local government heads. Reasons for this gap may be that the Constitution has ceased to keep up with the changes in society, or that the ideals of the Constitution were never put into practice. (TAKAICHI Sanae, Member/LDP/149/3.Aug.2000)
- The current Constitution did not envision the emergence of China as an enormous military power, or the present system of the world economy. (SUTO Nobuhiko, Member/DPJ/154/9.May.2002/International Society Subcommittee)
- More than 55 years have elapsed since the present Constitution was enacted, and in that time, domestic and international conditions have undergone significant changes, and various problems have arisen which have resulted in a gap between the ideals of the Constitution and reality. (NODA Takeshi, Member/LP/147/17.Feb.2000)

<Comments by Informants and Others>

- Although Article 9 of the Constitution forbids the existence of an army, our country is being false and deceptive by creating the Self-Defense Forces. This kind of deception undermines public morality. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
- In order to preserve the Constitution, the people have been deceiving themselves. First, they forced themselves to accept the contradiction between the absolute pacifism that existed in Article 9 and the U.S.-Japan Security Treaty. Another self-deception is an extremely self-centered vision of peace which exhibits extreme partiality toward the Japanese, as represented by one-nation pacifism. These deceptions have caused the public to develop a cynical attitude toward the Constitution, considering it merely as an official facade, and thinking of Japan as a homogeneous nation, rejecting foreign nationals residing in Japan. These attitudes invite moral corruption. (ONUMA Yasuaki, Informant/153/25.Oct.2001)

- The framework or the conditions of the Constitution of Japan place a strain on the development of the nation and the current state of Japanese society. (MORIMOTO Satoshi, Informant/153/25.Oct.2001)
- b. Comments advocating that there is a gap between the ideals of the Constitution and reality

<Comments by Members>

- I believe Japanese society has not made full use of the Constitution. We have yet to attain its ideals. (NAKAMURA Tetsuji, Member/DPJ/153/6.Dec.2001)
- There is a need for this Commission to discuss the discrepancies between reality and matters determined in the Constitution. (YAMAGUCHI Tomio, Member/JCP/154/14.Feb.2002/Politics Subcommittee)
- Okinawa did not have the right to peaceful existence under U.S. control. The people of Okinawa longed for reversion to Japan with great hopes of being reunited with the new Japan which stood for popular sovereignty, pacifism, and basic human rights. However, the reversion of Okinawa amounted to making U.S. military bases a permanent fixture. Even now the people of Okinawa are forced to live with crimes and accidents that occur as the result of U.S. military presence and in close proximity to constant danger. The high concentration of U.S. military installations is a form of discrimination against the people of Okinawa and contradicts the equality guaranteed under law. (TOMON Mitsuko, Member/SDP/151/14.June.2001)
- Although the Constitution proclaims pacifist ideals and guarantees basic human rights, there are many instances that lead us to say that current laws go against these principles of the Constitution. We should be making policies consistent with the Constitution. However, in reality, we are heading in the direction of making the Constitution consistent with policies. (YOKOMITSU Katsuhiko, Member/SDP/150/9.Nov.2000)

<Comments by Informants and Others>

- Rather than debating what is written in the Constitution, we need to examine if the provisions of the Constitution are being implemented and observed. Then we can debate on whether to change the reality or to change the text of the Constitution. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- We are losing Japan's long-standing framework as a peace-loving and democratic nation, and the gap between the program of the Constitution and reality is widening. (SHINDO Eiichi, Informant/147/6.Apr.2000)

- At the heart of the problem of the gap between reality and the Constitution is the Self-Defense Forces and the maintenance of war potential for purposes of self-defense. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
 - The significance of the present Constitution is that the ideals proclaimed in it are progressive, even though it was enacted more than fifty year ago. I think the government has failed to put these ideals into practice. (TANAKA Hiroshi, Speaker/154/24.June.2002/Sapporo Hearing)
 - At the time of its enactment, the provisions set in the Constitution were idealistic and their implementation was difficult. Even now, more than fifty years since the end of the war, present day Japan has not been able to make full use of the Constitution. And now we are faced with the problem of how to close the gap between ideals and reality. (MASUGI Eiichi, Speaker/154/24,June.2002/Sapporo Hearing)
- c. Comments advocating it is natural to have gaps between the provisions in the Constitution and reality

<Comments by Informants and Others>

- I believe the Constitution expresses ideals, and there will always be a gap between those ideals and reality. (SAKAMOTO Takao, Informant/151/22.Mar.2001)
- It is natural for there to be a gap between the ideals of the Constitution and reality. (ONUMA Yasuaki, Informant/153/25.Oct.2001)
- An ideal is just that. An ideal exists as something that cannot be materialized: for example, guaranteeing human security. It is because this ideal has not been realized that it becomes a source of a conviction for changing what we see around us, and that we must take action grounded in this ideal. (MUSHAKOJI Kinhide, Speaker/153/29.Nov.2001)
- I believe that a gap constantly exists between laws and reality. It is questionable whether a constitution that is in exact conformity with reality is in fact a constitution. The point of a constitution is that it rises above reality in terms of its principles and ideals so that we are constantly striving to rise to the level of the constitution. (MASUGI Eiichi, Speaker/154/24.June.2002/Sapporo Hearing)
- Self-Defense Forces exist despite the Article 9 provision against the maintenance of war potential. Even if we do perceive that Article 9 does not conform to reality, this may be generally accepted as a common enough fact. In spite of Article 9, an institution exists in violation of the Article. The question that must be addressed is who is responsible for this situation. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)

(2) Comments concerning changes in the meaning of the Constitution caused by the enactment of certain laws

<Comments by Members>

- If we continue to respond by legislation rather than revising the Constitution each time a new problem arises, there is the risk that reinterpretation of the Constitution would go too far. (KONDO Motohiko, Member/LDP/154/14.Mar.2002/Human Rights Subcommittee)
- I am against the revision of Article 9. However, as we adhere to the principles of constitutionalism and base everything on the principle of protecting the freedom and peace of the people, if a new law is to be enacted which contradicts Article 9, then I believe Article 9 must be revised before enacting such a law. (OIDE Akira, Member/DPJ/154/25.July.2002)
- The public's trust in the Constitution is severely shaken when the government dispatches Self-Defense Force personnel overseas under the Anti-Terrorism Special Measures Law and the International Peace Cooperative Law, while retaining an interpretation of the Constitution that denies the right to collective self-defense. Similarly, public trust is undermined by the government's subsidization of private education, the argument of "act of state" used by the courts, and the government's control of fiscal resources despite the principle of local autonomy. (FUJISHIMA Masayuki, Member/LP/153/6.Dec.2001)

<Comments by Informants and Others>

- Japan's current legal framework comprises the Constitution, laws, and ordinances. However, there is a separate legal framework that completely contradicts the provisions of the Constitution. This includes the Japan-U.S. Security Treaty, the U.S.-Japan Status of Forces Agreement, and some special criminal and civil laws. This second legal framework resembles the legal framework that existed under the Meiji Constitution. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- The enactment of the new guideline related laws and Communications Interception Law implies that the contents of the Constitution have been significantly changed by legislation without revising the Constitution. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- The Anti-Terrorism Special Measures Law is pushing the limits of the present Constitution. If any further action is required, a discussion of the Constitution will be necessary. (MORIMOTO Satoshi, Informant/153/25.Oct.2001)

- There is the opinion that the Constitution does not correspond to reality. However, if all current conditions were to be indiscriminately granted ex post approval, then the Constitution would lose its significance as the basic law of the land. This could lead not only to constitutional revision, but even to the annulment of the Constitution. (NAKATA Narishige, Speaker/151/4.June.2001/Kobe Hearing)

<p>(3) Measures for eliminating the gap between the provisions in the Constitution and reality</p>

- a. Comments advocating the need for current realities to agree with the provisions in the Constitution

<Comments by Members>

- When I saw the conditions under which some Hansen's disease patients were placed, I simply had to question whether the spirit of the Constitution had taken root in Japan. The issue we are faced with is not only the protection the Constitution, but how to put its spirit into practice. (HARUNA Naoaki, Member/JCP/151/17.May.2001)
- Regarding the gap between the Constitution and reality, including the problem of the existence of the Self-Defense Forces, such gaps should be gradually resolved by putting into practice the principles that the Constitution was originally seeking to establish. (YAMAGUCHI Tomio, Member/JCP/153/25.Oct.2001)
- We must fill in the gap that exists between the Constitution and reality. However, I support the statement made by informant KOBAYASHI Takeshi that this should not be done by constitutional revision. (YOKOMITSU Katsuhiko, Member/SDP/150/9.Nov.2000)

<Comments by Informants and Others>

- The gap between the present Constitution and reality has been amplified by the attitudes of successive governments towards the Constitution. Now is the time for all political parties and members of the Diet to return to the starting point of putting the Constitution into practice as would be naturally expected of any nation functioning under the rule of law. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- A scientific approach must be taken to bring those unconstitutional realities closer to the provisions of the Constitution. Also, constitutional policies must be based on a scientific foundation. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)

- In discussing whether or not Japan can have forces for self defense, the Commission must first investigate the actions made by the government and the interpretations on which such actions were based. If an interpretation is not compatible with the Constitution, the Commission should get expert advice to map out a path to bringing the situation closer to the Constitution. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- I think it is a good idea to attempt to eliminate the gap between reality and the Constitution on matters other than Article 9. But the gap must be eliminated in the arena of politics and society, not by revising the provisions of the Constitution. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- The Constitution was created after the country experienced much suffering in the war. We should be making every effort to promote its ideals. However, up till now, no effort has been made to bring reality closer to the ideals of the Constitution. People who have long neglected to make full and appropriate use of the Constitution are now loudly proclaiming the need for revision. That is putting the cart before the horse. (NAKATA Narishige, Speaker/151/4.June.2001/Kobe Hearing)
- Constitutional suits have been filed because there is a gap between the circumstances indicated in the Constitution and present conditions. The fact that the Constitution is cited in these litigations is evidence of the progressive nature of the Constitution. (MASUGI Eiichi, Speaker/154/24.June.2002/Sapporo Hearing)
- b. Comments advocating that the provisions in the Constitution should be made to conform to reality

<Comments by Members>

- I think it should also be acceptable to make the Constitution conform to reality as a means of eliminating the gap between the two. (MIZUNO Ken'ichi, Member/LDP/150/9.Nov.2000)
- Fifty-five years have passed since the war has ended and times have changed significantly. You can find points in the Constitution that do not match present circumstances such as crisis management and environmental issues, and reconsideration of the bicameral system. No provisions have been made in the Constitution for these issues. In cases like these, I think it is appropriate to revise the Constitution. (YOKOUCHI Shomei, Member/LDP/147/6.Apr.2000)
- We should begin discussions on topics where significant gaps exist between reality and the Constitution, such as security, government subsidization of private education, and technological and privacy rights stemming from IT-related developments. (NODA Takeshi, Member/NCP/149/3.Aug.2000)

- The three principles of popular sovereignty, pacifism and respect for basic human rights must remain permanently unchanged. The Constitution provides the framework for building the Japan of the 21st century. Therefore, we must first develop a vision of what we want our country to be in the 21st century. Then we can hold discussions on the form that the Constitution should take, and we should revise the provisions in the Constitution that do not conform to reality. We must ensure that the Constitution takes on greater immediacy for the next generation. (KONDO Motohiko, Member/Club 21/149/3.Aug.2000)

<Comments by Informants and Others>

- What we are doing is adhering stubbornly to a faded, old-fashioned Constitution, patching it up when it comes apart at the seams by reinterpreting it from time to time. This procedure does not work anymore, and I believe it harms the public's law-abiding spirit. In view of the present domestic and international situations, I would like to request the immediate commencement of discussions on revising the Constitution. (KOKUBO Masao, Speaker/151/4.June.2001/Kobe Hearing)

(4) Miscellaneous comments

<Comments by Members>

- I recognize that there are some problematic provisions in the present Constitution. (YAMAHANA Ikuo, Member/DPJ/150/26.Oct.2000)
- I believe there are issues other than Article 9 where the Constitution and reality do not conform. I think we should start our discussion with those issues first. (KONDO Motohiko, Member/Club 21/150/9.Nov.2000, 150/30.Nov.2000)

<Comments by Informants and Others>

- The validity of the Constitution is based on the confidence of the people. If it is impossible to act according to the provisions in the Constitution, this may result in the deterioration of its validity. There also may be ways to bring reality into line with the Constitution. The decision of which path to take is entrusted to the political process. I would like for the Commission to sincerely discuss this issue. (TAKAHASHI Masatoshi, Informant/147/23.Mar.2000)
- I feel, as a teacher facing students, there is not mismatch between the Constitution and reality. I believe that in an educational setting we are sufficiently able to put into action the issues proclaimed in the Constitution. (HAMADA Takehito, Speaker/151/16.Apr.2001/ Sendai Hearing)

3. Reasons Why the Constitution Has Not Been Revised

(1) Problems with procedures of constitutional revision

<Comments by Members>

- The amendment procedures stipulated in Article 96 make it difficult to amend the Constitution. In the process of Diet debate, the Director-Generals of the Cabinet Legislation Bureau have endeavored to give authority to the changing interpretations of the Constitution which have been made in response to social changes. This has distorted the discussions and other issues on the Constitution. (AICHI Kazuo, Member/LDP/147/24.Feb.2000)
- The present Constitution has transformed into an immutable code because of the rigid requirements for constitutional amendment. (SHINDO Yoshitaka, Member/LDP/150/9.Nov.2000)
- The amendment procedures outlined in Article 96 make it difficult to revise the Constitution. Article 96 has become a hindrance to Constitutional amendment. (DOI Ryuichi, Member/DPJ/147/23.Mar.2000)

<Comments by Informants and Others>

- There are several reasons why the Constitution has not been revised up to this day. From a procedural viewpoint, the following reasons can be given. (1) Article 96 stipulates that amendments can only be initiated by the Diet through a concurring vote of two-thirds of each House. (2) There is no law established for the people to vote for the ratification of an amendment. From a practical perspective, the following reason can be given. (3) There has never been a venue for Constitutional discussions. (NISHI Osamu, Informant/147/24.Feb.2000)
- We can certainly say that the stringent conditions set for constitutional amendments have prevented any changes to be made in articles that have a big influence on the lives of the people. However, in the case of articles with no direct impact on the lives of the people, procedural difficulties cannot be the only reason that amendment has not been undertaken. (SASAKI Takeshi, Informant/150/9.Nov.2000)

(2) Problems other than procedures of constitutional revision
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<Comments by Members>

- Between the enactment of the Constitution of Japan and Japan's return to independence in 1952, Constitutional debate was taboo. Because of the people's strong support for the Constitution's principle of pacifism, Constitutional revision became synonymous to the revision of Article 9. In this way it became a taboo to engage in any discussions of constitutional revision. (HANASHI Nobuyuki, Member/LDP/151/14.June.2001)
- The problem is the position we have taken of not discussing the Constitution very much. We have tried to avoid it as much as possible. (TARUTOKO Shinji, Member/DPJ/147/20.Apr.2000)
- Debates on constitutional revision should have taken place at the time that Japan regained its independence. However, there is no need to say that it was a mistake not to revise the Constitution at that time because of various reasons. (NAKANO Kansei, Member/DPJ/147/11.May.2000)
- From the perspective of the public, the views held by the Liberal Democratic Party, which was the ruling party for a long time, and others who were the opposition parties, concerning history and the nation were extremely ambiguous. This created a situation in which debates on the direction of Constitutional amendments could not take place. I believe this led to the public's reluctance to allow such political parties to make changes to the Constitution. Consequently the Constitution has continued to exist in its original form. (AKAMATSU Masao, Member/NK/150/9.Nov.2000)
- Because we do not have a process to calmly analyze and objectively view the history of Japan before and after the Asia-Pacific War, there is no general public consensus on the meaning of this history. Instead, there is a latent fear of the past. Aside from the objective fact of the existence of the Japan-U.S. Security Treaty, I believe this fear has obstructed efforts to modify or to add to the Constitution. (FUKUSHIMA Yutaka, Member/NK-RN/147/9.Mar.2000)
- There may have been some difficult obstacles to discussing or proposing amendments to the Constitution. But I believe this proves that the present Constitution has taken root among the people of Japan. (HARUNA Naoaki, Member/JCP/150/9.Nov.2000)
- Because the revision of the Japan-U.S. Security Treaty went smoothly, this created a situation in which it was felt there was no great need to be concerned with national defense. This delayed the start of discussions for Constitutional amendment. (ABE Motoo, Member/NCP/147/6.Apr.2000)

<Comments by Informants and Others>

- Article 9 has been at the center of debates on Constitutional revision. I believe we did not feel pressed to make revisions because the existence of the Japan-U.S. Security Treaty made it possible to deal with Article 9 through interpretation. (MURATA Koji, Informant/147/9.Mar.2000)
- When the postwar conservative parties were amalgamated, this engendered a great deal of psychological resistance to Constitutional amendment in the public which feared that Japan could be pulled back to its prewar system if the Constitution were to be revised by conservative and nationalistic groups as represented by HATOYAMA Ichiro. This drove politics into two fundamentalist positions of constitutional revision versus preservation. (MURATA Koji, Informant/147/9.Mar.2000)
- The Hatoyama Cabinet was considering the introduction of single-seat electoral districts partly because the two-third majority needed to pass a constitutional amendment posed an imposing obstacle. Also, the Kishi Cabinet most likely wanted to revise the Constitution at the time of the revision of the Japan-U.S. Security Treaty. But any advocacy of revision was met with intense opposition from preservationists. The Kishi Cabinet itself succumbed as a result of the revision of the Security Treaty. Learning from these experiences and made aware of the extreme political risks involved, the ruling Liberal Democratic Party thereafter avoided meddling in matters regarding security and national defense. As a result, a newly formed Cabinet would often proclaim at its inauguration that it would not touch the Constitution. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- The Diet enjoys many recesses with breaks between each session. It is doubtful that any proposals regarding Constitutional revision can be deliberated on under such conditions. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- The present Constitution of Japan became known as the “Peace Constitution,” and emerged as a symbol of a single ideal in our conscious and subconscious minds. Before we knew it, this illusion somehow became firmly entrenched in the public mind, resulting in a deadlock. (ISHIHARA Shintaro, Informant/150/30.Nov.2000)
- The reason the Constitution has never been amended is that there was always more than one-third of the members of Diet opposing any Constitutional amendment. This opposition was founded on Japan’s postwar “success” and the Constitution’s success in delivering the luxury of what should have been the mutually exclusive benefits of economic prosperity, assurance of security against the Soviet Union, and the advocacy of pacifism. (ONUMA Yasuaki, Informant/153/25.Oct.2001)
- The unfortunate problem in constitutional debate stems from the fact that constitutional revision is generally equated to the revision of Article 9. This, on the one hand has created the feeling that it is taboo to discuss constitutional revision.

On the other hand, it has given rise to very shallow arguments for revision, such as the argument of the imposed constitution. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)

4. Comments Advocating Interpretative Revision Rather than Constitutional Amendment

(1) Interpretative revision of the Constitution

a. Comments advocating interpretative revision of the Constitution

<Comments by Informants and Others>

- While there is a limit to making a case on general arguments only, judging from legal precedence, it is obvious that the provisions of the Constitution allow for a certain degree of interpretation. Furthermore, interpretations can be changed as court rulings are modified. Hence, there is no reason to believe that there is only room for one interpretation and all others must be eliminated. (CHIBA Katsumi, Director, Administrative Affairs Bureau of the General Secretariat of the Supreme Court/147/25.May.2000)
- Article 9 is not necessarily an unconditional provision. Various interpretations can be made as to what measures are allowed within the pacifist framework of Article 9. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)

b. Comments advocating limit to interpretative revision of the Constitution

<Comments by Members>

- The Constitution is not an immutable code. Because amendment procedures are stipulated, we should be able to make revisions when the need arises. I believe it is appropriate to permit a certain amount of latitude in the interpretation of the Constitution, which is the supreme law and the basic law of the land. (KURATA Eiki, Member/NK-RN/147/25.May.2000)

c. Comments critical of continued interpretative revision of the Constitution

<Comments by Members>

- With regard to human rights, if the Constitution is reinterpreted through an accumulation of judicial decisions rather than resolving the problem through the legislation of new laws, we are giving the power to legislate to the courts. This is a big concern for me. (TSUCHIYA Shinako, Member/LDP/154/11.Apr.2002/Human Rights Subcommittee)
- If a missile suddenly heads our way, or a large-scale terrorist attack takes place in Japan, we must fight back. But a comprehensive review of the Preamble, Article 9 and the Article 98 provision for the observance of treaties points to a lack of overall consistency. Some say that this can be resolved through interpretation. However, I

doubt that this is viable in the medium- to long-term. (NAKAGAWA Shoichi, Member/LDP/153/25.Oct.2001)

- Parts of the present Constitution that are not in line with our changing society have been interpreted repeatedly through government statements and by the Cabinet Legislation Bureau. However, I am afraid too many interpretations will diminish the stability of the original Constitution. (FUNADA Hajime, Member/LDP/147/27.Apr.2000)
- Article 9 has been interpreted differently by each Prime Minister in power. Scholars also express completely different opinions regarding this article. It is ridiculous to leave the matter as it is. (MORIOKA Masahiro, Member/LDP/153/29.Nov.2001)
- Informant KITAOKA stated that if an interpretation is a good one, it should be positively adopted. However, if we continue to adopt interpretations, I think we will eventually undermine the authority of the Constitution itself. (SHIMA Satoshi, Member/DPJ/147/6.Apr.2000)
- There will be no limit if we freely employ the interpretative revision of the Constitution. If we take that path we may end up destroying what we have and start “going down the road where we once marched.” I am troubled by the use of this method. (TARUTOKO Shinji, Member/DPJ/147/20.Apr.2000)
- We have reached the limit of trying to conform the Constitution to reality through interpretations. Because of these interpretations, the intent of the nation has become blurred when seen from overseas. (NAKAGAWA Masaharu, Member/DPJ/151/4.June.2001/Kobe Hearing)

(2) Constitutional interpretation by the Government
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<Comments by Members>

- The Cabinet Legislation Bureau claimed a monopoly on the official interpretation of the Constitution since the end of the war and made some imprudent decisions that became established as facts. This action is outrageous and unforgivable. This should not be allowed to happen in the 21st century. (SENGOKU Yoshito, Member/DPJ/147/25.May.2000)

<Comments by Informants and Others>

- Gaps in the law can certainly be filled through the process of interpretation. The problem is that some of the government's interpretations of the Constitution had political purposes and were made because formal amendment was not possible. In this process, the limits of what the provisions of the Constitution allows for were

exceeded and the Constitution was distorted. This promoted public distrust of the government and a tendency toward disobeying the law. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)

- The following two points can be made about constitutional revisions from the time of the Hatoyama Cabinet to the present. (1) The government and the ruling parties showed an unfavorable attitude toward the Constitution of Japan. (2) The method of Constitutional revision by interpretation made by successive governments deviated from the principle of the rule of law. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- Revision by interpretation bends the Constitution and changes the meaning of the contents. This type of constitutional revision does not essentially exist as an option. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- Interpretations made by the Cabinet Legislation Bureau have caused great damage and have not produced even one advantage. Politicians are the representatives of the people. However, the Cabinet Legislation Bureau reigns over the cabinet ministers and tells them what to do. I believe the existence of the Cabinet Legislation Bureau itself is unconstitutional. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)

(3) How to deal with revisions in the future

<Comments by Members>

- We can look to the Germans as a reference for a way to avoid unproductive disputes on constitutional interpretations. In Germany they have set up a constitutional court. When the Constitution is amended, I strongly recommend that a constitutional court be established in Japan. (NAKANO Kansei, Member/DPJ/147/23.Mar.2000)
- On the topic of discrepancies between the Constitution and reality, regarding government subsidy of private education in context of Article 89, the term “public authority” has been liberally interpreted. Regarding the right to privacy, a variety of different interpretations have been attempted on Article 13 and Article 21. Some are of the opinion that these incongruities in the Constitution should not be resolved by interpretation and that the Constitution should be written more clearly. I think this Commission should examine the merits of making such amendments. (YAMAHANA Ikuo, Member/DPJ/149/3.Aug.2000)
- When an interpretation can be clearly fixed, the text of the Constitution should be left as it is. However, as in the case of Article 9, when a number of conflicting

interpretations are possible, the text should be amended to eliminate the differences in interpretation. (FUJISHIMA Masayuki, Member/LP/150/9.Nov.2000)

- Ideally, political activities should be in line with the Constitution. When this is difficult to achieve, we should consider revising the Constitution. Currently in Japan we are revising the Constitution by interpretation. Rather than dealing with inconsistencies with new interpretations of the Constitution, we should adopt the method of revising specific provisions in the Constitution. I think other countries would find this approach very easy to understand. (FUTAMI Nobuaki, Member/LP/147/23.Mar.2000)

<Comments by Informants and Others>

- It is natural for there to be some uncertainty about a provision in the Constitution when there is tension in international relations. Up until now we have endured such turbulent times by reinterpreting the Constitution. We must come to a decision on how to deal with this sort of situation now in the post-Cold War era. (TAKAHASHI Masatoshi, Informant/147/23.Mar.2000)
- When the public opposes a constitutional interpretation made by the government, this can be corrected at the next election by the people voting to oust the previous government. Instead of using the Constitution and laws to determine all matters, politics and the government should directly accept responsibility for crucial issues. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- The problem with Japan's current approach to constitutional revision is that it is not built on the premise of upholding the Constitution. Rather, it is based on repeated distortions of the Constitution undertaken to make room for the implementation of policy decisions. At least at the present time, constitutional revision cannot be handled as a pure and rational matter. I also find it difficult to accept the fair argument that amendment, rather than interpretation, should be advocated. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)

5. Should the Constitution Be Revised

(1) Comments advocating revision of the Constitution

A. Reasons Why the Constitution Should Be Revised

<Comments by Members>

- During an overseas survey mission of the Constitutions of European countries, I was deeply moved by the following comment I heard from SHIONO Nanami, a writer who resides in Italy. “In ancient Rome, laws were made to suit the people, rather than forcing people to abide by the laws. In this way they presented a vision of the future.” I would argue that over fifty years have passed since the end of the war and the world has changed at a precipitous rate, and we cannot avoid a Constitutional revision any more. (ISHIKAWA Yozo, Member/LDP/154/ 9.May.2002/International Society Subcommittee)
- I think that it is a major problem that the Constitution has never been revised during the past fifty years despite the significant changes that society and the international community has undergone. (SATO Megumu, Member/LDP/147/ 27.Apr.2000)
- The present Constitution stipulates the amendment process in Article 96 and is based on the premise that it is subject to amendment. The one point that we have agreed on during these discussions is to acknowledge that there is a gap between the Constitution and reality, and I think we should take this to heart. I believe Constitutional revision is inevitable. (TAKAICHI Sanae, Member/LDP/149/ 3.Aug.2000)
- We are living in an age when the representative of the Democratic Party of Japan makes an open reference to the right to collective security. As such, now is an opportune time for Constitutional revision. (HATOYAMA Kunio, Member/LDP/ 150/26.Oct.2000)
- The constitutions of many countries have been suitably revised to meet contemporary needs. I maintain that it is due to the Diet’s negligence that the Constitution has never been revised since 1947. (YAMASAKI Taku, Member/ LDP/149/3.Aug.2000)
- We must focus on how to create a Constitution that is in tune with the changing times, and we should not hesitate on this. (TARUTOKO Shinji, Member/DPJ/ 147/20.Apr.2000)

- Sovereignty resides in the people. Therefore, it is logical for the people to engage in debate for constitutional revision. (NAKANO Kansei, Member/DPJ/147/23.Mar.2000.)
- There are two basic directions in discussing the Constitution. One is to make changes aimed at reinforcing and enriching the three key principles embodied in the Constitution. The other is aimed at making adjustments and modifications in language and expression. However, the debates would be meaningless if nothing changes after conducting the discussions. (AKAMATSU Masao, Member/NK/149/3.Aug.2000)
- With the demise of the Liberal Democratic Party's single-party rule and the downfall of ideological confrontation, mistrust towards the government has grown. This mistrust has materialized as the desire to revise the Constitution. (AKAMATSU Masao, Member/NK/150/9.Nov.2000)

<Comments by Informants and Others>

- Over the past few years, discussions of constitutional revision have become widespread. I think the reason for this is that our nation was unable to fulfill its international responsibility while the world faced the difficulties of the Gulf Crisis and the Gulf War. Reaction to the unyielding position of a passive pacifist nation has encouraged these discussions. (MURATA Koji, Informant/147/9.Mar.2000)
- When the general public begins debating the revision of the Constitution because it has not kept up with the changing times, and when they start to put their words into action, that is the time for constitutional revision. According to surveys conducted by newspapers and others, more than half of those surveyed want the Constitution to be revised. When you take this into consideration, you see that we have reached the point where at least constitutional debates must take place. (TAKAHASHI Masatoshi, Informant/147/23.Mar.2000)
- When we reform our political, economic, and social systems in order for Japan to be able to respond to various happenings in the 21st century, Constitutional reform becomes indispensable. (ICHIMURA Shin'ichi, Informant/150/26.Oct.2000)
- In much the same way as the Meiji Constitution which became ineffectual within fifty years of its enactment, our present Constitution is worn out, and no longer corresponds to existing conditions. If we treat our present Constitution as an immutable code as was the Meiji Constitution, we will no longer be able to protect the people of Japan. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
- The Constitution is just a set of rules composed by human beings, and it is only natural to review it from time to time. The rules should progress in step with the progress of technology and society. (SON Masayoshi, Informant/151/8.Mar.2001)

- The Constitution is a set of flexible provisions, and is a model of laws that permits a great amount of latitude. It is even possible to modify past interpretations in order to deal with new situations. However, there are two exceptions. (1) The question of security involves basic principles of the nation, and should not be dealt with by reinterpreting the Constitution. (2) The Constitution should be revised because each generation has a right and a duty to conduct the affairs of the state based on ideals that they themselves have determined. Continuing to preserve a Constitution created by a generation of over half a century ago will unquestionably put a strain on social management. I believe the Constitution should be revised in the beginning of the 21st century, while we remain mindful of the role that the Constitution has played in the past and treat its principles and ideals with the highest level of respect. (ONUMA Yasuaki, Informant/153/25.Oct.2001)
- Other than the Preamble and the issues of security and whether or not the Emperor should be referred to as a symbol, the contents of the Constitution of Japan have ripened. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- Because the present Constitution was never revised, I feel it slowly became distant from the everyday lives of us ordinary citizens. We would like you to confront the various new problems which are arising recently and matters which may become major problems in the 21st century, and let us know of the policies and vision that you have for the Constitution. In that way, I think we could come to feel much closer to the Constitution. (TEJIMA Norio, Speaker/151/16.Apr.2001/Sendai Hearing)
- The Constitution is the foundation on which the people stand. We need to revise the Constitution into something more familiar and accessible that will encourage people to express their opinions. (YONETANI Mitsumasa, Speaker/151/16.Apr.2001/Sendai Hearing)
- Social conditions have changed dramatically in the past five decades since the end of the war and when the Constitution was written. In a world where so much is changing both within Japan and overseas, not revising our Constitution is tantamount to regression. We may in effect be left behind from the rest of the world. In view of this situation, I urge you to take action. Japan should embark on the process of constitutional revision. (TSUKAMOTO Hideki, Speaker/151/4.June.2001/Kobe Hearing)
- The world we live in today has become virtually borderless. Now is the time to free ourselves from the concept of one-nation pacifism. We must carefully reflect on our future vision of Japan and reconsider the Constitution, which is the standard for our nation. We must patiently hold general discussions open to the public on Constitutional revision. (ASHITOMI Osamu, Speaker/154/22.Apr.2002/Okinawa Hearing)

- I oppose the position of not changing a single word or phrase in the Constitution. (ASHITOMI Osamu, Speaker/154/22.Apr.2002/Okinawa Hearing)

B. Directions in Constitutional Revision

- a. Comments advocating revisions in line with changing times

<Comments by Members>

- The Constitution is a self-portrait of a country which is painted by the people. Therefore, it must be painted by the people themselves, and naturally it should be modified to reflect the changes of the times. (AICHI Kazuo, Member/LDP/147/24.Feb.2000)
- The Constitution must include declarations of human rights and liberty, and must guarantee popular sovereignty and democracy. Beyond that, when the Constitution no longer meets the realities of the country, it is only right to modify the Constitution in line with the changes of the age and in accordance with the freely expressed will of the people as the source of sovereignty. (ISHIBA Shigeru, Member/LDP/147/23.Mar.2000)
- The level of achievement of the principles contained in the Constitution should be first examined. Next, we should proceed to revise the Constitution in line with the changing times. (IMAMURA Masahiro, Member/LDP/153/6.Dec.2001)
- The basic principles of the Constitution, which are popular sovereignty, pacifism and respect for basic human rights, must be preserved and developed. But, as representatives of the people to the Diet, we must have the courage to revise those sections which no longer match the present age. (MIZUNO Ken'ichi, Member/LDP/150/9.Nov.2000)
- To discuss the Constitution of Japan means to discuss our vision of what Japan should be. If our vision of what Japan should be is not the same as the vision that prevailed at the enactment of the Constitution, then there is a need to review the Constitution. (YASUOKA Okiharu, Member/LDP/147/11.May.2000)
- If the political parties can arrive at a consensus concerning a vision of what Japan should be in the 21st century, then naturally that vision should be clearly expressed in the Constitution which is the basic law of the land. In other words, the Constitution should be revised. (YAMASAKI Taku, Member/LDP/149/3.Aug.2000)
- The spirit of the Constitution of Japan remains valid to this day and should continue to be treasured. However, because of the changing times, I feel that there are various points in the present Constitution that should be reinforced and reviewed. (UEDA Isamu, Member/NK/151/14.June.2001, 153/6.Dec.2001)

- We face many challenges in the new age, such as the challenges related to the developments in information technologies and genetic engineering. Instead of establishing a constitutional court, I believe these challenges should be met by revising the Constitution. (OTA Akihiro, Member/NK/153/29.Nov.2001)
- It is an undeniable fact that the present Constitution was imposed upon Japan by General MacArthur. But that does not justify its revision. We need to examine the Constitution from the viewpoint of whether it matches the requirements of the age and whether it is suitable to the form that Japan will take in the 21st century. (FUTAMI Nobuaki, Member/LP/147/23.Mar.2000)
- A constitution is the “social framework” on which is hoisted the prevailing principles and ideals for the development and social environment of the age, and the institutions for their realization. As such, the Constitution should be gradually modified in line with internal conditions and changes in the general environment. (ABE Motoo, Member/NCP/147/6.Apr.2000)
- A constitution is closely related to the history of the country. We grasped peace after a series of wars, and the present Constitution was born out of this. But in the history that followed, Japan’s economic condition and its role in the world changed. We must ourselves create a new peace constitution which suits the needs of the international community. (MATSUNAMI Kenshiro, Member/NCP/153/6.Dec.2001)

<Comments by Informants and Others>

- The European countries have revised their constitutions with the passage of time. I feel that frequent and detailed amendments must be made in order for the people to realize that the Constitution is directly and very deeply related to their lives. (TEJIMA Norio, Speaker/151/16.Apr.2001/Sendai Hearing)

b. Comments advocating amendments in line with Japanese culture and traditions

<Comments by Members>

- How can Japan contribute to peace in an increasingly globalized world? When we consider this question, we find that it is necessary to enact a new constitution which is based on the culture and peoples of Japan. (TANAKA Makiko, Member/LDP/147/11.May.2000)
- The Constitution should be considered from the perspective of what we want Japan to be in the future, and in line with the changes in international conditions and in the people’s consciousness. The Constitution should naturally contain matters pertaining to the form of the Japanese nation, its ethnicity and identity. (NAKANO Kansei, Member/DPJ/147/27.Apr.2000)

- A constitution for the 21st century should be the following. Taking into account Japan's long history and traditions, it must be based on the new national objective of creating an independent Japan that values the Japanese spirit and pride and is full of freedom and creativity, and where individuals can lead vibrant and happy lives. (SHIOTA Susumu, Member/LP/149/3.Aug.2000)
- A constitution for the 21st century should contain provisions which give direction to those values that were destroyed in the 20th century and are now being lost. These include the Japanese spirit, education, culture and tradition. (TASSO Takuya, Member/LP/147/27.Apr.2000, 150/7.Dec.2000)
- The Constitution is the basic law of the land. Therefore, naturally it must contain certain universal provisions, as well as certain values that are unique to the nation and its people. (INOUE Kiichi, Member/NCP/154/4.July.2002/Politics Subcommittee)

<Comments by Informants and Others>

- There is the view that the Constitution should instruct that Japanese traditions be cherished. Even if this involved a provision for the implementation of certain programs, these would not permeate society quickly. Therefore, I believe this should basically be left to the political process and the legislation of laws and implementation of policies. Nevertheless, it is true that we are living in the present as a result of our past history. Hence, it is not necessarily a bad idea to include some type of provision for the respect of our history and traditions. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- The Constitution must make it possible for the Japanese people to cope with all types of situations that may occur in the world. For that purpose, the Constitution should acknowledge Japan's history and tradition of developing through the amalgamation of traditional Shinto and Buddhist religions, and must embody a fundamental structure of the state that is in line with this history and tradition. It is also desirable to have an explicit statement of the will and intent of the nation to contribute to the international community in the 21st century and to occupy an honorable position therein. (ICHIMURA Shin'ichi, Informant/150/26.Oct.2000)
- The Constitution of Japan contains absolutely no mention of Japan's long traditions and does not explain their significance. In the very least, it should be possible for the Constitution to affirm the Seventeen-Article Constitution of Prince Shotoku and to present the laws of a modern state with this as its basis. (TANAKA Hidemichi, Speaker/151/16.Apr.2001/Sendai Hearing)
- We should enact a new Constitution, one whose fundamental principles consist of universal values that are, so to speak, a crystallization of the will of the people, formed through the endogenous self-regulation of Japan's traditional culture. On this basis, we should build a moral nation that actively contributes to maintaining

the world order at the beginning of the 21st century. (INATSU Sadatoshi, Speaker/154/24.June.2002/Sapporo Hearing)

- c. Comments advocating amendment through the development of the principles of the present Constitution

<Comments by Members>

- In amending the Constitution, it is the content of the amendment that is important. Needless to say, reactionary revisions are undesirable. But there is no justification in labeling as reactionary and militaristic all arguments for revision. To reinforce the fundamental principles of the Constitution and to bring it closer in line with the times, articles with clearly divergent interpretations should be amended for the sake of clarification. We must embark on this process. (MIZUNO Ken'ichi, Member/LDP/150/9.Nov.2000)
- The three principles of popular sovereignty, respect for basic human rights and pacifism should be preserved. But we should engage in extensive discussions concerning sections that require amendment. (FUNADA Hajime, Member/LDP/147/27.Apr.2000)
- A consensus must be established among the people to undertake realistic revisions of the Constitution, such as the improvement of specific wording of provisions, in order to facilitate the realization of the high ideals enunciated in the Constitution. This should be the goal of Japanese politics. (TASSO Takuya, Member/LP/147/11.May.2000)
- The three principles of respect for basic human rights, popular sovereignty, and pacifism have taken firm root among the people. While preserving these principles, the Constitution should be reviewed and revised in the direction of further developing and deepening these principles. A revision that negates any one of these principles is a revision for the worse. (FUTAMI Nobuaki, Member/LP/147/23.Mar.2000)

<Comments by Informants and Others>

- The question of whether the Constitution was imposed upon Japan and the question of whether the Constitution should be revised exist on two completely different levels. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- What purpose is served by arguing that the terrible contemporary social problems are partially due to the fact that the Constitution was imposed upon Japan? This approach should be replaced by an "orthodox approach to constitutional revision" which stands firmly upon the principles of the value of freedom, democracy, internationalism and pacifism which have already taken root among the people, attempts to give fuller meaning to these directions, and proceeds with due insight in

making such amendments as are necessary for ensuring the safety and prosperity of the people. (IOKIBE Makoto, Informant/147/20.Apr.2000)

- It is very backward-looking to argue that a new Constitution must be written because the present one was imposed. Instead, I believe we must aspire to enacting a “people’s Constitution” which is based on the foundations of the present Constitution and is geared toward ensuring the survival of Japan in this new historical stage that has been called the “third opening of the nation.” (MATSUMOTO Ken’ichi, Informant/150/7.Dec.2000)
- I believe that the spirit of the present Constitution should be cherished and that basically this is an excellent Constitution. I would describe my position as “revising the Constitution in order to protect it.” This implies revising the Constitution based on the awareness that it has contributed tremendously to Japan’s postwar economic prosperity, peace and security. (ONUMA Yasuaki, Informant/153/25.Oct.2001)
- Constitutional revision, and particularly the revision of Article 9, must not be made a taboo. The Constitution should be actively reviewed while developing a vision for the 21st century and making full use of the principles of the Constitution. (TERASHIMA Jitsuro, Informant/154/9.May.2002/International Society Subcommittee)

d. Comments advocating amendment for greater ease of reading and understanding

<Comments by Members>

- The language of the Constitution should be as easy to understand as possible, so that even junior and senior high school students can read it and comprehend it without difficulty. (KOIZUMI Junichiro, Member/LDP/147/11.May.2000)
- In general, the present Constitution sounds like a translation and lacks brevity and clarity. In particular, the following passages should be amended to reflect the use of correct, simple and clear language. The reference in Article 18 to “no person shall be held in bondage of any kind” is a very unfamiliar expression. Article 73 Paragraph 5 refers to “budget,” whereas this should correctly be “budget bill.” Article 9 is problematic in that it can be read to mean that Japan has also renounced the maintenance of defensive forces and the right to defensive war as well. (TAKAICHI Sanae, Member/LDP/147/27.Apr.2000)
- Under the current Constitution, whenever something happens, we have to try to adapt by reinterpretation. In addition, there are many conflicting academic theories about the Constitution. These factors make the Constitution extremely difficult for the average person to understand. It is very important to have a Constitution which is easy to understand. It is really pushing the envelope to send Self-Defense Forces overseas under the current interpretations. For these reasons, I believe the

Constitution should be revised as soon as possible to make it easier to understand, and to include explicit provisions for collective security. (TSUCHIYA Shinako, Member/LDP/154/25.Apr.2002)

- We need a Constitution that is understandable even to today's junior high school students. (BANNO Yutaka, Member/DPJ/154/25.Apr.2002, 154/23.May.2002/Politics Subcommittee)
- As in the case of Article 9, sections which are difficult to understand and which are in variance with present day reality should be revised. The Constitution should be rewritten in language that everyone can read and understand. (SHIOTA Susumu, Member/LP/151/14.June.2001)
- I agree with Informant KONDO Motohiro. In revising the Constitution, we should pay attention to what the revision will look like in English translation. (KONDO Motohiko, Member/Club 21/150/12.Oct.2000)

<Comments by Informants and Others>

- The Constitution defines the form and structure of the nation and should provide a very concise definition of the systems of the state. When drafting revisions, we should keep foreign readers in mind. We would want the wording to be dignified and elegant, but not difficult to understand. As English is the international language, we should consider how the Constitution will read in English translation. (KONDO Motohiro, Informant/150/12.Oct.2000)
- For the following reasons, the Constitution should be written in plain and easy to understand language. (1) The Constitution is the nation's blueprint. It is desirable to have a blueprint that can be easily rewritten when the structure of the nation and state needs to be changed because of changes in the environment and in the people living there. (2) As we live in the age of internationalization, the Constitution should be written in an easy to understand style and in words that can be readily translated into English so that foreign countries and foreign people can understand the rationale of Japan's actions. (3) As the author SHIBA Ryotaro has written, the Japanese people do not have a "God" with a capital *G*. As such, the Constitution can stand in place of the Bible for the Japanese, and therefore should be written in easy to understand, simple language. (KONDO Motohiro, Informant/150/12.Oct.2000)

C. Scope of Constitutional Revision

a. Comments advocating total revision

<Comments by Members>

- It is said that Japan today must implement a broad range of reform in order to survive. Naturally, this means that the Constitution, as the basic law of the land,

must also be discussed. As we consider our vision for Japan in the 21st century, we should engage in discussions concerning how to become an independent nation, and we should create a Constitution suited to the needs of an independent nation. (OKUNO Seisuke, Member/LDP/149/3.Aug.2000, 154/23.May.2002/Politics Subcommittee)

- We should begin by discussing our vision for the nation and presenting a clear picture of the responsibilities and the structure of the nation and the people. Only after having done this should we proceed to revise the Constitution or to draft a new constitution that reflects the Japanese spirit. (TAKAICHI Sanae, Member/LDP/147/27.Apr.2000)
- We were given a forum to discuss the Constitution with the establishment of the Research Commission on the Constitution. I am deeply disappointed that we are not supposed to draft revisions at the end of the five years of discussions. Since my youth, I have been a believer in revising the Constitution. By all means, we must create Japan's own Constitution. (NAKAYAMA Masaaki, Member/LDP/151/14.June.2001)
- A Constitution which is wrong beginning with the Preamble must be revised beginning with the Preamble. I am concerned for the future of the people if we have to live with a Constitution that strives for something that doesn't exist. Think of our grandchildren. Our generation will be held responsible if the nation continues to treasure a Constitution imposed upon us by the United States and which begins with a Preamble filled with erroneous illusions. (NAKAYAMA Masaaki, Member/LDP/153/6.Dec.2001)
- The terrible social problems which Japan faces today, such as the degradation of education, are not unrelated to the fact that the present Constitution, the crowning point of the legal system, was imposed upon Japan under the Occupation for the purpose of weakening and enervating our nation. In its pursuit of the ideal nation under the rule of the law, it is important for the Japanese people to be able to create their own constitution. (HIRANUMA Takeo, Member/LDP/147/20.Apr.2000)
- The review of the following sections are indispensable to constitutional revision: the Preamble, Article 9 and the provisions of Chapter 3 concerning the rights and obligations of the people. We certainly should not stop at the addition of items for which consensus can be easily reached. (YAMASAKI Taku, Member/LDP/147/11.May.2000)
- It is our responsibility as members of the Diet to discuss the Constitution. I believe the success of a democratic nation lies in the right and freedom given to us to create a new constitution. Instead of going over each problematic article, we should discuss our vision for Japan, rewrite the entire Constitution, and go forward on the people's

task of creating a new constitution. (MATSUZAWA Shigefumi, Member/DPJ/147/27.Apr.2000)

- The position of the Liberal Party is this. Instead of just revising the Constitution, we should create a new constitution capable of properly supporting the nation in the 21st century. (FUJISHIMA Masayuki, Member/LP/151/14.June.2001)
- I subscribe to the position of *sokei* (creating a Constitution) which implies an across-the-board review of the present Constitution with a view to deepening our understanding of the real content of the principles of respect for basic human rights, popular sovereignty, pacifism and internationalism which have so far taken root only as rhetoric. (FUTAMI Nobuaki, Member/LP/147/27.Apr.2000)
- I think it would be faster to start from scratch and rewrite the entire document with the purpose of clearly indicating the form and future directions that we want the nation to take. This is my position on the Constitution. (KOIKE Yuriko, Member/NCP/150/30.Nov.2000, 151/16.Apr.2001/Sendai Hearing)
- A new constitution should be created as early as possible in the 21st century. (NODA Takeshi, Member/NCP/149/3.Aug.2000)

<Comments by Informants and Others>

- The present Constitution was drafted for us by the United States. But I am hoping that the day will soon arrive when we will be able to say that we created a wonderful constitution that is the fruit of our collective wisdom. (NISHI Osamu, Informant/147/24.Feb.2000)
- To create one's own constitution is the first step in democracy, and a constitution must be used as a tool for the people. Seen in this context, the Constitution is showing signs of wear and tear after 50 years. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- Considering the process by which it was formulated, the present Constitution should be negated during the current session of the Diet. Parallel to this, a national declaration and the autonomy of the nation should be re-affirmed. (ISHIHARA Shintaro, Informant/150/30.Nov.2000)
- Japan is the victim of Marxist mind-control in the following areas: (1) abolition of private property; (2) abolition of right to inheritance; (3) state ownership of the means of production and distribution. Japan must free itself from this form of mind-control and proceed to draft a new constitution. (WATANABE Shoichi, Informant/150/7.Dec.2000)
- Essentially, it is desirable to create a new constitution. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)

- b. Comments advocating minimum necessary revision where consensus can be reached

<Comments by Members>

- There are many points that can be discussed on constitutional revision. However, we should focus on areas where a national consensus can most readily be achieved. Then it is our responsibility as politicians to prepare a proposal and to endeavor to gain a two-thirds majority in the Diet and to finally submit the matter to a national referendum. (SATO Megumu, Member/LDP/147/27.Apr.2000)

<Comments by Informants and Others>

- As the Constitution is the supreme law, it is desirable for revisions to be limited to a necessary minimum. Given that the world is in turmoil, it is undesirable to tie the hands of the nation by enacting major changes in the basic law of the land. It is better if matters can be dealt with flexibly through the use of legislation. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- One of the reasons that revision has never been proposed is that the present Constitution has taken root among the people. However, the feeling has spread that nothing can be changed, which is strange and wrong. Not all problems of the Constitution have a direct and vital impact on the lives of the people. Therefore, one possible approach would be to address a series of issues that are related to the Diet. (SASAKI Takeshi, Informant/150/9.Nov.2000)

- c. Comments referring to revisions of wording

<Comments by Members>

- I doubt that even after five years of discussion, this Commission could work up the energy to take the path of *soken*, or creating a new constitution from scratch. However, I do believe in modifying the Constitution in such instances where the wording is unclear in the context of Japanese language and usage, or where repeated reinterpretation has created problems with the text. Furthermore, I do believe that it is justified to engage in national debate concerning the status of political decentralization and the Diet with the possibility of revising the Constitution. (FUJIMURA Osamu, Member/DPJ/147/11.May.2000)

<Comments by Informants and Others>

- “Protecting the Constitution” does not mean refraining from even touching the Constitution. It should be understood to imply the preservation of its basic spirit. Suppose the word “general” is removed from the passage “Proclamation of general election of members of the Diet” (Article 7 Paragraph 4). I do not believe that this

would contradict the position of the political parties committed to “protecting the Constitution.” (MURATA Koji, Informant/147/9.Mar.2000)

D. Matters Proposed for Review for Constitutional Revision

- * This subsection records statements listing matters to be revised, and comments advocating principles to be included in case of constitutional revision. For statements referring to specific revisions of articles, see “Section 3: Principal Discussions Concerning Specific Articles of the Constitution of Japan.”**

<Comments by Members>

- It is said that constitutional revision is impossible. To show that it is possible, we should adopt an amendment for the popular election of the prime minister. (KOIZUMI Junichiro, Member/LDP/147/11.May.2000)
- Society has changed so much since the Constitution was adopted 55 years ago. In light of this fact, the Constitution should be revised. We should start with the passages that the people believe should be amended. Two leading candidates for amendment are the ban on the subsidization of private education and environmental rights. We should also engage in extensive debate concerning popular election of the prime minister. (SUGA Yoshihide, Member/LDP/153/6.Dec.2001)
- We should be proud of the role played by Japan as an original member-country of the Kellogg-Briand Pact. As the peaceful conditions of the second half of the 20th century gain luster, the role played by individuals and NGOs in the international community is growing. A new constitution must include principles which would make Japan a country in which as many young people as possible from the next generation would be motivated to arise with individual dignity and the pride of being a human being. (TANIKAWA Kazuo, Member/LDP/151/14.June.2001)
- With the changing times, opinion polls show that constitutional revision is supported by a growing number of people. In light of this fact, a new vision for the country should be formulated. This will require a review of the following sections and issues: the Preamble, Article 9, the absence of provisions concerning national emergencies, the relation between subsidization of private education and Article 89, the environment, provisions concerning constitutional amendment, the popular election of the prime minister, the status of the House of Councillors, the popular review of Supreme Court justices, and the establishment of a constitutional court. (NAKASONE Yasuhiro, Member/LDP/153/6.Dec.2001)
- A “peace Constitution” in the real sense is a constitution that will allow Japan to mediate in the coming conflict between the United States and China. That is the kind of constitution we must strive to create. (NAKAYAMA Masaaki, Member/LDP/151/14.June.2001)

- The Seventeen-Article Constitution of Prince Shotoku has a Japanese flavor to it and contains very valuable principles for world peace. In considering a “constitution with a Japanese flavor,” we should adopt a constitution which includes the ideology of “all the gods of heaven and earth” and presents this to all the world. (NAKAYAMA Masaaki, Member/LDP/154/4.July.2002/ Politics Subcommittee)
- As a country that has suffered the devastation of the atomic bomb, Japan should include in its ideal constitution for the 21st century certain universal principles that will help avoid future global tragedies. (NAKAYAMA Masaaki, Member/LDP/154/4.July.2002/Politics Subcommittee)
- If we are to create a new constitution, we need certain basic principles that will clearly indicate what we want mankind to be in the future. Hence, I believe we need to develop philosophies and ideologies based on the history of the world and of the universe. Specifically, I believe such a constitution should include principles such as humanity’s coexistence with nature, and the shedding of humanity’s arrogance of standing at the pinnacle of creation. (HATOYAMA Kunio, Member/LDP/153/6.Dec.2001)
- We should create a new constitution and include a clear expression of the principle of human security so that Japan can play a far bigger role in the world. (MORIOKA Masahiro, Member/LDP/153/6.Dec.2001)
- Firstly, in view of the problems of refugees and regional conflicts, we should adopt a broader view of the meaning of security. The entire concept of security should be redeveloped by shifting the focus from national security to human security. The present Constitution does not contain adequate responses to these requirements. Regarding crisis management, a clear set of procedures should be established. Secondly, the constitution should contain provisions defining how Japan should interact with and contribute to international and regional organizations. Thirdly, the constitution should clarify the status of civil society and its organizations which are positioned between the state and the individual. (SUTO Nobuhiko, Member/DPJ/153/6.Dec.2001)
- In view of its formulation process and the gaps that have emerged between it and reality, the present Constitution should be revised. The following matters should be contained in the revision: (1) the addition of provisions concerning information disclosure, protection of privacy, and political decentralization; (2) inclusion of the spirit of “environmentalism;” (3) explicit provision for the right to maintain and exercise self-defensive powers; (4) a positive declaration to the world of the principles of pacifism, environmentalism and democracy. (MAKINO Seishu, Member/DPJ/150/7.Dec.2000)
- The present Constitution carries the flavor of the 20th century, and we should consider a new constitution for the 21st century. For instance, the Constitution’s

renunciation of war is a renunciation of imperialistic wars of aggression, and lacks the perspective of coping with the types of conflicts which arise in today's international community marked by a high level of interdependence. As another example, the provisions on human rights are premised on an industrial society and contain some socialistic biases. Given today's information-based society, the Constitution should contain guarantees of new rights, such as access to information and the protection of personal information. (TASSO Takuya, Member/LP/147/27.Apr.2000, 150/7.Dec.2000)

- Society is always changing and social structures are very different from what they were 53 years ago. New principles should be added to the Constitution which are absent from the present text. These should include the environment and the equality of the sexes in social participation. (KONDO Motohiko, Member/Club 21/150/9.Nov.2000)

<Comments by Informants and Others>

- It would make me very happy if the spirit of humanism as expressed by MIYAZAWA Kenji could be written into the Constitution. (NISHIZAWA Junichi, Informant/151/8.Feb.2001)
- I believe the three basic principles of the Constitution are important principles that must be preserved. But given the dramatic changes occurring both domestically and internationally, I believe the Constitution needs to be revised to include the following: (1) a plea for the abolition of weapons of mass destruction; (2) explicit provision for the right to self-defense; (3) explicit reference to rules of crisis management to allow preparation for national emergencies; (4) explicit provision for cooperation in PKO activities; (5) new provisions for protection of privacy and global environmental rights; (6) establishing the leadership of the prime minister by eliminating bureaucratic fighting over turf; (7) clarification of the principle of political decentralization; (8) establishment of constitutional court; (9) easing of procedures and requirements for constitutional revision. (TEJIMA Norio, Speaker/151/16.Apr.2001/Sendai Hearing)
- Japan must review its own good aspects and endeavor to remain a country that is the envy of the world. For this purpose, the Constitution should be supplemented and revised in the following areas: (1) clarification of the fact that Japan is a constitutional monarchy; (2) the balancing of rights and obligations. (OHMAE Shigeo, Speaker/151/4.June.2001/Kobe Hearing)
- A constitution that is founded on a new awareness of the Japanese people and the Japanese nation should be created. The Emperor should be identified as the head of state; explicit provisions should be included on the right to self-defense and the maintenance of military power; and, the concept of public welfare should be clarified. (KOKUBO Masao, Speaker/151/4.June.2001/Kobe Hearing)

- The “basic principles of the new constitution” which I am advocating consist of the following five points as given in order of importance: (1) explicit reference to popular sovereignty, the Emperor as head of state, and constitutional monarchy; (2) explicit reference to the renunciation of wars of aggression, the establishment of military for self-defense, and civilian control; (3) active international contribution conditioned on U.N. resolutions based on the spirit of coexistence; (4) explicit provisions concerning military conscription; (5) establishment of constitutional court. In a sense, these principles reflect the central problems which exist in the current Constitution. (INATSU Sadatoshi, Speaker/154/24.June.2002/Sapporo Hearing)
- Under the current conditions, I am opposed to constitutional revision. However, whenever an administration which really respects the spirit of the “peace Constitution” takes office, I believe the Constitution should be revised to include provisions concerning the achievement of maximum possible self-sufficiency in food, energy and other resources which are required for the lives of the people of Japan. This is necessary for the attainment of true independence. While the Preamble should be kept as it is now, the following rearrangements should be made: move the renunciation of war to Chapter 1; move the rights and obligations of the people to Chapter 2; and move the Emperor to Chapter 3. (ISHIZUKA Osamu, Speaker/154/24.June.2002/Sapporo Hearing)

(2) Constitutional revision is unnecessary

- a. Comments advocating that constitutional revision must be preceded by the realization of policies based on the Constitution

<Comments by Members>

- If we look at the Constitution in the context of historical process and consider the position of Japan and the Constitution of Japan in the context of current international relations, it seems to me that there are many matters that must be discussed before proceeding to constitutional revision. (ISHIGE Eiko, Member/DPJ/147/27.Apr.2000)
- There are occasions when I feel that the Constitution contains some very inadequate provisions. But from the perspective of legislation, there is no law that cannot be legislated because of the Constitution, and we are fully capable of enacting any type of law we wish or need. If something does come up that cannot be done without revising the Constitution, that specific matter should be submitted to a national debate. (UBUKATA Yukio, Member/DPJ/151/17.May.2001)
- There are those who advocate constitutional revision without first doing those things that are possible through constitutional interpretation and the legislation of basic laws. This is tantamount to neglecting our duty as members of the Diet. Before

embarking on constitutional revision, we should respond through the process of constitutional interpretation and legislation. (NAKAMURA Tetsuji, Member/DPJ/154/25.Apr.2002)

- A constitution defines the core of the nation and identifies its ideals and its goals. Actual policies should be implemented through legislative action that is based on the Constitution. I believe this should be Japan's approach. (YOKOMICHI Takahiro, Member/DPJ/147/27.Apr.2000)
- What is being sought today is the affirmation and application of the ideals of the Constitution and its principle of peace to the realities of Japan and of the world. (YAMAGUCHI Tomio, Member/JCP/153/11.Oct.2001)
- The Constitution contains very clear principles concerning both peace and democracy, and there is no need to revise it. Regarding the question of whether the provisions of the Constitution are being fully implemented and applied, this is an area that demands the constant effort of this Commission and of the entire legislative branch. (YAMAGUCHI Tomio, Member/JCP/154/25.July.2002)
- There are those who argue that the Constitution should be revised because it is old and does not correspond to various contemporary problems. However, the principles of pacifism, respect for basic human rights, and popular sovereignty contained in the Constitution give full and clear expression to the universal principles for modern society and to its goals. I do not think that anyone would contest this. The problem is not that the Constitution is old. The problem is that the government has failed to develop policies that meet the needs of the age. Hence, there is no need to revise the Constitution. (ITO Shigeru, Member/SDP/147/17.Feb.2000, 147/27.Apr.2000)
- Laws are made on the basis of the Constitution, and the relation between the two is extremely important. We should not discuss the Constitution while neglecting to legislate new individual rights. What we must do is to first enact and implement legislation, and then discuss the Constitution only after that has been done. (TSUJIMOTO Kiyomi, Member/SDP/147/20.Apr.2000)
- What this Commission must do is to conduct objective and fair research. This should help develop the legal framework for realizing the principles of the Constitution. (YOKOMITSU Katsuhiko, Member/SDP/150/9.Nov.2000)

<Comments by Informants and Others>

- There are points in the present Constitution that I do not agree with. If the political situation were such that the Constitution could be improved through revision, I may even support revision. However, at the present time, nearly none of the prerequisites for revision are in place. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)

- I consider the ideal conditions for constitutional revision to be the following: the recovery of sovereignty through the abrogation of the Japan-U.S. Security Treaty and the removal of U.S. military forces from Japan so that the Japanese people can begin to think of Japan in purely subjective terms. It is natural to think that it is under such conditions that a thorough revision of the Constitution becomes possible. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- Only those who uphold the contents of the Constitution are truly qualified to advocate revision. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- What we must do is to return to the starting point of the postwar period and survey what lies ahead in the 21st century. Having done that, we must revise various systems in order to strengthen local autonomy and political decentralization, reform the bureaucracy, reform labor and reform the Imperial Household. Next, we must steadily implement policies based on these changes. I will not oppose revising the Constitution when all of these conditions have been met. (SHINDO Eiichi, Informant/147/6.Apr.2000)
- There is no reason to revise the Constitution just because this is what other countries have done. I suggest that we make our best effort to realize the principle of pacifism and the other provisions of the Constitution. (ODA Minoru, Informant/150/28.Sept.2000)
- Constitutional revision must correspond to history and must be undertaken on reasonable and rational grounds. Our Constitution has a history of unfavorable treatment, and this is where arguments for revision come from. Thus far, we have not translated the Constitution into specific policies and actions, but if that is done, it will lead to the formulation of a more highly developed Constitution. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- In the case of the Constitution of Japan, it is the politicians who have created the gap between the Constitution and contemporary reality. Hence, there is no justification in the general argument that the Constitution, now more than 50 years old, should be revised because it is suffering the effects of systemic fatigue. We need to look back and see whether the Constitution has actually been utilized to the point where systemic fatigue can be attributed to it. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- I believe the Self-Defense Forces are unconstitutional and that Article 9 should not be changed. However, I do not subscribe to the view that the Constitution must be left completely untouched. If there is a national consensus, revision is a natural option. There are many sections, such as Article 9, which are anachronistic. If public opinion supports it, revision is an obvious possibility. But before opting for that approach, given that the Constitution is the supreme law, we must determine how

far we can go through the earnest application of its principles. (MATSUI Yoshiro, Informant/154/28.Feb.2002/International Society Subcommittee)

- It is too early to discuss constitutional revision. It has been shown that it is not impossible to ensure access to information without amending the Constitution to provide for information disclosure. Whether or not information disclosure should be included in the principles of the Constitution can certainly be discussed. But it is completely another matter to make this a reason for pressing forward on revision. (KANO Fuminaga, Speaker/151/16.Apr.2001/Sendai Hearing)
- Some have argued that the Constitution is anachronistic because it does not contain provisions for environmental rights and information disclosure. Such arguments are fallacious. (MASUGI Eiichi, Speaker/154/24.June.2002/Sapporo Hearing)
- The correct political approach is to thoroughly implement the principles contained in the present Constitution. Only after we have endeavored fully in this direction should we be prepared to revise those sections where revision is unavoidable. Given the basic principles of the Constitution, the possible improvements can be categorized as follows: (1) provisions requiring amendment; (2) provisions for which modification or supplementation are desirable from the perspective of achieving greater clarity. Specifically, the following revisions can be considered: (1) the re-examination of the principle of popular sovereignty through the introduction of procedures of direct democracy, the re-examination of the process of constitutional review with the establishment of a constitutional court and, and the re-examination of the principle of the separation of powers with the introduction of a system of presidency; (2) review of the expression “public welfare” which provides the grounds for the general limitation of individual rights, explicit provision of the right of resistance, explicit provision of right of privacy and other new individual rights, granting of right to vote in local elections to resident foreigners, and clarification of provisions concerning criminal procedures. (YUKI Yoichi, Speaker/154/24.June.2002/Sapporo Hearing)

b. Comments expressing concern for current arguments for constitutional revision

<Comments by Members>

- Today, there are those who loudly discuss theories of state and other issues as a prelude to advocating constitutional revision. I feel that such people are firmly grounded in the position of state sovereignty. (ITO Shigeru, Member/SDP/147/6.Apr.2000)

<Comments by Informants and Others>

- We are seeing new types of arguments for revision, such as specific arguments for the introduction of the popular election of the prime minister, and the inclusion of explicit provisions for environmental rights. Are these part of a systematic and

scholarly discussion of a new constitution to replace the current one? My answer is that this matter has not yet progressed that far. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)

- The Constitution presents a vision of what the nation and society should be by systematically codifying the principles of popular sovereignty, democracy, basic human rights, pacifism, and public welfare. Faced with a series of regional conflicts, environmental degradation, political and bureaucratic confusion and various other recent domestic and international developments, there has been a tendency to seek solutions to these problems through constitutional revision. These are primarily revisions concerning Article 9 to allow the maintenance and overseas dispatch of military power, the strengthening of executive powers through the popular election of the prime minister, and the addition of environmental rights and other new individual rights. The present Constitution contains a viable framework for rationally addressing these challenges. Revision would destroy the outstanding systemic consistency and thoroughness of the Constitution, sap its vitality, and would create conditions which could possibly obstruct the resolution of regional conflicts in the international arena. (ODANAKA Toshiki, Speaker/151/16.Apr.2001/Sendai Hearing)
- I want the Constitution to remain untouched. If it contains anachronisms, the problem should be addressed through legislation. I am extremely frightened by the thought of constitutional revision. (SAITO Takako, Speaker/151/16.Apr.2001/Sendai Hearing)
- Laws are there for us to use. The Constitution does have shortcomings. But any rapid program of revision which ignores the pace of social changes may ultimately result in the curtailment of the rights of the people. It is important to keep these matters in mind if revision is to be considered. (YONETANI Mitumasa, Speaker/151/16.Apr.2001/Sendai Hearing)
- In the current political situation, it is as though the government has been integrated into the military strategies of the United States. Therefore, I fear that if the Constitution were to be revised under these conditions, the principle of pacifism would be diluted. (ISHIZUKA Osamu, Speaker/154/24.June.2002/Sapporo Hearing)
- I am opposed to any revision that would allow the nation of Japan to engage in war. (TANAKA Hiroshi, Speaker/154/24.June.2002/Sapporo Hearing)

c. Miscellaneous comments

<Comments by Informants and Others>

- The revision of Article 9 will require the expenditure of enormous energy on questions of wording and expression. It would be more beneficial to allocate the necessary resources to the drafting and enactment of laws concerning

counter-terrorism and national emergencies. (ANNEN Junji, Informant/154/14.Mar.2002/Human Rights Subcommittee)

- A constitution establishes the foundations of government. It is questionable whether frequent revision is desirable. From this perspective, a constitution must be written with an eye to future decades, and it is both difficult and undesirable to have provisions that are too exact and concrete. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)
- A constitution, essentially, does not define the goals but is the repository of procedures. From this perspective, the provisions of the present Constitution of Japan can be adequately understood by the average person and are not particularly difficult. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)
- To challenge a taboo implies doubting and questioning everything. I support the position that a provision is a true provision when it has been proven able to withstanding questioning, and I advocate the preservation of the Constitution of Japan in this context. As I review the arguments for revision and the results of public opinion polls on the Constitution, I strongly feel that the Constitution can become the supreme law in the true sense when it successfully weathers these tests and is established as a universal principle for all of humanity. Therefore, I am committed to applying the Constitution to the development of the local community through the continued practice of local autonomy. (KANO Fuminaga, Speaker/151/16.Apr.2001/Sendai Hearing)

(3) Miscellaneous matters

<Comments by Members>

- Regarding constitutional revision, there is a need to determine whether to embark on total revision, which would be lead by politicians and would cause very serious clashes, or to go with partial revision, which is more practical. (SHINDO Yoshitaka, Member/LDP/150/9.Nov.2000)
- As can be seen from the history of British common law, it would be a mistake to think that ours is an immutable code of laws. We must not forget that the Constitution is the result of many highly demanding endeavors. Everyday we must engage in preventing the death of the Constitution. (TSUSHIMA Yuji, Member/LDP/151/14.June.2001)
- I am in favor of including certain national goals as are contained in the Preamble. But the suggestion made by Informant ISHIZUKA Osamu to include something about national self-sufficiency seems impractical. (NAKAGAWA Shoichi, Member/LDP/154/24.June.2002)

- There is no justification in arguing that constitutional revision cannot be discussed unless it is determined whether the Constitution is being fully observed. While this Commission is not empowered to submit bills, the Constitution's provisions on amendment say that the Diet is empowered to initiate an amendment which is then submitted to a national referendum. Only the Diet and the people are empowered to make an authoritative judgment on whether the Constitution is being upheld or not. Hence, this Commission can only engage in discussion and submit its findings to the Diet and the people. (NAKANO Kansei, Member/DPJ/147/23.Mar.2000)
- This Commission should not end with discussions. After reaching an agreement on either revision or the drafting of a new constitution, the Commission should go so far as to prepare amendment drafts. (SHIOTA Susumu, Member/LP/149/3.Aug.2000)

<Comments by Informants and Others>

- Such terms as “constitutional discussion,” “constitutional supplementation “ and “constitutional modification” all ultimately point to constitutional revision. The key question is whether or not to revise the Constitution. Before entering that discussion, it will be very important to establish certain parameters concerning a desirable set of rules to be determined in light of current conditions in Japan and in the world. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- I do not subscribe to either of the two views that the Constitution must absolutely remain unchanged or must absolutely be repealed. (SHINDO Eiichi, Informant/147/6.Apr.2000)
- The Constitution should be revised to match the timing of Japan's appointment to permanent membership in the Security Council. (ICHIMURA Shin'ichi, Informant/150/26.Oct.2000)
- In the context of constitutional revision, what does maturity imply? It implies fostering a common feeling in the political sphere for valuing the Constitution, while also being prepared to make necessary changes. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- There are a growing number of arguments for constitutional revision, and it is particularly notable that arguments are emerging for the reform of the political system. It is going to be even more difficult to cope with these arguments. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- It is quite doubtful whether Japanese politics in the 21st century can adequately fulfill its role without initiating a single constitutional amendment. If initiation of amendment is possible under current procedures, it is essential to endeavor to prove that revision is indeed possible under the current procedures by acting to amend some matter where there is little conflict of views among the people. It is not right to

leave the matter of initiation of amendment unattended. (SASAKI Takeshi, Informant/150/9.Nov.2000)

- If the decision is made to engage in constitutional debate at some future point in history after five years of research by this Commission followed by careful consideration and selection of proper political processes, I believe that the people must be brought directly into the forum as the principal actors in the formulation of the Constitution. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- The problem of the Constitution lies at the base of any discussion concerning a vision for Japan in the 21st century. But not all problems revert to the Constitution, and many issues can be adequately resolved through legislation and local ordinances. As such, we must take a multi-tiered approach to searching for ways and means to clear the path that Japan must tread in the 21st century. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)
- Basically, a constitution defines the form of the nation and focuses on the question of how to restrict the powers of the state so that the people will accept the state. Therefore, normally you would expect the people, who are the support of the nation, to search in places other than the constitution to find personal affirmation. (KANG Sanjung, Informant/151/22.Mar.2001)
- Constitutional scholars have already pointed out various passages and expressions whose meanings are unclear. It would be effective to engage many people and many experts in this process of scrutiny. (OHKUMA Yoshikazu, Informant/151/17.May.2001)
- Because the basic purpose of the state is to ensure the life and security of the people, a constitution should be written to contain the maximum guarantees of life and security. But as all human beings must die, life cannot be its own purpose. Rather, some social significance must be found in how we live and how we die. It is very important to have an awareness of this problem when engaging in constitutional revision. (ONUMA Yasuaki, Informant/153/25.Oct.2001)
- The German Constitution has been frequently amended. But the essential portions of the Constitution remain mostly untouched. (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)

Subsection 2 Preamble

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Subsection 2 Preamble

(1) Understanding of the Preamble in general

A. Comments Concerning the Significance and Meaning of the Preamble

a. Comments concerning the Preamble's relation to Article 9

<Comments by Members>

- The Preamble and Article 9 of the Constitution have their own logical consistency and present an integrated vision. (SAITO Tetsuo, Member/NK/153 /26.Nov.2001/Nagoya Hearing)
- There is no disparity between the Preamble and Article 9. They are integrated and jointly affirm the direction and determination of the Constitution to protect the people's security and lives by actively promoting peace through peace diplomacy. (HARUNA Naoaki, Member/JCP/153/26.Nov.2001/Nagoya Hearing, 153/6.Dec.2001, 154/22.Apr.2002/Okinawa Hearing)
- The Preamble begins with an expression of the resolve to avoid the recurrence of the horrors of war resulting from actions taken by the government. It is very important that the Preamble, instead of promulgating a concept of the balance of power, proceeds to commit Japan to trusting in the justice and faith of the peoples of the world to secure its own peace and security. What is more, the Preamble says that Japan will not limit itself to its own concerns but will adopt the position of active pacifism to work in the direction of peace in its relation to other countries. The renunciation of war and related provisions were included in the Constitution to provide a firm domestic framework for this. (YAMAGUCHI Tomio, Member/JCP/154/25.Apr.2002)

<Comments by Informants and Others>

- My reading of the Preamble and Article 9 is that they do not immediately prohibit all actions that are not related to the United Nations, or actions not related to the resolution of an international conflict directly involving Japan. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- The Preamble contains a powerful declaration of the principle of international pacifism in relation to the principle of democracy which is the fundamental principle of the Constitution of Japan. This is linked to the renunciation of war as found in Article 9. (TAGUCHI Fukuji, Speaker/153/26.Nov.2001/Nagoya Hearing)
- Adherence to the renunciation of war declared in Article 9 provides the means for the attainment of the Preamble's goal of permanent peace which has been the hope

of humanity throughout all ages. (YAMAUCHI Tokushin, Speaker/154/22.Apr.2002/Okinawa Hearing)

b. Miscellaneous comments

<Comments by Members>

- The Preamble is an extremely lofty and wonderful document. In summary, it declares that we will never go to war again and that we will live in peace. No one can negate this. But this is all based on the assumption of the inherent goodness of humanity and that Japan will trust in the justice of the countries of the world. (NAKAGAWA Shoichi, Member/LDP/153/25.Oct.2001)
- I am painfully aware that we must go beyond the security of Japan. From the perspective of international cooperation, it is extremely important to adopt the position of seeking to contribute to the security of the world, the security of the region, and the security of individual human beings. I believe that this is in fact the spirit of international cooperation advocated in the Preamble. (HANASHI Nobuyuki, Member/LDP/154/25.July.2002)
- I believe the Preamble contains the following ideal: that peace shall be constructed on the basis of the peace established by the United Nations, and that individual countries will abide by the rule of non-belligerency. (NAKAGAWA Masaharu, Member/DPJ/154/25.Apr.2002)
- It is my understanding that Article 9 and the Preamble of the Constitution were established on the basis of the strong feelings that existed at the time of their enactment: that having experienced the “century of war” as the 20th century has been called, we would never again repeat the horrors of war. (YAMAHANA Ikuo, Member/DPJ/150/26.Oct.2000)
- The Preamble establishes the spirit of peaceful international cooperation. In this age of globalization, this principle must be put into action in the arena of economic development and aid policies. (HARUNA Naoaki, Member/JCP/151/8.Feb.2001, 151/8.Mar.2001)
- The principle of pacifism established in the Preamble is an extremely important principle which underscores the spirit that demands that all science and technology be used for peaceful means. (HARUNA Naoaki, Member/JCP/150/21.Dec.2000)
- I believe the Preamble provides a basic idea of the direction to be taken by the international community. This is done with pride, self-awareness and confidence. It declares that Japan will work toward the realization of this goal through its position among the independent peoples of the world, and will do so without resorting to military power. As we survey the 21st century, we see that this principle of peace will gain far broader opportunities for playing an active role in the world of the

future. Instead of revising the Constitution, it is important that we rectify unconstitutional behavior and act dynamically for the promotion of world peace. (YAMAGUCHI Tomio, Member/JCP/150/26.Oct.2000)

- The Preamble already contains such principles and ideals that will allow all of humanity to co-exist. (YAMAGUCHI Tomio, Member/JCP/150/7.Dec.2000)
- The Preamble explicitly states that the horrors of war are generated by the actions of the government. It indicates that in order to avoid the recurrence of such a situation, it is important for the government to engage in constant diplomatic efforts. (KANEKO Tetsuo, Member/SDP/154/25.Apr.2002)
- The Preamble is founded on the awareness of the age that prevailed at its promulgation. It declares that Japan will stand by the international order based on the United Nations, and it rejects the policies of a nation in moral isolation. As the Preamble recognizes the right of all the peoples of the world to live in peace, it is the obligation of Japan to extend its help and protection to refugees. (KITAGAWA Renko, Member/SDP/154/25.July.2002)

<Comments by Informants and Others>

- I believe the Preamble of the Constitution of Japan is derived from both the Preamble of the Constitution of the United States and the U.N. Charter. (SHINDO Eiichi, Informant/147/6.Apr.2000)
- The Preamble has as its background the “visible” historical reality of the enormous damage caused by the Second World War and Japan’s folly during the war. It identifies pacifism as the ideal and goal of the nation, and declares Japan’s determination to promote this goal. Moreover, I believe that it also calls on other countries to do so. (ODA Minoru, Informant/150/28.Sept.2000)
- As a nation with a “peace constitution,” what must Japan do to occupy an honored place in the world and to establish its moral authority? My answer is that Japan must dedicate itself to peaceful international cooperation. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- The Preamble declares that a relation of interdependence exists between the principles of popular sovereignty and constitutional democracy and the ideals of freedom, peace and welfare. As such, the Constitution of Japan is founded on a highly consistent ideological and conceptual framework. (ODANAKA Toshiki, Speaker/151/16.Apr.2001/Sendai Hearing)

B. Comments Pointing to Problems of the Preamble

- a. Comments pointing to linguistic inadequacies and arguing that the Preamble sounds like translation

<Comments by Members>

- The Preamble sounds like a translation and its conceptual approach gives the impression that it is based on English syntax and sentence structure. I do not necessarily believe that it must be revised immediately. However, I think it is important to redraft the Preamble based on Japanese conceptual approaches and Japanese syntax so that it can be readily understood by most people who have completed their compulsory education. (HORI Kosuke, Member/LDP/150/12.Oct.2000)
- The Preamble is more literature than law. As such, it is necessary to rephrase its lofty ideals in correct Japanese. (HORI Kosuke, Member/LDP/150/12.Oct.2000)
- For example, take the Preamble's phrase "trusting in the justice and faith of the peoples of the world." In numerous instances such as this, the wording of the present Constitution sounds unnatural in Japanese and lacks clarity of meaning because it has been translated from English. These factors add to the breadth of possible interpretation, and prevent us from developing due pride in the Constitution. (IWAKUNI Tetsundo, Member/DPJ/147/11.May.2000)
- The Preamble reads like a translation and is not written in good Japanese. It should be re-drafted in beautiful Japanese. (SHIOTA Susumu, Member/LP/151/14.June.2001)
- In many parts, the Preamble reads like a translation and sounds unnatural in Japanese. For example, in the phrase, "secure ... the blessings of," the use of the word "secure" is unnatural. In the phrase, "deeply conscious of the high ideals," use of the word "conscious" is unnatural. Seen from this perspective, I am drawn to the position of "modifying the Constitution" as advocated by Informant MURATA Koji. (NAKAMURA Eiichi, Member/LP/147/9.Mar.2000)

<Comments by Informants and Others>

- Compared to the rest of the Constitution, the sentences of the Preamble are long and give the strongest impression of being a translation. (MURATA Koji, Informant/147/9.Mar.2000)
- The ideals enunciated in the Preamble may be fine. The problem is that the Preamble was not drafted on the initiative of the Japanese people and is written in very poor Japanese because it was originally formulated in English. This undermines our respect for the Japanese language and invites carelessness. Even

the partial modification of particles and prepositions would be of considerable symbolic significance and should definitely be undertaken. (ISHIHARA Shintaro, Informant/150/30.Nov.2000)

- Reading the Preamble, one cannot help but realize that the Constitution was imposed upon Japan by GHQ. It is an extreme example of poor writing and poor translation. I cannot imagine that it was written by a Japanese. The contents of the Preamble can be labeled illusionary pacifism. In light of current international conditions, it is unthinkable and smacks of self-complacency. (KOKUBO Masao, Speaker/151/4.June.2001/Kobe Hearing)

b. Comments arguing that the Preamble is too idealistic

<Comments by Members>

- The contents of the Preamble are pure illusion. (NAKAYAMA Masaaki, Member/LDP/153/6.Dec.2001)
- I believe the Preamble prescribes the “spirit of harmony.” However, in light of international developments since the promulgation of the Constitution, I feel this type of spiritualism will not suffice us in standing among other nations and protecting the interests of the people in today’s world. (UDAGAWA Yoshio, Member/Club 21/153/29.Nov.2001)
- The contents of the Preamble are lofty and idealistic. Although it is the Preamble to the Constitution of Japan, it advocates universal pacifism as indicated in its call to love all peoples and races. (KONDO Motohiko, Member/Club 21/150/12.Oct.2000)

c. Comments advocating explicit reference to Japanese culture and traditions

<Comments by Members>

- The Preamble is the face of the Constitution, but the present one is an American import. It should be amended by, for example, inviting the public to submit its proposals to be focused on the following three points: (1) pledge to uphold and further develop the principles of popular sovereignty, respect for basic human rights, and pacifism; (2) respect for and continuation of Japanese history and culture, and explicit reference to Japan’s national spirit or traditions which link the present, past and future of the nation; (3) declaration that Japan will play an active part in the development of peace in international society. (MATSUZAWA Shigefumi, Member/DPJ/147/27.Apr.2000)
- The Constitution is the charter of the nation, and the Preamble should clearly outline the role of the state. The Preamble should contain the following points: (1) the state is responsible for protecting the life, property and human rights of the people; (2) a commitment to respect, preserve and develop the history and traditions

of the nation; (3) the goal of building a nation that will earn the respect of the countries of the world; (4) the goal of being a civilized nation to lead the world. Also, the archaic *kana* system used in the present Constitution should be replaced. (SHIOTA Susumu, Member/LP/151/14.June.2001)

<Comments by Informants and Others>

- The Preamble of the Constitution of Japan is the historical product of Japan's defeat. It is desirable to include something based on the history and traditions of Japan. The drafting of such a document should not be delegated solely to constitutional scholars. A wide-ranging constitutional discussion should be encouraged with the participation of experts from various fields, as well as the general public. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- The Preamble should contain familiar references to Japanese traditions, culture and history so that it can be immediately identified as part of a Japanese constitution. (TSUKAMOTO Hideki, Speaker/151/4.June.2001/Kobe Hearing)

d. Miscellaneous comments

<Comments by Members>

- The four-paragraph Preamble consists of basic principles and the resolution to establish these principles. The Preamble provides us with good material for overall discussions and should be made the subject of discussion. (TAKAICHI Sanae, Member/LDP/149/3.Aug.2000)
- The first thing to do when we embark on the revision of the Constitution is to rewrite the Preamble. Otherwise, we will not have a new constitution. (HATOYAMA Kunio, Member/LDP/150/26.Oct.2000)

<Comments by Informants and Others>

- The Preamble is not a piece of advertisement or introductory blurb. It presents the spirit that prevails throughout the Constitution. Hence, if there are any problems there, the Preamble should be rewritten following a review of the status of the country and of the people. I believe that the Preamble contains many points that need reconsideration. (MURATA Koji, Informant/147/9.Mar.2000)
- The preamble to the 21st century constitution should contain a cross-cultural perspective. For instance, it should refer to the multitude of cultures which co-exist in the international community and state that the Japanese nation is to be built by integrating the best elements of many cultures and civilizations. (ONUMA Yasuaki, Informant/153/25.Oct.2001)

- The Constitution should uphold the right to self-defense. The Preamble should be written in a dignified style with a clearly Japanese identity. (NOHARA Kiyoshi, Speaker/153/26.Nov.2001/Nagoya Hearing)

<p>(2) Thoughts concerning specific phrases and expressions appearing in the Preamble</p>
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A. Comments Concerning “Trusting in the justice and faith of the peace-loving peoples of the world”

<Comments by Members>

- The Preamble mentions “trusting in the justice and faith of the peoples of the world.” If we were to assume that “peoples of the world” refers to the peoples of the countries with permanent membership in the Security Council, this phrase immediately takes on a false and pretentious connotation when we realize that all of these five major countries have engaged in war in the postwar period. The principle of security is missing from the Preamble. We should start by undertaking a thorough review of the Preamble. (ABE Shinzo, Member/LDP/147/11.May.2000)
- The first thing to be done in the revision of the Constitution is to rewrite the following passage: “... we have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world.” (TAKAICHI Sanae, Member/LDP/150/28.Sept.2000)
- The Preamble states: “... we have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world.” This reads like a translation, its meaning is unclear, and is poorly written. Moreover, the passage can be read to mean: “Henceforth, Japan will not make efforts toward peace, but will instead rely on the efforts of others.” (HATOYAMA Kunio, Member/LDP/150/26.Oct.2000)
- When we consider Japan’s national security under the currently prevailing conditions, the passage, “... we have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world,” sounds inexcusably naive. Furthermore, I believe it is dangerous to rely on the principles of U.N.-centeredness. (MORIOKA Masahiro, Member/LDP/153/29.Nov.2001)
- The Preamble refers to “trusting in faith.” I do not believe that any country will continue to be faithful to Japan over the next 50 years. Instead of trusting other countries, we must trust our own people. The fear that revision will degrade the Constitution is irrational. (IWAKUNI Tetsundo, Member/DPJ/147/11.May.2000)

- The Preamble says that Japan has entrusted its security and existence to the justice and faith of other countries. This declaration of dependence is not helpful. (SHIOTA Susumu, Member/LP/151/14.June.2001)

<Comments by Informants and Others>

- It is not necessarily clear what the phrase “the justice and faith of peace-loving countries” specifically points to. Even if such justice and faith does exist, it would be wrong for a country to choose a policy of depending on others for its peace and security. Therefore, it is necessary to thoroughly revise this phrase. (MURATA Koji, Informant/147/9.Mar.2000)
- As Member HATOYAMA Kunio has said, the Preamble’s phrase “... we have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world,” should definitely be removed or revised. The worst part of the present Constitution is the Preamble which conspicuously reveals the after-effects of defeat in the war. The Japanese people cannot regain their pride and confidence under the Preamble as it now stands. (ICHIMURA Shin’ichi, Informant/150/16.Oct.2000)
- The Preamble refers to “trusting in the justice and faith of the peace-loving peoples of the world.” The problem is history shows that the countries of the world have participated in countless cruel wars. Next, there is reference to “an international society striving for the preservation of peace, and the banishment of tyranny and slavery, oppression and intolerance for all time from the earth.” This is too kind a view of the countries of the world. Furthermore, the Preamble should not contain such hypocritical statements as “no nation is responsible to itself alone” or the renunciation of war and the prohibition of military power. These statements represent a complete lack of awareness of reality. (TANAKA Hidemichi, Speaker/151/16.April.2001/Sendai Hearing)

B. Comments Concerning “We desire to occupy an honored place in international society”

<Comments by Members>

- The Preamble’s statement, “We desire to occupy an honored place in an international society striving for the preservation of peace, and the banishment of tyranny and slavery, oppression and intolerance for all time from the earth,” is a truly beautiful expression. But the Constitution is not necessarily clear on how this is defined, or what specifically must be done to preserve and build peace in real society. (SUTO Nobuhiko, Member/DPJ/154/25.Apr.2002)
- The Preamble contains the expression “occupy an honored place in international society” and calls for leadership in the achievement of permanent world peace. Regarding these points, various provisions of the Constitution are acting as shackles

obstructing Japan's advance today. (YAMADA Toshimasa, Member/DPJ/154/25.July.2002)

- The Preamble calls on Japan to "occupy an honored place." It is clear that the way to achieve this is through the preservation of peace, and not through military aid. (KANEKO Tetsuo, Member/SDP/153/6.Dec.2001)

<Comments by Informants and Others>

- The phrase "We desire to occupy an honored place" is an extremely weighty expression and a proud oath. The implication of "occupy an honored place" is to become a country which is respected throughout the world for its high sense of morality. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- The Preamble makes a lofty declaration that Japan wants to occupy a position wherein it will be respected by an international society that hopes for peace. The majority of the people of Japan would probably agree with this. (KAIHARA Toshitami, Speaker/151/4.June.2001/Kobe Hearing)
- The Preamble delegates Japan's security to others. Under such conditions, there is a very hollow ring to the expression of the desire to occupy an honored place in international society and the pledge to "accomplish these high ideals and purposes with all our resource." (NOHARA Kiyoshi, Speaker/153/26.Nov.2001/Nagoya Hearing)

C. Comments Concerning "Right to live in peace"

- a. Comments referring to the relation to "human security"

<Comments by Members>

- The specific rights that come under the Preamble's "right to live in peace" must be developed together with policies regarding human security. (OIDE Akira, Member/DPJ/153/6.Dec.2001)
- The Preamble's right to live in peace is an extremely important and wonderful expression. "Free from fear and want" continues to be a major challenge in the world today. I believe that "human security" and right to live in peace share the same basic principle. (HOSOKAWA Ritsuo, Member/DPJ/153/29.Nov.2001)

<Comments by Informants and Others>

- Prince Shotoku's Seventeen-Article Constitution calls for the "spirit of harmony." The original intent was that Prince Shotoku was urging the various ethnic groups inhabiting Japan to respect the spirit of harmony. With the passage of time, the original intent was forgotten and was replaced with the idea of maintaining the spirit of harmony only among the Japanese people. It seems to me that the

Preamble's right to live in peace was included to overcome this problem. Based on the "right to live in peace," the government of Japan is advocating the concept of "human security" which is attracting international attention as a principle of the state. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)

- The Preamble's right to live in peace and "desire to occupy an honored place in international society" are mutually linked. "Peace" for one country is not enough, and the entire world must enjoy its benefits. Therefore, if Japan is to internationally advocate the principle of "human security" as a principle derived and developed from the Preamble's "right to live in peace," then it should also advocate this principle at home. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)
- In the international community today, there is an important shifting of the tide from the concept of national security to human security. Viewing the Constitution of Japan from this perspective, we cannot help but realize the weightiness of the Preamble's advocacy of the "right to live in peace." The concept of human security certainly did not exist at the time of the promulgation of the Constitution, but what the Preamble is saying is exactly what human security is all about. (URABE Noriho, Speaker/151/4.June.2001/Kobe Hearing)
- Certainly Japan should not discard the Preamble's principle of the right to live in peace. Instead, it must take the initiative and leadership in the international community in developing and implementing policies for the realization of this principle. I am convinced that this is the only way that Japan can come to occupy a place of honor in the international community of the 21st century. (URABE Noriho, Speaker/151/4.June.2001/Kobe Hearing)

b. Other comments

<Comments by Members>

- The Preamble affirms that all the peoples of the world have an equal right to live in peace. (KONNO Azuma, Member/DPJ/154/25.Apr.2002)
- It seems to me that the developments occurring around the world in connection to the process of globalization underscore the spirit contained in the Constitution, including the principle of the right to live in peace. (YAMAGUCHI Tomio, Member/JCP/150/7.Dec.2000)
- The Social Democratic Party believes that the Preamble's right to live in peace must be treasured and preserved for our children. This principle states that all the people of the world have an equal right to be free from fear and want and to live in peace. (ABE Tomoko, Member/SDP/150/28.Sept.2000)

<Comments by Informants and Others>

- Based on the conviction that nothing is more powerful than the truth, the Preamble guarantees to all the people of the world the right to live in peace which provides the foundation for being free from fear and want. I believe the Preamble proudly declares that Japan will contribute to the construction of a world in which these ideals can be realized so that it can occupy a place of honor in international society. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- The Constitution affirms the right to live in peace. This is highly significant for the following reasons: (1) this is presented as a right shared by all the peoples of the world; (2) the condition of living in peace is understood to constitute a right. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- The Preamble contains the phrase “the right to live in peace.” By using this phrase, the people of the Pacific islands were able to put a stop to nuclear testing in the Pacific Ocean. This is a measure of the success enjoyed by this principle. (KUBOTA Manae, Speaker/151/16.Apr.2001/Sendai Hearing)
- Japan’s role in the international community should be to translate into reality the principle of the right to live in peace as established in the Preamble. (NISHI Hideko, Speaker/153/26.Nov.2001/Nagoya Hearing)

D. Miscellaneous Comments

<Comments by Members>

- The Preamble states: “... resolved that never again shall we be visited with the horrors of war through the action of government.” This can be viewed as a resolution to make a full transformation into a genuine modern nation. I also believe that this should provide us with a common ground for considering and discussing the Constitution. (SENGOKU Yoshito, DPJ/147/27.Apr.2000)

(3) The Constitution as juridical criteria

<Comments by Informants and Others>

- The provisions of the Constitution do not necessarily constitute “legal criteria” in the sense that they can be directly applied in juridical decisions. However, as the provisions of the Constitution define the general direction of the nation’s policies, regardless of whether they are applied by the courts, the government of Japan must conduct both its domestic and foreign affairs in compliance with the principles of the Preamble. I believe this to be a position naturally derived from the properties of the Constitution. (URABE Noriho, Speaker/151/4.June.2001/Kobe Hearing)

(4) Miscellaneous matters

<Comments by Members>

- Given that almost all the people realize the importance of local autonomy, I believe that some mention of local autonomy should be included in the Preamble. (NAKAGAWA Shoichi, Member/LDP/151/4.June.2001/Kobe Hearing)
- While one of the three fundamental principles of the Constitution is basic human rights, this term does not appear in the Preamble. If in fact it is an important principle, it should be mentioned in the Preamble. (FUTAMI Nobuaki, Member/LP/147/23.Mar.2000)
- We should discuss the meaning of “basic human rights” and “dignity of the individual” and explicitly include these expressions when revising the Preamble. (FUTAMI Nobuaki, Member/LP/147/27.Apr.2000)

<Comments by Informants and Others>

- The concepts of inalienable rights and basic human rights are not as universally accepted throughout the world as we Japanese may imagine. The reason that the Preamble does not make provisions for basic human rights may be that this merely reflected the thinking of its author. There is nothing unnatural about this. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- I believe it is important to include in the Constitution references to Japan's goals and ideals on which all the people agree. But considering the impact of a vital and democratic domestic political system on the rest of the world, and the importance of having a voice in the international community, I think that instead of spelling things out in detail it would be better to limit the Constitution to some very fundamental expressions and leaving the details to be outlined in manifestos to be issued by Japan's political parties. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- Out of my respect for legal experts, I would like to suggest as lay person that difficult to understand sections, such as the Preamble, be left as they now stand. (SONO Ayako, Informant/150/12.Oct.2000)
- A passage should be added to the Preamble referring to the obligations that accompany rights. (NISHIZAWA Junichi, Informant/151/8.Feb.2001)
- The primary nature of a constitution is to define the relation between the government and the people. I have never felt the need to include something in the Preamble concerning the relation between the central and local governments. (KAIHARA Toshitami, Speaker/151/4.June.2001/Kobe Hearing)

Subsection 3 The Emperor System

Subsection 3 The Emperor System

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Subsection 3 The Emperor System

1. Assessment of the System of Emperor as Symbol

(1) Formulation process of the system of Emperor as symbol

<Comments by Members>

- The MacArthur note identified the Emperor as head of the State. It was feared, however, that this could be misunderstood to be the same as what was set forth in the Meiji Constitution. It is my understanding that, therefore, the Emperor was not named head of state, and the current wording of Article 1 was constructed based on this judgment. (OKUNO Seisuke, Member/LDP/154/4.July.2002/Politics Subcommittee)
- Continuity between the Meiji Constitution and the Constitution of Japan was suspended by the “August Revolution.” It is my understanding that the system of Emperor as symbol is a new creation under the Constitution of Japan. (OIDE Akira, Member/DPJ/151/22.Mar.2001)
- The transition from the Meiji Constitution, which was recognized as a constitution of Imperial sovereignty, to the present Constitution, which is based on popular sovereignty, must ultimately be explained within the context of discussions concerning the status of the Emperor system. (KURATA Eiki, Member/NK-RN/147/6.Apr.2000)
- The MacArthur note contains the following passage: “The Emperor is at the head of the State.” This later was changed and the emperor was to be a “symbol.” I request this Commission to discuss the process by which this change was made, and to invite informants to address this issue. (FUTAMI Nobuaki, Member/LP/147/23.Mar.2000)

<Comments by Informants and Others>

- I believe the choice of Emperor as symbol was an extremely weighty decision from the perspectives of General MacArthur, the government of Japan, and the Shidehara Cabinet, which was then in office. (KOSEKI Shoichi, Informant/147/9.Mar.2000)
- According to John Dower, a noted American historian, the term “symbol” was created by the General Headquarters of the Supreme Commander of the Allied Powers. Some doubt remains as to how deeply the matter was considered before this term was chosen. (MURATA Koji, Informant/147/9.Mar.2000)

- There is no doubt that the preservation of the Emperor system was one of the most important political challenges facing the government when the Constitution was being formulated. The background to this is that a significant portion of the Japanese people at the time supported the preservation of the Emperor system. (MURATA Koji, Informant/147/9.Mar.2000)
- In the MacArthur note, the Emperor is “head of the State.” While it does not say that the Emperor is the sovereign, nevertheless it does imply that the Emperor is accorded a relatively high standing. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- The Tokyo war trials were approaching when GHQ delivered its constitutional draft. Predicting that the Japanese side would insist on the preservation of the Emperor system, there were those in the U.S. homeland and the allies who, contrary to MacArthur’s personal view, were thinking about abolishing the Emperor system. When the draft, which included pacifism and other principles, was delivered to the Japanese, it was accompanied by the comment that it would be easier to preserve the Emperor system if the Japanese side accepted the draft. Is this not tantamount to a veiled threat and coercion? (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- The policies and vision for a new Japan that the U.S. was considering during the war is most strongly reflected in the system of the Emperor as symbol. (SHINDO Eiichi, Informant/147/6.Apr.2000)
- GHQ believed it was essential to transform the Imperial Household to follow the pattern of the British royal family. Also, GHQ was thinking to assign a “significant status” to the Emperor, not a “status of authority.” (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)

(2) Significance and assessment of the system of Emperor as symbol

- a. Comments advocating positive significance and affirmative assessment

<Comments by Members>

- At the time, the government interpreted “symbol” to imply a person who is looked up to with respect. This is probably quite close to what the Japanese Emperor system traditionally was. (OKUNO Seisuke, Member/LDP/154/4.July.2002/Politics Subcommittee)
- The phrase “the Emperor is the symbol of the State and of the unity of the people” is one that can be used in the new constitution. (OKUNO Seisuke, Member/LDP/154/4.July.2002/Politics Subcommittee)

- Even if the Constitution were to be revised, the abolition of the Emperor system would be unrealistic from the perspective of the sentiments of the Japanese people. (MATSUNAMI Kenshiro, Member/NCP/153/8.Nov.2001)
- The Emperor system is unique to Japan. The provisions of the present Constitution concerning the Emperor are relatively well conceived. The present Constitution differs from the Meiji Constitution in that it uses the term “symbol.” This is an extremely apt choice as the term was used with the understanding that it meant “object of adoration.” (INOUE Kiichi, Member/NCP/154/4.July.2002/Politics Subcommittee)

<Comments by Informants and Others>

- Under the system of the Emperor as symbol, real power is assigned to the prime minister, while authority resides in the Emperor. There is much wisdom in this arrangement. Moreover, this is probably closer to Japan’s traditional Emperor system than what existed before the war. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- The Emperor was in possession of real and major powers for a period of little more than 50 years. Throughout Japanese history, the Emperor was a protector of culture who was effectively separated from power. In this sense, the system of Emperor as symbol is a long-standing tradition created and rooted in Japanese history. (MATSUMOTO Ken’ichi, Informant/150/7.Dec.2000)
- Excepting certain periods such as during the Meiji Restoration, throughout all ages, the Emperor was not at the center of power. Rather, he existed as a symbol of authority. (OHMAE Shigeo, Speaker/151/4.Jun.2001/ Kobe Hearing)

b. Comments concerning characteristics of system of Emperor as symbol

<Comments by Members>

- In addition to acts in matter of state, the Emperor is engaged in a wide variety of activities. I do not believe that the Emperor is a purely nominal and ceremonial position without any political power. (OKUNO Seisuke, Member/LDP/154/14.Feb.2002/Politics Subcommittee)

<Comments by Informants and Others>

- While the Meiji Constitution assigned a larger number of powers of state to the Emperor, the present Constitution contains examples of the separation of real and nominal acts in matters of state. The act of the Emperor acknowledging the prime minister appointed by the Diet is one such example. This is one of the subtleties of the system of constitutional monarchy. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)

- Chapter 1 of the present Constitution can basically be understood to provide for a system of constitutional monarchy. While the provisions concerning the system of Emperor as symbol are thought to be well conceived, the phrase “symbol of the unity of the people” does not adequately express the system of constitutional monarchy. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
 - Chapter 1 of the present Constitution is patterned after the Bagehot model of constitutional monarchy. This can be seen to be effectively carrying forward the changes that had occurred under the Meiji Constitution whereby the Emperor system had gradually gravitated toward the British model of constitutional monarchy. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- c. Comments advocating review of the system’s significance and operational problems

<Comments by Members>

- In light of MATSUMOTO Jiichiro’s statement that “a society with nobility is also a society with outcasts,” we must earnestly examine what the Emperor system has meant for Japan and the Japanese people. At the same time, we must also discuss the future directions and status of the system. Any discussion of the Constitution which excludes this issue must be said to have omitted a key issue. (UEDA Munenori, Member/SDP/153/8.Nov.2001)
- From the perspective of fairness, the discussion of the Constitution should include a discussion which considers whether the Emperor system should be abolished or retained. (UEDA Munenori, Member/SDP/153/29.Nov.2001; 154/23.May.2002/ Human Rights Subcommittee)

<Comments by Informants and Others>

- Needless to say, the investigation of the articles of the Constitution must cover the entire Constitution, including everything from individual rights to the structure of government. Regarding the Emperor system, it should be researched whether the Cabinet’s actual operation of the system of Emperor as symbol transgresses the provisions of the Constitution in any way. The findings on this matter should be disclosed to the public. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- There is the question of whether the Emperor system is acceptable if the Emperor is a symbol. All the mythology behind the Emperor as symbol should be brought out to the open. Having done that, we need to discuss whether the people really require a symbol of their unity. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)
- During the Meiji Period, the Emperor stood at the pinnacle of the social order, while the *burakumin* comprised the lowest rungs of society. The great majority of the population was positioned between the two extremes to create a homogeneous

society. It is necessary to discuss whether the Emperor system should be preserved and continued. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)

(3) Emperor as head of state

- * **For statements concerning the relation between the popular election of the prime minister and the Emperor as head of state, see statements concerning popular election of the prime minister under “Subsection 6: Political Structures (Diet, Cabinet).”**

a. Comments advocating explicit reference in Constitution to emperor as head of state

<Comments by Members>>

- Japan has an Emperor, but the Emperor is a symbol and there is no clear indication that he is the head of state. I believe this point should be clarified. (FUJISHIMA Masayuki, Member/LP/153/8.Nov.2001)

<Comments by Informants and Others>

- The general understanding is that a head of state is the representative of the nation in its interaction with other countries. In that sense, the Emperor is Japan's head of state. I think the public should be made aware of this, and this should be explicitly stated in the Constitution. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- It can be inferred from the fact that Chapter 1 of the Constitution concerns the Emperor that Japan is a constitutional monarchy. However, the Emperor has not been explicitly defined as head of state, and it is not clear whether the Emperor represents Japan to the world. I believe it would be better to explicitly identify the Emperor as head of state and to clarify that Japan is a constitutional monarchy. (OHMAE Shigeo, Speaker/151/4.Jun.2001/Kobe Hearing)

b. Miscellaneous comments

<Comments by Members>

- The following conditions generally apply to a monarchy: (1) a monarchy is a self-appointed institution; (2) a monarch possesses government and administrative powers; (3) a monarch represents the nation to the world; (4) a monarch is the symbol of the nation. Under the present Constitution, the Emperor is empowered to attest foreign ambassadors and ministers, and can be said to have been assigned the functions of the head of state. (SHIMA Satoshi, Member/DPJ/154/4.July.2002/Politics Subcommittee)

- The present Constitution does not allow the Emperor to participate in the affairs of government. However, as the symbol of the unity of the Japanese people, I believe there is a relatively strong feeling that the Emperor is the head of state. (INOUE Kiichi, Member/NCP/154/24.Jun.2002/Sapporo Hearing)

<Comments by Informants and Others>

- There is some difference of opinion in academic circles concerning who is the head of state under the present Constitution. However, from the perspective of jurisprudence, the identification of a certain organ as the head of state does not imply that certain legal rights must definitely be assigned to the head of state. Hence, this line of argument and discussion is not very fruitful. (HASEBE Yasuo, Informant/153/8.Nov.2001)

(4) The Emperor system and popular sovereignty

<Comments by Members>

- In relation to popular sovereignty, we should discuss the status of the Emperor and the Emperor system as the symbol of the unity of the Japanese people. (HOZUMI Yoshiyuki, Member/LDP/147/11.May.2000)
- The assumption that the Emperor is a member of the people gives rise to various inconsistencies, such as the fact that the Emperor does not possess the right to vote and is not subject to taxation. In light of this, Chapter 1 of the Constitution is worthy of discussion by the Research Commission. (DOI Ryuichi, Member/DPJ/147/23.Mar.2000)
- Japan has both popular sovereignty and an Emperor as symbol. In this context, I believe we must discuss whether Japan is a constitutional monarchy or a republic. (KURATA Eiki, Member/NK-RN/147/6.Apr.2000)
- The Emperor system contradicts the principle of popular sovereignty. From my perspective, the Emperor system will eventually be dissolved by the will of the people as based on a broad vision for the future. (YAMAGUCHI Tomio, Member/JCP/150/7.Dec.2000)

<Comments by Informants and Others>

- Aside from the question of what should be done with the system of Emperor as symbol, the Constitution should contain clearer provisions concerning popular sovereignty. (MURATA Koji, Informant/147/9.Mar.2000)

- The present system of Emperor as symbol was written into the present Constitution in such a form as to be in harmony with the principle of popular sovereignty, a universal principle of modern constitutions. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- The “Emperor system” is a system. Since the beginning of the rule of law in ancient Japan, the Japanese political space has been a political space presided over by the Emperor. The relation between popular sovereignty and the Emperor should also be considered from the perspective of this tradition. (SAKAMOTO Takao, Informant/151/22.Mar.2001)
- The relation between the Emperor’s right of governance and parliamentary politics under the Meiji Constitution has been carried into the Constitution of Japan in such matters as the dissolution of the House of Representatives. Popular sovereignty does not have to be established only after the monarch has been overthrown. If we assume that political decisions are based on the will of the people, there is no need to conclude that the Emperor system and popular sovereignty are mutually contradictory. (SAKAMOTO Takao, Informant/151/22.Mar.2001)

(5) Miscellaneous matters

<Comments by Members>

- Since the promulgation of the present Constitution, discussions of the Emperor system, the status of the Imperial Household and the issue of succession have been treated as taboo. However, we should now engage in discussion and objective examination of the impact of the Emperor system on Japan and on the spirit and traditions of the Japanese people. (TANAKA Makiko, Member/LDP/147/11.May.2000)
- I think that democracy, which focuses on the views of the majority, stands at a counterpoint to traditionalism, which focuses on traditions and culture that cannot be changed through the views of the majority. We should discuss how the present Constitution’s system of Emperor as symbol can be explained in this context. (KURATA Eiki, Member/NK-RN/147/27.Apr.2000)
- I think the fear still exists that one may be ostracized by society as soon as one brings up the subject of the Emperor system during the course of discussion. In this sense, the spirit of the Constitution has not yet sufficiently penetrated our society, and Japan has not yet become a mature democracy. (UEDA Munenori, Member/SDP/153/29.Nov.2001)

- The present Constitution contains no expression of respect and affection toward the Emperor, and the wording of Article 1 is very sterile. These are obvious inadequacies. (NAKAMURA Eiichi, Member/NCP/147/20.Apr.2000)

<Comments by Informants and Others>

- The Imperial family are Shinto by faith, and you cannot say that they should discard their religious practice. Therefore, an exceptional provision should be added to the Constitution saying, "The Imperial family shall practice Shinto." (WATANABE Shoichi, Informant/150/7.Dec.2000)

2. Miscellaneous Matters

(1) Succession to the throne

<Comments by Informants and Others>

- Japan has had Empresses in the past. There is no need to exclude females from the concept of “Emperor.” (SAKAMOTO Takao, Informant/151/22.Mar.2001)

(2) Acts in matters of state

<Comments by Members>

- Article 4 Paragraph 1 states that the Emperor “shall not have powers related to government.” However, the matters specified under Articles 6 and 7 include some very important ones, such as the appointment of the prime minister and the dissolution of the House of Representatives. This makes it very difficult to distinguish between acts related to government and acts of state. (TAKAICHI Sanae, Member/LDP/147/27.Apr.2000)

<Comments by Informants and Others>

- The authority of the Emperor as prescribed in Chapter 1, including the relations between the Emperor and the Diet and between the Emperor and the Cabinet, and the specific provisions concerning the right to dissolve the House of Representatives can be interpreted in a variety of ways. This is problematic from the perspective of interpretation. (TAKAHASHI Masatoshi, Informant/147/23.Mar.2000)
- At times, royal diplomacy is at variance with the government’s diplomacy. Diplomacy is a form of international power struggle, and the Emperor should be involved as little as possible. If the Emperor were to return to the Imperial Palace in Kyoto, he would be much further separated from power. (MATSUMOTO Ken’ichi, Informant/150/7.Dec.2000)
- Article 89 prohibits state involvement in religious activities, but this is clearly in conflict with the Emperor’s acts in matters of state. (TANAKA Hidemichi, Speaker/151/4.June.2001/Sendai Hearing)
- Among the acts in matters of state assigned to the Emperor, the wording of “general election of members of the Diet” is incorrect. (TSUKAMOTO Hideki, Speaker/151/4.June.2001/Kobe Hearing)

(3) Imperial Household properties

<Comments by Members>

- Article 8 states that the Diet must authorize the transfer of any property given or received by the Imperial Household. I believe that matters pertaining to the dignity of the Emperor should be delegated to the Imperial Household Meeting. (OKUNO Seisuke, Member/LDP/154/4.July.2002/Politics Subcommittee)

(4) Monarchies of foreign countries

<Comments by Members>

- In the Netherlands, the connection between the Royal Family and scholarship and policies of culture and art was impressive. Scholarship, culture and arts present channels for the expression of the spirit of liberty. The institution of the Royal Family is being used in a very soft manner in providing government support for these types of activities. This system should be taken into consideration when we discuss the Japanese Imperial Household system. (SAITO Tetsuo, Member/NK/153/11.Oct.2001)
- From the perspective of the principle of popular sovereignty, it is a little strange that the first chapter of the present Constitution is given to provisions concerning the Emperor. Even in Sweden and some other constitutional monarchies, the opening section of the constitution addresses the matter of popular sovereignty. I believe that Chapter 1 Article 1 of the Constitution of Japan should likewise be given to provisions concerning the people. (ITO Shigeru, Member/SDP/147/9.Mar.2000)

<Comments by Informants and Others>

- The Meiji Constitution followed the example of Prussia and other countries and used the term “subject.” However, throughout history, the Emperors of Japan did not wield the powers of government. (AOYAMA Takenori, Informant/147/24.Feb.2000)
- Unlike the British monarchs, the Emperor hosts major ceremonies and is held in an exalted position. In light of this fact, the aims of the authors of Chapter 1 of the present Constitution are too far removed from the current status of the Emperor system. It is necessary to go back to the starting point and to re-establish a new vision of the Emperor. (SHINDO Eiichi, Informant/147/6.Apr.2000)
- It is not right that the Emperor cannot visit the Yasukuni Shrine or inspect the Self-Defense Forces. If it is the Constitution that is preventing this, putting aside

how such a revision would be worded, the Constitution should be revised so that the Emperor can act in the same manner as the monarchs of other countries. (ICHIMURA Shin'ichi, Informant/150/26.Oct.2000)

- It is strange that the Emperor can inspect the troops of other countries, but not the Self-Defense Forces. The wording of the Constitution should be revised so that these anomalies can be rectified. This is indeed a very strange situation for Japan, which has an Imperial Family that has continued for thousands of years. The current status of the monarch is not something that the Japanese people can feel particularly proud of. (ICHIMURA Shin'ichi, Informant/150/26.Oct.2000)
- The Constitutions of the Northern European countries still contain provisions stating that the monarch is invested with the powers of government. I believe these countries have retained this provision out of respect for their history and traditions. In this sense, it is very natural to place the provisions concerning the Emperor in Chapter 1, as the Emperor represents Japanese traditions that have continued since ancient times. (OHMAE Shigeo, Speaker/151/4.Jun.2001/Kobe Hearing)
- The royal families of the countries of Western Europe do not possess the powers of government. However, in practice, they are involved in receiving diplomatic missions and are recognized internationally as heads of state. As in the case of the monarchs of Western Europe, it would not be in contradiction of popular sovereignty if the Emperor, who does not possess political powers, is designated the head of state in the Constitution. (INATSU Sadatoshi, Speaker/154/24.Jun.2002/Sapporo Hearing)

Subsection 4 National Security and International Cooperation

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Subsection 4 National Security and International Cooperation

1. National Security and How Article 9 Should Be Interpreted, Etc.

(1) Viewpoints upon seeking to establish national security

- a. Comments from the standpoint that security should be established after clearly setting out a national vision, etc.

<Comments by Members>

- It is my understanding that the level of a nation's power can be derived by adding its economic and military power and multiplying this by its national strategies. Japan today has achieved strong economic power, but since it has no national strategy, its overall national power is equal to zero. (NAKAYAMA Masaaki, Member/LDP/151/14.June.2001)
- Since the problem over Article 9 has developed into a metaphysical controversy, it is not possible for Japan to become a "normal country." The nature of Japan's place in the international community should be prescribed by the Preamble and Article 9 in a manner that can be recognized both by its people and the world. (HIRAI Takuya, Member/LDP/154/6.June.2002/International Society Subcommittee)
- Article 9 should not be the sole authority for building a new post-Cold War framework of national security. It is important that the Diet take responsibility for establishing our intent and worldview as a nation. (NAKAGAWA Masaharu, Member/DPJ/154/9.May.2002/International Society Subcommittee)
- To enable Japan's security policy to be understood by the international community, our philosophy on national security and its basic framework should be stated explicitly in the Constitution. If the revision of the Constitution cannot be achieved quickly, we should enact a "Basic Law on Security," and enact legislation related to concrete measures. (MATSUZAWA Shigefumi, Member/DPJ/154/25.Apr.2002)
- Japan is being pressed to decide between two options: to amend the Constitution and become a "normal country," or to remain a "special country" that invokes factors such as being the only country to have suffered a nuclear attack, its three non-nuclear principles, etc. I believe that we should pursue the first option, by amending Paragraph 2 of Article 9. (AKAMATSU Masao, Member/NK/154/6.June.2002)
- Before discussing revising the provisions of the Constitution it is essential to formulate a concrete program. To do that we must, on the basis of realism, consider how to eradicate the contradictions that beset Japan, and what kind of vision to map out. (ITO Shigeru, Member/SDP/147/6.Apr.2000)

- So long as Japan lacks a national strategy with respect to the way it deals with the international community, it will not be able to discharge its duty to protect the lives and property of its people. (NODA Takeshi, Member/NCP/149/3.Aug.2000)

<Comments by Informants and Others>

- Japan's foreign policy is lacking in awareness of the national interest. Japan must as a nation map out a scenario for the stable development of its people. Food and energy are pivotal elements in economic security, which is intimately linked with military security, but given Japan's difficult energy situation the country's structure stands on a fragile basis, and as a nation it has no strategic concept. (TERASHIMA Jitsuro, Informant/154/9.May.2002/International Society Subcommittee)
- Japan should learn from Germany, which has acted on rearmament, NATO membership and international military cooperation in response to changes in the international environment, and should make a breakthrough to becoming a normal democratic nation. (TAKUBO Tadae, Informant/154/6.June.2002/International Society Subcommittee)

b. Comments that refer to the establishment of multipolar security

<Comments by Members>

- Relations between Japan, the United States, and China have become important as a result of changes in the international situation. In light of this, Japan should develop its security policies so as to create a second axis with other Asian nations, in addition to that formed by its relationship with the United States. (ITO Kosuke, Member/LDP/153/25.Oct.2001)
- In the future, efforts must be made to build a security framework in Asia, encompassing such countries as China, the Korean Peninsula after reunification, the countries of Southeast Asia, and India. How that framework is linked to the rights of individual and collective self-defense will become a major issue. There will also need to be a political culture and a climate of public opinion able to deal with discussions between regional communities. (NAKAYAMA Taro, Commission Chairman, Member/LDP/154/9.May.2002/International Society Subcommittee, 154/11.July.2002/International Society Subcommittee)
- By recognizing that Japan's peace and prosperity cannot be achieved in the absence of strategic assessments of neighboring countries, it should endeavor to establish security that is suitable for a multipolar age. (YASUOKA Okiharu, Member/LDP/147/11.May.2000)
- Japan should endeavor to build a system of regional collective security in Asia with the Japan-U.S. security structure as the basic axis. (YANAGISAWA Hakuo, Member/LDP/149/3.Aug.2000, 150/30.Nov.2000)

- In seeking to mold a multilateral forum on Asian security, I suggest that we should seek broad-based cooperation, for example by including India, a major democracy that is friendly to Japan. (NAKAMURA Tetsuji, Member/DPJ/154/9.May.2002/ International Society Subcommittee)
- The advocacy of Informant Dr. ICHIMURA that Japan should hold sway over the maritime nations as the leader on the basis of the Japan-U.S. alliance will not be appreciated by Asian countries. Japan should change its military-centered relationship with the United States to a relationship of peace and amity. Also, by contributing to the peace and stability of Northeast Asia, Japan should devote its energies to peaceful diplomacy centered on Asia. (YAMAGUCHI Tomio, Member/JCP/150/30.Nov.2000, 151/22.Mar.2001)
- Informant Dr. ICHIMURA advocates that Japan, as a central nation, should lead the maritime nations, which are peripheral nations with the Japan-U.S. alliance as the basic axis. Points such as the criteria for being a “central nation” and the grounds for Japan’s being a central nation are questionable. (UEDA Munenori, Member/SDP/150/26.Oct.2000)

<Comments by Informants and Others>

- Japan should establish comprehensive security in East Asia encompassing factors such as military power, energy, and food. In doing so, it must lower the level of its armaments and the height of its national borders so as to enhance interdependence with other nations and a build cooperative structure. If this “demilitarization” is not established as a principle of its international relations, it will not be easy to build cooperative relationships with the United States and other countries and to increase its national strength. (SHINDO Eiichi, Informant/147/6.Apr.2000)
- Japan should lead the East Asian group of maritime nations and promote their economic, social, and cultural development, while allying itself with the United States and holding its ground on friendly terms vis-a-vis the continental nations of China and Russia. (ICHIMURA Shin’ichi, Informant/150/26.Oct.2000)
- To cope with China, which is treading a dangerous course, Japan should consider developing a security structure based on alliance relationships in Asia in a form that includes the United States. (ISHIHARA Shintaro, Informant/150/30.Nov.2001)
- In considering its stance towards the competition for dominance between China and the United States, Japan should position itself to deal with threats arising from factors outside the ambit of relationships between nations. At the same time it should undertake the phased rebuilding of the pivotal Japan-U.S. Security Arrangements into an equal relationship. To do that it needs to build a “common house” in Northeast Asia: a multipolar, comprehensive collective-security structure encompassing neighboring Asian countries, and making the Korean Peninsula into a permanent neutral zone. To build a solid base for this structure, its character as a

military alliance, for example through collective sharing of military strength, should be modest, while values are shared through nation-to-nation interaction in the economic, social, cultural, and other spheres. (KANG Sanjung, Informant/151/22.Mar.2001)

- Japan should work to create a multilateral forum, based on the principle of preventive diplomacy, among East Asian nations including Russia and China. While maintaining military capability exclusively for self-defense, it should be structured so as to involve the United States, a key pivot of Japan's national security. In doing so the cooperative military relationship with the United States should be redefined after a substantial preparatory period. (TERASHIMA Jitsuro, Informant/154/9.May.2002/International Society Subcommittee)
- c. Comments on the need to establish security in line with the Constitution and United Nations Charter

<Comments by Members>

- In discussing the "form of the state," we must consider how to ensure national security within the framework of the renunciation of war. (SENGOKU Yoshito, Member/DPJ/151/14.June.2001)
- It will be important to make use of Article 9 in seeking to ensure peace and security in the 21st century. (HARUNA Naoaki, Member/JCP/154/25.July.2002)
- Based upon self-reflection about the world war that preceded it, the Constitution indicates the direction that security should take: a striving for world peace, the eradication of militarism, and devotion to a nonmilitary approach. The Preamble sets out a stance of active pacifism in which Japan trusts in the justice and faith of the people of the world in maintaining its peace and security, and devotes its efforts to its relations with other countries. Article 9 stipulates the renunciation of the use of force and of a standing army, and guarantees that position. I believe that by expressly providing this orientation of Japan's security in its Constitution, Japan was making a public commitment upon the resumption of its place in the international community. (YAMAGUCHI Tomio, Member/JCP/150/30.Nov.2000, 153/25.Oct.2001, 154/25.Apr.2002)
- As a foreign-policy vision for an era free of war and conflict in the post-Cold War world, a forum needs to be established for discussion relating to communal security and international cooperation in the Asia-Pacific region in a form that develops the spirit of the Constitution as reflected in the Preamble and Article 9. It would be of a kind similar to the Organization for Security and Co-operation in Europe. (ITO Shigeru, Member/SDP/147/17.Feb.2000, 147/27.Apr.2000, 147/11.May.2000)
- What is required is the establishment of universal security centered on the United Nations and based on both the Constitution and the United Nations Charter, and

appropriate for the post-Cold War era. (OSHIMA Reiko, Member/SDP/154/28.Feb.2002/International Society Subcommittee)

- To realize the spirit of the Constitution in stipulating the renunciation for all time of the use of force, there is a need for a high level of intellectual and spiritual capabilities, including sophisticated political ingenuity, diplomatic ability, and a national character that is respected and trusted. Therefore, we should seek security not by the use of military force, but through the exercise of reason and the intellect. (HARA Yoko, Member/SDP/149/3.Aug.2000)
- I believe that we should enact a “Basic Law on Peace,” to include a reaffirmation of the pacifism of the Constitution, other important matters such as the conditions required for the exercise of individual self-defense, and the scope of cooperation with peacekeeping operations. This would be a way of closing the gap between the Constitution and actual policy. (YOKOMITSU Katsuhiko, Member/SDP/150/9.Nov.2000)

<Comments by Informants and Others>

- Security that relies on military strength is an anachronism. Our perspective should be that of *nuchi dou takara* (Life is the greatest treasure), the ideal of protecting the dignity of the individual. Based upon observing the norms set out in Article 9 and of heeding the lessons of aggressive warfare, we should establish security founded upon a multilateral relationship of trust among nations. (ARAKAKI Tsutomu, Speaker/154/22.Apr.2002/Okinawa Hearing)
- In view of Japan’s past experience, the establishment of security by military force is a mistake. Accordingly, we should try to establish security by spreading our Peace Constitution, with its provisions such as the renunciation of war and pursuit of lasting peace, to other nations. (INAFUKU Erika, Speaker/154/22.Apr.2002/Okinawa Hearing)
- In view of its past hellish experience, Japan should not look to force of arms, but gather together the ideals such as human security that are set out in its Peace Constitution and make the effort to spread these to the world. In that way it should endeavor to establish lasting peace and security. (YAMAUCHI Tokushin, Speaker/154/22.Apr.2002/Okinawa Hearing)

d. Comments that refer to human security

<Comments by Members>

- In recent years there has been a qualitative change in the traditional concept of security; for example the concepts of comprehensive security and human security have emerged. In view of this, I believe it to be important to look at every person as an individual, and for nations, NGOs, international institutions, civil society, and

other entities to show solidarity in addressing problems. (ITO Kosuke, Member/LDP/153/25.Oct.2001)

- Issues to be addressed in future in the realm of foreign policy will include not only the nation's security, but also the approaches to economic security and human security. (HIRAI Takuya, Member/LDP/154/9.May.2002/International Society Subcommittee)
- I think the concept of human security is a major one that far transcends the Constitution. In enacting a new constitution, explicit provision should be made for the idea of human security, so as to enable Japan to play a larger role in the international community. (MORIOKA Masahiro, Member/LDP/153/29.Nov.2001, 153/6.Dec.2001)
- We should give importance to the fact that the United Nations Development Programme advocates human security. It is from that perspective that we should consider Japan's position in the international community and what form its Constitution should take. (ISHIGE Eiko, Member/DPJ/147/27.Apr.2000)
- Japan must make the standpoint of human security the pivotal factor in the resolution of international disputes, while still placing importance on its relationship with the United States. It must make approaches to the international community to ensure that United Nations forces function as the agent for establishing that standpoint. (KONNO Azuma, Member/DPJ/153/6.Dec.2001)
- The Constitution is not able to address the changes occurring in the global system in the post-Cold War era. Problems such as refugees and immigrants, low-intensity conflicts, terrorism, drugs, and serious crime are emerging in the international situation. Given this, it is necessary to reconstruct security from a broad perspective that includes the standpoint of human security. (SUTO Nobuhiko, Member/DPJ/153/6.Dec.2001)
- National security and human security should not be regarded as being mutually exclusive; importance must be attached to both. I believe that the same philosophy applies to human security and the right to live in peace. (HOSOKAWA Ritsuo, Member/DPJ/153/29.Nov.2001)
- I feel that from the standpoint of human security, more emphasis should be placed on protecting people against death and injury from warfare, etc., than on support for social progress. (UEDA Isamu, Member/NK/153/29.Nov.2001)
- I feel that in the final analysis, national security transcends human security. (FUJISHIMA Masayuki, Member/LP/153/29.Nov.2001)
- Underlying security policy since the Cold War ended has been an approach of molding international order based on multilateral trust and cooperation in such

domains as human rights, the economy, and the environment. In this, human security has been the key perspective. This approach is in line with the Constitution's philosophy of seeking peace through nonmilitary means. (UEDA Munenori, Member/SDP/154/25.Apr.2002)

<Comments by Informants and Others>

- We live in an age characterized by the implementation of a unilateral security policy by the United States, and by progressive globalization. In such an era Japan should hold up human security and the right to live in peace--its legal underpinning--as a national ideal. It should also endeavor to reform the United Nations and change U.S.-centered security, at the same time establishing regional security. In doing so it will be important to give concrete form to human security in such ways as the elimination of armaments, the establishment of nuclear-free zones, dispute-prevention, and support for social development. Also, it is meaningless to regard national security and human security as being mutually exclusive; national-security policy should be framed on the basis of human security. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)
- Article 9 of the Constitution was highly acclaimed at the International Peace Conference held in The Hague. Global opinion has shifted in the direction of banning nuclear weapons and antipersonnel mines. Today, the idea that national armies exist to protect the people is no more than an illusion. We must work to create a century in which human security is established, and war abolished. (KUBOTA Manae, Speaker/151/16.Apr.2001/Sendai Hearing)
- Today the destruction of the environment, disasters, population growth, food shortages, the depletion of resources, and poverty have become real threats, and the international society needs to address these problems by changing its thinking from national security to human security. It is obvious that military strength cannot contribute to human security. Therefore, Japan should adhere to the human security set out in the Constitution as a firm philosophy, formulating concrete measures for such purposes as establishing sustainable economic growth, the building of an international framework for guaranteeing human rights, and the abolition of armaments. (URABE Noriho, Speaker/151/4.June.2001/Kobe Hearing)
- We should regard human security as supplementing security attained by the interaction of nations and by the United Nations. (KOIDE Yasuo, Speaker/153/26.Nov.2001/Nagoya Hearing)
- In my view, security without military power is possible by striving to establish human security that places emphasis on the human rights of disadvantaged people in spheres such as poverty and economic disparity. (NISHI Hideko, Speaker/153/26.Nov.2001/Nagoya Hearing)

e. Comments on the need to establish security encompassing nonmilitary fields

<Comments by Members>

- I believe that we should adopt a dual approach. Firstly, the pursuit of an independent diplomacy in the sphere of “global governance” in such areas as the environment, disarmament, poverty, energy, food, and infectious diseases. Secondly, the maintenance of the Japan-U.S. alliance in the realm of “power politics,” as a means of restraining China. (HIRAI Takuya, Member/LDP/154/6.June.2002/ International Society Subcommittee)
- We should consider security not only from a military standpoint but comprehensively, including diplomatic, political and other aspects. This should be stated expressly in the Constitution. (IGARASHI Fumihiko, Member/DPJ/ 150/28.Sept.2000)
- We should take into consideration the fact that security issues are far more complex than at the time the Constitution was enacted. For example we should consider (a) the risks involved in Japan’s alliance with the United States, (b) the possibility that the U.S. may ally itself with China, and (c) a variety of other factors such as cyber-terrorism and humanitarian issues. (SUTO Nobuhiko, Member/DPJ/154/ 6.June.2002/International Society Subcommittee)
- The securing of food and energy constitutes the cornerstone of the peace of Japan. (SAITO Tetsuo, Member/NK/151/8.Feb.2001)
- The present age is one in which Japan’s emphasis on the relationship with the United States is changing to one in which importance is given to relations with Asian nations. The deepening of interchange with Asian countries in economic fields, by concluding free-trade agreements, is an important pillar of security. What is more, it can be expected to function more effectively than security by military means. (KANEKO Tetsuo, Member/SDP/151/4.June.2001/Kobe Hearing, 154/28.Mar.2002/ International Society Subcommittee)
- Issues such as the environment, food safety, and antibiotics cannot be resolved militarily. It is essential to protect the people by enhancing and strengthening science and technology and economic power. (HIMORI Fumihiko, Member/SDP/ 150/7.Dec.2000)

<Comments by Informants and Others>

- The issue that has the highest priority for Japan’s security in the 21st century is that of securing sources of energy until nuclear fusion is brought into practical use as a source. To that end, Japan should build friendly relations with all countries. It should also give greater overseas assistance, for example for the production of oil in

Siberia and the development of natural gas in Indonesia. (ICHIMURA Shin'ichi, Informant/150/26.Oct.2000)

- It is not realistic either to counter aggression with passive resistance, or to develop military capabilities for perfect self-defense. A war waged by military means is not the only factor able to destroy a society. Therefore, Japan should develop a structure for protecting its society by strengthening national power across a broad range of fields, such as the environment, food, and science and technology. (NISHIZAWA Junichi, Informant/151/8.Feb.2001)
- Threats have become increasingly diverse in character since the end of the Cold War. In light of this, national security must be an appropriately harmonious combination of a military component for restoring the status quo, and a nonmilitary component. The latter would comprise elements such as preventive diplomacy, confidence-building, and reconstruction assistance. (MORIMOTO Satoshi, Informant/153/25.Oct.2001)
- When pondering the concept of national security we must take into consideration not only military aspects but also others, such as financial and economic aspects. It is also important to evaluate the national interest in a human-centered way, and to mold international accord. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)
- We should spread the spirit of protecting the dignity of the individual in ever-widening circles to encompass households, local communities, and the nation as a whole, and foster human interaction. Steps such as these will be a deterrent to aggression. (KAKINOHANA Hojun, Speaker/154/22.Apr.2002/Okinawa Hearing)
- Instead of tamely following the United States, Japan must maintain thorough and consistent pacifism, and become a self-sufficient nation as regards food, energy, resources and so on. In that way it should contribute to world peace as a politically and economically independent country. (ISHIZUKA Osamu, Speaker/154/24.June.2002/Sapporo Hearing)

f. Comments that refer to the establishment of security under a “world federation,” etc.

<Comments by Members>

- The establishment of a “world federation” is the ultimate goal, but not one that will be realized in the 21st century. (YAMASAKI Taku, Member/LDP/147/11.May.2000)
- Lasting peace should be pursued through the concept of a “world federation.” This would entail individual countries’ concentrating their military strength on the United Nations rather than having their own armed forces, and bringing a justice system into operation for resolving international disputes. (YAMADA Toshimasa, Member/DPJ/153/6.Dec.2001, 154/28.Feb.2002/International Society Subcommittee, 154/11.July.2002/International Society Subcommittee, 154/25.July.2002)

- I believe that with the advance of globalization there is a possibility of a “world state” being established that transcends the existing functions of the United Nations. (KONDO Motohiko, Member/Club 21/150/28.Sept.2000)

<Comments by Informants and Others>

- Although I cannot imagine the establishment of a world government, it is essential that the international system be strengthened so that it will not countenance aggression by any nation. (IOKIBE Makoto, Informant/147/20.Apr.2000)
 - There is no likelihood that centralized government organization in the form of a “world state” will be established in the international community. Furthermore, I believe that the establishment of such a body would in fact risk being harmful to the international community. (TANAKA Akihiko, Informant/150/28.Sept.2000)
 - I do not think that a world government would function effectively. Even if one were established, it would have to be very cautious in conducting its proceedings. (KONDO Motohiro, Informant/150/12.Oct.2000)
 - I do not believe that a civil society on a global scale will be formed immediately; a variety of means exist to bring that about. (TAKAHASHI Susumu, Informant/151/8.Feb.2001)
 - The concept of a “world federation” to which military power and so on would be ceded should be pursued as an ideal, but would be difficult to realize. (MATSUI Yoshiro, Informant/154/28.Feb.2002/International Society Subcommittee)
 - There is a need for a system to curb dispute between nations, but concrete methods of bringing one into existence have not yet been thought out. (NAKAMURA Tamio, Informant/154/11.July.2002, International Society Subcommittee)
- g. Comments on the need to establish security from the standpoint of the obligations of a sovereign nation

<Comments by Members>

- Given the frequent occurrence of armed conflicts today, it is inappropriate for Japan to entrust its security to the vacuous phrase “the peace-loving peoples of the world” in the Preamble to the Constitution. Therefore, the Preamble should be revised entirely in order to take Japan’s security into account. (ABE Shinzo, Member/LDP/147/11.May.2000)
- The state and politicians have a duty to protect people’s lives and property, the nation’s sovereignty and honor, and the national interest. In view of this, Japan must be enabled to act based on its national causes and justice through having an independent intelligence capability and political decision-making ability. To bring

that about we should study making revisions to the Preamble and Article 9 of the Constitution, which are based upon security that relies on outside help, and other legislation such as the Self-Defense Forces Law. Also, the right of diplomatic protection should be expressly provided for in the Constitution. (TAKAICHI Sanae, Member/LDP/147/27.Apr.2000, 150/28.Sept.2000, 150/30.Nov.2000, 154/25.Apr.2002)

- I agree with the view that the Constitution contains a lack of international sincerity in that Japan trusts in the faith of other countries for its own national security, but on the other hand has no obligations towards other countries' security. (HATOYAMA Kunio, Member/LDP/150/26.Oct.2000)
- It is the duty of the government to protect the country's independence and the lives and property of its people. Based on this, a certain amount of wariness must be exercised in interacting with other countries and in pursuing foreign policy and security policy. (HANASHI Nobuyuki, Member/LDP/154/25.Apr.2002)
- I believe that current circumstances rule out considering Japan's security on the basis of trusting in the justice and faith of the people of other countries. I also think that it is inappropriate to establish U.N.-centric security. (MORIOKA Masahiro, Member/LDP/153/29.Nov.2001)
- It is the duty of the state to protect the peace, security, happiness, interests, and so on, of every one of its people. In addition, world peace is brought about by normal international relations between nations. Therefore, when considering the "form of the state" it is essential to revise provisions such as those in the Preamble and Article 9. (YAMASAKI Taku, Member/LDP/147/11.May.2000)
- We should make explicit provision for security in the Constitution from the standpoint of protecting the people and the state. (KOBAYASHI Kenji, Member/DPJ/154/25.Apr.2002)
- We should discuss defense issues from the perspective of the obligation of the state to protect the rights to life and liberty provided for in Article 13. (NAKANO Kansei, Member/DPJ/147/27.Apr.2000)
- Japan should not depend on the justice and faith of other peoples of the world for its security and survival. The Preamble should include clear provisions concerning the role of the state in the protection of the lives, property, and human rights of the people. (SHIOTA Susumu, Member/LP/151/14.June.2001)
- Even if relations between nations grow closer, the state has a fundamental duty to assure national defense and the security of its people. Therefore the Constitution should expressly provide that the country protects itself. In view of the increase in destabilizing factors in East Asia, there should be a phased reduction in the role of U.S. forces under the Japan-U.S. Security Treaty, and we should establish our

security centered on our Self-Defense Forces. (FUJISHIMA Masayuki, Member/LP/151/22.Mar.2001, 151/16.Apr.2001/Sendai Hearing, 151/14.June.2001, 154/22.Apr.2002/Okinawa Hearing, 154/25.Apr.2002)

- We should have a constitution that is thoroughly imbued with the spirit of protecting the country. (NAKAMURA Eiichi, Member/NCP/147/11.May.2000)

<Comments by Informants and Others>

- In an international community in which interdependence is deepening, Japan cannot develop in the absence of trust in “the justice and faith of the peace-loving peoples of the world.” However, for a sovereign state it is questionable whether the entrustment of a country’s peace and security to that concept is a correct state policy. (MURATA Koji, Informant/147/9.Mar.2000)
- The post-Cold War era is witnessing the advance of globalization. As the entities comprising the international community become more diverse, the influence of the nation-state is declining in relative terms. Nevertheless, the question of the extent to which the state is able to protect the interests of its people efficiently and effectively is a very important one. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- To achieve self-reliance as a nation, we should endeavor to develop our systems in the fields of defense and foreign policy. (SONO Ayako, Informant/150/12.Oct.2000)
- A nation without the capacity to defend itself is an impossibility. It is an historical principle that a state that relies on others to protect the lives and property of its people and to defend the country itself will decline and go to ruin. I believe that Japan should develop the structure to be able to defend its own territory completely, and its deterrent capability will spring from that. (ISHIHARA Shintaro, Informant/150/30.Nov.2000)
- It is the duty of the state to protect the lives and property of its people and the country’s sovereignty. Accordingly, although Japan should hold the establishment of a U.N. military force as its ideal, it must also develop its own independent security structure. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)
- It is necessary to enact a new “people’s constitution” for defending the people. This should be in the spirit of “defending our nation ourselves” in every field, including the military, economic, industrial, monetary, human-rights, and environmental fields. At the same time we must seek to develop a security structure for the region to which we belong. (MATSUMOTO Ken’ichi, Informant/150/7.Dec.2000)
- The international situation today is said to be one in which nations are growing more similar. Nonetheless, people inhabit their respective regions for various historical, cultural, linguistic and other reasons, and states have been formed amid struggles between ethnic groups. In light of factors such as these, the existence of a

state for which defense and the maintenance of public peace and order are fundamental issues is not to be denied. In the 21st century, Japan must build a state structure to resist pressure from countries such as China and North Korea, and have the resolve to bear the burdens imposed by national defense. (SAKAMOTO Takao, Informant/151/22.Mar.2001)

- The most important task of the state is to ensure the security of the lives and persons of its people. (KOIDO Yasuo, Speaker/153/26.Nov.2001/Nagoya Hearing)
 - I believe that it is the right and obligation of the people to defend their own country. Therefore, it is not appropriate to have a Preamble that assigns our country's security to others. We should attach importance to the fact that only when a country is truly independent can the rights of its people be protected. (NOHARA Kiyoshi, Speaker/153/26.Nov.2001/Nagoya Hearing)
 - The independence and peace of states cannot be maintained without the backing of military strength. Therefore, to address issues such as the protection of expatriate citizens, participation in international peace operations, and the combating of terrorism, Article 9 should be revised. (MEGUMI Ryunosuke, Speaker/154/22.Apr.2002/Okinawa Hearing)
- h. Comments on the need to establish security by placing importance on the maintenance of international peace

<Comments by Members>

- For Japan, peace would be impossible without international cooperation. (HANASHI Nobuyuki, Member/LDP/147/11.May.2000)
- Today, when new issues of global proportions are emerging, international cooperation is essential. For the sake of international peace and our own national security, we should examine the duties that the government should fulfill and the corresponding issues relating to the Constitution. (KANO Michihiko, Member/DPJ/149/3.Aug.2000)
- I concur with the view that Japan's prosperity depends on the peace and security of the surrounding area. (TAKEYAMA Yuriko, Member/LP/150/28.Sept.2000)
- In the international community it is essential for Japan to share responsibility with its other members. Also, laws and regulations in such spheres as security and crisis management should conform with international norms. (NODA Takeshi, Member/LP/147/17.Feb.2000)
- Japan should endeavor to establish its security by giving importance to a system centered on the United Nations. (FUJISHIMA Masayuki, Member/LP/154/22.Apr.2002/Okinawa Hearing)

- Japan's contributing to maintaining the peace and security of the international community is also important for maintaining its own peace and security. Therefore, we should discuss the merits of revising Article 9, on which opinion is divided, from the standpoint of protecting the lives and property of the people while at the same time cooperating with the international community. (INOUE Kiichi, Member/NCP/154/24.June.2002/Sapporo Hearing, 154/25.July.2002)

<Comments by Informants and Others>

- In light of the fact that establishing peace in the area surrounding Japan will secure peace for Japan, we should make effective use of Japan's power to maintain peace in Asia. (ISHIHARA Shintaro, Informant/150/30.Nov.2000)
- At the same time as establishing domestic security, we should make efforts directed at building international peace by starting in the field of "low politics." In doing that, a problem will be that of determining how to utilize ODA and so on. (TAKAHASHI Susumu, Informant/151/8.Feb.2001)
- i. Comments that refer to the establishment of security in a way that gives importance to alliances

<Comments by Members>

- We should seek to establish security through a combination of three methods that conform with reality: the balance of power, deterrence, and mutual dependence to supplement these. (YANAGISAWA Hakuo, Member/LDP/147/11.May.2000)
- The concept of peace and order in the Asia-Pacific region premised upon the Japan-U.S. Security Arrangements, and in turn in the entire international community, is already out-of-date. (UEDA Munenori, Member/SDP/154/25.Apr.2002)

<Comments by Informants and Others>

- In the foreseeable future it will be difficult for the United Nations to put sanctions into effect against violators of rules outlawing war. There will be no choice but to resolve these within the framework of cooperation between states. Accordingly, I believe that peace will be maintained not by a focus on the United Nations, but by deterrence and the balance of power. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- The Constitution should be revised after gaining the consensus of the people. This is because in the post-Cold War era it has become necessary (1) to strengthen the Japan-U.S. Security Arrangements as a pivotal apparatus for use to give stability to the entire Asia-Pacific region, (2) to act independently to deal with security-related crises such as low-intensity conflicts, and (3) to participate in joint international

efforts to maintain international peace. (IOKIBE Makoto, Informant/147/20.Apr.2000)

- Japan is a large-scale state and a state that is heavily dependent upon the international community. Recognizing this, in order to protect the people's security it should not only expend considerable effort in the domain of foreign policy, but also place importance on its alliance relationship with the United States, while developing its defense capability. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- In considering security in the 21st century, an alliance relationship must not be seen as a community bound together by a common fate. An alliance relationship must be built on the basis of *raison d'état*. (KANG Sanjung, Informant/151/22.Mar.2001)
- Japan must advance its national interest reciprocally, and pursue a foreign policy aimed at the maintenance of a world order in which a mutually complementary Japan-U.S. alliance has a pivotal place. This will be to assure an advantageous international political and economic environment. I believe that such efforts in the realm of foreign policy will in themselves lead to the establishment of political morality in the international community. (INATSU Sadayoshi, Speaker/154/24.June.2002/Sapporo Hearing)

(2) How Article 9 should be interpreted
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a. Comments concerning the interpretation of Article 9

<Comments by Members>

- The wording of Article 9, which has aroused a metaphysical controversy as to its interpretation, should not be left as it is. (MORIOKA Masahiro, Member/LDP/153/29.Nov.2001)
- It is unclear whether the wording "In order to accomplish the aim of the preceding paragraph" in Article 9, Paragraph 2, applies up to the latter part of the article. Therefore this should be restated in clear Japanese. (TARUTOKO Shinji, Member/DPJ/147/20.Apr.2000)
- Two issues must be distinguished and discussed separately. First, the question of the extent to which it is permissible to interpret the Constitution in general, abstract terms. Second, the question of what legislative or policy judgments should be made in specific situations. (NAKAMURA Tetsuji, Member/DPJ/154/6.June.2002/International Society Subcommittee)

- The interpretation of Article 9 should not be entrusted to the courts or to the Cabinet Legislation Bureau. The Diet should interpret it after extensive discussion, and if necessary should engage in a debate about revising it. (HOSONO Goshi, Member/DPJ/151/14.June.2001)

<Comments by Informants and Others>

- People who interpret Article 13 and Article 25 broadly and take the position of recognizing new human rights, but do not accept a broad interpretation of Article 9, lack logical consistency. (MURATA Koji, Informant/147/23.Mar.2000)
- International tension can give rise to restlessness about parts of the Constitution. Hitherto, situations of this kind have been dealt with by de facto constitutional amendments by changing its interpretation. In the circumstances prevailing since the end of the Cold War, however, the way of dealing with this is open to question. Given that the phrase “international peace based on justice and order” is inserted as an objective of pacifism, it is also possible to interpret Article 9 in line with that objective. I think that is the biggest political issue. (TAKAHASHI Masatoshi, Informant/147/23.Mar.2000)
- Reinterpretation and the modulation of minor particulars have been used to address assertions that, for example, unless the Constitution is revised, Japan cannot have armed forces and cannot engage adequately in international cooperation. However, that approach is nearing its limits. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- Government interpretations of Article 9 have not been legitimate. The norms of the Constitution have been distorted by interpretations aimed at achieving political ends, such as the establishment of the Self-Defense Forces and the creation of the Japan-U.S. Security Arrangements. Furthermore, this has fostered public distrust of the government and a tendency to make light of the Constitution. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- Originally the purpose of Article 9 was to provide the basis for Japan’s self-defense and its participation in the international community’s security structure. However, adherence to a strict interpretation continues to have the effect of sending the message to neighboring countries that we will never again start a war, without acknowledging the nation’s past war responsibility. Nevertheless, the government’s interpretation of Article 9 is inconsistent. Also, changing the interpretation in order to address security issues relating to fundamental principles of the state is causing people to lose confidence in the Constitution. (ONUMA Yasuaki, Informant/153/25.Oct.2001)
- The method of dealing with matters by means of interpretation rather than revising the Constitution, and having this governed by law, is reaching its limits. According to the principles of constitutionalism, it is necessary to consider revising a constitution if that is what is needed. But as a prerequisite for this we must

consider how it can be done in a way that still gives life to the ideals of the Constitution. (MATSUI Yoshiro, Informant/154/28.Feb.2002/International Society Subcommittee)

- Article 9 is not regarded as an unquestionable provision, so there may be differences of interpretation as regards what measures are permitted within its purview. In the Article 9 debate it is appropriate for the courts to respect judgments reached through the political process, and for the ultimate judgment to be entrusted to the people. (MATSUI Shigeki, Informant/154/23.May.2002/Politics Subcommittee)
- The provision of military contributions is not permitted under Article 9, and in terms of interpretation of the Constitution there are limits to how far Japan can go in emergency-response laws and counter-terrorism activities. (TAKUBO Tadae, Informant/154/6.June.2002/International Society Subcommittee)

b. Comments concerning matters that require discussion

<Comments by Members>

- When considering the Constitution it is important for Diet members to engage in calm discussion for the sake of the people. In that way, matters such as the scale of military forces, the form that regional communities should take, and relations with the United Nations will be clarified as a matter of course. (NAKAYAMA Taro, Commission Chairman, Member/LDP/154/9.May.2002/International Society Subcommittee)
- The Article 9 debate is being narrowed down to the issue of the merits of Paragraph 2, with its idealistic provision for the total renunciation of military forces. (HANASHI Nobuyuki, Member/LDP/154/25.July.2002)
- So far, discussion of Article 9 has dwelt on the propriety of its use as a means of international cooperation and so on. There has been no discussion of substantive concepts such as the pursuit of values. (IGARASHI Fumihiko, Member/DPJ/150/28.Sept.2000)
- The renunciation of aggressive war in Paragraph 1 is a provision that exists in many countries' constitutions, and importance should be given to it as a political value in foreign policy. However, the provisions in Paragraph 2 forbidding the possession of armed forces is unique to the Constitution of Japan. It needs to be revised, giving due consideration to the background to its enactment. (SHIMA Satoshi, Member/DPJ/147/11.May.2000, 154/22.Apr.2002/Okinawa Hearing, 154/25.Apr.2002)
- Numerous parts of the Constitution lack any basis for addressing the realities of our contemporary society. Thorough research must be made into factors required to

protect the peace and security of the people. (SUTO Nobuhiko, Member/DPJ/154/25.July.2002)

- The antagonism surrounding Article 9 boils down to whether express provision should be made for issues such as the maintenance of the right of self-defense, the existence of Self-Defense Forces, and the form that international cooperation should take. As a national consensus about the tenor of a peace constitution has been achieved, this antagonism will be nothing more than antagonism about method. (ISHIDA Katsuyuki, Member/NK-RN/147/27.Apr.2000)
- While studying the origins of the divisions of public opinion about security, it is essential to consolidate the will of the people, and conceive a new constitution. (FUKUSHIMA Yutaka, Member/NK-RN/147/20.Apr.2000)
- Issues we should study include the maintenance of war potential for self-defense, the exercise of the right of collective self-defense, and international cooperation centered on the United Nations. (SHIOTA Susumu, Member/LP/149/3.Aug.2000)
- We should study the circumstances of how the wording “Aspiring sincerely to an international peace based on justice and order” came to be added during the Diet deliberations prior to the Constitution’s enactment. (YAMAGUCHI Tomio, Member/JCP/153/25.Oct.2001)

<Comments by Informants and Others>

- We should study matters such as the circumstances under which the civilian-control provision was added, and the relationship between the Ashida amendments and those provisions. (NISHI Osamu, Informant/147/24.Feb.2000)
- We should first separate Paragraph 1 and Paragraph 2, with their different content, and then discuss Paragraph 2, with its major contradictions. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- The discussion of the Constitution in relation to the form that Japan should take in the 21st century should be premised on an objective survey of the circumstances of changes in government interpretations of Article 9, and the reasons for them. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)

c. Comments concerning the manner of proceeding with the discussion of Article 9

<Comments by Members>

- We should not conduct the debate on security-related issues such as the emergency-response laws until we have fully discussed the Constitution issue, particularly as regards Article 9. The current discussion has reversed this order. This is giving rise to problems of broad interpretation and vagueness, and making

the issue difficult for the people to understand. (ISHIKAWA Yozo, Member/LDP/154/9.May.2002/International Society Subcommittee)

- In framing legislation such as the Anti-Terrorism Special Measures Law, we must pursue security-related discussions after first ensuring that the issue is thoroughly understood by the people. In that way we will bring Japan's accepted wisdom into line with the world's accepted wisdom. (ITO Kosuke, Member/LDP/153/25.Oct.2001)
- The constitutional debate in the Diet has already run its course. The problem we face is that there are no think tanks able to make policy recommendations on security issues from a neutral perspective. (TSUCHIYA Shinako, Member/LDP/154/9.May.2002/International Society Subcommittee)
- A comparative study should be made of the Constitution and the United Nations Charter. (FUNADA Hajime, Member/LDP/147/6.Apr.2000)
- A provision with a disputed interpretation such as Article 9 is a problematic one for a written constitution. We should first set out our direction on issues such as the maintenance of armed forces for self-defense and the provision of armaments as part of international cooperation. We should then study revising the Constitution in line with that direction. (HOZUMI Yoshiyuki, Member/LDP/147/23.Mar.2000)
- For the revision of Article 9 I feel that we must gain the understanding of the international community. (YANAGISAWA Hakuo, Member/LDP/147/11.May.2000)
- The United Nations Charter recognizes the right of individual self-defense and the right of collective self-defense for member countries, while also setting out a framework for collective security. The disparities between the two must be grasped clearly. (NAKAMURA Tetsuji, Member/DPJ/154/9.May.2002/International Society Subcommittee)
- We are facing "two two-year limits:" (a) the term of the Research Commission on the Constitution will expire in two years, and (b) the emergency-response laws will be enacted within two years. In view of this, the time has now come for making the propriety of revising the Constitution, including Article 9, an election issue. (AKAMATSU Masao, Member/NK/154/6.June.2002/ International Society Subcommittee)
- There is a remarkable clash of opinions about Article 9. It is essential to have lengthy discussions in order to reach a consensus. (UEDA Isamu, Member/NK/153/6.Dec.2001)
- To date there has been controversy about Article 9, and this is also a question of personal values. Given this, I think that for the present we must engage in wide-ranging debate in order to gain the agreement of the people, while maintaining Article 9. (SAITO Tetsuo, Member/NK/153/6.Dec.2001, 154/25.Apr.2002)

<Comments by Informants and Others>

- About Article 9 it is counterproductive to persist with fundamentalist arguments and one-nation pacifism. I believe we are in an age in which we require activism and policies to increase our national strength and bring affluence into the lives of our citizens. (SHINDO Eiichi, Informant/147/6.Apr.2000)
- To revise Article 9, an enormous amount of energy will be expended on the issue of phraseology. It would be better to devote resources to counter-terrorism measures and emergency-response legislation. (ANNEN Junji, Informant/154/14.Mar.2002/ Human Rights Subcommittee)
- As regards Article 9 it is important to put forward concrete drafts, and let the people discuss their merits and demerits. (ENDO Masanori, Speaker/151/16.Apr. 2001/Sendai Hearing)
- When considering Japan's security policy it must first be acknowledged that Japan will not tread the path towards being a major military power. On that premise, efforts must be made to build an adequate domestic consensus and to gain the understanding of other Asian countries. (KOIDO Yasuo, Speaker/153/26. Nov.2001/Nagoya Hearing)

d. Other comments concerning how Article 9 should be interpreted, etc.

<Comments by Members>

- In the background to the opposition to the revision of Article 9 seems to be mistrust of the military authorities. This is prompted by the fact that in the last war the military was allowed to get out of control. It should be recognized that, based on the Constitution's provisions for civilian control, the Diet and the people are able to exercise adequate control. (HANASHI Nobuyuki, Member/LDP/154/25.Apr.2002)
- There is a risk that the very discussion of Article 9 will negate the political value gained from Japan's diplomacy in pursuit of ideals. Nevertheless, there must be exhaustive discussion of the Article 9 issue on the basis of the variety of opinions about the article. (SHIMA Satoshi, Member/DPJ/147/6.Apr.2000, 154/25.Apr.2002)
- The standpoint of the faction seeking to retain the Constitution is to approve the Self-Defense Forces and the Japan-U.S. Security Treaty, while advocating the maintenance of Article 9. That is unavoidable as a political judgment, but I believe that it is having the result of generating distrust in other countries. (FUTAMI Nobuaki, Member/LP/147/23.Mar.2000)

<Comments by Informants and Others>

- I believe that almost everyone in Japan agrees that the time has come in which we must reaffirm the essential meaning of Article 9, and discuss whether or not it is able to function adequately. (TAKAHASHI Masatoshi, Informant/147/23.Mar.2000)
- At the time of the Gulf War the nation as a whole was unable to come to a decision, as up to that time there had been no intensive discussion about security. In view of political circumstances at that time, in some ways that could not be helped. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- Discussions of national defense tend to veer directly towards extreme positions such as conscription and life-and-death struggles. This issue should be discussed from a broad perspective that includes subjects such as the balancing of the national defense budget. (SAKAMOTO Takao, Informant/151/22.Mar.2001)
- I feel that the Article 9 issue is to some extent being influenced by the international situation that prevailed at the time the Constitution was enacted. At that time it could not be said that military power was entirely unnecessary. (MASUGI Eiichi, Speaker/154/24.June.2002/Sapporo Hearing)

(3) People's awareness of security issues
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<Comments by Members>

- People in Okinawa have a stronger awareness of the Constitution and of security than people in other prefectures, and hold diverse opinions. That is only natural. (KONNO Azuma, Member/DPJ/154/25.Apr.2002)
- There is a dichotomy as regards public and private stances: showing absolute pacifism externally, while accepting internally that war potential for self-defense can be maintained. This has greatly distorted people's perceptions with respect to security issues. Another phenomenon that we see is the evaporation of awareness and critical perception of security issues among the younger generation today. (FUKUSHIMA Yutaka, Member/NK-RN/147/20.Apr.2000)

<Comments by Informants and Others>

- After experiencing such situations as the Gulf War and peacekeeping operations in Cambodia, the people of Japan have come to believe that if Article 9 restricts international activities, it should be revised. Furthermore, an argument that has almost disappeared is that even the use of force for self-defense cannot be sanctioned. As a result, the extent of the split in the people's awareness of security has changed substantially. However, it will be difficult to eliminate that split

completely if no logic for discerning the present and future necessity of security can be shown. In addition, the evaporation of people's consciousness of security issues is a problem that is difficult to avoid among postwar generations. In consequence it is important for at least a few people to take an interest in foreign policy and security issues and to take responsibility for supporting the public. (IOKIBE Makoto, Informant/147/20.Apr.2000)

- Since the end of the Cold War it has become increasingly necessary to deepen people's awareness that it is the state that protects the people's interests, and necessary for them to think about what they should do as members of the state. In doing so the argument may only proceed in the direction of emphasizing ethnic unity. If so, that risks giving rise to a one-sided understanding of the role of the state in the international community. (TANAKA Akihiko, Informant/150/28. Sept.2000)
- If the people of a country lack the spirit to protect their own country, it means that they have ceased to love their own country. For as long as they do not correct the errors of the past and do not have the spirit to engage in new nationbuilding, they cannot love their country. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
- Many high-school pupils think that Article 9 is interpreted broadly and that adults are merely engaging in sophistry. (ENDO Masanori, Speaker/151/16.Apr.2001/Sendai Hearing)
- The Preamble and Article 9 leave our national security in the hands of others. As a result, the Japanese, who have no duty to defend their nation, have not had the confidence to pass on to their children a value system that transcends the individual. This is the origin of the problems currently affecting our education system. (NOHARA Kiyoshi, Speaker/153/26.Nov.2001/Nagoya Hearing)

(4) Other aspects

<Comments by Members>

- Now that a common basis for national security has been built, we must rapidly develop and enhance not only the Constitution, but also a range of other systems of law. (ITO Kosuke, Member/LDP/153/6.Dec.2001)
- IT, as a means of communication, should be utilized to create conditions for preventing wars from occurring. (OSHIMA Reiko, Member/SDP/151/8.Mar.2001)

<Comments by Informants and Others>

- To provide detailed regulations on matters such as security in the Constitution may, in view of the major changes occurring in the global situation, make effective and efficient pursuit of policy difficult. Having individual political parties set out their concrete ideas and policies in the form of a manifesto, and then put them into effect if they become the governing party, would be a means of giving a voice to democratic politics vis-à-vis the international community. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- I believe that through the use of IT, among other things it will become possible to destroy and control weapons without injuring people. (SON Masayoshi, Informant/151/8.Mar.2001)
- Security in the post-Cold War era is undergoing change as regards aspects such as the entities involved, the extent of risk, and methods. In light of this, Japan should develop a structure in which the prime minister is vested with comprehensive national strategic functions, and the functions of government ministries and agencies are deployed in a comprehensive manner. (MORIMOTO Satoshi, Informant/153/25.Oct.2001)
- In the future, Japan will have to make selections from diverse information, and consider it independently. For this it will be necessary to establish an information base. This could be achieved by forming think tanks in which people from various standpoints participate and make policy recommendations, particularly as regards international issues. (TERASHIMA Jitsuro, Informant/154/9.May.2002/International Society Subcommittee)

2. Pacifism and the Three Nonnuclear Principles

(1) Pacifism

A. Interpretations of the Significance of Pacifism

- a. Comments positively evaluating the interpretation of pacifism as entailing the non-maintenance of war potential, etc.

<Comments by Members>

- The Constitution was enacted amid a trend towards the outlawry of war. In light of this, Paragraph 2 of Article 9 is an important provision that could be called part of the “common heritage of humankind,” in that killing is illegal other than in the exercise of the right of self-defense. As revising the article will alter its basis, it is inappropriate. (OIDE Akira, Member/DPJ/151/22.Mar.2001, 153/6.Dec.2001, 154/25.July.2002)
- The Constitution makes Japan the first country to set out the ideal form of a country, in that for the sake of world peace the maintenance of the means of using military force is prohibited. (KONNO Azuma, Member/DPJ/153/6.Dec.2001)
- Article 9 has functioned as an injunction on the exercise of powers to use armaments by politicians and the state. (DOI Ryuichi, Member/DPJ/147/23.Mar.2000)
- The Preamble and Article 9 were formulated in the spirit of reflection upon that fact that the 20th century was a century of war that must not be repeated. (YAMAHANA Ikuo, Member/DPJ/150/26.Oct.2000)
- Article 9 conveys yearnings for peace based upon the tragic experience of the *Himeyuri* schoolgirls in Okinawa. (AKAMINE Seiken, Member/JCP/153/6.Dec.2001)
- Article 9 has its roots in the experience of war, and has caused the history of the outlawry of war and the trend of the international community to evolve towards not maintaining war potential. It should be recognized that at the International Citizens’ Peace Conference held in The Hague it was highly praised as setting an example for a world order. (SASAKI Rikukai, Member/JCP/147/17.Feb.2000, 147/9.Mar.2000, 147/6.Apr.2000)
- The perpetual pacifism set out in the Constitution is an expression of the people’s determination not to allow the tragedy of war to be repeated. It has also been in the forefront of the development of the international trend towards outlawing war. (SHIOKAWA Tetsuya, Member/JCP/151/8.Feb.2001, 151/22.Mar.2001)

- In the history of humanity's progress towards eliminating the use of military force, the pacifism proclaimed as a unified concept by the Preamble and Article 9 has not only preserved peace by such means as renouncing the use of military force and not maintaining war potential, but it also possesses the pioneering concept of building actively the path to peaceful coexistence through peace diplomacy based on the justice and faith of peoples of other countries, thereby protecting our own lives and safety. In view of this it will be a ray of light for the 21st century, and is a Japanese treasure that should be disseminated around the world. By cultivating this spirit, Japan will win the genuine trust of the international community. (HARUNA Naoaki, Member/JCP/147/6.Apr.2000, 147/11.May.2000, 149/3.Aug.2000, 150/28.Sept.2000, 150/30.Nov.2000, 153/26.Nov.2001/Nagoya Hearing, 153/6.Dec.2001,154/22.Apr.2002/Okinawa Hearing, 154/25.Apr.2002)
- The spirit of conducting scientific research and technology development solely for peaceful purposes has been a clear feature of the history of scientific research in the postwar era. The peace principles of the Constitution provide the basis for that spirit, and have indicated the direction of science and technology in the 21st century. (HARUNA Naoaki, Member/JCP/150/21.Dec.2000)
- In view of the desire for peace of the people of Okinawa, we should resolve the current situation here, which has diverged markedly from the Constitution. This should be done by moving in the direction of translating the Preamble and Article 9 into reality. These provide for thorough adherence to perpetual pacifism through their stipulations of such pioneering concepts as the renunciation of the use of military force and non-maintenance of war potential. They also proclaim the active building of the path to peaceful coexistence through peace diplomacy based on the justice and faith of peoples of other countries, thereby protecting our own lives and safety. (HARUNA Naoaki, Member/JCP/154/22.Apr.2002/Okinawa Hearing)
- Perpetual pacifism, one of the five principles of the Constitution, also stipulates the non-maintenance of war potential. This pushed the United Nations Charter a step forward. (HIGASHINAKA Mitsuo, Member/JCP/147/27.Apr.2000)
- We should place the parameters of our thinking about the issue of international peace and security within the range of the Constitution and of international law. Article 9 is based on Japan's reflection about absolutist politics and aggressive war, and by stipulating the non-maintenance of war potential it adds vigor to the outlawry of war provided in the United Nations Charter. The Preamble proclaims active efforts towards bringing into being a desirable international community through solidarity with other countries and through peaceful means. In an international community that is seeking out the direction towards peace and security, the pioneering peace principles set forth in these are attracting global attention: as a solid basis for considering peace and friendly relations with other countries in the 21st century, and as the basic foundation of civil society. (YAMAGUCHI Tomio, Member/JCP/149/3.Aug.2000, 150/28.Sept.2000,

150/26.Oct.2000, 150/30.Nov.2000, 150/7.Dec.2000, 151/14.June.2001, 154/25.Apr.2002, 154/9.May.2002/International Society Subcommittee, 154/25.July.2002)

- The Constitution presents to the world a new image of nation with no armed forces. (ABE Tomoko, Member/SDP/150/30.Nov.2000)
- We live in an age in which nuclear war would engulf all of our citizens, and in which the pacifism set out in the Preamble and Article 9 should serve as a guideline for humanity in the 21st century. Inspired by the lofty mission of building civilized relations between nations, and reflecting on the great sacrifices caused by the last world war, the Peace Constitution places Japan in “an honored place” by maintaining peace through ceaseless peaceful efforts without recourse to military power. Accordingly, importance must be given (1) to the observation by people in Okinawa--the only ones in Japan to have directly experienced land warfare during the war--that military power cannot protect the lives of the people, and (2) to giving ordinary citizens adequate relief from the harm caused by war. (KANEKO Tetsuo, Member/SDP/151/22.Mar.2001, 151/4.June.2001/Kobe Hearing, 153/26.Nov.2001/Nagoya Hearing, 153/6.Dec.2001, 154/22.Apr.2002/Okinawa Hearing, 154/25.Apr.2002, 154/24.June.2002/Sapporo Hearing, 154/25.July.2002)

<Comments by Informants and Others>

- Three ideas underlie the pacifism of the Preamble: (1) the historical awareness that war breeds war, (2) the worldview that there is no such thing as a just war, and (3) personal freedom. It is a fundamental principle for the idea and the practice of repudiating war and armaments and of resolving disputes by nonviolent means. Article 9, which embodies this principle, is a provision infused with the spirit of bringing into being a country unknown of in history: one that does not engage in warfare, and has no armed forces. I believe that Japanese people's awareness of this idea of pacifism has underpinned the Constitution. (ODA Makoto, Informant/150/28.Sept.2000)
- The Constitution's fundamental issue is the assurance of peace, an essential precondition for the sustained development of any ecosystem. It is based on the conviction that the correct course is not to have war potential, and there is nothing stronger than being correct. A view held globally is that the Constitution should become a guideline for the 21st century. Through aspects such as the arms-embargo principle and the imposition of the ceiling of 1% of GNP, Article 9 has acted as a brake on the government. If the government has pursued a peace policy in conformity with the Constitution and has formed neutral and equal relations with all nations in the postwar era, it must have established global moral authority. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)

- The pivotal idea of not using military force to resolve disputes is a vision not unique to Japan, and ahead of its time. Moreover, there has never been any criticism from the international community to the effect that it is irresponsible, or constitutes “one-nation pacifism.” If we have the power to be able to explain fully to the international community the thought, the ideology, and the conviction that permeates it, there is nothing to be ashamed of. (TERASHIMA Jitsuro, Informant/154/9.May.2002/International Society Subcommittee)
- I have a high regard for the significance of the fact that pacifism is prescribed by Article 9. (MATSUI Shigeki, Informant/154/23.May.2002/Politics Subcommittee)
- The Constitution stands as a unified doctrine embracing the sovereignty of the people, constitutional democracy, liberty, peace, and welfare. It also provides a lucid theoretical framework for coping with such contemporary issues as regional conflicts and globalization. Article 9 is pioneering in aspects such as its dedication to pacifism, including the renunciation of aggressive war and the non-maintenance of war potential, and the manner of its composition to unite peace and human rights. As a result, it is regarded highly around the world. In light of this, the revision of Article 9 to permit acts such as the keeping of a standing army and the dispatch of troops overseas will destroy the Constitution’s excellent systematic consistency and thoroughness. That may have the unintended effect of impeding tasks such as the resolution of regional conflicts. (ODANAKA Toshiki, Speaker/151/16.Apr.2001/Sendai Hearing)
- The Constitution was born of reflection on war, and was longed for by a people with lasting peace in the forefront of their minds, and believing in the existence of the right to live in peace. (SAITO Takako, Speaker/151/16.Apr.2001/Sendai Hearing)
- Pacifism forms part of the current of the times in the international community, which is towards the creation of a century of human rights after having experienced a century of warfare. I think that by acting in concert with this current in the international community, Japan can occupy an honored place in that international community by taking the initiative to contribute actively to it. (SHIBAO Susumu, Speaker/151/4.June.2001/Kobe Hearing)
- The pillars of the Constitution are the Preamble and Article 9, which were born of introspection about war. The threads that run through it are the thought of valuing every human being and nonviolent pacifism, based on the recognition that peace cannot be built through warfare and armed forces. In view of this, the spirit of the Peace Constitution is that of implementing human-security policies, and thereby eliminating the causes of war at their roots. (NAKAKITA Ryutaro, Speaker/151/4.June.2001/Kobe Hearing)
- People are relaxed about putting forward the argument for employing violence to confront the violence of terrorism, but when one considers the consequences of using

violence, one sees that that kind of assertion is a typical conception of people who have lived a tranquil life in a peaceful environment. (KAWABATA Hiroaki, Speaker/153/26.Nov.2001/Nagoya Hearing)

- The Preamble and Article 9 are heirs to the objectives and ideals of the United Nations. (TAGUCHI Fukuji, Speaker/153/26.Nov.2001/Nagoya Hearing)
- A lesson of the Battle of Okinawa is that in warfare the army does not protect the people. Had the government pursued a foreign policy in line with demilitarized pacifism, Japan would have gained a high standing in the international community. (ARAKAKI Tsutomu, Speaker/154/22.Apr.2002/Okinawa Hearing)
- Article 9 is devoted to the desire that there be no repetition of the error embodied in the militarism that arose under the Meiji Constitution and gave rise to the horrors of war. It proclaims the renunciation of war and peace for all time. (INAFUKU Erika, Speaker/154/22.Apr.2002/Okinawa Hearing)
- A lesson of the Battle of Okinawa is that in warfare the army does not protect the people. Pacifism, on which concepts such as democracy, the guarantee of fundamental human rights, and the sovereignty of the people are premised, represents in a condensed form the Japanese people's desire for peace after experiencing the hell of war. It has also formed the basis of the nation's postwar recovery and development. One can conclude from this that it is the very life-blood of the people, and one to be proud of in the eyes of the world as a guide to the way ahead for humanity in the 21st century.
- Therefore we should not revise Article 9, through which the achievement of peace is sought by peaceful means, not by force of arms. That would provoke negative reactions and distrust from other Asian countries, and once again open up the way towards isolation and self-destruction. Instead, Japan should be appeal to all the nations of the world to incorporate Article 9 into their own constitutions. (YAMAUCHI Tokushin, Speaker/154/22.Apr.2002/Okinawa Hearing)
- Those who insist that military power is a prerequisite for establishing security should give us indicators as to the extent of military power that needs to be maintained in order to establish security. It is not possible. Maintaining peace by nonmilitary means is the realistic option and the correct ideology. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)

- b. Comments negative towards interpreting pacifism as entailing the non-maintenance of war potential, etc.

b-1. Comments from the standpoint of a worldview that military power is indispensable

<Comments by Members>

- Given factors such as the frequent outbreaks of regional conflicts and the environment of the region around Japan, I cannot subscribe to the view that since the Cold War, peace has come, and we can continue as we are. (ISHIBA Shigeru, Member/LDP/147/11.May.2000)
- It is inappropriate to believe that as Japan maintains no military power, peace will reign. (TAKAICHI Sanae, Member/LDP/154/25.Apr.2002)
- To trust in the justice and faith of the peoples of the world is not appropriate as a worldview today. Instead, we should put our trust in the Japanese people, who are firm believers in the pacifist and democratic principles espoused by the existing Constitution. In addition, we should recognize the current reality that peace arises from the fact that military power functions as a deterrent. (HANASHI Nobuyuki, Member/LDP/154/25.Apr.2002)
- Hitherto a mistaken belief has persisted that peace can be built by adhering to the Peace Constitution and spreading it to the world. (HIRASAWA Katsuei, Member/LDP/150/7.Dec.2000)
- Simply advocating peace cannot realize it. It should be recognized that fighting to protect the people's rights and property is a form of peace. (KOBAYASHI Kenji, Member/DPJ/153/6.Dec.2001)
- We should base our thinking on the reality of the international society that peace is maintained by the balance of power. (NAKANO Kansei, Member/DPJ/154/25.Apr.2002)
- Although I applaud the ideals in Article 9, I feel that if we do not accept the possession and exercise of the right of self-defense, the spirit of peace will be weakened. (MAKINO Seishu, Member/DPJ/150/7.Dec.2000)
- The relationship between the Preamble and Article 9 has logical consistency; they present an ideal, but it does not accord with reality. In the debate on security there are two opposing views: that violence should never be resorted to under any circumstances, and that it is permissible to meet violence with minimum violence in self-defense. I subscribe to the latter view. (SAITO Tetsuo, Member/NK/153/26.Nov.2001/Nagoya Hearing, 154/25.Apr.2002)

- Article 9 lacks any conception of how to resolve conflicts that arise in the international community today, when interdependence is increasing. (TASSO Takuya, Member/LP/150/7.Dec.2000)
- Article 9 can be lauded as an ideology, but as far as reality is concerned it has aspects that do not function adequately. (INOUE Kiichi, Member/NCP/154/4.July.2002/Politics Subcommittee)
- The preamble has high ideals, but it is difficult for the spirit of “harmony” alone to enable Japan to take its place among the nations of the world and to protect the people’s interests. (UDAGAWA Yoshio, Member/Club 21/153/29.Nov.2001)
- The text of the Preamble is lofty in its espousal of a pacifistic worldview and so on, but it is utopian. Adherence to pacifism is important, but I feel that in view of the present world situation, the deterrent effect of the armed strength of a major military power remains valid in some respects, and that in some circumstances the use of military power is necessary. (KONDO Motohiko/ Member/Club 21/150/28.Sept.2000, 150/12.Oct.2000)

<Comments by Informants and Others>

- Paragraph 1 of Article 9 marks a development of thinking on peace through international cooperation of the kind found in the Covenant of the League of Nations and the 1928 Treaty for the Renunciation of War (the Kellogg-Briand Pact). Provisions of this kind were already incorporated into the constitutions of numerous countries. As regards Paragraph 2, on the other hand, it is a rare provision worldwide, and there are no countries that are positive about adopting a provision of that kind. In terms of principles of law it is unnatural, and is a restraining factor on the pursuit of an active foreign policy aimed at the maintenance of international peace. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- Renouncing the use of armed force will not resolve every problem. Certain realities must be faced up to, for example that it is essential to have a certain amount of self-defense capability and to strengthen policing capabilities in the international community, and that in certain cases there is no choice but to have recourse to armed force to eliminate armed force. I think it would be irresponsible to pass on to the next generation a peace message that does not emphasize these realities. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- There is no point in looking to a nonexistent ideal such as world peace. The realities of international society that we should face up to are the concept of the survival of the fittest--eliminating others through the use of strength--and the social contract underpinned by the spirit of compassion. (SONO Ayako, Informant/150/12.Oct.2000)
- Article 9 should be revised in its entirety. That includes Paragraph 1, which espouses an empty, impractical theory that ignores the reality of international

society that armed force is sometime necessary for the settlement of disputes. (ICHIMURA Shin'ichi, Informant/150/26.Oct.2000)

- Article 9 may have won praise, but not a single country has followed Japan's example by abandoning its own national war potential. (ISHIHARA Shintaro, Informant/150/30.Nov.2000)
- Pacifism was a realistic response to Japan's security environment. However, a reality of international society is that in some cases peaceful means such as dialogue are ineffective in settling international disputes. In view of this, judgments on questions such as the maintenance of military power should be made by taking a comprehensive view. (NISHIZAWA Junichi, Informant/151/8.Feb.2001)
- The pacifism premised on "the peace-loving peoples of the world" referred to in the Preamble and Article 9 is based on revulsion for war following defeat in war, but as a worldview that is inappropriate. Postwar Japan has had no direct experience of war, and it has had a constitution premised on a peaceful world. For reasons such as these, many people are under the delusion that we live in an era of peace, and the theory that the state will cease to have meaning has come to be advocated in place of pacifism. In reality, wars have been occurring frequently, and it is doubtful whether rules outlawing war will be able to restrain countries. We should not have excessive hopes for the ideal of promoting world peace and building friendly international relations, and for rules outlawing war. Instead, we should align our thinking with reality, and consider the kinds of measure necessary to make a certain degree of coexistence possible. (SAKAMOTO Takao, Informant/151/22.Mar.2001)
- There is no need to revise the provision disavowing aggressive war. However, the provision prohibiting the maintenance of war potential is excessive, and it should be revised after a commonsense discussion based on the international situation today. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- In view of the fact that brutal wars are taking place in many areas, hypocritical provisions such as the renunciation of war and non-maintenance of armed forces should not be included in the Constitution. (TANAKA Hidemichi, Speaker/151/16.Apr.2001/Sendai Hearing)
- Article 9 contains high-minded ideas about the renunciation of war based on a long-term view. However, we should recognize that absolute peace and security do not exist in the international environment today, and should think about Japan's role in the international community. (ASHITOMI Osamu, Speaker/154/22.Apr.2002/Okinawa Hearing)
- It should be recognized that unilateral renunciation of war and disavowal of the use of armed force give other countries a green light for aggression. (MEGUMI Ryunosuke, Speaker/154/22.Apr.2002/Okinawa Hearing)

- Article 9 is what could be termed a provision that restricts sovereignty on the basis of the erroneous perception that peace in the international community is a given. (INATSU Sadatoshi, Speaker/154/24.June.2002/Sapporo Hearing)

b-2. Comments criticizing the mode of Japan's involvement in the international community as being one-nation pacifism

<Comments by Members>

- The Preamble is premised on the doctrine that human nature is fundamentally good, reflected in its espousal of trust in the justice and so on of the peoples of the world. Events such as the terrorist attacks in the United States cast doubt on the appropriateness of maintaining one-nation pacifism. (NAKAGAWA Shoichi, Member/LDP/153/25.Oct.2001)
- We are awash with the thinking that having armaments destroys peace, and with idealistic and peculiar notions of peace that can only be described as irresponsible as far as security is concerned. (HANASHI Nobuyuki, Member/LDP/154/25.Apr.2002)
- An issue currently emerging is whether it is acceptable for pacifism to be one-nation pacifism. The discussion of this issue is leading to the debate on the Constitution that is questioning the meaning of Article 9. (Ota Akihiro, Member /NK/150/12.Oct.2000, 151/14.June.2001)
- The origin of one-nation pacifism includes the people's perception, at the time the Constitution was enacted, that armaments would be unnecessary because the international community would protect Japan. There is a gap between that perception and the perception today, and in order to remove that gap it is necessary to revise the Constitution. (FUTAMI Nobuaki, Member/LP/147/23.Mar.2000)

<Comments by Informants and Others>

- Hitherto, the idealistic significance of pacifism has been overexaggerated. It is an error to interpret its essence as being disarmament and as signifying that we will do nothing if the order of the world is violated, and so on. (NISHI Osamu, Informant/147/24.Feb.2000)
- Something the Gulf War has made clear is that if Japan makes peace into its own personal objective and continues simply to devote itself to negative pacifism, it cannot play a full role in international society. If we reflect on this, I believe that there is an argument in favor of revising Article 9 from the standpoint of an active pacifism that involves not simply disavowing war, but asking what can be achieved through peace. (MURATA Koji, Informant/147/9.Mar.2000)
- The Constitution has played an important role insofar as, based upon introspection about the world war, it showed to the international community that Japan would

not repeat acts of aggression, and has built Japan's present-day standing in the international community. However, it does not fulfill Japan's responsibilities to the international community insofar as, in cases in which people of other countries are suffering the horrors of civil war or famine, it deems the situation acceptable provided Japan itself is secure. (TANAKA Akihiko, Informant/150/28.Sept.2000)

- Japan has confined itself into the argument that it is “a nation of peace” while practicing the deception that it has no military power, and this has corrupted the people's morals. At the same time emphasis is being placed on the one-nation pacifism aspect of the Constitution. Taking the Peace Constitution as an immutable code of laws makes it impossible to protect the people in international society in this era after the collapse of the Cold War structure. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
- One-nation pacifism does not hold true in international society as it is today. (WATANABE Shoichi, Informant/150/7.Dec.2000)
- The Constitution has played a fourfold role: (1) as a condition for Japan's acceptance by the international community after waging aggressive war, (2) as a cornerstone of economic development, (3) as the basis for manifesting a moral stance of not benefiting from other countries' disputes, and (4) as a message that it has learnt from war and will live as a peaceful nation. However, problems have now become apparent, for example, the self-deception with which the people have forced themselves to accept the contradiction between the absolute pacifism that existed when Article 9 was enacted, and the U.S.-Japan Security Treaty; and one-nation pacifism and the economic prosperity that has been achieved under it--a dichotomy between official stance and underlying motive. This has caused the public to adopt a cynical attitude toward the Constitution, and an extremely egoistic view of peace that is linked to partiality towards the Japanese people. (ONUMA Yasuaki, Informant/153/25.Oct.2001)

c. Other comments with respect to the interpretation of the significance of pacifism

<Comments by Members>

- The discussions of the Special Committee on Responses to Armed Attacks have been ambiguous, and Japan is not taken seriously by other countries in spite of being a major economic power. I feel that among the reasons for this is that pacifism has not been thoroughly debated and is therefore only vaguely understood. (ISHIKAWA Yozo, Member/LDP/154/9.May.2002/International Society Subcommittee)
- The renunciation of aggressive war is natural in the case of a peaceful nation. Therefore, we should change the title of Chapter II from “Renunciation of War” to “Security.” (MATSUZAWA Shigefumi, Member/DPJ/154/25.Apr.2002)

- In order to gain a common perception of the meaning of pacifism, it is essential to deepen our discussion of the concept. (KURATA Eiki, Member/NK-RN/147/27.Apr.2000)
- We must deepen our discussion of the meaning of such concepts as pacifism and international cooperation. (FUTAMI Nobuaki, Member/LP/147/27.Apr.2000)
- Pacifism can be seen as having been predicated on the guarantee of international peace and of Japan's peace and security by the U.N.-centered collective security system. (IMAGAWA Masami, Member/SDP/153/25.Oct.2001)

<Comments by Informants and Others>

- Since the time the Constitution was enacted, the very existence of pacifism has been predicated on the nuclear war potential of the United States. Furthermore, Japanese people have the perception not that they were aggressors in World War II, but that they were victims of militarism. That kind of warped perception has underpinned the deep-rooted postwar antimilitarism and pacifism, and made reconciliation with other Asian countries difficult. (MURATA Koji, Informant/147/9.Mar.2000)
- I have a high regard for the ideals in Article 9, but it is the task of politicians to think of realistic methods of realizing those ideals. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)
- The United Nations Charter and the Constitution have many elements in common, and the Constitution contains vague expectations directed towards the U.N.-based collective security system. However, an interpretation by the Cabinet Legislation Bureau has revealed that a gap has arisen between what is sought by the Constitution and what is sought by the United Nations Charter. (ONUMA Yasuaki, Informant/153/25.Oct.2001)

B. Primary Factors That Have Sustained Japan's Peace and Prosperity

- a. Comments that Japan's peace and prosperity have been sustained by the Constitution

<Comments by Members>

- We should attach importance to the fact that, under the Constitution, Japan has no history of having waged war. (ISHIGE Eiko, Member/DPJ/147/27.Apr.2000)
- My party (the Democratic Party of Japan) recognizes that the three key principles of the Constitution have been of great service in building the Japan of today as a nation of democracy and pacifism. (KANO Michihiko, Member/DPJ/147/17.Feb.2000)

- As a result of the three nonnuclear principles and policies such as the non-maintenance of military forces based on Article 9, Japan has not been involved directly in war and has enjoyed economic prosperity. (YAMAHANA Ikuo, Member/DPJ/150/26.Oct.2000)
- I cannot agree with the view that the peace of Japan has been preserved by the Japan-U.S. Security Treaty. (SASAKI Rikukai, Member/JCP/147/6.Apr.2000)
- It is to the credit of the Japanese people that, thanks to Article 9 and the power of the people, in the postwar era they have not engaged in warfare and have not harmed other people. (HARUNA Naoaki, Member/JCP/153/26.Nov.2001/Nagoya Hearing)
- The peace of Japan in the postwar era has been sustained by the existence of the Peace Constitution and the efforts of the Japan Socialist Party during the period of the 1955 parliamentary system. (ITO Shigeru, Member/SDP/147/6.Apr.2000)
- It cannot be denied that the postwar Constitution system led to Japan's prosperity today. (SHIGENO Yasumasa, Member/SDP/151/22.Mar.2001)
- The Peace Constitution was the basis of Japan's reconstruction and development, and made it the model of a peace-loving nation for the international community. (KANEKO Tetsuo, Member/SDP/154/25.Apr.2002)
- The fact that Japan has preserved the Constitution has meant that it has not suffered the ravages of war in the postwar era. (HARA Yoko, Member/SDP/149/3.Aug.2000)
- Japan owes its postwar economic prosperity to the existence of the Constitution, with its espousal of pacifist ideas based on introspection on aggressive war. (HIMORI Fumihiro, Member/SDP/150/7.Dec.2000)
- The people have lived in peace under the Constitution. (YAMAGUCHI Wakako, Member/SDP/150/30.Nov.2000)

<Comments by Informants and Others>

- I do not believe that it has been because of the Japan-U.S. Security Treaty that Japan has been able to live in peace. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- After its wartime defeat, Japan built a national system in which, owing to the ideals of the Peace Constitution, it did not maintain military power as an official policy, and it has not waged war. Against this backdrop Japan has built a stable, affluent society. However, now that it is reaching a new "identity-game" stage of its history,

the Constitution is giving rise to system fatigue. In light of this, it is necessary to revise the Constitution. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)

- The Constitution has played a major role in enabling Japan to attain its postwar economic prosperity and peace. On the other hand it has given rise to moral degeneration. (ONUMA Yasuaki, Informant/153/25.Oct.2001)
 - In the postwar era, Japan has not participated in war and has achieved economic prosperity and progress in the spheres of human rights and democracy. These are the results of constitutional activity based on the Constitution and the lawmaking and administration which reflected it. (ODANAKA Toshiki, Speaker/151/16. Apr.2001/Sendai Hearing)
 - The very existence of the Constitution has ensured that Japan has not engaged in warfare throughout the postwar era. (SAITO Takako, Speaker/151/16.Apr.2001/Sendai Hearing)
 - Owing to the Peace Constitution, during the postwar era Japan has had absolutely no war dead, a fact that has been lauded throughout the world. Revising the Peace Constitution would be nothing less than forsaking what has been Japan's pride. (NAKAKITA Ryutaro, Speaker/151/4.June.2001/Kobe Hearing)
 - Thanks to the existence of the Constitution, Japan has built the peace and stability that has lasted to this day. (ARAKAKI Tsutomu, Speaker/154/22.Apr.2002/Okinawa Hearing)
 - The determination to maintain the existence of the nation in a state of peace without relying on military force has lasted for more than 50 years. This has been the cornerstone of Japan's peace and prosperity and is a model which we can proudly present to the world. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)
- b. Comments that Japan's peace and prosperity have been sustained by the Japan-U.S. Security Treaty, the Self-Defense Forces, etc.

<Comments by Members>

- I recognize that it has been the existence of the Japan-U.S. Security Treaty and the Self-Defense Forces that has enabled Japan to enjoy peace and economic prosperity. (ISHIBA Shigeru, Member/LDP/147/23.Mar.2000)
- To a certain extent it is laudable that pacifism was espoused after defeat in war. Notwithstanding this, I think that Japan's peace has been maintained because of the establishment of the Self-Defense Forces after the Occupation, and the conclusion of the Japan-U.S. Security Treaty. (KYUMA Fumio, Member/LDP/154/22.Apr.2002/Okinawa Hearing)

- Because the discussion of constitutional revision was regarded as being taboo, the people fell under the illusion that the postwar peace was protected by Article 9 of the Constitution. The reality that has been concealed was that since the Korean War the peace of the Far East, including Japan, has been protected by the stationing of U.S. forces under the Japan-U.S. Security Treaty. (HANASHI Nobuyuki, Member/LDP/151/14.June.2001, 154/25.Apr.2002)
- Pacifism and other ideas espoused by the Constitution have become well-entrenched, and over a period of more than 50 years Japan has built one of the world's foremost societies. However, Japan's peace is due to the existence of the Japan-U.S. Security Treaty and its Self-Defense Forces. (MORIOKA Masahiro, Member/LDP/153/29.Nov.2001)
- The Constitution deserves a certain amount of praise for the fact that the national will has not coalesced in the direction of a resurgence of militarism. Nevertheless, it is not because the Constitution has not been revised that there has been no revival of militarism; it is because Japan's democracy has matured to the extent that its revival would not be tolerated. (TASSO Takuya, Member/LP/147/11.May.2000)
- Japan's peace in the postwar era has been sustained not by the Constitution, but by the Japan-U.S. Security Treaty. (ABE Motoo, Member/NCP/147/27.Apr.2002)

<Comments by Informants and Others>

- Japan's peace has been sustained not by Article 9, but by the Japan-U.S. Security Treaty. Given that Japan is surrounded by countries with powerful military strength, it would be difficult for it to enjoy peace while being totally demilitarized. I believe that Japan's security has been conditional upon the Japan-U.S. Security Treaty, in that it has sought to ensure a balance of military power. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- The Constitution has not been a major impediment to the peace and prosperity the Japan has enjoyed for more than 50 years in the postwar era. On the other hand the people have lost their spiritual pride, and it has been unable to sweep away the painful aftereffects of defeat in war. (ICHIMURA Shin'ichi, Informant/150/26.Oct.2000)
- The fact that Japan has been able to live in peace for the more than 50 years of the postwar era is because of the Japan-U.S. Security Treaty, a treaty of alliance that assures military strength, not because of Article 9. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)
- Japan's half-century of peace was not the result of arguments on such matters as the right of self-defense, but because of geographical factors. (SAKAMOTO Takao, Informant/151/22.Mar.2001)

- Japan's prosperity has not been achieved by it as one country in isolation, but as a result of a close alliance relationship with the world's dominant power in each era. Japan's great achievement in the postwar period has been to become the world's first country to be able to create affluence for its society without becoming a major military power. (KANG Sanjung, Informant/151/22.Mar.2001)
- Japanese people think that other countries maintain peace on the basis of justice and faith. As for Japan, it has sustained its peace for more than 50 years since the war because of the existence of the Japan-U.S. Security Treaty and the Self-Defense Forces. (TANAKA Hidemichi, Speaker/151/16.Apr.2001/Sendai Hearing)
- No discussion of Okinawa's postwar peace can ignore the presence of U.S. forces. (MEGUMI Ryunosuke, Speaker/154/22.Apr.2002/Okinawa Hearing)

C. The Future Shape of Pacifism

- a. Comments from the standpoint that pacifist ideas should be maintained and put into practice

<Comments by Members>

- Currently no distinctions is made as to the objectives of war, and if murder is committed within a country it is deemed a crime, while on the other hand no such accusation of a crime is made for international mass murder. Given this situation, we need to make further progress in the direction of eliminating war by imposing stricter rules for such purposes as outlawing war and nuclear disarmament. (OIDE Akira, Member/DPJ/151/22.Mar.2001)
- National sovereignty is today being transferred in part to international institutions, a declared objective of which is to reduce and eliminate armed force which forms one of the components of sovereignty. In view of this, it is essential to disseminate the ideals of Article 9 worldwide. (TSUTSUI Nobutaka, Member/DPJ/151/14.June.2001)
- Japan should reform its passive perception of peace. It should make active efforts to foster the progress of democracy in spheres such as peace, prosperity, the environment, and human rights. It is also incumbent on it to make approaches aimed at ensuring that provisions renouncing war are included in all countries' constitutions. (MAKINO Seishu, Member/DPJ/150/7.Dec.2000)
- Japan should act in accordance with the spirit of the Preamble of the Constitution and show leadership in building lasting world peace of a kind that befits the 21st century. (YAMADA Toshimasa, DPJ/154/28.Feb.2002/International Society Subcommittee)

- The stance of my party (New Komeito and Reformers' Network) is to maintain Article 9, which is symbolic of the Peace Constitution. (HIRATA Yoneo, Member/NK-RN/147/17.Feb.2000)
- I believe that in the 21st century the driving force of international politics will not be military power, but diplomacy and peaceful dialogue based on international reason. Japan should strive to bring the spirit of Article 9 to life around the globe. (AKAMINE Seiken, Member/JCP/153/6.Dec.2001)
- Major issues in the 21st century are the settlement of conflicts by nonmilitary means, and the building of a peaceful world order. Japan should contribute to the world by means of peaceful diplomacy harnessing the spirit of Article 9. (SASAKI Rikukai, Member/JCP/147/11.May.2000)
- In my view, in the 21st century the driving forces of international politics will be diplomacy and peaceful dialogue based on international reason, not the settlement of conflicts by military force. As a nation espousing perpetual pacifism in Article 9 of its Constitution, Japan has the duty to take the initiative in translating that spirit into reality. (HARUNA Naoaki, Member/JCP/150/30.Nov.2000, 150/7.Dec.2000, 151/8.Feb.2001)
- The pioneering peace principles and abundance of human-rights provisions in the Constitution sprang from introspection about autocratic politics, aggressive wars, and other features of the first half of the 20th century. I believe that in the 21st century, diplomacy based not on military power but on international reason, as well as peaceful dialogue in the spirit of equality and reciprocity, will provide the driving force to move the international community forward. The peaceful coexistence of different civilizations will also be important. By developing and realizing these in the direction of peace as set out at the time the Constitution was enacted, we should contribute actively to the peace of Asia and the world from a multilayered, multidimensional standpoint. The conditions for this are being put in place. Our response to terrorism should also be framed on this same basis. (YAMAGUCHI Tomio, Member/JCP/149/3.Aug.2000, 150/28.Sept.2000, 150/26.Oct.2000, 150/9.Nov.2000, 150/7.Dec.2000, 153/11.Oct.2001, 154/9.May.2002/International Society Subcommittee, 154/6.June.2002/International Society Subcommittee, 154/25.July.2002)
- Reflection on past wars of aggression, and the ideas espoused by the Constitution, will continue to be important. Because of this I disagree with the view that the Preamble and Article 9, the symbol of pacifism, should be revised. In addition, even when Japan puts active pacifism into practice, it should do so not by means of military activity, but should make peaceful efforts in pursuit of such goals as the settlement of ethnic conflicts. (ITO Shigeru, Member/SDP/147/9.Mar.2000, 147/27.Apr.2000)

- The most realistic method of creating a new international order is to give concrete form to the spirit of our Peace Constitution. Ways in which this could be done include a declaration by the Diet that Japan renounces war, and the enactment of a “Basic Law on Peace.” I believe that this would also have positive significance for the international community. (UEDA Munenori, Member/SDP/154/25.Apr.2002)
- Given the inhumanity of the atomic bomb and the folly of war, it is essential to ensure that the 21st century is a century of peace that is devoid of both nuclear armaments and warfare. Accordingly, Japan should act based on the awareness that the Constitution was enacted against the backdrop of horrific direct experience of war in such places as Hiroshima, Nagasaki, and Okinawa. It should occupy an honored place in the realization of world peace by disseminating the spirit of the Preamble and of Article 9 throughout the world. At the same time it should build relations with neighboring countries by such means as sharing the fruits of advances in science and technology. I believe that if Japan revises its Constitution and thereby brings itself more closely in line with the world’s accepted wisdom, and moves toward becoming a military power, our neighbors will find that threatening. (KANEKO Tetsuo, Member/SDP/149/3.Aug.2000, 151/8.Feb.2001, 151/22.Mar.2001, 154/25.Apr.2002, 154/6.June.2002/International Society Subcommittee)
- Prompted by its own experience of being bombed and of aggression in Asia, Japan pledged to renounce war. The only way for it to win the trust of the people of Asia and the world is to adhere strictly to its stance of opposing and renouncing war, even in cases in which the United States judges war to be in a just cause. Through international interaction it should strive to increase the number of countries that renounce war. (TOMON Mitsuko, Member/SDP/151/14.June.2001)
- We must not abandon the Peace Constitution, enacted after experiencing defeat in war, on the pretext of taking counter-terrorism measures. (HARA Yoko, Member/SDP/153/6.Dec.2001)
- It is important that we actively spread worldwide the pacifism espoused in the Constitution. (HIMORI Fumihiro, Member/SDP/150/7.Dec.2000)
- It is essential for Japan to maintain the three key principles of the Constitution and at the same time give concrete form to the spirit of the Constitution, in order to build the peace of the Asian region and of the world as a whole. (FUKADA Hajime, Member/SDP/147/27.Apr.2000)
- It is important not only to proclaim the ideal of being a “conscientious objector state,” but also to translate that into concrete form by taking practical action in such spheres as refugee relief, peace diplomacy, and overseas aid. (HOSAKA Nobuto, Member/SDP/150/28.Sept.2000)
- Today in Europe we are seeing how the integration of the European Union is making progress. Similarly, in envisaging the building of the Northeast Asia

Comprehensive Security Organization, which will not use military methods, and turning the region into a nuclear-weapon-free zone, I believe that the spirit of the Preamble and Article 9 has an outstanding part to play. (YAMAUCHI Keiko, Member/SDP/151/8.Feb.2001)

- Today the memory and knowledge of war is fading. It is precisely in a climate such as this that we must cherish the Constitution, with its provisions for the renunciation of war and for lasting peace, and endeavor to disseminate it around the world. (YOKOMITSU Katsuhiko, Member/SDP/150/9.Nov.2000)

<Comments by Informants and Others>

- I cannot agree with the assertion that Article 9 should be revised, and that Japan should thereby become a “normal country.” Japan should endeavor to transform itself from being major economic power to being major nation of peace, but that does not entail simply preaching unarmed neutrality. From a long-term perspective it must remove itself from the deterrent framework created by U.S. military power, devote itself to being a “conscientious objector state” as part of a conception of a world whose cornerstone is pacifism, and engage actively in “civilian service activities.” In that way it will assemble the shape that both it and the world should take in the future. In doing that, Japan should pursue a diplomatic policy based upon four types of soft power: (1) the fact that it is the only country in the world to have been the victim of a nuclear attack, (2) the fact that it is a very large economic power in Asia, (3) the fact that it is located in place that is a meeting-place of Eastern and Western cultures, and (4) the fact that it possesses state-of-the-art science and technologies. Meanwhile in schools, teachers should faithfully practice peace education based on pacifist principles. (ODA Makoto, Informant/150/28.Sept.2000)
- Behind the “normal country” argument is the fact that Japan has not done enough to explain itself, and so is misunderstood overseas. In view of this, Japan should make efforts to articulate fully its policies and logic, in order to make itself understood overseas. At the same time it should aim to be a highly virtuous “ideal nation.” (KONDO Motohiro, Informant/150/12.Oct.2000)
- During the 21st century, Japan should sincerely put into practice the norms of its Peace Constitution, contributing to the building of world peace by working to achieve (1) the reduction and eradication of both nuclear arms and conventional arms, and (2) the resolution of such problems as chronic absolute poverty in developing countries and their accumulated debt burdens, the destruction of the earth’s environment, and the suppression of human rights and other forms of structural violence. In the international situation today, the conditions for doing this are increasing. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)

- We must see Japan's national ideology not as being pacifism confined to a single nation, but as being to ascertain how we can foster world peace in line with the purport of the Preamble. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)
- In modern warfare the civilian population suffers heavy casualties. Given this, I have problems with the thought of revising the Preamble and Article 9. (KUBOTA Manae, Speaker/151/16.Apr.2001/Sendai Hearing)
- What we should do now is to preserve Article 9, which was enacted after making a heavy sacrifice, not to change it. (SAITO Takako, Speaker/151/16.Apr.2001/Sendai Hearing)
- Based upon trust in humanity, Japan should resolve itself to settle problems without using armed force and retain Article 9, which contains valuable concepts from the perspective of bioscience, too. (SHIMURA Kensuke, Speaker/151/16.Apr.2001/Sendai Hearing)
- In our present age, wars of aggression are unimaginable. Even if aggression were to occur, the world would not stand idly by. I believe that, however great the sacrifice, by cherishing Article 9 we will be able to protect the way in which the Japanese people should live their lives. Japan should hold itself up as an example to the world. (HAMADA Takehito, Speaker/151/16.Apr.2001/Sendai Hearing)
- In the 21st century Japan should seek to give concrete form to the Peace Constitution, with its espousal of nonviolent pacifism. Through that it should strive to overcome the mistakes of the 20th century, a century of war, and make the 21st century a century of peace. Methods of doing this include (1) enacting into law the Kobe-formula nuclear-free policy, (2) making east Asia a nuclear-free zone, and (3) establishing an Asian peace organization through peaceful diplomacy. I also believe that the way to world peace in a manner that lives up to the spirit of the Constitution is to recognize the errors of the last world war, mourn all war victims, and do our utmost to make war reparations. (NAKAKITA Ryutaro, Speaker/151/4.June.2001/Kobe Hearing)
- Unarmed pacifism which ensures the security of citizens without recourse to military force is premised on respect for the dignity of the individual learnt from the great sacrifice of the last war, and we should develop it further in the future. (ARAKAKI Tsutomu, Speaker/154/22.Apr.2002/Okinawa Hearing)
- If the Constitution is revised under a policy integrated with U.S. military strategy, the spirit of pacifism risks being diluted. The misfortune for Japan was that the Constitution, which proclaims thoroughgoing pacifism whose purview includes the international community, was not put into practice. To make this pacifism still clearer in the future, Article 9 should be made Article 1. (ISHIZUKA Osamu, Speaker/154/24.June.2002/Sapporo Hearing)

- The ideal form of pacifism contained in the Preamble and Article 9 should show its true worth more than ever in the 21st century. Today, at a time when Japan has the capability to contribute to international society through nonmilitary means, it should disseminate Article 9 around the world. (MASUGI Eiichi, Speaker/154/24.June.2002/Sapporo Hearing)

b. Comments from the standpoint that pacifism requires some modification

b-1. Comments that these should be based on the current state of international society

<Comments by Members>

- Within the context of international cooperation pacifism should show, in an easy-to-understand way, the direction to follow in addressing problems. For example what the threats to peace are in the 21st century, and how those threats should be dealt with. (TASSO Takuya, Member/LP/147/27.Apr.2000)
- There is a large gap between the concept of perpetual pacifism at the time the Constitution was enacted, and present-day reality. Paragraph 1 of Article 9 is an important provision as regards ensuring that there is no repetition of aggressive war. As regards Paragraph 2, however, we must face realities such as the existence of the Self-Defense Forces and participation in United Nations peacekeeping operations. In light of these, this paragraph should be revised from the standpoint of an active pacifism that seeks to maintain world peace through international cooperation, including military cooperation. (FUTAMI Nobuaki, Member/LP/147/23.Mar.2000)
- The people themselves should create a new “peace constitution” suited to the international community of the 21st century, taking into account historical changes and Japan’s international role. (MATSUNAMI Kenshiro, Member/NCP/6.Dec.2001)

<Comments by Informants and Others>

- The Constitution’s spiritual value had a certain significance at the time Japan resumed its place in the international community. From now on, rather than emphasizing that, we should ensure that the Constitution states explicitly the orientation of pacifism in line with the present-day realities of international society. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- We must alter the thinking that if we only renounce having war potential, there will be peace, and that will contribute to building world peace. We must continue efforts to sustain world peace on the basis of the realities of international society. (MATSUMOTO Ken’ichi, Informant/150/7.Dec.2000)
- At the time the Constitution was enacted, the ideals that it espoused were regarded as having a certain meaning. From now on, however, Japan must respond to

changes in the international community, so as to survive as a nation and to avoid isolation within the G8. (TAKUBO Tadae, Informant/154/6.June.2002/International Society Subcommittee)

- The pacifism contained in the Preamble was based on a revenge motive to ensure that Japan never again became a powerful country, and on the wishes of radical pacifists within the General Headquarters of the Allied Forces. Given the present international situation, it is fanciful. We should enact a constitution on the basis of current circumstances in Japan and overseas, and on the new consciousness of Japanese people and of Japan as a nation. (KOKUBO Masao, Speaker/151/4.June.2001/Kobe Hearing)
- When considering how to maintain peace, it is irrational to have to exclude only the military option. (NOHARA Kiyoshi, Speaker/153/26.Nov.2001/Nagoya Hearing)

b-2. Comments that one-nation pacifism should be abandoned

<Comments by Members>

- Japan should cast off the complacent pacifism that claims that Japan's security is assured by the Peace Constitution. Instead, in line with the doctrine of international cooperation in the Preamble, it should place emphasis on assessing the kind of cooperation possible for assuring the security of the international community, the regions that comprise it, and individuals. (HANASHI Nobuyuki, Member/LDP/154/25.July.2002)
- In the Preamble, expressions not recognizing even the right of self-defense, and expressions of passive pacifism should be altered. There should be expressions fostering defense-mindedness, and expressions of active pacifism sanctioning active participation in United Nations peacekeeping operations. (FUNADA Hajime, Member/LDP/147/27.Apr.2000)
- One-nation pacifism runs contrary to the tide of globalization. For Japan to occupy a place of honor in the international community, it should clearly spell out its intent to foster international cooperation not only in the economic sphere but also that of security. (YAMASAKI Taku, Member/LDP/147/11.May.2000)

<Comments by Informants and Others>

- For Japan to enjoy stable prosperity it is essential to have not one-nation pacifism, but a framework for cooperation with the international community. (MURATA Koji, Informant/147/9.Mar.2000)
- Interpretations based on absolute pacifism must be altered, and we must change the stance of believing that if Japan is at peace, that is all that matters. Japan should play an active role in sustaining the peaceful order of the world, including through

the dispatch of the Self-Defense Forces overseas. This should be premised on gaining the understanding of neighboring countries by demonstrating concrete self-reflection about past aggressive wars and the domination of colonies, and conveying that fact to the world. (ONUMA Yasuaki, Informant/153/25.Oct.2001)

- In an age of increasing borderlessness, Japan must move away from one-nation pacifism. It must examine and revise the type of nation it should be and the constitution that forms its base. (ASHITOMI Osamu, Speaker/154/22.Apr.2002/Okinawa Hearing)

b-3. Comments that new ideas should be added to pacifism

<Comments by Members>

- Having inherited the ideology of pacifism and evolved it further, Japan should declare its intention to play an active role on behalf of the peace and development of the international community. (MATSUZAWA Shigefumi, Member/DPJ/147/27.Apr.2000)
- The Constitution contains no specific provisions that provide guidance on methods of sustaining peace, such as support for democratization, preventive diplomacy, and citizen activities to maintain peace. Therefore, express provision should be made as to how to realize the high-minded ideals set out in the Preamble. Also, it is not enough simply to assert that the ideals of Article 9 be spread to the world. Concrete contributions should also be made, for example the holding of courses on the Constitution for resident foreigners, and assistance for the dispatch of constitutional scholars to East Timor. (SUTO Nobuhiko, Member/DPJ/154/25.Apr.2002)
- The ideals of pacifism are very precious, and must be preserved. However, the international community's expectations of Japan are growing. In light of this, we must consider how to meet those expectations, including by discussing the form that the Constitution should take. (UEDA Isamu, Member/NK/151/14.June.2001)
- Surely there are other ideas, for example about environmental problems, that should be newly incorporated into pacifism. (KONDO Motohiko, Member/Club 21/150/28.Sept.2000)

<Comments by Informants and Others>

- We should develop the innate talents of every Japanese person, and convey these to the international community. In this way we can strive to establish self-reliance as a nation of peace. (NISHIZAWA Junichi, Informant/151/8.Feb.2001)
- In an age in which globalization is advancing, the meaning of peace is not only the state of absence of war, but also the fostering of fairness and justice globally. To achieve that we must ponder (1) how to build a common understanding with other

countries, and (2) what to do in cooperation with other countries, and to what extent. In doing that we should examine supplementing pacifism with ideas connected with the pursuit of global justice, such as in the spheres of development assistance and environmental problems. (TAKAHASHI Susumu, Informant/151/8.Feb.2001)

- For Japan to participate in an international community formed by multilateral relationships and play a leading role in it, in its diplomacy it must give pivotal importance to the belief of not resolving international disputes by force of arms. In tandem with this it must espouse “nonnuclear pacifism.” When doing this it must discuss the Constitution, in particular the Article 9 issue, as an affirmation of the fundamental spirit of the Constitution. That process should include adopting a stance of revising contradictions in a candid manner, through reason. (TERASHIMA Jitsuro, Informant/154/9.May.2002/International Society Subcommittee)
- If we repudiate the settlement of disputes by force of arms, it not sufficient simply to assert that peace is important. We should endeavor to make international contributions by proposing techniques that can be used as alternatives to armed force for maintaining peace. I believe that by putting that into practice we can build for ourselves an honored place in international society. (KAIHARA Toshitami, Speaker/151/4.June.2001/Kobe Hearing)

D. Other Comments

<Comments by Members>

- The enactment of the Anti-Terrorism Special Measures Law lacks adequate independent examination directed at the eradication of international terrorism. Steps such as this ride roughshod over the peace principles of Article 9, and will lead in the direction of revising that article. (AKAMINE Seiken, Member/JCP/153/6.Dec.2001)
- For scientists, pacifism takes shape through the peaceful use of science and technology to bring relief to people who are in a miserable state. (SHIOKAWA Tetsuya, Member/JCP/151/8.Feb.2001)
- Measures such as the Anti-Terrorism Special Measures Law and the three emergency-response bills are not in line with public perceptions, and trample on the spirit of Article 9. What is more, I fear that they will do great harm to stability in Asia. As regards Article 9, judging from the results of speeches at local hearings and opinion surveys there is a considerable gap between the discussions by the Research Commission and the perceptions of the people.
- Okinawa was long unable to benefit from the ideals of the Constitution, and so it was only natural that at the Okinawa hearing we heard many comments to the effect that the Preamble and Article 9 should be preserved and put into effect. I believe that the confrontations at the Sapporo Hearing regarding Article 9 and the

Japan-U.S. Security Treaty, and the criticism of the unconstitutional three emergency-response bills were reflected in the insistence that Article 9 be retained and put to good use. (HARUNA Naoaki, Member/JCP/150/30.Nov.2000, 151/14.June.2001, 153/6.Dec.2001, 154/22.Apr.2002/Okinawa Hearing,154/25.Apr.2002, 154/25.July.2002)

- In spite of the rationale of scientists wishing to adhere to the fundamental principle of the peaceful use of science and technology, the conclusion of agreements such as the 1983 Exchange of Notes concerning the Transfer of Military Technologies has indicated that the Preamble to the Constitution is not taken seriously. (HARUNA Noaki, Member/JCP/150/21.Dec.2000)
- I am deeply impressed by the fact that in the process of integration of the European Union, the common basis is the determination not to permit the repetition of the ravages caused by two world wars. (YAMAGUCHI Tomio,Member/JCP/154/25.July.2002)
- Because of the misery experienced in the last world war, over the past period of more than 50 years of the postwar era, every member of the population has made a sustained effort in search of peace. (ABE Tomoko, Member/SDP/150/30.Nov.2000)
- I fear that the deliberations on the Anti-Terrorism Special Measures Law, including the replies by Prime Minister KOIZUMI that deviated from the pacifism enshrined in the Constitution, have proceeded with scant regard for the connection with the Constitution. Among the population there is strong support for the pacifism in Article 9, which Japan can hold up to the world with pride. This is evident from comments by speakers at the public hearings in Okinawa and Sapporo. Of particular note is the fact that Okinawans consider that they won the Peace Constitution through their own struggle. (KANEKO Tetsuo, Member/SDP/153/6.Dec.2001, 154/25.Apr.2002, 154/25.July.2002)

<Comments by Informants and Others>

- Setting aside specific issues such as the interpretation of Paragraph 2 of Article 9, I believe that there is a broad consensus among the people as regards fundamental ideals such as the desire for popular sovereignty and international peace. These have come to be commonly held in postwar Japan. (MURATA Koji,Informant/147/9.Mar.2000)
- One has no choice but to take a negative view on the question of whether Japan has practiced independent peace diplomacy if that has gone against U.S. intentions. Nowhere have the fundamental principles of pacifism and democracy been protected less than in Okinawa. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- Compared with the flow of peace-related theses in the world of theorizing--from "Necessity of methods and policies for seeking absolute peace" to "Armaments

modest; the economy-first” to “Perception that there must be a quid pro quo for peace”--the pace of Diet deliberations relating to the issue of pacifism and realism lags far behind. (KONDO Motohiro, Informant/150/12.Oct.2000)

- The enactment of the Law Concerning Measures to Deal with Situations in Areas Surrounding Japan marked a change of a national policy of repudiating war. It has altered fundamentally the shape of pacifism. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- I have always had a philosophy of resisting scientific research conducted in cooperation with warfare. Nevertheless, the present reality is that research funded by military spending can in certain cases be used for civilian purposes. In consequence, even if research uses spending for military research, I cannot condemn it totally. (MURAKAMI Yoichiro, Informant/150/21.Dec.2000)
- At the time of the Vietnam War, Japan maintained its one-nation pacifism and did not dispatch troops. Although I do not think that one-nation pacifism is appropriate, there is no need to tamely follow the United States. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)
- Dialogue with one's students is important for teachers. By telling the students of their ideals and dreams, teachers can educate the students to aspire to world peace. The Preamble and Article 9 are sources of dreams and ideals for teachers, and I believe that students accept it as being very meaningful. (HAMADA Takehito, Speaker/151/16.Apr.2001/Sendai Hearing)
- It is my understanding that the majority of the Japanese people agree with the part of the Preamble that says “We desire to occupy an honored place in an international society striving for the preservation of peace.” This is reflected in the fact that more than 70 percent of respondents to an opinion survey said that they opposed the revision of Article 9. (KAIHARA Toshitami, Speaker/151/4.June.2001/Kobe Hearing)
- As a rule, women embrace pacifism. Therefore, the opinion among women is widespread that Article 9 should be preserved. (NISHI Hideko, Speaker/153/26.Nov.2001/Nagoya Hearing)
- Okinawa is a region in which a profound peace ideology has taken root after it lived through the horrors of World War II. It is also a region that sends Asia and the world a unique message oriented towards the building of lasting peace. (ASHITOMI Osamu, Speaker/154/22.Apr.2002/Okinawa Hearing)

(2) The Three Nonnuclear Principles, Etc.
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A. Evaluation of the Content of the Three Nonnuclear Principles

<Comments by Members>

- It is an established fact that the United States will use nuclear weapons in defense of Japan. The existence of the three nonnuclear principles does not allow us to avoid the problems of nuclear armaments. (HIRAI Takuya, Member/LDP/154/6.June.2002/International Society Subcommittee)
- I believe that Article 9 formed the basis on which policies such as the three principles on arms exports and the three nonnuclear principles were established. (YAMAHANA Ikuo, Member/DPJ/150/26.Oct.2000)
- I think that the three nonnuclear principles are principles that Japan has imposed upon itself as a form of self-control. (AKAMATSU Masao, Member/NK/150/28.Sept.2000)
- The thinking that the people's lives and survival are maintained through dependence on weapons of mass destruction such as nuclear weapons is not required by the Constitution. (YAMAGUCHI Tomio, Member/JCP/153/26.Oct.2000)
- As the only country to have experienced nuclear bombing, Japan should make efforts to ensure that destruction by nuclear weapons never occurs again. In forums such as the United Nations it should make appeals concerning the inhumanity of nuclear arms and the need for nuclear disarmament. To enhance the persuasiveness of those appeals, it should be conscious of the fact that it espouses the three nonnuclear principles. Also, it is essential to consider the issue of nuclear weapons by taking not only the Constitution into consideration, but also the framework of the Nuclear Non-Proliferation Treaty and other related measures. (KANEKO Tetsuo, Member/SDP/151/22.Mar.2001, 154/6.June.2002/International Society Subcommittee)

<Comments by Informants and Others>

- Although Japan does not itself possess nuclear weapons, a fact that should be recognized is that it exists under the U.S. nuclear umbrella. (ICHIMURA Shin'ichi, Informant/150/26.Oct.2000)
- It must be recognized that lying in the background of the three nonnuclear principles are U.S. nuclear weapons under the Japan-U.S. Security Treaty. (TAKUBO Tadae, Informant/154/6.June.2002/International Society Subcommittee)

B. Evaluation of the Practice of the Three Nonnuclear Principles

<Comments by Members>

- Japan is not making sufficient effort to prevail upon the United States and China to carry out nuclear disarmament. (YAMADA Toshimasa, DPJ/154/6.June.2002/ International Society Subcommittee)
- In view of Japan's experience of being the victim of nuclear attacks in Hiroshima and Nagasaki, it should take initiatives for nuclear disarmament. I believe that it is not making enough effort in that direction. (HARUNA Naoaki, Member/JCP/153/26.Nov.2001/Nagoya Hearing)
- Out of consideration for the United States, since last year Japan has backed down on the content of draft resolutions on nuclear disarmament put forward at the United Nations. Also, by studying the lifting of economic sanctions against Pakistan on the pretext of giving support for military antiterrorism operations, Japan has tolerated nuclear proliferation. Despite being the only country ever to have suffered a nuclear attack, in the area of policy on nuclear arms Japan appears to be bending blindly to the will of the United States. It is not making enough of an effort to convey to the world the message of the misery of nuclear bombing and to take action in favor of nuclear disarmament. (KANEKO Tetsuo, Member/SDP/151/22.Mar.2001, 153/25.Oct.2001, 153/26.Nov.2001/Nagoya Hearing)

<Comments by Informants and Others>

- Among the three nonnuclear principles it is doubtful that the principle of "not permitting the introduction of nuclear weapons into Japan" is being observed. (ICHIMURA Shin'ichi, Informant/150/26.Oct.2000)
- The principle that research on nuclear power in Japan will not include nuclear-weapons research has functioned as an actual restriction for researchers. (MURAKAMI Yoichiro, Informant/150/21.Dec.2000)
- Policies such as those for the holding of large quantities of plutonium and the reopening of the Monju nuclear reactor arouse misgivings that there is an intention to manufacture nuclear weapons. (ISHIZUKA Osamu, Speaker/154/24.June.2002/ Sapporo Hearing)

C. Desirable Future Form of Policy on Nuclear Weapons

- a. Comments that appeals for nuclear disarmament be made to the international community

<Comments by Members>

- Japan should convey a message to the world of the need for nuclear disarmament. The fact that it is the only country ever to have suffered a nuclear attack defines its national identity in a way that transcends the Constitution-revision issue and policy arguments. (YAMADA Toshimasa, DPJ/154/6.June.2002/International Society Subcommittee, 154/25.July.2002)
- Japan should ensure that the three nonnuclear principles of “not possessing, not producing, and not permitting the introduction of nuclear weapons into Japan” are effective as fundamental principles with which to lobby the international community. To do so it must appeal to countries that intend to have nuclear weapons and persuade them not to. (AKAMATSU Masao, Member/NK/150/28.Sept.2000, 154/6.June.2002/International Society Subcommittee)
- Japan should act on its own initiative and make efforts towards ensuring that the goals of measures such as the prohibition and eradication of nuclear weapons and the prohibition of imports and exports of weapons are realized. (SASAKI Rikukai, Member/JCP/147/27.Apr.2000)
- The final document of the NPT Review Conference held in 2000 includes references to nuclear disarmament, and the countries of ASEAN have concluded a treaty establishing a nuclear-free zone. In the context of events such these it is incumbent upon Japan, a nation that has suffered nuclear bombing, to strive to extend denuclearization to encompass all of Asia, with the goal of achieving nuclear disarmament, the earnest desire of humankind. It should do so from multilayered, multidimensional standpoint based on the United Nations Charter, which seeks the maintenance of peace through international cooperation, and the Constitution, which espouses nonnuclear pacifism. (YAMAGUCHI Tomio, Member/JCP/150/26.Oct.2000, 154/9.May.2002/International Society Subcommittee)
- Japan, as the only country to have experienced a nuclear attack, should place emphasis on the vigorous activities directed towards nuclear disarmament in the international community. Also, as an issue to be addressed in the 21st century, it has the duty to strive for the eradication of nuclear weapons. (HARUNA Naoaki, Member/JCP/150/28.Sept.2000)
- My party (Social Democratic Party) is working towards the goal of concluding an agreement for a nuclear-free zone in Northeast Asia. The reality is that two neighboring countries, Russia and China, possess nuclear weapons, as does our ally

the United States. In this situation it is the role of Japan, the only country to have been attacked with nuclear weapons, to strive to build the peace of East Asia and of the world by taking the initiative to lobby for nuclear disarmament. And this lobbying activity should be passed on to the next generation. (ABE Tomoko, Member/SDP/150/28.Sept.2000)

- The fact should be recognized that the consensus of opinion in the international community is in favor of nuclear disarmament, and that the nuclear-threat argument and the nuclear-umbrella argument are losing support. The rise of this international consensus on nuclear disarmament is having the effect of fostering the formation of nuclear-free zones in various regions, and the groundwork is being done for the creation of such a zone in Northeast Asia. In view of this, I believe that the foundation of the “Northeast Asian Nuclear-Free Zone” by North and South Korea, China, Mongolia, and Japan is a realistic option. (UEDA Munenori, Member/SDP/154/25.Apr.2002)
- Japan should reappraise the significance of its being the only victim of nuclear bombing, and then actively implement international cooperation for nuclear disarmament, including promotion of the NPT structure. We should acknowledge that to accord with the spirit of the Constitution it is not possible to modify the three nonnuclear principles and have nuclear weapons. In addition, Japan should engage in diplomacy inspired by a consciousness of every single individual whose life would be taken from them by nuclear weapons. (KANEKO Tetsuo, Member/SDP/151/22.Mar.2001, 153/26.Nov.2001/Nagoya Hearing, 154/6.June.2002/International Society Subcommittee)

<Comments by Informants and Others>

- As a nonnuclear industrialized society, Japan should endeavor to construct a system to prevent the acquisition of nuclear weapons by countries that do not already possess them. (IOKIBE Makoto, Informant/147/20.Apr.2000)
- Expediting moves such as the promotion of the NPT structure and the increase in the number of member states of the Comprehensive Nuclear-Test-Ban Treaty will lead to the reduction and eradication of nuclear weapons. Taking the situation in China and Russia, both nuclear-weapon states, fully into consideration, Japan should aim to reduce the importance of nuclear weapons in East Asia by means of vigorous lobbying through diplomacy. In my view the possibility of realizing this is low at present. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- As the only country to have suffered nuclear bombing, Japan should speak out vigorously on the issue of nuclear weapons. Also, starting with the question of nuclear weapons as it pertains to Japan-U.S. relations, it should endeavor to give concrete shape to its statements. (ODA Makoto, Informant/150/28.Sept.2000)

- Japan should make appeals and take proceedings on such issues as the elimination of nuclear weapons and other weapons of mass destruction, and landmines. (TEJIMA Norio, Speaker/151/16.Apr.2001/Sendai Hearing)
 - Japan should make efforts to lead the international community from a stance of utter determination to eliminate nuclear weapons. One approach would be to prescribe a time limit for achieving that. (KATO Masanori, Speaker/153/26.Nov.2001/Nagoya Hearing)
 - From its position as the only victim of nuclear bombing, Japan should pass on details of that horrific experience to others. Armed with the strong determination to ensure such misery is never repeated, it should also appeal for the elimination of all nuclear weapons. We must ensure that Japan never possesses nuclear weapons. (SATO Satomi, Speaker/154/24.June.2002/Sapporo Hearing)
- b. Comments that the Constitution should make express provision for the nonnuclear principles, etc.

<Comments by Members>

- Japan is the only country to have been atom-bombed, and espouses pacifism as a national ideal. It must take steps for the survival of humankind, world peace, and the preservation of the global environment. To that end it should ensure that the world is never again visited by the ravages caused by nuclear weapons by making the movement for nuclear disarmament a national cause, expressly providing for nuclear disarmament in the Constitution, and proclaiming this to the world.
- All countries' military spending should be curtailed, and the amount saved used to support activities for eliminating nuclear arms and for preserving the global environment. (MITSUZUKA Hiroshi, Member/LDP/147/11.May.2000)
- Two of the three nonnuclear principles should be set out explicitly in the Constitution, so as to spell out clearly Japan's pacifist philosophy. (IGARASHI Fumihiko, Member/DPJ/150/28.Sept.2000)
- As the only country to suffer nuclear attack, Japan should make express provision in its Constitution for nuclear disarmament and the three nonnuclear principles. (OIDE Akira, Member/DPJ/153/6.Dec.2001)
- Given that Japan is the only country to experience nuclear destruction, the Constitution should make express provision for Japan's playing a leading role in the quest for the elimination of weapons of mass destruction. (MATSUZAWA Shigefumi, Member/DPJ/147/27.Apr.2000, 154/25.Apr.2002)

- c. Comments that all options should be considered, including the possession of nuclear weapons

<Comments by Members>

Nuclear disarmament is a desirable direction in which to move. Currently, however, we are approaching a crossroads for determining whether or not we can guide nuclear-weapon states in the direction of nuclear nonproliferation or nuclear disarmament. Also, the three nonnuclear principles are premised on the ability to use U.S. nuclear weapons in the event of emergency. Therefore, we must decide whether in the future this situation is the optimal choice for Japan's security. Serious study must be given to this question, based on the possibilities that, among others, (1) the United States does not ratify the Nuclear Non-Proliferation Treaty, (2) nuclear-weapon states increase the quantity of their nuclear weapons, and (3) Japan does not become a permanent member of the Security Council. (ICHIMURA Shin'ichi, Informant/150/26.Oct.2000)

People in positions of responsibility must set aside their own antinuclear sentiments. They should keep in mind the possibility of holding nuclear weapons for situations in which the very survival of the nation itself is at stake. (TAKUBO Tadae, Informant/154/6.June.2002/International Society Subcommittee)

3. The Right of Self-Defense and the Self-Defense Forces

(1) Possession of the Right of Self-Defense, and the Way It Should Be Exercised

A. Possession of the Right of Self-Defense

- a. Comments that refer to interpretations of the Constitution relating to the possession of the right of self-defense

<Comments by Members>

- Self-defense is an inherent right of a state. Therefore, Japan has the right of individual self-defense and the right of collective self-defense, and so can naturally hold and exercise the right of self-defense. In consequence, it is not necessary for this to be expressly provided in the Constitution. (ISHIBA Shigeru, Member/LDP/147/27.Apr.2000)
- Irrespective of whether it is stated expressly in the Constitution, the right of self-defense can be possessed. (KYUMA Fumio, Member/LDP/147/27.Apr.2000)
- Self-defense is the state's inherent right, and there is no need for the Constitution to go so far as to stipulate this expressly. (KOIZUMI Junichiro, Member/LDP/147/11.May.2000)
- The enactment of the three emergency-response bills currently under deliberation would confirm one conclusion as regards the disputed interpretations of Article 9: that the exercise of the right of individual self-defense is possible. (AKAMATSU Masao, Member/NK/154/6.June.2002/International Society Subcommittee)
- With regard to the interpretation of Article 9, we must conduct a debate that goes back to the starting point. That should include the Ashida amendment and other circumstances surrounding the article's enactment. (HIRATA Yoneo, Member/NK-RN/147/11.May.2000)
- The idea underlying Article 9 is the renunciation of aggressive war. As long as Japan is a sovereign nation it undeniably has the right of self-defense, and it is not possible to renounce that. (FUJISHIMA Masayuki, Member/LP/150/9.Nov.2000, 151/16.Apr.2001/Sendai Hearing)
- My party (Japanese Communist Party) does not believe that Article 9 denies the right of self-defense. (SASAKI Rikukai, Member/JCP/147/24.Feb.2000)

<Comments by Informants and Others>

- The right of self-defense is recognized under the Constitution as a natural right and a component of national sovereignty. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
 - It is self-evident that as long as a country is an independent nation it has the right of self-defense. Therefore, Article 9 cannot be a provision of the constitution of an independent nation. (WATANABE Shoichi, Informant/150/7.Dec.2000)
 - Naturally it is acceptable to exercise the right of self-defense if we are the victims of aggression. (SON Masayoshi, Informant/151/8.Mar.2001)
 - A nation's right of self-defense should not be considered a right, but the grounds for barring an illegal act in respect of an imminent, unlawful attack. (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee)
 - The right of self-defense is in essence a concept that includes the elimination of imminent, unlawful attack through the use of armed force. That being the case, it can only be concluded that the Constitution denies the right of self-defense. In my view, the Constitution says nothing in relation to the right of self-defense. (URABE Noriho, Speaker/151/4.June.2001/Kobe Hearing)
- b. Comments that the Constitution should be revised and should make express mention of possession of the right of self-defense

<Comments by Members>

- The Constitution should provide expressly for the exercise of the right of belligerency as a legitimate exercise of the right of self-defense, and for civilian control over it, in cases in which elements of which the state is composed, such as its people, its territory, or its sovereignty, are violated by other countries or it is judged that there is a high risk of their being violated. (TAKAICHI Sanae, Member/LDP/154/25.Apr.2002)
- The Constitution should make express provision for the holding of the right of self-defense. (MIZUNO Ken'ichi, Member/LDP/150/9.Nov.2000)
- The Constitution should state expressly that the right of self-defense is an inherent right of the state, and put an end to the metaphysical controversy surrounding Article 9. (MITSUZUKA Hiroshi, Member/LDP/147/27.Apr.2000)
- Article 9 should be revised, and matters such as the obligation for national defense and possessing the right of self-defense should be stipulated expressly. (YAMASAKI Taku, Member/LDP/147/11.May.2000)

- Interpretations differ as to Japan's having the right of self-defense. The correct interpretation should be made clear, and the Constitution revised. (TARUTOKO Shinji, Member/DPJ/147/20.Apr.2000)
- No distinction should be made between individual self-defense and that of collective self-defense. In line with this thinking, the possession of the right of self-defense should be stated clearly in the Constitution. (MAEHARA Seiji, Member/DPJ/147/11.May.2000, 150/9.Nov.2000)
- Having renounced aggressive war, the Constitution should include an explicit statement to the effect that as a sovereign state, Japan has the right of self-defense. In doing that we should simply stipulate "the right of self-defense," without distinguishing between an individual and a collective right. Details of a particular exercise of that right should be left to political judgment at the time. (MATSUZAWA Shigefumi, Member/DPJ/147/27.Apr.2000, 154/25.Apr.2002)
- Article 9 shows the most marked divergence from reality. Accordingly, it should be explicitly stated that as a sovereign state Japan has the right of self-defense, and we must ensure that provisions are not changed through reinterpretation as happens today. (SHIOTA Susumu, Member/LP/151/14.June.2001)

<Comments by Informants and Others>

- The provisions of Paragraph 1 of Article 9 are excellent, but those of Paragraph 2 are vague, and ignore current realities in the international community. If possible Paragraph 2 should be deleted, or deleted and then express mention made of the possession of the right of self-defense and the active promotion of international cooperation. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- The state has the right of self-defense and the duty to defend itself. The obligation for national defense does not have to be put in statutory form if the people are aware of its existence. Given the situation today, however, it may be advisable to lay down a provision stipulating this in abstract terms. (SAKAMOTO Takao, Informant/151/22.Mar.2001)
- We should assemble a clear national strategy that clearly spells out the national interest and our vision for the nation. We should then overhaul its legal framework, which should include an explicit provision for the possession of the right of self-defense. (MORIMOTO Satoshi, Informant/153/25.Oct.2001)
- In addition to stipulating the renunciation of war, the Constitution should provide expressly for the right of self-defense as a prerequisite for crisis management. (TEJIMA Norio, Speaker/151/16.Apr.2001/Sendai Hearing)
- If one is glad to have been born Japanese, one will find a positive way of living, and develop into a person who can contribute to the international community. For this

reason, too, the Constitution should clearly state the right of self-defense that any normal nation possesses, and we should revise the Preamble to give it a style with a clearly Japanese identity. (NOHARA Kiyoshi, Speaker/153/26.Nov.2001/Nagoya Hearing)

B. Manner of Exercising the Right of Self-Defense

- a. Comments from the standpoint that use of armed force in the exercise of self-defense is not envisaged by the Constitution

<Comments by Members>

- My party (Japanese Communist Party) takes the view that the Constitution should include a clear statement to the effect that Japan's right of self-defense consists in the maintenance of neutrality by renouncing aggressive war and not involving itself in other countries' disputes. (HARUNA Naoaki, Member/JCP/147/11.May.2000)
- From the standpoint of Article 9, we should pursue neutrality and self-defense without the use of military power. (YAMAGUCHI Tomio, Member/JCP/154/9.May.2002/International Society Subcommittee)
- If we compare the number of lives that would be lost in a military response to the number of lives lost through nonviolent resistance, clearly the former would be larger. Very large numbers of ordinary citizens lose their lives in contemporary military conflicts. In light of these facts, I believe that Japan should respond with nonviolent resistance in the event of a national emergency. (KANEKO Tetsuo, Member/SDP/154/6.June.2002/International Society Subcommittee)
- Japan has determined to preserve its security and existence by trusting in the justice and faith of the peoples of the world, not in military strength and U.S. cooperation. Therefore, waging war in self-defense is unacceptable. (YAMAGUCHI Wakako, Member/SDP/150/30.Nov.2000)

<Comments by Informants and Others>

- The reality is that there are no countries that would launch attack on Japan. (ODA Makoto, Informant/150/28.Sept.2000)
- The Constitution does not repudiate the right of self-defense, but it prohibits the use of armed force, etc., as a means of exercising it, and stipulates that war potential not be maintained. Therefore, other means of exercising the right of self-defense are required. In view of this, nonviolent resistance and civil disobedience, even in the event of an invasion, constitute the pure form of the exercise of the right of self-defense envisaged by the Constitution. People who place emphasis on the question of how Japan would respond if it were attacked should ask themselves three questions: (1) Historically, how reliable have the balance of military power

and its deterrent effect been for maintaining peace? (2) Can I concretely and realistically envisage a situation in which an attack would occur? (3) Have efforts for security by peaceful means in accordance with the Constitution been carried out? (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)

- The right of self-defense is a right of the state. The rights and wrongs and the methods of exercising it are left to the independent judgment of each country within the purview of what is acceptable under international law. Therefore, there is no inconsistency between the stipulation in the Constitution not to exercise the right of self-defense through the use of armed force, and the possession of the right of self-defense under international law. (MATSUI Yoshio, Informant/154/28.Feb.2002/International Society Subcommittee)
 - I believe that at the time the Constitution was enacted, the general perception was that a war of self-defense would not be approved in light of Article 9. (YAMAUCHI Tokushin, Speaker/154/22.Apr.2002/Okinawa Hearing)
 - Article 9 does not deny the right of self-defense, but it denies the war potential and right of belligerency necessary for that. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)
- b. Comments approving the use of a certain degree of armed force in the exercise of the right of self-defense

<Comments by Members>

- Because the stark fact is that we do not know what will happen in the international community, we cannot say with absolute certainty that there is no country that would attack Japan. (TAKAICHI Sanae, Member/LDP/150/28.Sept.2000, 154/25.Apr.2002)
- The exercise of the right of self-defense through nonviolent resistance and civil disobedience could be criticized as idealistic and illusory. If the repudiation of aggressive war and total adherence to civilian control are stated expressly, it is not contradictory for Japan to exercise a certain amount of force in self-defense while at the same time seeking to be a peace-loving country devoted to world peace. (MIZUNO Ken'ichi, Member/LDP/150/9.Nov.2000)
- If the state is destroyed as a result of using nonviolent resistance and civil disobedience to counter an invasion, then it would seem that the government would no longer be able to carry out its responsibility to protect the people's lives and property. (MAEHARA Seiji, Member/DPJ/150/9.Nov.2000)
- My party (New Komeito) takes the view that Article 9 should be retained, and interprets it as meaning that although the use of force, etc., is renounced as a means of settling international disputes, it is not renounced as a means of exercising the

right of individual self-defense. Personally, however, I do not take the view that every single word of Article 9 must remain unaltered. (AKAMATSU Masao, Member/NK/149/3.Aug.2000, 154/22.Apr.2002/Okinawa Hearing)

- In the event of a national emergency, the problem would not be the number of people losing their lives, but how to protect the people's lives, persons, rights, freedoms, and so on. (FUJISHIMA Masayuki, Member/LP/154/6.June.2002/International Society Subcommittee)

<Comments by Informants and Others>

- The renunciation of "war as a means of maintaining our own security" was regarded as not being realistic, and therefore this wording was expunged from the original draft of the Constitution. Notwithstanding this, there is a strong tendency to adopt the unrealistic interpretation that Article 9 also renounces it. (NISHI Osamu, Informant/147/24.Feb.2000)
- In light of cases such as the "ethnic cleansing" in Kosovo, I believe that war in the name of self-defense can be accepted. (AOYAMA Takenori, Informant/147/24.Feb.2000)
- As a result of the Ashida amendment, Article 9 came to have the meaning of repudiating war of aggression, but not going so far as to repudiate war in self-defense. When considering this division of war between war of aggression and war in self-defense, we must take other factors into consideration. For example, in the international society no explicit definition of a war of aggression exists; also, the article was premised on the acknowledgement that Japan had committed aggression in certain phases of the last world war. (MURATA Koji, Informant/147/9.Mar.2000)
- The protection of the people in the event of an armed attack is the duty of the government, and accepted wisdom internationally. Japan is the only country in the world to be discussing the rights and wrongs of war in self-defense. The interpretation of Article 9 that it repudiates war of aggression but sanctions war in self-defense and participation in joint action in pursuit of international security objectives is what has been intended since the time it was enacted. Therefore, study should be given to retaining Paragraph 1 of Article 9, which repudiates aggressive war, and revising Paragraph 2 in one of the following ways: (1) deleting it, (2) including an express provision sanctioning self-defensive war, (3) including an express provision sanctioning self-defensive war and participation in joint action in relation to international security, and (4) deleting the latter portion. (IOKIBE Makoto, Informant/147/20.Apr.2000)
- Parts of Article 9, Paragraph 2 such as the stipulation of the non-maintenance of war potential and the nonrecognition of the right of belligerency should be in a form that is not inconsistent with reality. (TERASHIMA Jitsuro, Informant/154/9.May.2002/International Society Subcommittee)

- c. Other comments concerning the manner of exercising the right of self-defense

<Comments by Members>

- The government's understanding of Article 9 is that the right of self-defense necessary for the legitimate defense of the state is permitted to the minimum extent necessary. Therefore, the criticism of Informant Prof. Sakamoto as to the imposition of a "double restriction" is not valid. That is, that Paragraph 1 limits the use of force to self-defensive purposes, and that Paragraph 2 limits the use of force for self-defensive purposes to the minimum extent necessary. (OIDE Akira, Member/DPJ/151/22.Mar.2001)
- Article 9 is a provision that connotes both the thinking that it is not permissible to resort to violence under any circumstances, and the thinking that in the event of being the victim of violence it should be permissible to counter this with the minimum violence necessary for self-protection. (SAITO Tetsuo, Member/NK/154/25.Apr.2002)

<Comments by Informants and Others>

- The government's interpretation of Article 9 imposes a "double restriction" in that Paragraph 1 limits the use of force to self-defensive purposes, and that Paragraph 2 limits the use of force for self-defense to the minimum necessary level. (SAKAMOTO Takao, Informant/151/22.Mar.2001)
- The United Nations Charter stipulates that the exercise of the right of individual self-defense is permissible in the event of a clear armed attack. In view of this, I think that with regard to Japan the situation warranting the exercise of the right of individual self-defense would be the case of a clear act of aggression against the Japanese homeland. (MORIMOTO Satoshi, Informant/153/25.Oct.2001)

(2) Right of Collective Self-Defense

- a. Comments that refer to government interpretations relating to the right of collective self-defense

<Comments by Members>

- The right of collective self-defense is a natural right. Accordingly, the government interpretation that we have the right of collective self-defense but cannot exercise it is inappropriate. (ABE Shinzo, Member/LDP/147/11.May.2000)
- The government's interpretation is that Japan can exercise its right of individual self-defense but not its right of collective self-defense, owing to the "minimum

necessary force” restriction, This is not a logically inescapable conclusion. (KOMURA Masahiko, Member/LDP/154/6.June.2002/International Society Subcommittee)

- The government’s interpretation regarding the right of collective self-defense is irrational. Another problem is that there has been inadequate debate on this subject in the Diet, which has the principal authority to interpret the Constitution.
- Under international law, the U.S.-Japan Security Treaty and the presence of U.S. bases in Japan constitute an exercise of the right of collective self-defense. When we ignore this fact and persist with the interpretation that Japan cannot exercise the right of collective self-defense, the result is that we meet U.S. requirements in a limitless and unprincipled way, which is not in Japan’s national interest. (NAKAMURA Tetsuji, Member/DPJ/154/25.Apr.2002, 154/9.May.2002/International Society Subcommittee)
- I doubt the soundness of the legal principle that the exercise of the right of individual self-defense allows more self-control than the right of collective self-defense, and the criterion for integrating this the use of military force. (MAEHARA Seiji, Member/DPJ/147/11.May.2000)
- The government’s interpretation relating to the right of collective self-defense is unsound. I think that the interpretation of the Constitution that the exercise of the right of collective self-defense is possible is quite appropriate. (FUTAMI Nobuaki, Member/LP/147/20.Apr.2000)

<Comments by Informants and Others>

- The government interpretation that Japan has the right of collective self-defense but cannot exercise it is premised on the fact that much larger-scale armaments are necessary for exercising the right of collective self-defense than for the exercise of the right of individual self-defense. I think that that is out of line with present-day accepted wisdom on security, and unsound. I think that developing a defense policy premised on the exercise of the right of collective self-defense will help prevent the buildup of arms and have a more peaceful effect. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- The government’s interpretation, which makes a sharp distinction between the right of individual self-defense and the right of collective self-defense and states that the exercise of the former is possible but the exercise of the latter is not recognized, is unsound. A common threat is restrained more effectively if it is opposed by multiple countries rather than by just one. Also, it is important today to take practical steps to address the needs of the international community. (IOKIBE Makoto, Informant/147/20.Apr.2000)

- The government's interpretation does not allow the exercise of the right of collective self-defense because of Article 9 Paragraph 2. (TANAKA Akihiko, Informant/150/28.Sept.2000)
 - The reasons why Japan is negative towards recognizing the exercise of the right of collective self-defense include self-distrust: as to whether Japan can make the right judgment, and as to whether neighboring countries might be frightened by Japan's actions in collective self-defense. The government's interpretation of the right of collective self-defense is illogical and inappropriate. We should improve the structure that tolerates such an inappropriate interpretation. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)
 - In light of the content of the Anti-Terrorism Special Measures Law, the debate within the purview of the Constitution as regards the argument linking the right of collective self-defense and the use of force is reaching its limit. If additional measures are necessary, we will not be able to avoid discussing the issue of the Constitution itself. (MORIMOTO Satoshi, Informant/153/25.Oct.2001)
 - The right of collective self-defense is a right recognized by the United Nations Charter. Therefore, the government's present interpretation that Japan "possesses but cannot exercise the right of collective self-defense" is mere sophistry. It should recognize its exercise in the same way as for the right of individual self-defense. (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee)
 - The government's interpretation regarding the right of collective self-defense repudiates the exercise of the right. It has played the role of braking the process of strengthening military alliances and of becoming a military power. (TAGUCHI Fukuji, Speaker/153/26.Nov.2001/Nagoya Hearing)
- b. Comments concerning the rights and wrongs of exercising the right of collective self-defense
- b-1. Comments affirmative towards recognizing the exercise of the right of collective self-defense

<Comments by Members>

- The right of collective self-defense is not the right of using armed force with other countries, but of using force to protect the home country. Therefore it is natural for any sovereign state to both possess it and be able to exercise it. These concepts should be clarified because simply codifying them would be inadequate. (KYUMA Fumio, Member/LDP/147/27.Apr.2000, 150/28.Sept.2000)
- Today is not an age in which a single country is able to deploy defense capabilities adequately. We should revise the Constitution and then reorganize the exercise of

the right of collective self-defense at the minimum extent necessary. (KOMURA Masahiko, Member/LDP/154/6.June.2002/International Society Subcommittee)

- The Constitution should be revised, and the exercise of the right of collective self-defense should be recognized. (TSUCHIYA Shinako, Member/LDP/154/25.Apr.2002)
- The government's interpretation relating to the right of collective self-defense is based on the "minimum force necessary" doctrine premised on the negation of Japan's military strength under the influence of the GHQ. The notion of "minimum force necessary" has changed with the times, and I believe that the exercise of the right of collective self-defense is possible. (NAKASONE Yasuhiro, Member/LDP/153/6.Dec.2001)
- Pursuant to Article 51 of the United Nations Charter, the right of individual self-defense and the right of collective self-defense are recognized as a state's inherent rights. Based on that, Paragraph 1 of Article 9 should be retained, but Paragraph 2 should be revised. (HANASHI Nobuyuki, Member/LDP/147/11.May.2000)
- With respect to the exercise of the right of collective self-defense it is desirable from a long-term perspective that this be recognized directly by means of revising the Constitution. (KOBAYASHI Kenji, Member/DPJ/153/25.Oct.2001)
- I am against changing the concept of the right of collective self-defense through interpretation to match changes in international society. As regards questions such as whether the present interpretation of this concept is in line with the times, the Diet should debate them fully. It is also desirable that the Diet enact a new constitution that includes the clarification of the right of collective self-defense. (SHIMA Satoshi, Member/DPJ/153/6.Dec.2001)
- The matter of the exercise of the right of collective self-defense should not be addressed by interpretation. Recognition of the right should be stated expressly in the Constitution. (NAKAGAWA Masaharu, Member/DPJ/154/25.Apr.2002)
- So long as the right of self-defense has been recognized, as far as interpreting the Constitution is concerned it is appropriate that the exercise of that right be deemed to be recognized, be it the right of individual self-defense or the right of collective self-defense. Once the constitutional interpretation has been changed and the exercise of the right of collective self-defense recognized, when the time comes to actually exercise it, it will be in Japan's interest to consider doing so with restraint and strictly in line with the purport of the Preamble and Article 9. (NAKAMURA Tetsuji, Member/DPJ/154/9.May.2002/International Society Subcommittee)
- As regards the right of collective self-defense, we must settle such issues as the relationship with U.S. forces stationed in Japan, the compatibility of the concepts of

“emergency situations in areas surrounding Japan” and “armed attacks,” and the revision of the government interpretation based on the criterion of “participation in activities involving the use of armed force.” Then it will be necessary to consider the scope within which Japan may exercise its right. (INOUE Kiichi, Member/NCP/154/9.May.2002/International Society Subcommittee)

<Comments by Informants and Others>

- The government’s interpretation of Article 9 was appropriate at the time the Self-Defense Forces were established. However, in light of the international situation today, the state should be enabled to exercise the right of self-defense, without distinguishing between the right of collective self-defense and the right of individual self-defense. (MORIMOTO Satoshi, Informant/153/25.Oct.2001)
- Article 9 should be revised to recognize the exercise of the right of collective self-defense premised on the full functioning of civilian control. If revision is difficult, the government should alter its interpretation. (TAKUBO Tadae, Informant/154/6.June.2002/International Society Subcommittee)
- b-2. Comments negative or cautious towards recognizing the exercise of the right of collective self-defense

<Comments by Members>

- The right of collective self-defense is recognized as an inalienable right of a state, but it will take time to build a consensus among the people for having the Constitution expressly recognize the exercise of that right. Therefore, it is premature. (FUNADA Hajime, Member/LDP/147/27.Apr.2000)
- Recognizing the exercise of the right of collective self-defense goes against the tide of decentralization and internationalization since the Cold War. Therefore, it should be denied. (TSUTSUI Nobutaka, Member/DPJ/151/14.June.2001)
- My party (New Komeito) interprets Article 9 as recognizing the exercise of the right of individual self-defense, but not the exercise of the right of collective self-defense. We are also negative towards revising the Constitution so as to recognize the exercise of the right of collective self-defense. (AKAMATSU Masao, Member/NK/149/3.Aug.2000, 150/7.Dec.2000)
- The exercise of the right of collective self-defense is not envisaged by the Constitution. It also has to be said that even studying whether the right can be exercised is unconstitutional. Furthermore, it would not be useful for building peace in Asia. (HARUNA Naoaki, Member/JCP/150/30.Nov.2000, 151/4.June.2001/Kobe Hearing)

- The exercise of the right of collective self-defense cannot be examined within the framework of the Constitution. I believe that it would violate the philosophy of perpetual pacifism. (YAMAGUCHI Tomio, Member/JCP/151/4.June.2001)
- Recognizing the exercise of the right of collective self-defense would arouse mistrust among Asian nations and as a threat to them. I feel that as far as securing our national interest is concerned, it would have a negative impact. (HIMORI Fumihiro, Member/SDP/150/7.Dec.2000)

<Comments by Informants and Others>

- The exercise of the right of collective self-defense is not recognized by the Constitution. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- Some are of the opinion that the Constitution should be revised in order to recognize the exercise of the right of collective self-defense. But, peace should be built by diplomacy aimed at fostering relationships of trust with other countries. We should refrain from anything that might newly exacerbate tension in Japan's relationships. (NAKATA Narishige, Speaker/151/4.June.2001/Kobe Hearing)

- c. Comments concerning matters that should be considered when examining the right of collective self-defense

<Comments by Members>

- In discussing the right of collective self-defense it is important to confront two issues directly: will something that is ineffective be recognized as a right, and will recognizing it lead to peace? (ISHIBA Shigeru, Member/LDP/147/27.Apr.2000)
- On the subject of the right of collective self-defense we should take into consideration problems for the rights of an independent country, and the accumulation of government interpretations. (FUNADA Hajime, Member/LDP/147/6.Apr.2000)
- The distinction between the right of individual self-defense and the right of collective self-defense is not clear-cut internationally. We should not think of them as being completely separate. (NAKAMURA Tetsuji, Member/DPJ/154/9.May.2002/International Society Subcommittee)
- The concept of the right of collective self-defense has not been put in order, and so the discussion of it appears confused. For my part I believe that it comprises three layers: at its core is (a) sending the Self-Defense Forces overseas and using armed force; the next layer is (b) participation in activities involving the use of force; and the outer layer (c) actions that come very close to constituting participation in activities involving the use of force, but do not.

- It is said that the existing interpretation of the Constitution recognizes only (c). The contents of (a) are not permissible, even by means of constitutional amendments, but as regards (b) I believe there is room for further study on the basis of the Japan-U.S. Security Treaty. (AKAMATSU Masao, Member/NK/154/9.May.2002/International Society Subcommittee, 154/6.June.2002/International Society Subcommittee)
- The right of individual self-defense and the right of collective self-defense should not be considered as if they are separate concepts. (FUJISHIMA Masayuki, Member/LP/153/25.Oct.2001)

<Comments by Informants and Others>

- The conduct of a calm and objective study of World War II should, I believe, form the foundation for a normal discussion concerning the right of collective self-defense. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)
- When thinking about the right of collective self-defense, I think that it is important to reexamine the course of historical events that led up to the last world war, and the mistakes made by Japan. Also, in a global society that appears to be moving in the direction of the joint building of security structures, with a constitution that does not clearly provide for the possession of the right of self-defense, it will not be possible to build a structure that includes the exercise of the right of collective self-defense. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
- The right of collective self-defense as provided for in Article 51 of the United Nations Charter should be interpreted very strictly. This is because the "freedom of alliance," a corollary of the "freedom to wage war" that was recognized under the prewar view that warfare is legal and beyond the scope of the law, is included under the term "self-defense." (ONUMA Yasuaki, Informant/153/25.Oct.2001)
- We must give importance to the question of whether Japan has the independent ability to make judgments as to whether to exercise the right of collective self-defense. For Japan to assure that it makes independent judgments it must review the Japan-U.S. Security Arrangements, focusing on the revision of the Status of Forces Agreement and phased reduction of U.S. military bases. It must also consider steps such as the design of systems to assure the intelligence capability for forming judgments about the international situation. (TERASHIMA Jitsuro, Informant/154/9.May.2002/International Society Subcommittee)

- d. Comments that refer to issues relating to the exercise of the right of collective self-defense in individual policies

<Comments by Members>

- According to the government view, measures based on the Anti-Terrorism Special Measures Law do not fall within the purview of the exercise of the right of collective self-defense. (SHIMA Satoshi, Member/DPJ/153/26.Nov.2001/Nagoya Hearing)
- Japan should be cautious in considering participation in the National Missile Defense Program initiated by President Bush in a way that transcends its right of individual self-defense. (TSUTSUI Nobutaka, Member/DPJ/151/14.June.2001)
- The Japan-U.S. Security Treaty, which includes the provision of bases, the supply of funds at the time of the Gulf War, and so on fall within the purview of exercising the right of collective self-defense. (MAEHARA Seiji, Member/DPJ/147/11.May.2000)
- The enactment of the Anti-Terrorism Special Measures Law and the amendment of the International Peace Cooperation Law, without codifying constitutional concepts relating to the right of self-defense and without recognizing the exercise of the right of collective self-defense, may shake the people's confidence in the Constitution. (FUJISHIMA Masayuki, Member/LP/153/25.Oct.2001, 153/6.Dec.2001)
- It is being insisted that rear-echelon support activities by the Self-Defense Forces based on the Law Concerning Measures to Deal with Situations in Areas Surrounding Japan are constitutional. This kind of revision of the Constitution through interpretation is nearing its limit. (SASAKI Rikukai, Member/JCP/147/27.Apr.2000)
- The seven measures in Japan, including the enactment of Anti-Terrorism Special Measures Law, which was passed in response to the terrorist attacks in the United States, are no different from the eight support measures for the U.S. military extended by NATO based on its right of collective self-defense. Therefore, they surely constitute nothing less than the exercise of the right of collective self-defense. (HARUNA Naoaki, Member/JCP/153/25.Oct.2001)
- During the Gulf War, Japan was unable to exercise the right of collective self-defense. I gather that in consequence all it could do was to provide cooperation in the form of economic assistance. (MATSUNAMI Kenshiro, Member/NCP/150/28.Sept.2000)

<Comments by Informants and Others>

- The subject of the debate on the Anti-Terrorism Special Measures Law was that of participation in activities involving the use of force. The subject of the right of collective self-defense was not discussed. This latter subject becomes an issue if the

Self-Defense Forces naval vessels are dispatched and engaged in joint operations with other countries' naval vessels. (MORIMOTO Satoshi, Informant/153/25.Oct.2001)

- For situations arising in areas outside its territory, if Japan deals with them by providing cooperation in the form of logistical support for operations by U.S. forces, that will raise problems both from the legal and constitutional standpoints. (URABE Noriho, Speaker/151/4.June.2001/Kobe Hearing)
- Japan has advanced towards the exercise of the right of collective self-defense through the counterterrorism-related measures it has taken. Surely that will be appreciated by the United States. (KOIDO Yasuo, Speaker/153/26.Nov.2001/Nagoya Hearing)
- It would by no means be strange if other countries were to interpret the dispatch of units of the Maritime Self-Defense Force to support U.S. military counterterrorism operations as, in strict terms, constituting the exercise of the right of collective self-defense. In addition, that could be construed as forming part of military operations. As such it marks a divergence from the restraints imposed by the government's interpretation of the right of collective self-defense that has prevailed to date, and paves the way for the revision of Article 9. (TAGUCHI Fukuji, Speaker/153/26.Nov.2001/Nagoya Hearing)
- The dispatch of the Self-Defense Forces based on the Anti-Terrorism Special Measures Law and the supply of necessary materials to U.S. forces are acts that fall into the category of the exercise of the right of collective self-defense involving participation in acts of war. They are therefore unconstitutional. (NISHI Hideko, Speaker/153/26.Nov.2001/Nagoya Hearing)
- Military operations mean that rear support is necessary. The two both form parts of a whole. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)

(3) The Constitutionality of the Self-Defense Forces, and the Form They Should Take
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- a. Comments from the standpoint that the existence of the Self-Defense Forces is constitutional

<Comments by Members>

- Without a certain level of military power, Japan cannot cooperate with other countries in measures by the international society. If Article 9 is interpreted as prohibiting the maintenance of armed forces for aggression, I feel that it allows

Japan to maintain a certain level of military power. (OKUNO Seisuke, LDP/154/23.May.2002/Politics Subcommittee)

- Article 9 is interpreted as not going so far as to renounce the right of self-defense, and the Self-Defense Forces have been built up on that basis. I believe that today there is virtually no dissent on this point. (KYUMA Fumio, Member/LDP/150/28.Sept.2000)
- The Murayama administration made an official statement that the Self-Defense Forces are constitutional. Since then the general perception among the population is that it is constitutional to have Self-Defense Forces that form a defensive force with fighting capacity. (NAKAYAMA Taro, Commission Chairman, Member/LDP/154/28.Feb.2002/International Society Subcommittee)
- Despite the existence of Article 9, I do not hold the view that the Self-Defense Forces should be dissolved. (EDANO Yukio, Member/DPJ/147/24.Feb.2000)
- There is a risk that the very act of debating the constitutionality of the existence of Self-Defense Forces to protect the nation will lead to demoralization. (NODA Takeshi, Member/NCP/149/3.Aug.2000)

<Comments by Informants and Others>

- The fact that Article 9 was prescribed to have the same purport as the 1928 Treaty for the Renunciation of War has become clear, as have the circumstances surrounding the intentions behind the Ashida amendment and the imposition of civilian control. In light of this, under the Constitution it is possible to maintain war potential for self-defense. (NISHI Osamu, Informant/147/24.Feb.2000)
- Taking the intentions of the Ashida amendment into consideration, Article 9 can be interpreted as permitting the maintenance of the minimum level of military strength necessary for self-defense. Therefore, the existence of the Self-Defense Forces is not unconstitutional. In addition, their existence is recognized by the majority of the Japanese people and unanimously by both ruling and opposition parties in the Diet. This shows that public opinion is not polarized into two camps on Article 9, and I believe there is no need to revise it. Nevertheless, the present scale of the Self-Defense Forces is anomalous. We must consider the form that Japan's military strength should take, in line with the principle of demilitarization, and from the perspective of the state and of the people. (SHINDO Eiichi, Informant/147/6.Apr.2000)
- The existence of the Self-Defense Forces does not violate the Constitution. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- Setting aside whether it will remain appropriate in the future, the government's authoritative interpretation of the relationship between Article 9 and the

Self-Defense Forces has played a certain important role in bringing Japan peace and prosperity for more than 50 years. This deserves to be praised by posterity. (MORIMOTO Satoshi, Informant/153/25.Oct.2001)

- The existence of the Self-Defense Forces cannot be said to be directly unconstitutional. However, I think that expanding their scale by such means as the enactment of emergency-response laws would be unconstitutional. (KAKINOHANA Hojun, Speaker/154/22.Apr.2002/Okinawa Hearing)
- b. Comments from the standpoint that the existence of the Self-Defense Forces is constitutional, but should be stated expressly in the Constitution

<Comments by Members>

- Various interpretations have been made of Article 9, and among these the theory that the Self-Defense Forces are constitutional has been established. The Self-Defense Forces are operating in accordance with this, and the next step is to have a full discussion of moving in the direction of revising Paragraph 2, which is out of touch with reality, in order to recognize the existence of Self-Defense Forces for the protection of the people and the national territory, while retaining Article 9, Paragraph 1, which prohibits war of aggression. It is also necessary to participate actively in United Nations operations. (HANASHI Nobuyuki, Member/LDP/154/28.Feb.2002/International Society Subcommittee, 154/25.Apr.2002)
- Taking into consideration the intentions of the Ashida amendment, Article 9 can be interpreted as permitting the maintenance of the minimum level of military strength necessary for self-defense. Therefore, the existence of the Self-Defense Forces does not violate the Constitution. However, in order to unify the bipolarization of public opinion about the Self-Defense Forces, we should change the interpretation of Article 9 in line with the intent of the Ashida amendment to permit the maintenance of war potential for self-defense. This should also be reflected in the future revision of the Constitution. (YOKOUCHI Shomei, Member/LDP/147/6.Apr.2000, 147/27.Apr.2000, 147/11.May.2000)
- It is natural that since Japan has the right of self-defense under the Constitution as it stands, it equips itself with armaments in accordance with factors such as the current state of weaponry. Accordingly, although I believe that the existence of the Self-Defense Forces is constitutional, the diverse interpretations of Article 9 should be unified by revising it, while retaining its doctrine of not engaging in aggressive war. In addition, since the Cold War the occurrence of crises containing major causes of uncertainty is feared also in East Asia. In these circumstances it is essential that to protect the lives and property of the people, express mention of the Self-Defense Forces be included in the Constitution, and that they be enabled to act

rapidly under the command of the prime minister. (FUJISHIMA Masayuki, Member/LP/150/9.Nov.2000, 151/14.June.2001)

<Comments by Informants and Others>

- The right of self-defense exists unless it has been explicitly repudiated, and military force is the principal means of self-defense. In consequence, the existence of the Self-Defense Forces is constitutional. However, some other countries have misgivings because although the Constitution prohibits the maintenance of armed forces, Japan has Self-Defense Forces equipped with extensive armaments. Also, the absence of a military organization for self-defense is contrary to the essential nature of a state, and thus Article 9, Paragraph 2, could be considered inappropriate. Therefore, the Constitution should make express provision for the maintenance of armed forces of a certain scale and for their operating policy. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- Article 9 includes the intent to approve the use of force for self-defense and operations to aid international security. However, the distrust of other countries has been aroused by the fact that Japan, a major economic power with responsibilities in the international community, has created a reality that is completely at variance with what is stipulated in the Constitution. To enable Japan to respond at will to security-related emergencies such as low-intensity conflicts, the Constitution should be revised after a national consensus has been built. (IOKIBE Makoto, Informant/147/20.Apr.2000)
- Based on the debate at the time the Constitution was enacted and on the opinion of the Murayama administration, the existence of the Self-Defense Forces is constitutional. The fact that there are still people who doubt its constitutionality is because of the ambiguity of the language of the Constitution. In light of this, the Constitution should include express provision for an organization for the exercise of the right of self-defense. (TEJIMA Norio, Speaker/151/16.Apr.2001/Sendai Hearing)
- Article 9, Paragraph 2, does not repudiate the existence of an organization for the use of force for self-defense, and I support the present government interpretation that if armed force will not be used, the Self-Defense Forces may be dispatched overseas. Given the reality that the Self-Defense Forces are accepted as being an integral part of society, the Constitution should provide expressly for matters such as their existence, their maintenance of self-defense capacity up to the minimum necessary level, and their duty to undertake operations exclusively for defensive purposes. Also, they should be placed under the direct control of the people. (ASHITOMI Osamu, Speaker/154/22.Apr.2002/Okinawa Hearing)

- c. Comments from the standpoint that the existence of the Self-Defense Forces should be stated explicitly in the Constitution, owing to doubts about their constitutionality

<Comments by Members>

- I don't consider it necessary to amend Paragraph 1 of Article 9, which stipulates that armed force may not be used as a means of settling international disputes. However, Paragraph 2 present a problem in that it stipulates that war potential shall not be maintained. (OKUDA Mikio, Member/LDP/147/27.Apr.2000)
- It is natural that the Japanese people are dubious about the thinking that the Self-Defense Forces are not an army, a navy, and an airforce. I believe that in view of this, the Constitution should make express provision for the existence of the Self-Defense Forces, while retaining its fundamental peace principles. I think that the time has come to add such a provision. (KOMURA Masahiko, Member/LDP/154/6.June.2002/International Society Subcommittee)
- Since Article 9 can be interpreted as requiring the renunciation of the maintenance of war potential for purposes of self-defense as well as the right of belligerency, it is inappropriate as a constitutional provision of a sovereign state. The Constitution should therefore make express mention of the Self-Defense Forces as having the status of the country's armed forces, and having the duties such as the protection of the lives and property of the people, self-defense, and contribution to the international society. (TAKAICHI Sanae, Member/LDP/147/27.Apr.2000)
- More than 80 percent of the Japanese people recognize the existence of the Self-Defense Forces. In view of this fact, the Constitution should be brought into line with reality through the express mention of the holding of war potential for self-defense. (MIZUNO Ken'ichi, Member/LDP/150/9.Nov.2000)
- It is not possible to justify the existence of the Self-Defense Forces based on Paragraph 2 of Article 9. Therefore, there should be express provision in the Constitution for the Self-Defense Forces' existence, duties, etc. (ISHII Hajime, Member/DPJ/147/11.May.2000)
- I agree with the view that Japan, a major economic power that has responsibilities to the international community, is arousing distrust in other countries by creating a reality that is totally at variance with the provisions of its Constitution. Based on a form of ideal realism, the existence of the Self-Defense Forces should be mentioned expressly in the Constitution. (TARUTOKO Shinji, Member/DPJ/147/20.Apr.2000)
- Since the existence of the Self-Defense Forces is premised on the right of individual self-defense, Article 9 is a dead letter. Therefore, it is essential not to deal with this by means of interpretation, but by explicitly setting out their role and objectives in the Constitution. (NAKAGAWA Masaharu, Member/DPJ/153/25.Oct.2001)

- Although the Self-Defense Forces exist, the Constitution does not explicitly specify their status as entities that protect the lives and property of the people. This is a defect of the Constitution; express mention of these matters should be included in it. (NAKANO Kansei, Member/DPJ/154/25.Apr.2002)
- If we think of it in terms of the normative meaning of Article 9, the existence of the Self-Defense Forces is unconstitutional. However, owing to the revision of the Constitution by interpretation and to changes in the international environment, the situation has changed. (MAEHARA Seiji, Member/DPJ/150/9.Nov.2000)
- In spite of the fact that Article 9 stipulates the non-maintenance of war potential, the Self-Defense Forces exist and have large-scale armaments big enough for China to regard them as a threat. This imbalance should be rectified by including explicit wording in the Constitution in a manner that conforms with the real situation. (YAMADA Toshimasa, DPJ/153/6.Dec.2001)
- There is a divergence between, on the one hand, the non-maintenance of war potential and renunciation of the right of belligerency stipulated in Article 9, Paragraph 2, and on the other, the reality of the existence of the Self-Defense Forces. I see no contradiction between engaging in peace diplomacy, and explicitly providing in the Constitution for the right of self-defense, equipping ourselves with the minimum strength necessary for that. (AKAMATSU Masao, Member/NK/154/25.Apr.2002, 154/24.June.2002/Sapporo Hearing)
- The existence of the Self-Defense Forces is unconstitutional according to Article 9. By means of interpretation, it has become to be deemed constitutional in a form different from that envisaged at the time the Constitution was enacted. This has happened because of negligence by politicians and the Supreme Court. (FUTAMI Nobuaki, Member/LP/147/23.Mar.2000)
- Since the Self-Defense Forces exist, Article 9 is not functioning properly as a legal provision. Also, as it would not be realistic to pursue security in line with the ideas set out in that article, I feel that it should be revised in a manner that brings it into conformity with reality. (INOUE Kiichi, Member/NCP/154/24.June.2002/Sapporo Hearing)

<Comments by Informants and Others>

- The existence of the Self-Defense Forces is unconstitutional pursuant to Article 9. In view of this we should revise Article 9, adding a third paragraph with explicit wording stipulating the maintenance of war potential for the purpose of self-defense. (ISHIHARA Shintaro, Informant/150/30.Nov.2000)
- Article 9 expresses sentiments of shunning war and desiring peace, but it has no clear statement as to the existence of an organization to protect the nation and its people. In order to make that clear, Article 9 should have a third paragraph

providing expressly for the maintenance of self-defense forces. This would not be contrary to the ideals of the Peace Constitution. In addition, the Constitution or the Self-Defense Forces Law should include a provision stipulating that the Self-Defense Forces may only be dispatched overseas pursuant to United Nations resolutions or similar authority. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)

- Paragraph 2 of Article 9 can be interpreted as prohibiting military strength of any kind. Therefore, the paragraph should be deleted. (SAKAMOTO Takao, Informant/151/22.Mar.2001)
 - The international community recognizes the Self-Defense Forces as being Japan's military strength. Article 9 and the Self-Defense Forces are contradictory, and are nothing short of humbug in adult society. In consequence, the parts of Article 9, Paragraph 2, stipulating the non-maintenance of war potential, the nonrecognition of the right of belligerency, and so on, should be put into a form that is not contradictory with current reality. (TERASHIMA Jitsuro, Informant/154/9.May.2002/International Society Subcommittee)
 - Article 9 can be interpreted as prohibiting the maintenance of any war potential whatsoever, so it is difficult to arrive at the interpretation that the Self-Defense Forces are constitutional. In light of this, the Self-Defense Forces should be stated as (1) being under the control of a peace-loving people, (2) being able to operate in a flexible manner, and (3) as possessing military strength to enable them to fulfill their responsibility for self-defense in cases of emergency. This should be done only after extensive debate and after gaining sufficient understanding of this among neighboring countries. (KOIDO Yasuo, Speaker/153/26.Nov.2001/Nagoya Hearing)
- d. Comments that refer to the necessity for the Self-Defense Forces, express provision in the Constitution, etc.

<Comments by Members>

- It should be stated expressly in the Constitution that the maintenance of military forces in Japan is legitimate and does not constitute militarism and does not have a negative impact on pacifism. (KOIZUMI Junichiro, Member/LDP/147/11.May.2000)
- The Constitution should state expressly that Japan maintains war potential for the purpose of self-defense. This should be based on two premises: that Japan renounces aggressive war, and that it possesses the right of self-defense. (HOZUMI Yoshiyuki, Member/LDP/147/27.Apr.2000)
- The existence of the Self-Defense Forces should be stated clearly in the Constitution in easy-to-understand terms. (MITSUZUKA Hiroshi, Member/LDP/147/11.May.2000)

- Since the Self-Defense Forces are the cornerstone of the peace of mind felt by the Japanese people, we should bring the disputation about Article 9 to a halt. To do so, a provision should be added to the Constitution to the effect that it recognizes the Self-Defense Forces as military forces exclusively for the purpose of defense. (TSUTSUI Nobutaka, Member/DPJ/151/14.June.2001)
- The maintenance of the Self-Defense Forces, its civilian control, and the repudiation of conscription should be stated expressly in the Constitution. (MATSUZAWA Shigefumi, Member/DPJ/147/27.Apr.2000, 154/25.Apr.2002)

<Comments by Informants and Others>

- Article 9 is a provision whose enactment was premised on the occupation of Japan by U.S. armed forces. Therefore, since the Occupation forces have left and it has once again become an independent state, Japan has naturally needed adequate military strength based on its possession of the right of self-defense. (WATANABE Shoichi, Informant/150/7.Dec.2000)
- After devising a national strategy that sets out clearly the national interest and a national vision, Japan should revamp its legal framework, including by revising Article 9, Paragraph 2. (MORIMOTO Satoshi, Informant/153/25.Oct.2001)
- In order to resist attack with the use of military power, military strength is essential as a symbol of the will to fight. Accordingly, in order to make the Self-Defense Forces the normal armed forces of a normal country, their existence should be expressly provided for in the Constitution. (TAKUBO Tadae, Subcommittee)
- The Constitution should make express provision for the right of belligerency in self-defense, and the maintenance of military strength in the forms of land, sea, and air forces under civilian control. (KOKUBO Masao, Speaker/151/4.June.2001/Kobe Hearing)
- As a sovereign state, Japan should have a certain level of police powers and the right of belligerency and deal with entities that commit unlawful acts in ways adapted to the particular circumstances. (MEGUMI Ryunosuke, Speaker/154/22.Apr.2002/Okinawa Hearing)
- There should be clear wording in the Constitution to the Informant/154/6.June.2002/International Society following effect: that having renounced engaging in wars of aggression, Japan shall establish a national defense force to back its right of self-defense and in the spirit that the nation's sovereignty and independence will be protected by the people themselves; that it shall be placed under civilian control; and that a national conscription system shall be operated as a communal responsibility of the people. (INATSU Sadatoshi, Speaker/154/24.June.2002/Sapporo Hearing)

- e. Comments from the standpoint that the existence of the Self-Defense Forces is constitutionally dubious, and therefore they should be abolished or their operating policy changed

<Comments by Members>

- From Article 9 it is not possible to derive the interpretation that it is permissible to maintain armed forces for self-defense or armed forces to participate in joint operations for international security. If the interpretation of the Constitution, which was enacted prior to the Cold War, changed in response to the course of the Cold War, then now that the Cold War is over, it is appropriate to go back to its interpretation before the Cold War. (SASAKI Rikukai, Member/JCP/147/6.Apr.2000, 147/20.Apr.2000)
- The establishment of standing armed forces is not recognized under Article 9. The gap between Article 9 and factors such as the existence of the Self-Defense Forces should be removed by moving reality closer to Article 9. (HARUNA Naoaki, Member/JCP/147/11.May.2000, 154/24.June.2002/Sapporo Hearing)
- My party (Japanese Communist Party) holds to the view that the government's interpretation of Article 9 is mistaken. The existence of the Self-Defense Forces is unconstitutional, and by adhering to the spirit of pacifism the elimination of this state of affairs should be pursued by means of phased political solutions. Therefore, we cannot approve the revision of Article 9, Paragraph 2, and an express provision for the maintenance of self-defense forces in a third paragraph. As the two paragraphs of Article 9 form an integrated whole, such a step would destroy the ideals of the Peace Constitution.
- If the Communist Party were to form the administration, the issue of whether to abolish the Self-Defense Forces would be a question of a different order. It is a question to be considered in reaching an administration policy agreement and one that depends on the views of the public. In any event, we would not strengthen the Self-Defense Forces along the lines that the present government is considering. (YAMAGUCHI Tomio, Member/JCP/150/30.Nov.2000, 150/7.Dec.2000, 153/25.Oct.2001, 154/28.Feb.2002/International Society Subcommittee, 154/25.Apr.2002, 154/9.May.2002/International Society Subcommittee, 154/25.July.2002)
- It is mere deception to take the existence of the Self-Defense Forces as "legal but unconstitutional" in relation to Article 9, Paragraph 2. There is a danger that if this deception is not cleared up, it will give rise to misunderstanding in Asian countries, and create rifts with them. In view of this, I feel that before revising this paragraph we should formulate measures of some kind targeted particularly at Asian countries. (ABE Tomoko, Member/SDP/154/9.May.2002/International Subcommittee)

- Japan has not been invaded and has rebuilt itself as a nation under the Constitution. Therefore, I object to the transformation of the Self-Defense Forces into regular armed forces by revising Article 9. The attitude of my party (Social Democratic Party) is that we should move away from addressing the issue of the Self-Defense Forces through the interpretation of the Constitution, and assess arms reduction while recognizing their existence. (OSHIMA Reiko, Member/SDP/154/28.Feb.2002/International Society Subcommittee)
- Japan lacks the spirit to forge links with the international community via Asia. Because of this, the argument in favor of revising the Constitution so as to recognize the maintenance of military strength has gained the ascendancy. If the maintenance of armed forces is stated explicitly in the Constitution, it will arouse mistrust among Asian countries and make them feel threatened. I feel that as far as securing the national interest and the interest of the Japanese people is concerned, it would have a negative impact. (HIMORI Fumihiro, Member/SDP/150/7.Dec.2000)
- Japan has determined to preserve its security and existence by trusting in the justice and faith of the peoples of the world, not through military strength and cooperation with the United States. I cannot approve of the maintenance of war potential for self-defense. (YAMAGUCHI Wakako, Member/SDP/150/30.Nov.2000)

<Comments by Informants and Others>

- The expansion of the scale of the Self-Defense Forces has ruined the official government view of them. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- Japan should aim to become a “conscientious objector state.” It should pursue disarmament, including by establishing a disaster-relief organization that is also able to be dispatched overseas. (ODA Makoto, Informant/150/28.Sept.2000)
- The existence of the Self-Defense Forces is the issue that lies at the heart of the gap between the Constitution and reality. Article 9 is based on Japan’s experience of aggressive war and being the victim of nuclear bombing, and its provisions such as those for the renunciation of war and the non-maintenance of war potential are dictates for the government authorities. Therefore, the popularly held view is that the existence of the Self-Defense Forces is unconstitutional. Also, the fact that the Supreme Court has not been positive towards making a ruling that the existence of the Self-Defense Forces is constitutional is evidence that Article 9 is clearly an authoritative standard for the prohibition of having war potential. In light of this I believe that the maintenance of war potential for self-defense constitutes government action that deviates from the norms of the Constitution; its responsibility must be made clear. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- (1) There is a lack of logical consistency in the view that Article 9 should be revised because it is not in line with reality, while insisting on the constitutionality of the

Self-Defense Forces. (2) The view that the existence of the Self-Defense Forces is approved by the people does not alter the fact that the existence of the Self-Defense Forces is unconstitutional, because the Constitution is the supreme law of the land that also restricts the people's decisions. (3) The view that unconstitutionality should be resolved by revising the Constitution so that it conforms with reality turns the rule of law on its head. (4) The view that the Self-Defense Forces are "legal but unconstitutional" means that the Self-Defense Forces Law is unconstitutional. (5) The view that we should give consideration to the Ashida amendment is not appropriate, as speculation as to what Ashida's innermost thoughts were is inadmissible as a factor when considering interpretations of the Constitution. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)

- I have given comprehensive consideration to factors such as public opinion, the existence of the Self-Defense Forces, the fact that the Supreme Court has not ruled that their existence is invalid, the lives and human rights of the members of the forces, and the international situation, including Japan-U.S. relations. Based on this I think it is necessary to concentrate the wisdom of the people on devising and implementing a constitutional measure to transform the Self-Defense Forces into a nonmilitary form that accords with the Constitution; but I maintain my long-term view that the Self-Defense Forces should be abolished. In doing this, study will have to be given to issues relating to the operation of the Self-Defense Forces in times of disaster and in emergency situations. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- The existence of the Self-Defense Forces is unconstitutional. However, we must debate questions such as how to use the Self-Defense Forces as they exist today in Japan's national interest, and how to bring it closer to the true intent of the Constitution. I do not believe that Article 9 should be revised, but if there is a consensus among the people in favor of revising it, it would be natural to provide for the use of military force in the same form as other countries' constitutions. That is, limit it to self-defense and to mandatory United Nations operations. (MATSUI Yoshiro, Informant/154/28.Feb.2002/International Society Subcommittee)
- With respect to the role of the Self-Defense Forces, the opinions of many people emphasize the disaster-relief aspects rather than the defense aspects. (ENDO Masanori, Speaker/151/16.Apr.2001/Sendai Hearing)
- We must make Japan a springboard for world peace by taking steps such as demilitarization measures, including the reorganization of the Self-Defense Forces into a disaster-relief corps. After that, we must deploy our human-security policies internationally. (NAKAKITA Ryutaro, Speaker/151/4.June.2001/Kobe Hearing)
- We cannot think that the Self-Defense Forces are approved of only on the basis of their having been dispatched to help at the time of the Great Hanshin-Awaji earthquake. (NAKATA Narishige, Speaker/151/4.June.2001/Kobe Hearing)

- The existence of the Self-Defense Forces is unconstitutional. In Peru I was once at a loss for an answer when I had to explain the relationship between the Self-Defense Forces and the Constitution. That experience taught me that they should be in accordance with the spirit of the Constitution, and not explained away by an assemblage of established facts. (KAWABATA Hiroaki, Speaker/153/26. Nov.2001/Nagoya Hearing)
- It is not possible to trust a government that, in spite of the stipulations of Article 9 as to the non-maintenance of war potential, has established and maintained the Self-Defense Forces. (ARAKAKI Tsutomu, Speaker/154/22.Apr.2002/Okinawa Hearing)
- The Self-Defense Forces should be reorganized by taking into consideration Japan's geographical situation, with its large number of outlying islands. Japan should establish a welfare-support corps to engage in welfare related operations such as providing nursing care in those islands, and a rescue corps equipped to deal with natural disasters. (YAMAUCHI Tokushin, Speaker/154/22.Apr.2002/Okinawa Hearing)
- If the country had been governed in conformity with the pacifism of the Constitution, the Self-Defense Forces would never have existed. They should be reorganized in phases into a disaster-relief corps. (ISHIZUKA Osamu, Speaker/154/24.June.2002/Sapporo Hearing)
- The existence of the Self-Defense Forces constitutes a wide divergence from the purport of Article 9, Paragraph 2, which stipulates the non-maintenance of war potential. It violates the fundamental norm that the Constitution represents. Their existence has evoked a great deal of disappointment and resignation, given that to date there has been no judicial review and that the Constitution has been revised through interpretation. (TANAKA Hiroshi, Speaker/154/24.June.2002/Sapporo Hearing)
- The existence of the Self-Defense Forces is contrary to the Constitution, but I do not believe they should be abolished immediately. The direction in which they should go is indicated in the Constitution. (MASUGI Eiichi, Speaker/154/24.June.2002/Sapporo Hearing)
- The interpretation that Article 9 recognizes the maintenance of war potential for purposes of self-defense and wars of self-defense is incorrect. My view is based on the thinking of the legislators and on a literal interpretation of Article 9 as not recognizing the maintenance of war potential or the right of belligerency. The maintenance of war potential is illegal, and we should find out who is responsible for that. Although it is not realistic to disband the Self-Defense Forces instantly, they should be reduced in scale. Also, after gaining the understanding of the United States and neighboring countries, they should be transformed in stages into a

nonmilitary organization with duties in such areas as disaster relief and peacekeeping operations. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)

(4) Other Aspects

<Comments by Members>

- A disparity has arisen between the existence of the Self-Defense Forces and Article 9. (SATO Megumu, Member/LDP/147/27.Apr.2000)
- Upon the conclusion of the Japan-U.S. Security Treaty, the Self-Defense Forces were established at the convenience of the United States. We should also keep in mind that China, which still harbors memories of Japan's invasion, considers the existence of the Self-Defense Forces, with their large-scale military capability, as a threat. (YAMADA Toshimasa, DPJ/153/6.Dec.2001)
- Together with our ally the United States, the Self-Defense Forces protects the Japanese homeland. I myself do not believe that Japan does not protect its own territory. (AKAMATSU Masao, Member/NK/150/7.Dec.2000)
- I feel that since the time of the Occupation the United States has, in pursuing its Asian strategy, considered Article 9, Paragraph 2, to be inappropriate. Surely, therefore, it was in the U.S. Asian strategy that the origins of the moves to bring about the revision of Article 9 are to be found. (SASAKI Rikukai, Member/JCP/147/9.Mar.2000, 147/6.Apr.2000)

<Comments by Informants and Others>

- If the people who consider the existence of the Self-Defense Forces to be unconstitutional switch to the stance of considering them to be constitutional, I think that many people will come to have doubts about the significance of the stipulations of Article 9. (NISHI Osamu, Informant/147/24.Feb.2000)
- To date there has been insufficient debate about the limits to police power. Today, when there are frequent outbreaks of ethnic conflicts and guerrilla wars, rather than large-scale conflicts, we should reexamine issues such as the relationship between military power and police power and the relationship between the effective use of police power and the Constitution. (KOSEKI Shoichi, Informant/147/9.Mar.2000)
- Japan should create a structure to enable assistance to be dispatched, at the responsibility of the state, when Japanese citizens find themselves in emergency situations overseas. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)

- The perception of the United States in 1945 and in 1950 was manifested in the contradictory forms: Article 9 and the Self-Defense Forces respectively. Because of this, Japan has granted the Self-Defense Forces the status of a force to assist U.S. forces. The cooperative relationship with the United States should be thought of as being premised on the fact that the Japanese army exists to protect Japan. (SAKAMOTO Takao, Informant/151/22.Mar.2001)
- It is very rare for there to be domestic laws governing the use of weapons by armed forces. The proper formula is for the forces to be given tasks and objectives, and for the commander to be entrusted with maximum authority as to the use of weaponry necessary for achieving them. (MORIMOTO Satoshi, Informant/153/25.Oct.2001)
- The Self-Defense Forces were established not at the request of the people, but in response to the request of the United States. (YAMAUCHI Tokushin, Speaker/154/22.Apr.2002/Okinawa Hearing)

4. The Japan-U.S. Security Arrangements

(1) Evaluation of the Japan-U.S. Security Arrangements to Date

a. Comments affirmative towards the Japan-U.S. Security Arrangements

<Comments by Members>

- Japan's position in the international community needs to be studied from the perspective of the Japan-U.S. alliance. Rear-area support in nonmilitary fields for U.S. military operations authorized by the Security Council has been the wisest possible choice, since it makes use of both the Constitution and the Japan-U.S. Security Treaty. (AKAMATSU Masao, Member/NK/154/28.Feb.2002/International Society Subcommittee, 154/6.June.2002/International Society Subcommittee)

<Comments by Informants and Others>

- The Japan-U.S. Security Treaty established a structure under which the United States defends Japan. In view of this, Article 9 may be interpreted flexibly in accordance with individual cases. It did not mean that Japan's self-defense was inviable without the revision of Article 9. For this reason, I think we have been able to manage without having to revise it.
- Also, in recent years there is an increased level of involvement of "functionalists," experts on specific issues, in addition to "regionalists" in the form of Japan experts and Asia experts. This signifies that the importance of the Japan-U.S. relationship, and its maturity, are increasing. (MURATA Koji, Informant/147/9.Mar.2000)
- The United States deems other countries allies on the basis of three criteria: (1) they have the will to oppose a common enemy with military power, (2) they share values such as democracy and have a market economy, and (3) there exists no major economic rivalry. In my view the present Japan-U.S. relationship is very close. (TAKUBO Tadae, Informant/154/6.June.2002/International Society Subcommittee)

b. Comments pointing out problems in the Japan-U.S. Security Arrangements

- b-1. Comments pointing out that the Japan-U.S. Security Arrangements are unilateral and unequal

<Comments by Members>

- The Japan-U.S. Security Treaty is one-sided. (SHIOTA Susumu, Member/LP/151/22.Mar.2001)
- It has been sought to establish Japan's national security based on the twin foundations of the Self-Defense Forces and the U.S. forces stationed in Japan under

the Japan-U.S. Security Treaty. However, in many aspects Japan had to rely on those U.S. forces, with the result that 75 percent of U.S. bases are concentrated in Okinawa. (FUJISHIMA Masayuki, Member/LP/154/22.Apr.2002/Okinawa Hearing)

- The United States feels uneasy about whether Japan is capable of carrying out jointly its role relating to homeland defense under the Japan-U.S. Security Treaty. (KONDO Motohiko, Member/Club 21/151/22.Mar.2001)

<Comments by Informants and Others>

- The Japan-U.S. Security Treaty creates an unequal relationship under which the United States defends Japan, and Japan provides the United States with bases. It gives an outward appearance of having built an equal relationship. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- Mutual respect and affection are not motives that feature in the Japan-U.S. relationship. The source of this is that the United States perceives the Japan-U.S. Security Treaty as being a unilateral in character, while Japan perceives it as being a mercenary treaty, with the result that there is no mechanism conducive to mutual respect and affection. (TERASHIMA Jitsuro, Informant/154/9.May.2002/International Society Subcommittee)
- The Japan-U.S. Security Treaty is too one-sided. (TAKUBO Tadae, Informant/154/6.June.2002/International Society Subcommittee)

b-2. Comments pointing out Japan's lack of autonomy and independence under the Japan-U.S. Security Arrangements

<Comments by Members>

- Because the United States is excessively powerful, Japan has been reduced to being a nation that keeps putting off taking decisions and fulfilling obligations and has no independent authority. (YANAGISAWA Hakuo, Member/LDP/147/11.May.2000)
- During the Cold War, Japan's role was defined by the Japan-U.S. Security Treaty, irrespective of its own will. Article 9 was used as an excuse to explain why Japan was unable to fulfill its role as it related to the use of armed force. (NAKAGAWA Masaharu, Member/DPJ/154/9.May.2002/International Society Subcommittee)
- To date, Japan has been under the protection of the United States. However, the nature of the Japan-U.S. Security Arrangements has changed, and the "Far East clause" has become a mere formality. As a result, Japan is now being incorporated into an American global strategy encompassing the whole of Asia. Japan, as an independent nation, should have an identity independent of the United States, while still attaching importance to the Japan-U.S. alliance. (FUJISHIMA

Masayuki, Member/LP/150/30.Nov.2000, 153/25.Oct.2001, 154/9.May.2002/
International Society Subcommittee)

- Underlying the need to redesign the Japan-U.S. Security Treaty are problems in Japan's foreign policy: (a) weak autonomy, (b) underdeveloped ties with the other Asian nations, and (c) insufficient commitment to building peace. (YAMAGUCHI Tomio, Member/JCP/154/9.May.2002/International Society Subcommittee)
- Whenever necessary Japan should be vigorous in voicing its opinion about U.S. policy, in which the priority given to military force in some respects serves to generate new conflicts. (KANEKO Tetsuo, Member/SDP/154/6.June.2002/
International Society Subcommittee)

<Comments by Informants and Others>

- The Japan-U.S. Security Treaty, whose cornerstone is military power, is a logical extension of the policy of the Occupation. Its retention has led Japan to become incorporated into America's global strategy. In consequence, hitherto the Japan-U.S. relationship has been characterized by Japanese compliance with the powerful United States, not by equality. (ODA Makoto, Informant/150/28.Sept.2000)
- There is a widespread kind of faith in Japan that ultimately the United States will protect the people's lives and property. (ISHIHARA Shintaro, Informant/150/30.Nov.2000)
- As a result of U.S. Occupation policy Japan was able to achieve economic revival and become a major economic power. However, just as it has been said that Japan's foreign and security policies have been those of a puppet of the United States, in political terms Japan has been treated as a "quasi-incompetent." As such it can be said to have paid dearly. (KANG Sanjung, Informant/151/22.Mar.2001)
- Japan is only able to see the world through American eyes. (ONUMA Yasuaki, Informant/153/25.Oct.2001)
- If Japan is a friend of the United States, when the United States makes a mistake in its actions Japan must correct it. It will not be trusted if it simply follows suit. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)
- Since around the time that Japan enacted the Law Concerning Measures to Deal with Situations in Areas Surrounding Japan, Japan has tumbled into a situation in which it will cooperate unreservedly with the United States. (TERASHIMA Jitsuro, Informant/154/9.May.2002/International Society Subcommittee)
- The establishment of the Self-Defense Forces, the conclusion of the Japan-U.S. Security Treaty and the Guidelines for Japan-U.S. Defense Cooperation, the enactment of the emergency-response laws, and other Japanese security policies

have all been forced on Japan by the United States. (ISHIZUKA Osamu, Speaker/154/24.June.2002/Sapporo Hearing)

b-3. Comments opining that Japan cannot expect the full cooperation of the United States for its national security

<Comments by Members>

- In my view it will be difficult to expect cooperation from the United States for the sake of Japan's peace under the Japan-U.S. Security Treaty and the Peace Constitution. (NAKAYAMA Masaaki, Member/LDP/153/2001.10.11)
- I think that as regards the Japan-U.S. cooperative structure there is a sizeable gap between the perceptions and expectations of the people of the two countries. (AKAMATSU Masao, Member/NK/154/9.May.2002/International Society Subcommittee)
- In my view the U.S. policy of treating Japan as "a convenient country" has persisted to this day. (SASAKI Rikukai, Member/JCP/147/6.Apr.2000)
- I feel that from the U.S. standpoint its principal strategy is to maintain the existing structure, including the Constitution, under which Japan provides bases and money for the stationing of U.S. forces. (KOIKE Yuriko, Member/NCP/150/30.Nov.2000)

<Comments by Informants and Others>

- I do not think that it is a widely held view in the United States that if Japan were attacked, the United States would make sacrifices for the sake of Japan's security. The reason why Japan is needed by the United States is that it could not achieve supremacy without Japan's bases and cooperation. (KANG Sanjung, Informant/151/22.Mar.2001)

b-4. Comments pointing out the problems for the Constitution posed by the Japan-U.S. Security Treaty

<Comments by Members>

- The Japan-U.S. Security Treaty and the Constitution are contradictory. (SASAKI Rikukai, Member/JCP/147/6.Apr.2000)
- The Japan-U.S. Security Treaty is a major cause of the voiding of the Constitution. Furthermore, laws enacted for the purpose of supporting U.S. forces, such as the Law Concerning Measures to Deal with Situations in Areas Surrounding Japan, are out of line with the people's attitudes, and trample on the spirit of the Constitution. They are a major impediment to the peace of Asia. (HARUNA Naoaki, Member/JCP/147/6.Apr.2000, 150/30.Nov.2000, 153/6.Dec.2001)

- The nature of the Japan-U.S. Security Treaty is at variance with the ideas set out in the Constitution. (YAMAGUCHI Tomio, Member/JCP/154/25.Apr.2002)
- Given the existence of Article 9, the Japan-U.S. Security Treaty is unacceptable. (KANEKO Tetsuo, Member/SDP/151/4.June.2001)

<Comments by Informants and Others>

- I believe that Japan has two contradictory basic laws in the form of the Constitution and the Japan-U.S. Security Treaty. With these two contradictory laws coexisting, it is questionable whether Japan is able to devise autonomously a foreign policy based on pacifism. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- I believe that the conclusion of a military relationship in the form of the Japan-U.S. alliance and the acceptance of the stationing of foreign troops within the country are unconstitutional. This is in light of Article 9, which stipulates the non-maintenance of war potential. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- During the Cold War the Constitution was voided progressively by factors such as the conclusion of the Japan-U.S. Security Treaty, rearmament and the maintenance of military power that was one of the world's strongest, and the stationing of U.S. forces. Since the end of the Cold War the Peace Constitution has not been revived. Instead, moves such as the enactment of the Law Concerning Measures to Deal with Situations in Areas Surrounding Japan have strengthened the structure of cooperation with warfare by U.S. forces. What is more, debate has begun on revising the Constitution to permit the exercise of the right of collective self-defense. (NAKAKITA Ryutaro, Speaker/151/4.June.2001/Kobe Hearing)
- There are serious legal contradictions between Article 9 and the Japan-U.S. Security Treaty. (TAGUCHI Fukuji, Speaker/153/26.Nov.2001/Nagoya Hearing)

b-5. Comments pointing out other problematic points

<Comments by Members>

- The Japan-U.S. Security Treaty governs the alliance relationship between Japan and United States. However, an undeniable fact of history is that when an alliance is formed, resistance forces to oppose the alliance will come into being. (YAMAHANA Ikuo, Member/DPJ/150/26.Oct.2000)
- The harmfulness of resorting to military force can be seen from what has happened in the bombing of Yugoslavia, for example. In light of this, there is clearly no reason to follow our U.S. ally by having the Self-Defense Forces engage in operations overseas. (SASAKI Rikukai, Member/JCP/147/27.Apr.2000)

- If the Japan-U.S. Security Treaty is important to Japan, then all the Japanese people must share equally the responsibility for it and its burden. Even today, Okinawa remains mired in a situation as “an island situated within a military base,” and cannot be said to be covered by Japan’s national sovereignty. This constitutes discrimination against the people of Okinawa, and inequality under the law. (TOMON Mitsuko, Member/SDP/151/14.June.2001)

<Comments by Informants and Others>

- As a result of having been unable to achieve close relations with its neighboring countries in Asia, postwar Japan had to strengthen its relationship with the United States. However, it is not clear whether that relationship will remain solid in the future. (KANG Sanjung, Informant/151/23.Mar.2001)

(2) The Future Form of the Japan-U.S. Security Arrangements
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- a. Comments that the Japan-U.S. Security Treaty should be maintained

<Comments by Members>

- We cannot ignore military power amid the constant stream of conflicts today. Japan has been achieving economic development under the Japan-U.S. Security Treaty, and it is essential to continue to formulate defense-related policies within its framework. (UDAGAWA Yoshio, Member/Club 21/153/26.Nov.2001/Nagoya Hearing)

<Comments by Informants and Others>

- Given the present international situation, it is desirable to retain the existing Japan-U.S. Security Arrangements. (ICHIMURA Shin'ichi, Informant/150/26.Oct.2000)

- b. Comments that the Japan-U.S. Security Treaty should be abrogated, etc.

<Comments by Members>

- We should abrogate the Japan-U.S. Security Treaty in accord with the spirit of Article 9, and follow the road to disarmament. (SASAKI Rikukai, Member/JCP/147/27.Apr.2000)
- At present Japan is unable to build close relations with neighboring countries. To improve this situation we must eliminate the contradictions between the Japan-U.S. Security Treaty and Article 9. We must do this by putting the spirit of Article 9 fully into practice, and thereby return to relations based on friendship. (YAMAGUCHI Tomio, Member/JCP/151/22.Mar.2001, 154/9.May.2002/International Committee)

- We should revise the U.S.-Japan Status of Forces Agreement, establishing the principle of the ascendancy of domestic laws, and end our dependence on the bilateral Japan-U.S. alliance. (UEDA Munenori, Member/SDP/154/25.Apr.2002)
- Today, bilateral alliances between industrialized countries are decreasing in number. Strengthening the Japan-U.S. Security Arrangements may arouse anxiety in other countries, and may jeopardize the security of Asia. (KANEKO Tetsuo, Member/SDP/151/4.June.2001/Kobe Hearing)

<Comments by Informants and Others>

- As prerequisites for discussing the revision of the Constitution, the Japan-U.S. Security Treaty must be abrogated, and U.S. forces removed from Japan. Even after abrogating the treaty, there will be no need for Japan to rearm. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- The Japan-U.S. relationship should be put in order based on how other countries assess the presence of U.S. forces on Japanese soil. First, we should revoke the Japan-U.S. Security Treaty, a military-centered treaty under which Japan is subordinated to the United States, and conclude a “Japan-U.S. Treaty of Peace and Amity” in its place. If a military relationship is necessary, we should consider it subsequently. (ODA Makoto, Informant/150/28.Sept.2000)
- By means of demilitarization policies, including the change of the Japan-U.S. Security Treaty into a “Japan-U.S. friendship treaty,” we must make Japan a launchpad for world peace. We must then extend human-security policies internationally. (NAKAKITA Ryutaro, Speaker/151/4.June.2001/Kobe Hearing)
- Although I would not say that the Japan-U.S. Security Treaty was in direct violation of the Constitution, its military character should be diluted. (KAKINOHANA Hojun, Speaker/154/22.Apr.2002/Okinawa Hearing)
- The Japan-U.S. Security Treaty, with its character of a military alliance, should be abrogated, and in its stead we should conclude a treaty for the promotion of activities such as peace and cultural exchanges with the United States. (YAMAUCHI Tokushin, Speaker/154/22.Apr.2002/Okinawa Hearing)
- It is not realistic to abrogate the Japan-U.S. Security Treaty instantly. However, while gaining the understanding of the United States and neighboring countries, its role should be reduced in a phased manner. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)

c. Comments that refer to the redesign of the Japan-U.S. Security Arrangements

c-1. Comments that refer to the building of an alliance relationship based on bilateral and equal relations

c-1-1. Comments positive towards the building of a bilateral and equal alliance relationship

<Comments by Members>

- The Japan-U.S. Security Treaty is an asymmetrical bilateral treaty, since Japan cannot exercise its right of collective self-defense. It is essential for Japan's sovereignty to be secured by moving the treaty towards being truly bilateral. In my view, discussing the revision of the Constitution on the premise of the abrogation of the treaty and ejection of U.S. forces would jeopardize Japan's existence and the maintenance of its peace and independence. (ISHIBA Shigeru, Member/LDP/147/23.Mar.2000)
- So long as there exists patron-client relationship between Japan and United States it will be difficult to build the kind of equal relationship that exists between the United States and Britain. Nevertheless, for the sake of the stability of Asia we should conceive a Japan-U.S. security arrangement predicated on an equal relationship. That would include reviewing the bases problem and the U.S.-Japan Status of Forces Agreement. (FUJISHIMA Masayuki, Member/LP/150/30.Nov.2000, 154/22.Apr.2002/Okinawa Hearing)

<Comments by Informants and Others>

- Based on the recognition that Japan-U.S. relations should advance from burden-sharing to power-sharing, the United States believes that Japan must bring peace and stability to Asia by revising the Constitution to recognize the exercise of the right of collective self-defense, and by building a close partnership based on the kind of equal status that exists in the Anglo-U.S. alliance.
- An "equal" relationship with the United States does not mean military parity. It means building a relationship that is equal in qualitative terms through the display of Japan's soft power, including in the environment field. It also means ensuring bilateralism in the security field by creating the structure to protect its own security by itself, as an independent nation. Japan should build an equal relationship with the United States by developing the mentality to contribute to the international community from an independent standpoint, and by effective implementation of measures such as industrial adjustments and budget allocations. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)
- It is difficult for Japan and other East Asian countries alone to deal with destabilizing factors in China. Therefore, out of consideration for the peace and

stability of the entire Asia-Pacific region, Japan must retain the interest of the U.S. in this region by endeavoring to strengthen the Japan-U.S. alliance and to undertake nearly equal roles and functions. In doing that it must assess the overall risks involved, not limited to the intentions of individual sovereign states, and ascertain the changes in the international situation. Based on that it must then redefine the Japan-U.S. alliance with the shape of defense cooperation as its cornerstone, from the standpoint of strengthening that alliance. In addition, it must rebuild an independent and highly self-contained defensive capability equipped to deal with cases in areas near Japan that the United States may not regard as having a bearing on its national interest.

- There is no future for a Japan-U.S. alliance unless Japan cooperates with its U.S. ally in dealing with terrorist incidents. However, as an ally, Japan must prevent the United States from launching military attacks against terrorist groups around the world. To position itself to give these vital warnings, Japan must both undertake tasks such as the extension of reconstruction aid to Afghanistan and economic cooperation, and cooperate with the United States as an ally. (MORIMOTO Satoshi, Informant/153/25.Oct.2001)
- It is not necessary to change the basis of the Japan-U.S. Security Treaty. However, the present one-sided protector-protected relationship must be changed, and a rapid shift made towards full bilateralism based on a relationship of trust. Once Japan possesses armed forces that are able to engage in combat, the Japan-U.S. alliance's deterrent potential vis-à-vis neighboring countries will be enhanced. Also, with respect to issues such as the environment, nuclear nonproliferation, and resources, Japan will gain greater negotiating strength with the United States, which is showing an increasing tendency towards unilateralism. (TAKUBO Tadae, Informant/154/6.June.2002/International Society Subcommittee)

c-1-2. Comments expressing caution towards the building of a bilateral and equal alliance relationship

<Comments by Members>

- The United States is the only superpower, and there is no possibility that it will be attacked by another country. Therefore, even if the Japan-U.S. relationship is transformed into a bilateral one by making Japan's exercise of the right of collective self-defense constitutional, I feel that there will be no change in Japan's being a country that keeps putting off taking decisions and fulfilling obligations with regard to the United States. (YANAGISAWA Hakuo, Member/LDP/147/11.May.2000)
- The Japan-U.S. Security Treaty is one-sided at present, and therefore Japan's activity is limited to within the scope of exercising its right of individual self-defense. However, changing the treaty into a truly bilateral one would require Japan's activities to be within the scope of the exercise of the right of collective self-defense.

As I believe that that would be unconstitutional, I am against it. (TSUTSUI Nobutaka, Member/DPJ/151/14.June.2001)

- The building of an equal Japan-U.S. relationship by means of power-sharing as advocated by the informant Ms. Sakurai would not, I think, be effectual as regards the peace of Asia. (HARUNA Naoaki, Member/JCP/150/30.Nov.2000)
- For the Japan-U.S. relationship to become an equal one similar to that between the United States and Britain, a great any problems would have to be overcome. I feel that it would take quite some time to realize that goal. (KOIKE Yuriko, Member/NCP/150/30.Nov.2000)

c-2. Comments that refer to the redesign of the Japan-U.S. relationship from the standpoint of Japan's autonomy and independence

<Comments by Members>

- We must be fully aware of the thinking that Japan should deepen its relationship with the United States, and extricate itself from the frame of overdependence and overexpectation. (TSUCHIYA Shinako, Member/LDP/154/9.May.2002/International Society Subcommittee)
- I recognize the pivotal importance of the Japan-U.S. alliance, but the existing ingratiatory and subordinate posture must be changed. If we do not build a relationship in which we assert what needs to be asserted, we will not earn the trust of the United States. (IGARASHI Fumihiko, Member/DPJ/150/28.Sept.2000)
- It will remain important to build very close relations with the United States, but I feel that building an equal relationship in terms of the balance of power will be difficult. Given Japan's inferior status to the United States in terms of the power balance, we should think about what we need to do to maintain a firm stance. (EDANO Yukio, Member/DPJ/150/30.Nov.2000)
- It is essential for Japan to change its toe-the-U.S.-line foreign policy, and adopt a stance that combines independence and cooperation. (TARUTOKO Shinji, Member/DPJ/147/20.Apr.2000)
- Given the present waning level of interest in Japan on the part of the United States, it may be difficult to revise the Japan-U.S. Security Treaty in a way that gives Japan an independent position within it. (YAMADA Toshimasa, DPJ/154/6.June.2002/International Society Subcommittee)
- Japan's draft resolution for the total elimination of nuclear disarmament submitted to the United Nations indicates that consideration was given to the United States. Towards the United States Japan should assert its stance firmly and clearly. (KANEKO Tetsuo, Member/SDP/153/25.Oct.2001)

<Comments by Informants and Others>

- Two of the factors that make it necessary to strengthen the Japan-U.S. alliance are that there are almost no significant differences of opinion between the two countries in the security sphere, and that the strengthening of the alliance is the most efficient and effective way to assure Japan's security. However, simply toeing the U.S. line makes it difficult to adequately address global issues in the post-Cold War world. Therefore, as a country friendly to the United States, Japan must lobby vigorously for America to make best use of its dominant capabilities for the good of the international community. When Japan makes assertions critical to the United States, the perceptions of the people and discussions in the Diet will be important, so it is essential for Japanese and U.S. parliamentarians to engage in ongoing vigorous discussion. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- I doubt that Japan-U.S. relations will be able to be managed under the mutually trusting relationship that has existed hitherto. Given the Okinawa issue and problems in the Japan-U.S. partnership, a major problem for Japan will be to identify how it can secure its interests and gain a voice. (KANG Sanjung, Informant/151/22.Mar.2001)
- Japan is sandwiched between a United States that has changed its Asia strategy, and a China that is coming markedly to the fore both militarily and economically. It must therefore redesign the Japan-U.S. Security Arrangements, and when doing so must take into account two points that are the accepted thinking internationally: (1) it is not normal for a foreign military force to be stationed for a long time in an independent country; and (2) the United States will protect Japan only within the framework of its own strategy and domestic public opinion at the time a situation arises.
- In its relations with the United States, Japan should not only envisage very close relations in the economic field, but also seek to build a mechanism characterized by mutual respect and affection in the spheres of diplomacy and security. To that end, Japan should place a review of the Japan-U.S. Security Arrangements on the agenda for discussion with Washington, focusing on the revision of the Status of Forces Agreement and the phased reduction of U.S. military bases in Japan. Also, it should build a new structure of military cooperation, with its own commitment exclusively for defense remaining the cornerstone.
- Based on an "open nationalism" capable of gaining the understanding and empathy of neighboring countries, Japan must regain a more critical awareness of issues in relation to the United States. Through this we must lead an increasingly unilateralist United States towards involvement in the international community in appropriate forms, and ourselves interact with international society. (TERASHIMA Jitsuro, Informant/154/9.May.2002/International Society Subcommittee)

- Through Japan's foreign policy efforts we should endeavor to change the current situation in the international community, in which the United States exercises military force based on its own egoistic logic. (ISHIZUKA Osamu, Speaker/154/24.June.2002/Sapporo Hearing)

c-3. Comments that the Japan-U.S. relationship should be placed in a multilateral framework

<Comments by Members>

- Japan must give first priority to its relations with its ally the United States. But, the problems of international society cannot be solved by the power of the strongest country or of the industrialized countries alone. In light of this, we should not only adopt the same perspectives as the United States, but also try to deepen our understanding of Islamic societies. (MORIOKA Masahiro, Member/LDP/153/6.Dec.2001)
- The problem we will face is that of determining how to build our relationship with the United States, after readjusting the current Japan-U.S. relationship and giving due consideration to relations with neighboring countries. (AKAMATSU Masao, Member/NK/150/26.Oct.2000)
- A future scenario is the decline of U.S. power over the medium to long term, and a parallel increase in China's power. Given this, I feel that it is essential for Japan to establish an Asia strategy that takes not only the United States into consideration, but also relations with China. (KONDO Motohiko, Member/Club 21/150/26.Oct.2000)

<Comments by Informants and Others>

- To enable Japan to form judgments of U.S. policies from an independent perspective, its relationship with the United States must be transformed into the kind of "normal relationship" that exists between states. To do so it should disperse risk by building a multipolar security structure that would include a partnership with the Korean Peninsula. In that way we could pursue the possibility of taking advantage of Japan's independent judgment. (KANG Sanjung, Informant/151/22.Mar.2001)
- Southeast Asian countries recognize that U.S. involvement in Asia is essential. In view of this it is essential for Japan to redefine the status of Japan-U.S. relations from the standpoint of the form of the relationship between the peripheral areas of Eurasia, including Southeast Asia, and the central part of the Eurasian continent. (SAKAMOTO Takao, Informant/151/22.Mar.2001)

- c-4. Comments from other perspectives that the Japan-U.S. relationship should be redesigned

<Comments by Members>

- The principle of not maintaining war potential changed as the international situation changed, and the Self-Defense Forces were established. Similarly, as Japan's status in the international community has changed, the form of the Japan-U.S. Security Treaty must be changed. (OKUNO Seisuke, Member/LDP/151/14.June.2001)
- Discussions to revise the Japan-U.S. relationship from a long-term perspective must be held in tandem with the revision of the Preamble and Article 9 of the Constitution, in order to set out Japan's status in international society. (HIRAI Takuya, Member/LDP/154/9.May.2002/International Society Subcommittee)
- Japan's thinking on security remains in a state of flux, in that the principal aim of the Constitution is that we should endeavor to prevent emergencies from occurring by peaceful means, whereas the U.S.-Japan Security Treaty postulates the occurrence of an emergency. Together with actively pursuing independent peace diplomacy, especially preventive diplomacy, Japan should review the Japan-U.S. Security Treaty, which could potentially cause Japan to bring an emergency on itself. (KONNO Azuma, Member/DPJ/154/25.Apr.2002)
- Given the state of affairs in Okinawa, which houses a large number of military bases, our relationship with the United States should be rearranged, but it should wait until we have reached a conclusion on the Constitution issue. (AKAMATSU Masao, Member/NK/150/28.Sept.2000, 150/26.Oct.2000)
- The Japan-U.S. relationship is very important, but I think there needs to be extensive discussion concerning our role as a global partner in a new era. (ITO Shigeru, Member/SDP/147/6.Apr.2000)

<Comments by Informants and Others>

- Given the realism of international relations, I am not against the Japan-U.S. Security Treaty should not be repudiated. But, since the treaty has a pivotal place in U.S. strategic interests, when Japan conducts its foreign policy to address the realities of international relations, it should be based on realism. (SHINDO Eiichi, Informant/147/6.Apr.2000)

(3) The Bases Problem

- a. Comments concerning the current status of the bases problem, etc.

<Comments by Members>

- Okinawa's economy is assisted by the U.S. bases, and a variety of development and subsidy measures have been formulated. Nevertheless, given the realities of conditions in Okinawa, with its concentration of U.S. bases, I think these are inadequate. (KONNO Azuma, Member/DPJ/154/25.Apr.2002)
- The security environment is undergoing change, and U.S. economic interests in Asia are increasing. Given this, I feel that the *raison d'être* of the U.S. forces in Japan is changing from the defense of Japan to the protection of U.S. interests in Asia. (FUJISHIMA Masayuki, Member/LP/150/30.Nov.2000, 154/6.June.2002/International Society Subcommittee)
- Since Japan has not made an autonomous judgment or shown self-reliance as a nation on the bases problem, I believe that it cannot be deemed to be a normal country. (HARUNA Naoaki, Member/JCP/151/8.Feb.2001)

<Comments by Informants and Others>

- The U.S. forces in Japan are here to protect U.S. interests rather than to protect Japan. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)
- If the tension in the Straits of Taiwan and the Korean Peninsula persist, and Japan's defense capability remains as it is, in the absence of any alternative arrangements it would be unthinkable to reorganize and reduce the strategically important U.S. bases in Okinawa. (TAKUBO Tadae, Informant/154/6.June.2002/International Society Subcommittee)
- Seventy-five percent of U.S. bases have been concentrated in Okinawa for more than half a century. Throughout that time the pledge of "no nuclear weapons; the same conditions as on the mainland," given when the islands reverted to Japan, has not been honored. That represents a mistaken political posture, and the thought of establishing new bases is an anachronism. (YAMAUCHI Tokushin, Speaker/154/22.Apr.2002/Okinawa Hearing)
- The sense of injury of having 75 percent of U.S. bases concentrated in Okinawa is felt deeply by both politicians and the people. (MEGUMI Ryunosuke, Speaker/154/22.Apr.2002/Okinawa Hearing)

b. Comments concerning the future evolution of the bases problem

<Comments by Members>

- We should consider security issues in light of the special circumstances of Okinawa, a strategically important center on which U.S. bases are concentrated. (AKAMATSU Masao, Member/NK/154/25.Apr.2002)
- We should rearrange and reduce U.S. bases, giving first priority to Okinawa. (UEDA Munenori, Member/SDP/154/25.Apr.2002)

<Comments by Informants and Others>

- When considering security policy we must regard the reduction of the presence of the U.S. marines in Okinawa as a realistic possibility. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)
- The importance of the U.S. bases in Japan, for which the United States has the right of exclusive possession, has increased since the 9/11 attacks. Nevertheless, we should schedule discussions with the United States for a review of the Japan-U.S. relationship, including the revision of the U.S.-Japan Status of Forces Agreement and the phased reduction of U.S. bases. (TERASHIMA Jitsuro, Informant/154/9.May.2002/International Society Subcommittee)
- When considering the security framework, in order to assure human security Japan should hold discussions that also cover the revision of the U.S.-Japan Status of Forces Agreement. (ASHITOMI Osamu, Speaker/154/22.Apr.2002/Okinawa Hearing)

c. Comments concerning the relationship between the bases and the Constitution

<Comments by Members>

- There is no basis in the Constitution for foreign troops to be stationed on Japanese soil, and no serious consideration has hitherto been given to the risks of having U.S. forces stationed here. Some people are of the opinion that when the Constitution is revised, it should stipulate that no stationing of foreign forces on Japanese territory will be permitted. (SUTO Nobuhiko, Member/DPJ/154/6.June.2002/International Society Subcommittee, 154/25.July.2002)
- The gap between the ideals of the Preamble, which is premised on building world peace centered on the United Nations, and reality as reflected in the Japan-U.S. Security Treaty, can be seen in concentrated form in the U.S. bases in Okinawa. I think that it is for this reason that the desire for pacifism espoused in Article 9 is strong in Okinawa. (NAKAGAWA Masaharu, Member/DPJ/154/25.Apr.2002)

- From the perspective of respect for basic human rights, I think the revision of the U.S.-Japan Status of Forces Agreement is an unavoidable issue. (HARUNA Naoaki, Member/JCP/154/22.Apr.2002/Okinawa Hearing)

<Comments by Informants and Others>

- I believe that the conclusion of a military relationship in the form of the Japan-U.S. alliance, and the acceptance of the stationing of foreign troops in Japan, are unconstitutional under Article 9, which stipulates the non-maintenance of war potential. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- Permitting the stationing of another country's troops presents a problem in light of Article 9. (URABE Noriho, Speaker/151/4.June.2001/Kobe Hearing)
- The consensus of opinion in Okinawa is that the U.S. bases here should be reorganized and reduced, but the presence of U.S. forces on Okinawa contributes to the peace and security of the eastern Asia-Pacific region. Given these facts, it is essential to engage in more serious discussions on Okinawa's problem with respect to peace and the bases. These must be from perspectives that include the Preamble's ideal of peace for all time, Article 9's renunciation of war potential, and the problem of human rights in relation to the Status of Forces Agreement. (ASHITOMI Osamu, Speaker/154/22.Apr.2002/Okinawa Hearing)

(4) Other Aspects

<Comments by Members>

- The Japan-U.S. relationship is important. However, gaining an objective assessment of the situation under the U.S. Occupation will enhance our ability to devise methods to reform it correctly. (OKUNO Seisuke, Member/LDP/147/27.Apr.2000)
- I am concerned that since the United States plays the role of world's policeman, once Japan is permitted to exercise its right of collective self-defense, it will have no choice but to extend cooperation that exceeds the proper limits of that right. (YANAGISAWA Hakuo, Member/LDP/147/11.May.2000)
- The conclusion and amendment of the Japan-U.S. Security Treaty have delayed the constitutional debate relating to the issue of national defense. (ABE Motoo, Member/NCP/147/6.Apr.2000)
- In relation to the conclusion of the Japan-U.S. Security Treaty, Japan has the duty to build friendly relations with countries with which the United States has antagonistic relationships, such as Iran and Afghanistan. (MATSUNAMI Kenshiro, Member/NCP/150/26.Oct.2000)

<Comments by Informants and Others>

- One of the intentions of the new Guidelines is that Japan should also adopt the perception that China's military expansionism has become a danger to the peace and security of Asia. (ISHIHARA Shintaro, Informant/150/30.Nov.2000)
- The United States expects Japan to revise the Constitution, and requires cooperation beyond the framework of regional security. (TERASHIMA Jitsuro, Informant/154/9.May.2002/International Society Subcommittee)

5. International Cooperation

(1) International Cooperation Overview

A. Evaluation of International Cooperation Hitherto

a. Comments concerning cooperation in the economic field

<Comments by Members>

- Japan is the world's largest aid donor. Our taxpayers are not convinced by the claims by developing countries that aid is a natural obligation of the industrialized countries, since they forced them into poverty through exploitation and enslavement. It is not constructive to have debates that mix together human rights and the north-south problem. (MORIOKA Masahiro, Member/LDP/153/29.Nov.2001)
- Japan's engagement in international cooperation to date has been mostly in the economic sphere. (TAKEYAMA Yuriko, Member/LP/150/7.Dec.2000)

<Comments by Informants and Others>

- Japan's official development assistance (ODA) is ineffective. (SONO Ayako, Informant/150/12.Oct.2000)
- Even though Japan has given huge amounts of economic aid through ODA and other channels, this does not receive adequate recognition in the international community. (SON Masayoshi, Informant/151/8.Mar.2001)
- It is only natural that there was a change in the role that Japan ought to play in the international community, triggered by the Gulf War. That was from an international contribution purely in the form of money in such forms as ODA and payments to the United Nations, to contributions in terms of personnel, for example the dispatch of the Self-Defense Forces for peacekeeping operations and antiterrorism military operations. (KOIDO Yasuo, Speaker/153/26.Nov.2001/Nagoya Hearing)
- The gap between rich and poor is growing wider around the world, despite large amounts of economic aid to developing countries. Factors behind this include the fact that ODA and private-sector investment do not always result in assistance for the poor, but instead may lead to destruction of traditional lifestyles and the natural environment. (NISHI Hideko, Speaker/153/26.Nov.2001/Nagoya Hearing)
- Trade liberalization has been pushed as a result of acceding to all U.S. demands. In my view that was a political mistake. (ISHIZUKA Osamu, Speaker/154/24.June.2002/Sapporo Hearing)

b. Comments concerning cooperation for the settlement of international disputes

<Comments by Members>

- The argument that Japan should be a “normal country” has grown into a major trend. It was triggered by the fact that Japan’s contribution to the Gulf War was criticized for being a display of economic supremacy. (YANAGISAWA Hakuo, Member/LDP/150/12.Oct.2000)
- Japan has not made sufficient contributions in ways that live up to the spirit of the Constitution. Examples are involvement in election supervision after disputes, and the building of peace in Palestine. Our efforts in the sphere of maintaining peace in international society cannot be called adequate either, for example relating to international humanitarian law and the International Criminal Court. (SUTO Nobuhiko, Member/DPJ/154/25.Apr.2002)
- By their nature, conflicts involve the use of armed force, but because constitutional constraints have meant that Japan’s international cooperation in these cases has not involved military cooperation, other countries have received the impression that it is not worthy of praise. Accordingly, I believe that the Constitution contains major “shackles” impeding Japan from occupying an honored place in international society and from displaying leadership in the quest for enduring world peace. In consequence, I think that for the past 50 or so years, being within the framework of the Constitution and the U.S.-Japan Security Treaty has inevitably isolated Japan from the international community, and this isolation indeed follows natural course of reason. (YAMADA Toshimasa, DPJ/154/28.Feb.2002/International Society Subcommittee, 154/28.Mar.2002/International Society Subcommittee, 154/25.July.2002)

<Comments by Informants and Others>

- In the security sphere Japan has not played its part sufficiently as a member of the international community. Nevertheless, it did achieve a reasonable amount of success in its participation in the peacekeeping operations in Cambodia, and that changed the unanimous chorus of criticism of military operations by Japan by public opinion in Asian countries. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- Through its participation in the peacekeeping operations in Cambodia, Japan played a major role in regional peace and reconstruction. (IOKIBE Makoto, Informant/147/20.Apr.2000)
- Japan’s foreign policy as regards regulations relating to the movement of conventional arms and in such fields as landmine clearance has been acclaimed by other countries. Also, I believe that the fact that it provided economic assistance at the time of the Gulf War is understood by foreign statesmen. (KONDO Motohiro, Informant/150/12.Oct.2000)

- With respect to antiterrorism measures, Japan should have made high-profile efforts to persuade Arab and other Islamic countries to take such action as to build a deep line of battle to counter terror. (ONUMA Yasuaki, Informant/153/25.Oct.2001)
- Japan should show greater leadership than it has hitherto in the pursuit of world peace, but I feel that it is not yet recognized as a world leader. (KATO Masanori, Speaker/153/26.Nov.2001/Nagoya Hearing)

c. Comments concerning addressing refugee problems

<Comments by Members>

- Japan has ratified the Convention relating to the Status of Refugees and a series of human-rights agreements, but is not doing enough as regards formulating measures based on them. (KONNO Azuma, Member/DPJ/154/25.July.2002)
- I think that Japan's humanitarian support for Afghan refugees through the United Nations is evidence of the pacifism espoused by the Preamble to the Constitution being put into practice. (MATSUNAMI Kenshiro, Member/NCP/6.Dec.2001)

<Comments by Informants and Others>

- Japan has not adopted a tolerant attitude towards refugees and political asylum seekers. (MASUGI Eiichi, Speaker/154/24.June.2002/Sapporo Hearing)

d. Other comments concerning the evaluation of international cooperation hitherto

<Comments by Members>

- Foreign policy comprises policy based on realism and policy that pursues ideals. In the latter type, Japan has achieved a strong track record insofar as it has spread spiritual values. (SHIMA Satoshi, Member/DPJ/147/6.Apr.2000)
- After endeavoring for more than 50 years to realize the ideas espoused by the Preamble, Japan has been unable to achieve results. (YAMADA Toshimasa, DPJ/153/6.Dec.2001)

<Comments by Informants and Others>

- In the event of the occurrence of problems affecting the international community as a whole, Japan has provided economic support only. It has not done enough "civilian service activities" based on pacifism on a national scale involving all of the Japanese people. The reasons for this are that (1) Japan is poor and lacking in the practical ability to do so, (2) in the Cold War structure it has been embedded in the Japan-U.S. Security Arrangements. (ODA Makoto, Informant/150/28.Sept.2000)

- If danger is involved in international cooperation, Japan emphasizes its “we-are-not-a-great-power” image in line with pacifism. (KONDO Motohiro, Informant/150/12.Oct.2000)
- Hitherto, Japan has played a unique role in international society premised on the Japan-U.S. alliance and the roles of other countries. It is doubtful that that kind of system will be able to function in the 21st century. (ICHIMURA Shin'ichi, Informant/150/26.Oct.2000)
- Japan has not yet engaged sufficiently in international cooperation activity inspired by the ideals of the Constitution. (MATSUI Yoshiro, Informant/154/28.Feb. 2002/International Society Subcommittee)
- Japan's international cooperation until the Gulf War took the form of contribution by such means as ODA, cultural exchanges, and international contributions by peaceful means, eschewing military cooperation, and it was possible to recognize some significance of that. However, in the new international order that has come into being since then, that has ceased to hold true (TAKUBO Tadae, Informant/154/6.June.2002/International Society Subcommittee)
- Japan must consider whether it is playing a role in the international community in a manner that puts into practice the ideals in the Preamble. (NISHI Hideko, Speaker/153/26.Nov.2001/Nagoya Hearing)

B. Ideas, Matters to Consider, etc., in Undertaking International Cooperation

- a. Comments concerning undertaking international cooperation from the standpoint of coexistence with the international community and the pursuit of common values

<Comments by Members>

- For the sake of human coexistence, Japan should extend adequate cooperation for activities such as the settlement of regional conflicts. (HOZUMI Yoshiyuki, Member/LDP/147/27.Apr.2000)
- Japan should proclaim to the international community its determination to work for such causes as the prevention of environmental destruction, the pursuit of democracy, and the resolution of the problem of hunger. (MAKINO Seishu, Member/DPJ/150/7.Dec.2000)
- Informant Prof. ONUMA advocates the need to recognize “international common values” in building a peaceful world order, but could we ever appreciate what those are, given the very different civilizations and the disparities of wealth among the world's nations? (TSUZUKI Yuzuru, Member/LP/153/25.Oct.2001)

- Together with the international community we must think about a system capable of addressing issues such as coexistence with the environment and the negative side of globalization, such as disparities between industrialized countries and developing countries. (TSUJIMOTO Kiyomi, Member/SDP/150/7.Dec.2000)
- The main issue for Japan to address in the 21st century is coexistence and coprosperity with the international community. (YOKOMITSU Katsuhiko, Member/SDP/150/9.Nov.2000)

<Comments by Informants and Others>

- I believe that in the 21st century it is incumbent upon us to strive to realize common human values such as humanitarianism and democracy. Japan should formulate concrete measures, for example for the active acceptance of refugees and asylum-seekers, and for calling for an improvement in China's policy towards Tibet. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)
 - As globalization advances in international society, for the sake of the prosperity of individual regions and of the world as a whole, Japan must assume an appropriate burden as a member of the international community, guided by the ideal of coexistence. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
 - To help build a peaceful international order in the 21st century, Japan must play an international role. To do so it must have three perspectives: (1) an international perspective that views international society as relations between nations, (2) international civil society perspective of NGOs, etc., and (3) a perspective of relationships between civilizations. It is also necessary to recognize "international common values" shared by different peoples, such as human rights, nationhood, and civilization. (ONUMA Yasuaki, Informant/153/25.Oct.2001)
- b. Comments that international cooperation should be undertaken in conformity with the spirit of the Constitution

<Comments by Members>

- The 21st century will see the trend towards the outlawry of war expedited. Amid this, Japan must address issues such as nuclear disarmament, the resolution of the north-south problem, the prevention of environmental destruction, and countering the negative effects of globalization in this way: by making active peaceful contributions towards ensuring the regulation of rule by the strong, the establishment of economic sovereignty, and just and equal relations between nations in conformity with the spirit of the Preamble and of Article 9. (HARUNA Naoaki, Member/JCP/151/8.Feb.2001, 151/8.Mar.2001)
- In accordance with the pacifism espoused in Article 9, Japan should dedicate itself vigorously to international cooperation in nonmilitary fields, even though there may

be problems with respect to international common values. (YAMAGUCHI Tomio, Member/JCP/153/25.Oct.2001, 154/28.Feb.2002/International Society Subcommittee)

- International cooperation should be conducted in nonmilitary, civilian, and public-welfare fields. (OSHIMA Reiko, Member/SDP/154/28.Feb.2002/International Society Subcommittee)
- Japan should not engage in international cooperation of a military nature. It should consider desirable ways of engaging in peaceful international cooperation by such means as the regulation of arms production, the cutting of military spending, and human-resource development and support. (YAMAGUCHI Wakako, Member/SDP/150/30.Nov.2000)

<Comments by Informants and Others>

- Through dedication to international cooperation through peaceful means, Japan will be able to occupy an honored place in international society and to establish moral authority. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- It is important to provide compensation to atone for colonial domination, but it should not be seen as an obligation. We should implement ODA and other methods as acts that transcend unilateralism and are based on the national ideals of human security and the right to live in peace. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)
- Japan should not limit its international cooperation to the field of peacekeeping operations. Keeping in mind that such concepts as peace, social and economic development, human rights, and democracy are inextricably linked, Japan must build its own unique vision of international cooperation, and call on the United Nations for its realization. The departure point for this is the pacifism, dedication to international cooperation, and equal sovereignty espoused by the Constitution, which are consistent with the ideology that underlies the international cooperation of the United Nations. (MATSUI Yoshiro, Informant/154/28.Feb.2002/International Society Subcommittee)
- The process of formation of the European Union was on the basis of a public order developed by consultation among the member states. This corresponds with the dedication to international cooperation espoused by the Japanese constitution, namely government that constantly reflects international discussion, and so should be used as a source of reference. (NAKAMURA Tamio, Informant/154/11.July.2002, International Society Subcommittee)
- Japan's role in the international community is that of providing cooperation, primarily in the form of economic assistance, according to conditions in each country concerned, from the standpoint of respect for the value of every human life. There is

some criticism that cooperating through economic assistance alone leaves Japan out of the international community. I believe that that is attributable to problems at the diplomatic and political level, where Japan is unable to persuade the international community as regards its stance of resolving problems by peaceful means. (KAWABATA Hiroaki, Speaker/153/26.Nov.2001/Nagoya Hearing)

- Japan should make international contributions by nonmilitary means in conformity with the spirit of Constitution and the United Nations Charter. We should work toward nuclear disarmament, establish a cooperative form of security in the Asia-Pacific region, utilize our diplomatic experience with Iran and Central Asia, increase our cooperation with such agencies as the UN High Commissioner for Refugees (UNHCR) and UNICEF, and coordinate our efforts closely with those of NGOs. (TAGUCHI Fukuji, Speaker/153/26.Nov.2001/Nagoya Hearing)
- As the nation described in Article 9, Japan should shun activities that risk participation in operations involving the use of force or the provision of military power, in favor of providing support in rear areas, such as dealing with refugee problems. (MASUGI Eiichi, Speaker/154/24.June.2002/Sapporo Hearing)
- c. Comments that international cooperation should be undertaken based on consideration of the national interest, a vision for the nation, etc.

<Comments by Members>

- The national interest lies in protecting the people's lives and property. It is problematic that people have the impression that they themselves must make sacrifices in order to contribute to other countries in such forms as ODA and peacekeeping operations. (HIRAI Takuya, Member/LDP/154/28.Feb.2002/International Society Subcommittee)
- There is no country that does not primarily pursue its own national interest, so it is natural for Japan to implement its foreign policy, including ODA, while giving priority to its own national interest. (MORIOKA Masahiro, Member/LDP/153/29.Nov.2001)
- Amid the switch from Japanism to internationalism, it is being questioned what form Japan's national identity should take. (Ota Akihiro, Member/NK/150/12.Oct.2000)
- We have now reached a period in which we should study the relationships between the burdens imposed by the declining birthrate and aging of society in Japan, and ODA, etc. (KOIKE Yuriko, Member/NCP/151/22.Feb.2001)

<Comments by Informants and Others>

- The most effective method of maintaining Japan's peace and prosperity is to maintain the world's peace and prosperity. Therefore, when fulfilling its responsibility to the international community, Japan should perceive what it does as not necessarily philanthropic projects or altruism, but as ways that are ultimately beneficial to Japan itself. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- Japan should devise its policies towards Asia and the United Nations, and its foreign-policy strategy for international cooperation, after first clearly identifying its national interest and a vision for the nation. (MORIMOTO Satoshi, Informant/153/25.Oct.2001)
- Japan should determine its role in the international community from the perspective of its national interest, not of the opinion of the international community. (KOIDO Yasuo, Speaker/153/26.Nov.2001/Nagoya Hearing)
- d. Comments that international cooperation should place emphasis on human-resource development

<Comments by Members>

- The United Nations attaches importance to the activities of NGOs. Given this, rearing the next generation of young people to have dignity as individuals and pride in themselves as human beings is one of the major ideals that we should seek in a new constitution. (TANIKAWA Kazuo, Member/LDP/151/14.June.2001)

<Comments by Informants and Others>

- We must make full use of political appointees, including persons dispatched overseas, and for the long term we must establish a system through which, under political guidance, we can make best advantage of the capabilities of the people. I think this is an important point when we consider the kind of country that Japan should be in the international community. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- It is important to contribute both to Japan and the international community by taking full advantage of the innate talents of every member of the population. (NISHIZAWA Junichi, Informant/151/8.Feb.2001)
- Today, the role of NGOs in the international community is increasing. In view of this, it is essential for us to develop our human resources so that we can provide international cooperation not only in the form of money, but also of people. (KOIDO Yasuo, Speaker/153/26.Nov.2001/Nagoya Hearing)

- Many youngsters today have no self-esteem, making it difficult for them to arouse the energy to contribute to the international community. I think that by incorporating the things that have been important for the Japanese people into the Fundamentals Law of Education, they could be spread to the international community as elements to energize children's lives. (NOHARA Kiyoshi, Speaker/153/26.Nov.2001/Nagoya Hearing)
- e. Other comments concerning ideals, matters that should be considered, etc., when undertaking international cooperation

<Comments by Members>

- I am negative towards international cooperation in the military sphere. (EDANO Yukio, Member/DPJ/150/30.Nov.2000)
- Consistency is essential in foreign policy, so I think that when changing it, the substance and the timing of the changes need to be considered carefully. (INOUE Kiichi, Member/NCP/154/9.May.2002/International Society Subcommittee)

<Comments by Informants and Others>

- The services provided by organizations such as the International Red Cross are inspired by the spirit of agape (spiritual love). When giving assistance we should take into consideration poverty's negative repercussions, such as frequent outbreaks of robbery and violence, higher infant mortality, shorter average lifespans, a decline in public morals, the spread of drug abuse, and prostitution. We should also be conscious of having a duty to spread happiness. (SONO Ayako, Informant/150/12.Oct.2000)
- The genomic sciences form the foundation of all the life sciences. For Japan to maintain a voice in the process of determining international rules for these fields, it must make international contributions in order to have decisive power in a competitive international society. (HAYASHIZAKI Yoshihide, Informant/151/22.Feb.2001)

C. Fields in which International Cooperation Should be Extended

- a. Comments concerning assistance for developing countries

<Comments by Members>

- I think that Japanese culture, with the importance it places on water resources, will become very important as developing countries undergo economic development. In the 21st century we must reassess our international cooperation from that perspective. (NAKAMURA Tetsuji, Member/DPJ/154/28.Mar.2002/International Society Subcommittee)

- We should enact a Basic Law on Overseas Development Assistance. (UEDA Munenori, Member/SDP/154/25.Apr.2002)

<Comments by Informants and Others>

- We should consider using ODA for such purposes as the lending and joint use of rice surpluses, the diversification of energy supplies through the laying of natural-gas pipelines, and the export of agricultural technologies within the framework of regional cooperation. (SHINDO Eiichi, Informant/147/6.Apr.2000)
- Japan should provide assistance that fosters self-help efforts on the part of developing countries. It is also inappropriate for aid-giving countries to assume responsibility if recipient countries convert materials received through aid into weapons, and start conflicts. We should first demand the cessation of conflict. (WATANABE Shoichi, Informant/150/7.Dec.2000)
- To ease the global shortage of energy, Japan should take active steps to formulate measures such as for the construction of hydroelectric plants in developing countries. (NISHIZAWA Junichi, Informant/151/8.Feb.2001)
- In our international relations our basic ideology should be fair and mutual respect. In line with this, it is only natural for us to study giving temporary assistance to countries that are historically poor. (SON Masayoshi, Informant/151/8.Mar.2001)
- By extending ODA to regions in which poverty give people no alternative but to come to work in Japan, we should endeavor to have a positive impact on those regions in such ways as creating employment. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)
- With respect to ODA, Japan's unique formula of debt-relief grant aid to stimulate self-help efforts by indebted countries warrants a certain amount of praise. In future, however, we should consider balancing the ideal of giving relief to the citizens of poor countries with the reality of the danger of moral hazard in the countries receiving the aid. On that basis we should collaborate with NGOs to build a system of monitoring the use of ODA funds. (KOIDO Yasuo, Speaker/153/26.Nov. 2001/Nagoya Hearing)

b. Comments concerning efforts to resolve international disputes

<Comments by Members>

- Study must be given to the merits and demerits of intervention by the international community in internal problems such as the suppression of human rights, and to the action that the international community should take in such cases, such as the framework of intervention. (ITO Kosuke, Member/LDP/153/25.Oct.2001)

- For maintaining peace within the framework of international cooperation, we must recognize that activity involving self-sacrifice will be essential. (KOIZUMI Junichiro, Member/LDP/147/11.May.2000)
- Considering that poverty and economic disparities are major causes of conflicts, we must give thought to how Japan can contribute to their elimination. (ISHIGE Eiko, Member/DPJ/147/27.Apr.2000)
- We are being questioned as to what form Japan's participation in building the framework for peace in Asia will take. (SENGOKU Yoshito, Member/DPJ/151/26.Apr.2001/Sendai Hearing)
- For the resolution of conflicts we should not just follow in the wake of the United States under the Japan-U.S. Security Treaty, but act in a manner centered on the United Nations. (FUJISHIMA Masayuki, Member/LP/154/28.Feb.2002/International Society Subcommittee)
- Japan should display leadership in achieving goals such as the peaceful resolution of conflicts, the banning and elimination of nuclear weapons, and the prohibition of importing and exporting arms. (SASAKI Rikukai, Member/JCP/147/27.Apr.2000)
- For the settlement of conflicts it is essential to make diplomatic efforts with a nonmilitary orientation. These should include giving preference to peaceful, rather than military, resolution, in line with the spirit of Article 9. (SHIOKAWA Tetsuya, Member/JCP/151/8.Feb.2001, 151/22.Mar.2001)
- In the 21st century it will be important to resolve issues relating to the maintenance of international peace and security in the direction set out in the United Nations Charter. In doing so it will be vital to verify whether U.N. activities conform with the Charter, and whether action taken is reasonable in the circumstances. (YAMAGUCHI Tomio, Member/JCP/154/28.Feb.2002/International Society Subcommittee, 154/6.June.2002/International Society Subcommittee)
- Given the purport of the Constitution, Japan should undertake peacemaking operations (PMO) as part of a variety of efforts directed at resolving regional conflicts. As befits a major economic power, Japan should do this in a diversity of ways, including through a PMO strategy, diplomacy, and support for NGO activities. (ITO Shigeru, Member/SDP/147/9.Mar.2000)
- Effective methods of preventing conflicts are to reduce countries' armaments and to give financial assistance to regions in which there is a danger of disputes arising. (IMAGAWA Masami, Member/SDP/153/25.Oct.2001)
- The concept of security is undergoing qualitative change. Amid this, Japan should extend active cooperation in such fields as preventive diplomacy and peacekeeping operations. (KANEKO Tetsuo, Member/SDP/153/25.Oct.2001)

<Comments by Informants and Others>

- I believe that solving the problems of poverty and energy would eliminate many conflicts and antagonisms. (SONO Ayako, Informant/150/12.Oct.2000)
- Japan should maintain and assist the peace and development of Asia. To do that it must not only give economic aid, but also extend appropriate cooperation in such fields as government administration, science and technology, scholarship, international politics, and military cooperation. If there were actually to be an outbreak of military conflict in Asia, I believe that there would be loud calls for Japan's cooperation. (ICHIMURA Shin'ichi, Informant/150/26.Oct.2000)
- To ensure that the International Criminal Court begins to function soon, Japan should ratify the Rome Statute. We should also assiduously conduct studies of international humanitarian law, and through that also give study to specific related problems. (MATSUI Yoshiro, Informant/154/28.Feb.2002/International Society Subcommittee)
- Japan should become actively involved in the resolution of ethnic conflicts through discussions in which every country and every ethnic group participates with equal status. (ASHITOMI Osamu, Speaker/154/22.Apr.2002/Okinawa Hearing)

c. Comments concerning efforts to resolve the problem of terrorism

<Comments by Members>

- Japan must make a strong declaration that, as a problem common to the whole world, terrorism is never justified, and adopt a resolute stance towards combating it. In doing so it should give consideration to the compatibility of this with the Preamble, Article 9, and Article 98. (NAKAGAWA Shoichi, Member/LDP/153/25.Oct.2001)
- If tough measures on terrorism are not formulated, politicians will not be able to fulfill their duty to protect the lives and property of the people. (SHIMA Satoshi, Member/DPJ/153/26.Nov.2001/Nagoya Hearing)
- To deal with incidents that transcend the framework of the state, such as the 9/11 attacks, it is essential to have a decision-making structure that also transcends the state. (NAKAGAWA Masaharu, Member/DPJ/153/25.Oct.2001)
- I believe that the widening gap between the "have" and the "have-not" nations is leading to international terrorism and other threats. To avoid this danger it will be necessary to correct American unilateralism and create a system that includes the developing nations. (UEDA Isamu, Member/NK/153/25.Oct.2001)

- A system for combating international crime should be set up under United Nations leadership. However, it would not look convincing if, when Japan participates, it were to provide money but no military forces. (TSUZUKI Yuzuru, Member/LP/153/26.Nov.2001/Nagoya Hearing)
- The eradication of terrorism is an issue that will affect the existence of humankind in the 21st century, and must be tackled by the international community. As part of its counterterrorism measures, Japan should directly deal with difficult situations that arise as a result of military responses, and should give nonmilitary cooperation in such forms as lobbying to enable the United Nations to use its capabilities in such areas as the identification and extradition of criminals, and sanctions by nonmilitary means. (HARUNA Naoaki, Member/JCP/153/25.Oct.2001,153/26.Nov.2001/Nagoya Hearing)
- As regards counterterrorism measures, the role expected of Japan by the international community is not that of making military contributions, but peaceful contributions. (KANEKO Tetsuo, Member/SDP/153/26.Nov.2001/Nagoya Hearing, 153/6.Dec.2001)

<Comments by Informants and Others>

- So long as U.S. military counterterrorism operations are conducted on a limited scale, with specific objectives and geographical scope, I think they will likely be supported by the international community, and that support will be necessary. Japan should participate actively in counterterrorism efforts by the international community through types of nonmilitary cooperation that are strongly backed by domestic public opinion, such as reconstruction support, assistance for refugees, and economic aid. (MORIMOTO Satoshi, Informant/153/25.Oct.2001)
- Terrorism is based on premises that differ from those of wars between states, and there is a limit to the extent to which it can be dealt with by the use of force to treat symptoms as they arise. In dealing with terrorism Japan should consider the perspective of developing countries, and should take initiatives towards addressing more fundamental problems through the framework of the United Nations, such as sanctions and reconstruction, disparities between rich and poor, and religious hatreds, keeping the exercise of the right of self-defense in reserve as an exceptional measure. (ONUMA Yasuaki, Informant/153/25.Oct.2001)
- It is essential to deal with terrorism not by military means, but through the criminal courts. And we should not simply toe the U.S. line. As regards problems that lie behind terrorism, such as dissatisfaction and resentment, Japan should view them from a different perspective, with conviction and in the spirit of harmony, and engage in diplomacy from the standpoint of human security. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)

- To deal with terrorism we must take a broad-ranging approach designed to eradicate its root causes. (MATSUI Yoshiro, Informant/154/28.Feb.2002/International Society Subcommittee)
- We must recognize that tackling large-scale terrorism is a problem that the entire world must address. (TAKUBO Tadae, Informant/154/6.June.2002/International Society Subcommittee)
- Dealing with terrorism with armed force does not solve the problem. If we value human life and therefore refuse to submit to terrorism, compromise is essential, and for that it is important to make extensive effort to engage in dialogue and to eradicate poverty. (KAWABATA Hiroaki, Speaker/153/26.Nov.2001/Nagoya Hearing)
- There was a possibility that the United Nations would move in the direction of taking judicial measures to deal with the 9/11 issue. During the deliberations on the Anti-Terrorism Special Measures Law, treating matters, such as the operational scope of the Self-Defense Forces and their use of weapons, as constitutional issues was characterized by the prime minister as nothing more than metaphysical controversy; in a constitutional state, I find that troubling. (TAGUCHI Fukuji, Speaker/153/26.Nov.2001/Nagoya Hearing)
- It is not possible to eradicate terrorism by means of military countermeasures; the world must be rid of the socioeconomic problems such as poverty that are the breeding-grounds of terrorism. Also, in tune with the spirit of the right to live in peace, Japan should provide Afghanistan with humanitarian assistance in cooperation with NGOs, not through the Self-Defense Forces. (NISHI Hideko, Speaker/153/26.Nov.2001/Nagoya Hearing)
- Counterterrorism measures are being discussed in terms of cooperation with the United States, but we should be considering this as a problem that concerns Japan itself, by assessing what we should do if the peace of Japan is threatened. Terrorism should be prevented by showing the resolute will of the people not to tolerate terrorism, and by acting accordingly. (NOHARA Kiyoshi, Speaker/153/26.Nov.2001/Nagoya Hearing)

d. Comments concerning dealing with refugee problems

<Comments by Members>

- Since Japan has ratified the Convention relating to the Status of Refugees and a series of human-rights agreements, it is incumbent upon it to implement refugee and other measures based upon those agreements. (KONNO Azuma, Member/DPJ/154/25.July.2002)

- Japan should be open to the acceptance of refugees. In addition, we should work in coordination with Korea, the United States, and other nations with which we share attitudes towards refugees. (NAKAGAWA Masaharu, Member/DPJ/154/24.June.2002/Sapporo Hearing)
- Japan should devote its energies to issues such as assistance to refugees and landmine clearance. (HARUNA Naoaki, Member/JCP/153/26.Nov.2001/Nagoya Hearing)
- Japan, with its Peace Constitution, has a duty to become actively and discretionarily involved in international efforts to give relief to Afghan refugees and to curb increases in refugee numbers. (SHIOKAWA Tetsuya, Member/JCP/153/29.Nov.2001)
- Before discussing accepting Afghan refugees, we should first discuss what to do to prevent people from becoming refugees. (MATSUNAMI Kenshiro, Member/NCP/25.Oct.2001)

<Comments by Informants and Others>

- In fields such as the environment and the harboring of refugees and asylum-seekers, Japan should export its soft power in such forms as the power to influence world opinion and the power to disseminate information, and through that to show leadership in the international community. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)
- We should not let in refugees all at once without addressing feelings of discrimination against them. In the long term, however, it will be necessary to formulate open-door measures for the acceptance of refugees. (ONUMA Yasuaki, Informant/153/25.Oct.2001)
- In addressing refugee problems we should pay heed to questions such as how to help people who are not recognized as being refugees, and what the refugees themselves are hoping for. Based on that, in a spirit of respect for every individual refugee it will be important to engage them in dialogue in order to stimulate them to make efforts to help themselves. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)
- We must consider how we should deal with refugee problems that occur throughout the world. (MASUGI Eiichi, Speaker/154/24.June.2002/Sapporo Hearing)

e. Comments concerning dealing with environmental problems

<Comments by Members>

- A duty that Japan has to the international community is to show leadership in such spheres as coexistence with nature, and environmental issues. (HATOYAMA Kunio, Member/LDP/153/26.Nov.2001/Nagoya Hearing)
- We will have to study the best way to deal with environmental problems. (YASUOKA Okiharu, Member/LDP/147/1.May.2000)
- In the 21st century it will be essential to conduct scientific and technological research for the purpose of preserving the earth's environment. (MIZUNO Ken'ichi, Member/LDP/150/21.Dec.2000)
- As its national identity, Japan should present environmental rights and obligations to the international community. (SHIMA Satoshi, Member/DPJ/153/26.Nov.2001/Nagoya Hearing)
- Japan must draft its economic policies by taking the earth's environment as a whole into consideration, and it should show leadership in this field. (TSUJIMOTO Kiyomi, Member/SDP/150/7.Dec.2000)

<Comments by Informants and Others>

- As regards environmental problems that can be solved with the use of science and technology, it will be important to continue our efforts to make progress in international cooperation and in science and technology. (MURAKAMI Yoichiro, Informant/150/21.Dec.2000)
- Environmental problems should be tackled by spreading around the world the know-how and technologies that Japan has acquired through its traditional outlook on nature and its pollution problems. (KANG Sanjung, Informant/151/22.Mar.2001)
- It is not a question of revising the Constitution; we should build a global environmental security structure. (TAGUCHI Fukuji, Speaker/153/26.Nov.2001/Nagoya Hearing)

f. Comments concerning international cooperation by means of technology transfers, etc.

<Comments by Informants and Others>

- Japan should engage in international cooperation by providing support for science and technology centered on "research driven by the quest for knowledge" whose activities include the establishment of partnerships between research institutions in the sphere of science and technology. In addition, Japan ought to show global

leadership in fostering unique fields relating to science and technology, for example new academic systematization related to security. (MURAKAMI Yoichiro, Informant/150/21.Dec.2000)

- Japan should develop pioneering science and technology that will aid the development of a sustainable human society, and spread these overseas through technology transfers. (NISHIZAWA Junichi, Informant/151/8.Feb.2001)
- g. Other comments concerning fields in which international cooperation should be pursued

<Comments by Members>

- In fields of “global governance,” such as the environment, poverty, disarmament, energy, and infectious diseases, I believe that Japan has an opportunity to conduct its own unique diplomacy. (HIRAI Takuya, Member/LDP/154/9.May.2002/ International Society Subcommittee)
- I felt great sympathy towards the suggestion of the speaker Governor KAIHARA of making international contributions by means of the art of peace. (HARUNA Naoaki, Member/JCP/151/4.June.2001/Kobe Hearing)

<Comments by Informants and Others>

- As a major nation, Japan should fulfill its responsibilities to the international community with regard to issues such as ensuring the growth of the world economy, maintaining world peace, preserving the global environment, and dealing with civil wars and starvation. The roles that Japan should be playing as regards world economic growth include (1) maintaining its own economic development and achieving technical innovation, and (2) fostering the free-trade system, while paying attention to the protection of the environment. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- Japan should engage in national “civilian service activities,” including refugee relief, debt forgiveness for developing countries with severe external indebtedness, nuclear disarmament, dispute intermediation, and disaster relief. (ODA Makoto, Informant/150/28.Sept.2000)
- From a long-term perspective it is important for young people and others to engage in international exchanges, particularly in the field of education. (SONO Ayako, Informant/150/12.Oct.2000)
- It is essential to bring about the reduction and eradication of both nuclear arms and conventional arms, and to resolve such problems as poverty, heavy national indebtedness, the destruction of the earth’s environment, the suppression of human

rights, backwardness in education, and other forms of structural violence. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)

- Through vigorous lobbying of organizations such as the United Nations, the World Bank, the IMF, and UNICEF on such matters as the laying-down of international rules to cover the problem of Internet security, international hackers, terrorism, and so on, and displaying leadership, Japan could gain an appropriate degree of respect from the international community, and recognition as a leader. (SON Masayoshi, Informant/151/8.Mar.2001)
- The city of Kobe is endeavoring to accumulate a concentration of world-class research institutions and institutions for such purposes as human-resource development and information in such fields as health and medical services, welfare, the environment, and disaster prevention, in which technologies can be used to contribute to world peace. (KAIHARA Toshitami, Speaker/151/4.June.2001/Kobe Hearing)
- Japan ought to engage actively in international cooperation in such fields as education, medical care, welfare, and infrastructure development. (YAMAUCHI Tokushin, Speaker/154/22.Apr.2002/Okinawa Hearing)
- Faith in power politics is staging a comeback in the international environment. Amid this it is incumbent on Japan, as a major nation, to undertake measures for the sake of maintaining a stable international order. These include measures for the resolution of complex ethnic problems, the avoidance of resource nationalism on the part of developing countries, and the development of a large-scale assistance program for the correction of economic imbalances between industrialized countries and developing countries. (INATSU Sadatoshi, Speaker/154/24.June.2002/Sapporo Hearing)
- With the cooperation of local governments, in Hokkaido I would like to build a multilayered structure for receiving exchange students. (MASUGI Eiichi, Speaker/154/24.June.2002/Sapporo Hearing)

D. Entities to Conduct International Cooperation

a. Comments that refer to the use of the Self-Defense Forces

- a-1. Comments from the standpoint that active use of the Self-Defense Forces should be made

<Comments by Members>

- Japanese NGOs are not yet very active, but I think that international cooperation activities by the Self-Defense Forces, which are highly skilled in mine-clearance and other techniques, would be very meaningful, including from the perspective of

humanitarian assistance. However, I believe that the overseas dispatch of the Self-Defense Forces is difficult in view of interpretations of the Constitution. (TSUCHIYA Shinako, Member/LDP/154/28.Feb.2002/International Society Subcommittee)

- The grounds for the overseas dispatch of the Self-Defense Forces for the purpose of international cooperation can be found in the third paragraph of the Preamble and the Cabinet's powers to manage foreign affairs under Article 73. (NAKASONE Yasuhiro, Member/LDP/153/6.Dec.2001)
- It is essential that the Self-Defense Forces participate actively in United Nations operations after its existence is recognized under the Constitution. (HANASHI Nobuyuki, Member/LDP/154/28.Feb.2002/International Society Subcommittee)
- Since the end of the Cold War, conditions are more conducive to the performance by the United Nations of its functions. In view of this, we should adopt a U.N.-centered posture reflected in active participation in international cooperation activities under the aegis of the United Nations, and that include the dispatch of the Self-Defense Forces. (FUJISHIMA Masayuki, Member/LP/153/25.Oct.2001, 154/25.Apr.2002)

<Comments by Informants and Others>

- Prior approval by the Diet for overseas operations by the Self-Defense Forces under the Anti-Terrorism Special Measures Law is in accord with the principle of civilian control. This is the appropriate procedure under a parliamentary cabinet system, though it is also appropriate that there remains scope for ex post facto approval and prime-ministerial discretion in certain cases. (MORIMOTO Satoshi, Informant/153/25.Oct.2001)
- I do not approve of the Self-Defense Forces being dispatched in the national interest of a particular country. However, they should be sent if it is to promote world peace. (KATO Masanori, Speaker/153/26.Nov.2001/Nagoya Hearing)

a-2. Comments negative towards the dispatch of the Self-Defense Forces overseas

<Comments by Members>

- The purpose of those pushing for revision of the Constitution is to amend Article 9 to allow the Self-Defense Forces to use armed force abroad. (SASAKI Rikukai, Member/JCP/147/27.Apr.2000)
- The dispatch of the Self-Defense Forces overseas is not permissible under the Constitution. (YAMAGUCHI Tomio, Member/JCP/153/25.Oct.2001)
- Moves to send the Self-Defense Forces overseas often arise when there is an international crisis such as the 9/11 attacks. I fear, however, that such moves will

lead to the destruction of fundamental elements of the Constitution. (IMAGAWA Masami, Member/SDP/153/25.Oct.2001)

- Upon the sending overseas of the Self-Defense Forces under the Anti-Terrorism Special Measures Law, if the government requests Diet approval without revealing full details of the deployment, that is tantamount to becoming civilian control in name only. (KANEKO Tetsuo, Member/SDP/153/6.Dec.2001)

<Comments by Informants and Others>

- It is a mistake to think that simply sending the Self-Defense Forces to provide rear-area support constitutes international cooperation. (YAMAUCHI Tokushin, Speaker/154/22.Apr.2002/Okinawa Hearing)

a-3. Other comments concerning the use of the Self-Defense Forces

<Comments by Informants and Others>

- I think that the dispatch of the Self-Defense Forces at the time of the Gulf War constituted “overseas military deployment.” (MATSUMOTO Ken’ichi, Informant/150/7.Dec.2000)
- As regards the dispatch overseas of the Self-Defense Forces under the Anti-Terrorism Special Measures Law, there is no validity in the government view that the grounds for this are not the right of collective self-defense, but the Preamble and a United Nations Security Council resolution. This is because from a legal perspective, U.S. counterterrorism operations are not recognized as being activities with a high degree of communal value for the good of the international community, such as peacekeeping operations. (ONUMA Yasuaki, Informant/153/25.Oct.2001)
- In the event of operations by U.N. forces or peacekeeping operations accompanied by the use of force, such activities do not constitute invoking national sovereignty. Therefore, if we consider this question aside from the constitutional debate about the existence of the Self-Defense Forces, their participation in such activities presents no problem as far as the Constitution is concerned. (MATSUI Yoshiro, Informant/154/28.Feb.2002/International Society Subcommittee)

b. Comments that NGOs, etc., should be used

<Comments by Members>

- The international contributions of a country such as Japan, with its Peace Constitution, should be in civilian and public-welfare fields. Approval for armed deployments overseas should not be given lightly. (OSHIMA Reiko, Member/SDP/154/28.Feb.2002/International Society Subcommittee)

<Comments by Informants and Others>

- We must give thought to the allocation of roles to the state and to NGOs. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- Landmine clearance is an activity regarded as important in peace building, but it is not impossible to do it without the Self-Defense Forces. In fact there are numerous NGOs engaged in mine-clearance operations. For Japan to become involved in a central way in peace building, it is essential to nurture NGOs and to strengthen collaboration with them. (MATSUI Yoshiro, Informant/154/28.Feb.2002/International Society Subcommittee)

c. Comments concerning the argument in favor of other organizations

<Comments by Members>

- It is worth studying the suggestion of creating an “international cooperation force” separate from the Self-Defense Forces. When we do, discussion must also be given to the question of how to revise Article 9. (NAKAYAMA Taro, Commission Chairman/LDP/154/28.Feb.2002/International Society Subcommittee)

<Comments by Informants and Others>

- No problem with respect to the Constitution would arise if Japan were to establish an organization separately from the Self-Defense Forces, and use that organization to cooperate in peacekeeping operations. Nevertheless, that would be inefficient, and it would be difficult to regard it as politically realistic. (MATSUI Yoshiro, Informant/154/28.Feb.2002/International Society Subcommittee)
- Participation by the Self-Defense Forces in peacekeeping operations would be a problem. Japan should seek a form of international cooperation in which to make contributions of personnel that are not classified as military activity, by creating an organization that does not fall into the category of war potential. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)

E. Relationship between the Constitution and International Cooperation

a. Comments concerning the merits and demerits of revising the Constitution in relation to the conduct of international cooperation

- a-1. Comments from the standpoint that the revision of the Constitution should be studied

<Comments by Members>

- The time has now come when we must consider two issues: what Japan can do when the international community wishes to move together in a certain direction, and

whether Japan can respond adequately under its present Constitution. (KYUMA Fumio, Member/LDP/150/28.Sept.2000)

- To realize international peace based on justice and order, Japan should state explicitly that it will work actively in concert with other countries wishing to cooperate. (TAKAICHI Sanae, Member/LDP/154/25.Apr.2002)
- I hope that, together with the people, we will consider the form that the Constitution should take from the perspective of what duties in the sphere of security in the international community should be carried out by Japan, which in the 50 or so years of the postwar period has become the world's second-largest economy. (HANASHI Nobuyuki, Member/LDP/154/25.Apr.2002)
- The Constitution contains no positive provisions relating to the fostering of international cooperation. Therefore, Japan's duties and role in relation to international cooperation should be stated explicitly in the Constitution. (MIZUNO Ken'ichi, Member/LDP/150/9.Nov.2000)
- Guidelines for international cooperation should be stated clearly in the Constitution. (ISHII Hajime, Member/DPJ/147/11.May.2000)
- The Constitution contains no express provisions regarding an active contribution by Japan to the international order. The Constitution should set out clearly matters such as the ways in which to address issues such as the destruction of the environment, the prevalence of poverty, and the increase in the number of refugees, and relationships with international institutions and regional institutions. (SUTO Nobuhiko, Member/DPJ/153/6.Dec.2001, 154/25.July.2002)
- It is conceivable that we could add a third paragraph to Article 9, in order to stipulate the form that international cooperation should take. We should include in the Constitution express provision for "global governance" to resolve such problems as conflicts, arms proliferation, terrorism, crime, population movements, economic disparities, and refugees, and for ways in which Japan can protect its interests as a sovereign state. (NAKANO Kansei, Member/DPJ/150/7.Dec.2000,154/28.Feb.2002/International Society Subcommittee)

<Comments by Informants and Others>

- In the international community Japan has spheres in which it asserts itself, and duties and obligations that it must fulfill. Therefore, we should consider stating these positively in the Constitution. (MURATA Koji, Informant/147/9.Mar.2000)
- The interpretation of Article 9 that it repudiates war of aggression but sanctions war in self-defense and participation in joint action in pursuit of international security objectives is what has been intended since the time it was enacted. Today, the need has arisen to participate in joint action to maintain world peace. In view of

this, with the agreement of the people, study should be given to retaining Paragraph 1 of Article 9, which repudiates aggressive war, and revising Paragraph 2 in one of the following ways: (1) deleting it, (2) including an express provision sanctioning self-defensive war, (3) including an express provision sanctioning self-defensive war and participation in joint action in relation to international security, and (4) deleting the latter portion. (IOKIBE Makoto, Informant/147/20.Apr.2000)

- The Preamble and Article 9 do not constrain Japan from participation in United Nations activities or activities that reflect the communality of international society. However, Paragraph 2 is ambiguous, and ignores current realities in the international community. Because this provision exists, we are discussing two essentially unrelated concepts in conjunction with each other, namely activity undertaken on behalf of the international community, and the right of collective self-defense. To clarify the intent to cooperate actively with the United Nations, if possible this paragraph should either be deleted, or be deleted and then express mention made of the possession of the right of self-defense and active international cooperation. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- By revising the Preamble and including in the Constitution clear statements on such matters as the expectations held of Japan by the international community, and that Japan is fulfilling its responsibilities in the international community and occupies a place of honor in it, we should enable Japanese people to feel pride, and enable them to respond to situations of any kind that occur in the world. (ICHIMURA Shin'ichi, Informant/150/26.Oct.2000)
- By making it clear in the Constitution that the Japanese people will take leadership in contributing to the peace and happiness of the world, I believe that we could enhance citizens' awareness of active international cooperation. (SON Masayoshi, Informant/151/8.Mar.2001)
- Article 9 is the provision that governs security, and it also lays the foundation for participation in activity for maintaining world peace with the wording "Aspiring sincerely to an international peace based on justice and order...." However, the Preamble should also set out a cross-cultural perspective for the building of a nation that incorporates the finest aspects of the many civilizations that exist within international society. (ONUMA Yasuaki, Informant/153/25.Oct.2001)
- The Constitution should include provisions for confronting issues that must be addressed in the 21st century, including environmental problems, peace activities by international institutions, and humanitarian assistance activities. It should also state clearly that there are situations in which public servants, Self-Defense Forces personnel, and other persons are to be dispatched to participate in those activities. (TEJIMA Norio, Speaker/151/16.Apr.2001/Sendai Hearing)

- The Constitution's nonrecognition of the exercise of the right of collective self-defense is an obstacle to active international cooperation. Therefore, Japan should cooperate in the maintenance of world peace by revising the Constitution so as to recognize the exercise of that right. (MEGUMI Ryunosuke, Speaker/154/22.Apr.2002/Okinawa Hearing)
 - Japan should include in the Constitution clear wording as to its active participation in international cooperation based on United Nations resolutions, in the spirit of coexistence. In this way it will proclaim to the international community its intent to carry out its international political responsibilities, and its ideal of building a nation based on moral justice. (INATSU Sadatoshi, Speaker/154/24.June.2002/Sapporo Hearing)
- a-2. Comments from the standpoint that the revision of the Constitution is not necessary

<Comments by Members>

- The thinking that the Constitution should be revised for the sake of resolving conflicts that may occur in the world must be changed. (KONNO Azuma, Member/DPJ/153/6.Dec.2001)
- The Constitution sets out clearly the aim, amid the progress of globalization, to contribute by peaceful means to environmental and other problems. (HARUNA Naoaki, Member/JCP/151/8.Feb.2001)
- The Constitution does not need to be revised in order to engage in international cooperation. It is important for Japan to make active efforts that will put vigor into both the United Nations Charter and the Constitution. (YAMAGUCHI Tomio, Member/JCP/154/28.Feb.2002/International Society Subcommittee, 154/6.June.2002/International Society Subcommittee)
- Without distorting the spirit of the Constitution, there are any number of methods through which to contribute to peace. (OSHIMA Reiko, Member/SDP/154/28.Feb.2002/International Society Subcommittee)

<Comments by Informants and Others>

- The Constitution requires the people of Japan to contribute actively to international cooperation, not through military means, but through peaceful ones. The constitutional grounds for engaging in international cooperation can be found in the Preamble, where there is a clear declaration of the aim to occupy an honored place in international society by striving constructively for world peace. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)

- The fundamental thinking underlying the Constitution and the United Nations Charter is largely identical. Therefore, engaging in foreign policy and international cooperation from the perspective of the Constitution helps to realize the ideals of the United Nations Charter. It follows from this that over the long term there is no inconsistency between the pursuit of Japan's national interest and international cooperation through the United Nations. Japan must give life to its Constitution, and at the same time consider what it can do within its purview. (MATSUI Yoshiro, Informant/154/28.Feb.2002/International Society Subcommittee)
 - The principle of international cooperation espoused by the Constitution is the end point of intellectual and political endeavors pursued for many years, and should be developed further in the future. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)
- b. Other comments concerning the relationship between the Constitution and the promotion of international cooperation

<Comments by Members>

- When considering the desirable form of international cooperation, including the exercise of the right of collective self-defense, issues arise that cannot be addressed under the present Constitution. (OKUDA Mikio, Member/LDP/147/11.May.2000)
- The spirit of Paragraph 1 of Article 9 is a lofty one, and we should continue to honor it. However, we should recognize that since the matter of the exercise of the right of self-defense has been interpreted rigidly, Japan is not able to undertake appropriate action in order to cooperate with the international community. (UEDA Isamu, Member/NK/153/6.Dec.2001)
- It is important that there be a constitution that incorporates obvious commonsense elements such as that military power cannot be ignored, and it is essential to consider the issue of international cooperation among them. (UDAGAWA Yoshio, Member/Club 21/153/26.Nov.2001/Nagoya Hearing)

<Comments by Informants and Others>

- Article 9 can be regarded as including the meaning of active participation in the bringing of peace to the international community, but there are constraints on the methods. Full discussions must be held as to how to eliminate those constraints and to make participation in peacemaking more effective. (TAKAHASHI Masatoshi, Informant/147/23.Mar.2000)
- In interpreting Article 9, the major obstacle encountered in discussions among constitutional scholars in particular, was not making a sharp distinction between the use of force in pursuit of the national interest as a sovereign right of the nation, and the use of force for realizing the common good of the international community,

and discussing them together. For my part, I interpret Article 9 as not prohibiting the latter of these in any way. (ONUMA Yasuaki, Informant/153/25.Oct.2001)

(2) Relationship with the United Nations

A. Collective Security

a. Comments concerning the relationship between participation in a United Nations army or multinational force and the Constitution

a-1. Comments that the Constitution should be revised for participation in a United Nations army or multinational force

<Comments by Members>

- I believe that the Constitution does not permit participation by Japan in overseas military operations, even though it is a member of the United Nations. The Constitution should be revised so as to permit Japan to fulfill its obligations as a U.N. member country. (KYUMA Fumio, Member/LDP/147/27.Apr.2000)
- Whereas Article 9, Paragraph 1, which renounces aggressive war, could be retained, there are doubts about the interpretation of Paragraph 2, which should be revised. After setting aside the question of the rights or wrongs of exercising the right of collective self-defense, a revision should be made to permit the exercise of the right of individual self-defense and participation in collective security. (FUNADA Hajime, Member/LDP/147/27.Apr.2000, 147/11.May.2000)
- I believe that under the Constitution as it stands it would be constitutional to participate in a system of universal security under which nations make a mutual pledge not to launch military attacks on each other, and countries that violate the pledge are dealt with jointly. However, it would be desirable to have this stated explicitly in the Constitution. (TSUTSUI Nobutaka, Member/DPJ/151/14.June.2001)
- Express mention should be made in the Constitution to the effect that Japan may participate in collective security, including participation in a United Nations army. (AKAMATSU Masao, Member/NK/150/7.Dec.2000)

a-2. Comments that participation in a United Nations army or multinational force is possible under the Constitution

<Comments by Members>

- Participation by the Self-Defense Forces in a United Nations army or multinational force would be no problem under the Constitution. (FUJISHIMA Masayuki, Member/LP/154/28.Feb.2002/International Society Subcommittee)

<Comments by Informants and Others>

- Under the Constitution, Japan could participate in a United Nations army once legislation was put in place and other procedures completed. (TANAKA Akihiko, Informant/150/28.Sept.2000)
 - Article 9 is the provision that provides the grounds for participation in an international security system. Also, in the event of a situation similar to the Gulf War occurring, I believe that participation by Japan in a multinational force would be possible. This is because of the interpretation of Article 9 as permitting the use of force to realize international common values. (ONUMA Yasuaki, Informant/153/25.Oct.2001)
- a-3. Comments that participation in a United Nations army is possible, but that participation in a multinational force is unconstitutional

<Comments by Informants and Others>

- For the use of force by member nations under the authorization of the Security Council to be recognized as a United Nations activity, it is necessary for the United Nations to exercise control over it. However, the activity currently being undertaken is not under U.N. control. Therefore, cooperation extended to this activity by Japan is not cooperation with U.N. activity, but with individual countries that have U.N. authorization, and is therefore unconstitutional. On the other hand, if a United Nations army were to be established under the Charter, and it engaged in activity involving the use of force, that activity would not fall into the category of war exercised as a sovereign right of the nation. In consequence, setting aside the argument about their very existence, participation by the Self-Defense Forces would not be a problem under the Constitution. (MATSUI Yoshiro, Informant/154/28.Feb.2002/International Society Subcommittee)
 - I believe that under the Constitution Japan cannot participate in a multinational force engaged in military operations. However, if a force were to undertake policing functions under the control of the United Nations, participation would be possible, since Japan's participation in U.N. policing activities would not be contrary to the renunciation of war potential and the right of belligerency stipulated in Article 9. Japan should continue its efforts to bring such an environment into being. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)
- a-4. Comments from a standpoint negative towards participation in a United Nations army or multinational force

<Comments by Members>

- Participation by Japan in military operations based on Security Council resolutions would have the effect of arousing distrust in other Asian countries and would

appear threatening to them. I feel that, as far as protecting our national interest is concerned, it would have a negative impact. (HIMORI Fumihiro, Member/SDP/150/7.Dec.2000)

<Comments by Informants and Others>

- To conform with the principles of the Constitution, Japan cannot participate in a multinational force that uses military force to settle disputes. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
 - I am dubious about sending the Self-Defense Forces, whose existence is unconstitutional, to U.N. collective security activities. (KAWABATA Hiroaki, Speaker/153/26.Nov.2001/Nagoya Hearing)
 - Given the pacifism of the Constitution, it is not necessary to have the Self-Defense Forces participate in U.N. collective security. We should put into practice the principles contained in Article 9 and the Preamble. (NISHI Hideko, Speaker/153/26.Nov.2001/Nagoya Hearing)
- a-5. Other comments concerning the relationship between participation in a United Nations army or multinational force and the Constitution

<Comments by Members>

- We should study whether or not it is possible for the Self-Defense Forces to participate in a multinational force. (ITO Kosuke, Member/LDP/153/6.Dec.2001)
- Article 9 must be discussed from the standpoint of establishing how as a nation we should address the issue of collective security. (HOZUMI Yoshiyuki, Member/LDP/147/11.May.2000)
- The problem raised by the Gulf War is not the problem of the right of collective self-defense, but the problem of collective security. (YANAGISAWA Hakuo, Member/LDP/147/11.May.2000)

<Comments by Informants>

- As globalization advances, society is moving towards the joint building of a security structure. As long as the Constitution does not make explicit provision for maintaining the right of self-defense, it will not be possible to build a collective-security structure. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)

b. Comments that refer to the establishment of a permanent armed force in the United Nations, etc.

b-1. Comments positive towards the establishment of a permanent armed force in the United Nations, etc.

<Comments by Members>

- We must discuss matters such as the establishment of a “United Nations Police Force.” (KONDO Motohiko, Member/LDP/154/28.Feb.2002/International Society Subcommittee)
- From the perspective of the right of universal self-defense, we should endeavor to reform the United Nations and establish a standing U.N. army. (IGARASHI Fumihiko, Member/DPJ/150/28.Sept.2000)
- With respect to a United Nations Police Force, which has not yet been established, we should state explicitly Japan’s orientation towards active involvement under U.N. command. (TSUTSUI Nobutaka, Member/DPJ/151/14.June.2001)
- Individual countries should reduce their own armaments and establish a “United Nations Police Force.” (IMAGAWA Masami, Member/SDP/153/25.Oct.2001)

<Comments by Informants and Others>

- Except in cases of self-defense, Japan should not use military force at its own will, but should participate in collective security in such forms as a United Nations army, to which the settlement of conflicts should be entrusted. (SON Masayoshi, Informant/151/8.Mar.2001)

b-2. Comments skeptical towards the establishment of a permanent armed force in the United Nations, etc.

<Comments by Members>

- Even if a regular U.N. army were to be established, it would act for American causes, and its actions may not necessarily coincide with causes espoused by Japan. (TAKAICHI Sanae, Member/LDP/150/30.Nov.2000)

<Comments by Informants and Others>

- The establishment of a United Nations army is an ideal to be pursued, but one that has little likelihood of being realized. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)
- The idea that individual countries should reduce their armaments and establish a “United Nations army” must be also studied from a dispassionate and realistic

perspective. Owing to the lack of full functionality of collective security, individual countries are accustomed to exercising the right of individual self-defense and of collective self-defense. In addition, as there are limits to the use of peacekeeping operations to fill gaps in collective security, the United Nations is not able to cope adequately with violence, war, and terrorism.

- It would be desirable for the United Nations to have a standby force able to take action rapidly in the initial stage of a conflict, including through the use of force. In practice, however, that is not realistic. A realistic policy for responding to such events would be that of deploying a multinational force with the “approval” of the Security Council. (ONUMA Yasuaki, Informant/153/25.Oct.2001)
- Under present circumstances it would be difficult for individual sovereign states to cede their police powers to the United Nations. (MATSUI Yoshiro, Informant/154/28.Feb.2002/International Society Subcommittee)

c. Other comments concerning collective security

<Comments by Members>

- When Japan became a member of the United Nations, it should have discussed the role that it should play within the system of collective security centered on the United Nations. (KYUMA Fumio, Member/LDP/154/22.Apr.2002/Okinawa Hearing)
- Today, an era of progressive globalization and closer international relations, the state is playing an increasing role in the framework of collective security in which peace and security are maintained by cooperative relationships between individual nations. (YASUOKA Okiharu, Member/LDP/151/22.Mar.2001)
- In order to build world peace, Japan should seek out the proper form that the United Nations should take. Also, if a United Nations army is formed to act as the core entity for establishing human security, Japan should not, as a nation, deny the wishes for world peace of individuals desiring to participate in it. (KONNO Azuma, Member/DPJ/153/6.Dec.2001)
- In view of the fact that how best to respond to the 9/11 attacks became an issue, I think that deciding how to arrange collective security has now become a major issue that we must address. (SENGOKU Yoshito, Member/DPJ/153/11.Oct.2001)
- In the joint statement by the APEC summit concerning the 9/11 attacks, there was unanimity on the point that the response should be led by the United Nations. Now is the time for us to think about the United Nations’ proper collective-security functions. (YAMAGUCHI Tomio, Member/JCP/153/25.Oct.2001)

<Comments by Informants and Others>

- If Japan is able to maintain peace without using weapons, and to eradicate nuclear and other armaments, then it should push debate in that direction. When in doing so it retains certain police powers, the exercise of those powers must be temporary and limited, and based upon the rules of international society. (SON Masayoshi, Informant/151/8.Mar.2001)
- Japan should engage actively in cooperation activities by having the Self-Defense Forces participate in the framework of United Nations collective security. (KOIDO Yasuo, Speaker/153/26.Nov.2001/Nagoya Hearing)
- I object to having the Self-Defense Forces participate in the framework of collective security. Instead of using the Self-Defense Forces, we must examine routes of doing so through ideas such as that of contributing personnel to a United Nations army. (TAGUCHI Fukuji, Speaker/153/26.Nov.2001/Nagoya Hearing)
- During the Gulf War the so-called multinational army, an armed force acting in line with U.S. intentions, slaughtered Iraqis indiscriminately and one-sidedly, which I believe was a violation of international law. (ARAKAKI Tsutomu, Speaker/154/22.Apr.2002/Okinawa Hearing)

B. United Nations Peacekeeping Operations, Etc.

- a. Comments concerning participation in United Nations Peacekeeping Operations, etc.

<Comments by Members>

- Japan gains no international recognition by just providing money when peacekeeping forces are dispatched, and not being able to make contributions in the form of personnel. (KYUMA Fumio, Member/LDP/150/28.Sept.2000)
- To pursue active pacifism, Japan should participate vigorously in United Nations peace activities. (FUNADA Hajime, Member/LDP/147/27.Apr.2000)
- Japan should make clear its orientation towards active involvement in peacekeeping operations and a United Nations police force under U.N. command. (TSUTSUI Nobutaka, Member/DPJ/151/14.June.2001)
- We should not confine the debate about peacekeeping operations to constitutional discussions on specific issues such as criteria for the use of weapons and the right of collective self-defense. We should set out a clear strategy of establishing what the will of the nation is. (NAKAGAWA Masaharu, Member/DPJ/153/6.Dec.2001)
- In discussions to date there has been an excessive bias towards the pros and cons of cooperation with peacekeeping forces (PKF). I feel that lying behind this is a feeling

of guilt about the fact that personnel have not been sent. (AKAMATSU Masao, Member/NK/154/28.Feb.2002/International Society Subcommittee)

- Japan must cooperate with the international community in order to help maintain peace. To do that it must not only devote itself fully to diplomacy, but also participate actively in U.N. peace activities such as peacekeeping operations, and develop a structure for cooperation. (FUJISHIMA Masayuki, Member/LP/151/14.June.2001)

<Comments by Informants and Others>

- The debate about participation in peacekeeping operations has deepened since it was sparked at the time of the Gulf War, and even more in-depth discussions should be held. (TANAKA Akihiko, Informant/150/28.Sept.2000)
 - Japan should have the Self-Defense Forces participate in activities, such as peacekeeping operations, that are widely recognized as being for the communal benefit of the international community. (ONUMA Yasuaki, Informant/153/25.Oct.2001)
 - Contributing actively to the maintenance of world peace by such means as participation in peacekeeping operations will contribute to the security of the entire international community. (ASHITOMI Osamu, Speaker/154/22.Apr.2002/Okinawa Hearing)
- b. Comments concerning the relationship between United Nations Peacekeeping Operations, etc., and the Constitution

<Comments by Members>

- It is argued that permitting personnel in peacekeeping operations to use weapons is the “natural right of self-preservation.” However, by flaunting the term “natural rights,” that argument gives the false impression that the rights are sacred and inalienable, whereas they should be construed simply as “human instinct.” (ISHIBA Shigeru, Member/LDP/154/23.May.2002/Human Rights Subcommittee)
- The constitutional position will be doubtful with respect to the question of whether Japan could go to the aid of another country’s armed forces if they were to come under attack during the course of participation in peacekeeping. (KYUMA Fumio, Member/LDP/150/28.Sept.2000)
- Since the basic component of Japan’s foreign policy is the focus on the United Nations, the Constitution should provide expressly for full-scale cooperation with peacekeeping operations. (MATSUZAWA Shigefumi, Member/DPJ/154/25.Apr.2002)

- There are increasing expectations in the international community for Japan to play an active role. In view of this, it is essential to examine desirable ways of participating in peacekeeping operations, and the relationship with the Constitution. (UEDA Isamu, Member/NK/151/14.June.2001)
- In Paragraph 1 of Article 9 there should be an express statement of the repudiation of aggressive war, while retaining the present spirit of the paragraph. Paragraph 2 should include express provision for matters such as the active participation of the Self-Defense Forces in United Nations peace operations. (FUTAMI Nobuaki, Member/LP/147/27.Apr.2000, 147/11.May.2000)
- There should be a provision in the Constitution to enable Japan to participate actively in peacekeeping operations and other international peace cooperation. (NISHIDA Takeshi, Member/NCP/147/11.May.2000)

<Comments by Informants and Others>

- After revising the Constitution and creating a structure that can gain public support for participation in peacekeeping operations, Japan should participate actively. (ICHIMURA Shin'ichi, Informant/150/26.Oct.2000)
 - If a case were to arise in which, during the course of peacekeeping operations, a ceasefire were repudiated and it became necessary to use weapons, I believe that the use of weapons by Self-Defense Forces personnel as members of the peacekeeping operations would not fall into the category of "the use of force" renounced in Article 9. (ONUMA Yasuaki, Informant/153/25.Oct.2001)
 - Participation in peacekeeping operations is possible under the Constitution; Japan should participate actively. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)
- c. Comments concerning the specific nature of activities, etc., in United Nations Peacekeeping Operations, etc.

<Comments by Members>

- Japan should extend active cooperation for postconflict peace building. (KONDO Motohiko, Member/LDP/154/28.Feb.2002/International Society Subcommittee)
- Postconflict peace building is, in fact, the most difficult field for Japan when providing cooperation, and also the one in which we lag furthest behind. When the rules of engagement for peacekeeping operations are studied, it will be essential to obtain expert advice from a legal perspective, for example that of international humanitarian law. This is because the issue must be studied not only from a military standpoint as in the past; it will be necessary to postulate real conflicts that

engulf not only soldiers, but also civilians. (SUTO Nobuhiko, Member/DPJ/154/28.Feb.2002/International Society Subcommittee)

- It is incumbent upon Japan to extend cooperation of all types in nonmilitary fields to United Nations peace activities, including money, material, and rear-echelon support. (AKAMATSU Masao, Member/NK/154/28.Feb.2002/International Society Subcommittee)
- When participating in peacekeeping operations, Japan should not adhere to the five principles contained in the International Peace Cooperation Law. (FUJISHIMA Masayuki, Member/LP/154/28.Feb.2002/International Society Subcommittee)

<Comments by Informants and Others>

- In part for the purpose of bringing about United Nations reform, Japan should participate actively in peacekeeping operations. When doing so, the overwhelming majority of the roles that Japan and Japanese people are required to perform will likely be activities of a civilian nature. However, the fact that the constraints of domestic laws prevent the undertaking of dangerous activities means that Japan is not fulfilling its responsibilities to the international community. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- Japan should have lifted its freeze on substantial participation in United Nations peacekeeping forces during the 1990s. (ONUMA Yasuaki, Informant/153/25.Oct.2001)
- In cooperating in United Nations peace operations, Japan must be cognizant that preventive diplomacy, peacekeeping, and postconflict peace building form a continuous process. On that basis, among the things we should keep in mind is that the following three points are important for demonstrating Japan's standpoint to the international community. (1) It is essential to have broad-ranging cooperation for preventive diplomacy and peacemaking. (2) For peacekeeping we should call upon the United Nations to observe the principles of the peacekeeping operations, and cooperate actively in civilian fields. (3) Postconflict peace building, including education, is the sphere in which Japan is expected to play a particularly active role, and efforts in it should be strengthened. As regards cooperation in the military sphere, constitutional debate is taking place with respect to the Self-Defense Forces, but as for participation in the civilian sphere there are no constitutional problems. As widespread understanding for this should be received, in peacekeeping operations Japan should extend active cooperation in civilian fields. (MATSUI Yoshiro, Informant/154/28.Feb.2002/International Society Subcommittee)

C. Obtaining Permanent Membership of the Security Council

- a. Comments from the standpoint of supporting Japan's becoming a permanent member of the Security Council

<Comments by Members>

- Given that Japan makes a massive financial contribution to the United Nations, once it becomes a permanent member of the Security Council, it should turn its thoughts to international cooperation for building world peace through the United Nations. (SHIMOMURA Hakubun, Member/LDP/151/8.Feb.2001)
- If Japan becomes a permanent member of the Security Council, then I feel that the interpretation arguments that have been made hitherto will no longer have currency. (TSUCHIYA Shinako, Member/LDP/154/28.Feb.2002/International Society Subcommittee)

<Comments by Informants and Others>

- As Japan's contributions provide around 20% of the entire U.N. budget, it is amply qualified to become a permanent member of the Security Council. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- When the United States ceases to function as the world's policeman, there is a risk that regional conflicts will erupt in various areas of the world. In light of this, Japan should become a permanent member of the Security Council. When it does so it will not be able to fulfill its U.N. responsibilities unless it revises the Constitution, which includes an element of international bad faith. That is, it requires Japan to rely on the faith of other countries for its own security, while at the same time assuming no obligations towards other countries' security. The lack of revision would also prevent Japan from awakening the people's consciousness of Japan's national responsibilities and their duty to contribute. (ICHIMURA Shin'ichi, Informant/150/26.Oct.2000)
- Japan should accomplish its goal of becoming a permanent member of the Security Council. From its unique position of being the world's only country to have been the victim of nuclear bombing, it should display leadership in dealing with problems affecting the international community in the 21st century, such as Internet security, international computer hacking, and terrorism. (SON Masayoshi, Informant/151/8.Mar.2001)
- In order to check the unilateralism of the United States, it is essential to strengthen the United Nations. Japan should become a permanent member of the Security Council, and then work to create a peaceful world order from a standpoint different from that of the United States. (ONUMA Yasuaki, Informant/153/25.Oct.2001)

- From the standpoint of democratizing the Security Council, so as to enable it to function in a way that reflects international opinion rather than be governed by the political judgments of the time, I support Japan's becoming a permanent member. When that occurs it will be essential to have full discussions once again about how to deal with requests to make military contributions. (MATSUI Yoshiro, Informant/154/28.Feb.2002/International Society Subcommittee)
 - In order to build world peace centered on the United Nations, Japan should become a permanent member of the Security Council. We should emphasize Japan's desire for peace from our standpoint as a nation that has a Peace Constitution, and work for the elimination of nuclear weapons from our standpoint as a non-nuclear-weapons state. (KATO Masanori, Speaker/153/26.Nov.2001/Nagoya Hearing)
- b. Comments from a standpoint negative towards Japan's becoming a permanent member of the Security Council

<Comments by Members>

- I believe that Japan's becoming a permanent member of the Security Council would require participating in United Nations military operations, which is impossible under the Constitution. Japan has felt remorse for wars of aggression, through Article 9 has shown to the entire world its devotion to nonmilitary methods, and has become a member of the United Nations. Therefore, revising Article 9 and becoming a permanent member of the Security Council would break faith with the international community. (YAMAGUCHI Tomio, Member/JCP/150/26.Oct.2000, 154/28.Feb.2002/International Society Subcommittee)
- It is a loose argument for Informant Dr. ICHIMURA to contend that if the United States ceases to function effectively as the world's policeman, numerous regional conflicts will erupt, and therefore Japan should revise its Constitution and become a permanent member of the Security Council. (UEDA Munenori, Member/SDP/150/26.Oct.2000)

D. Other Aspects

<Comments by Members>

- The role of the United Nations will increase, and Japan's role within it will also increase. In light of this, there must be reforms aimed at strengthening the functions of the United Nations. (ITO Kosuke, Member/LDP/153/25.Oct.2001)
- The weight of Japan's presence in the international community is diminishing. One of the reasons for this may be that in United Nations activity the Japanese government has not made its position clear with respect to aspects that overlap the

ideals of the Preamble to the Constitution. (HIRAI Takuya, Member/LDP/154/28.Feb.2002/International Society Subcommittee)

- Japan should attract the Asian headquarters of the United Nations to Okinawa, which could act as a center at which countries could discuss the resolution of problems Asia faces, and the establishment of a peace strategy. (AKAMATSU Masao, Member/NK/154/25.Apr.2002, 154/9.May.2002/International Society Subcommittee)

<Comments by Informants and Others>

- I am delighted that discussion of preventive diplomacy has begun at the United Nations. However, the permanent members of the Security Council, and Japan and other member nations, cannot be said to have played an appropriate role in U.N. activity to date, and therefore full praise is not warranted. As for Japan, which can do hardly anything for U.N. activities owing to the constraints of domestic law, I think that its approach has been inadequate, including as regards promoting U.N. reform. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- Japan should make the effort at the United Nations to explain its own policies and gain the understanding of the international community. (NISHIZAWA Junichi, Informant/151/8.Feb.2001)
- In view of the importance it places on U.N. diplomacy, Japan should attract U.N. institutions in fields such as economic cooperation, food, and energy to set up in Japan, in part to challenge the disproportionate emphasis on the United States and Europe for which the United Nations has been criticized. That would also be meaningful for increasing the density of international information and for preventing the hollowing-out of Japan, and would be important for Japan's security strategy. (TERASHIMA Jitsuro, Informant/154/9.May.2002/International Society Subcommittee)
- Japan must give a good account of itself within the United Nations, and when doing that it must send the international community a message as to the form that its international contribution take. (NOHARA Kiyoshi, Speaker/153/26.Nov.2001/ Nagoya Hearing)

(3) Regional Cooperative Relationships

A. The Necessity of Fostering Regional Cooperative Relationships

- a. Comments concerning the fostering of multilateral cooperative relationships with Asian countries

<Comments by Members>

- For the sake of its own national interest, Japan should pursue an Asia-centered foreign policy, while maintaining its relationship with the United States. (KOBAYASHI Kenji, Member/DPJ/153/6.Dec.2001)
- For Japan to show leadership in the world and to help build peace, it should move away from the framework of the Japan-U.S. Security Treaty, and endeavor to create an economic community in Asia. (YAMADA Toshimasa, DPJ/154/11.July.2002/ International Society Subcommittee)
- In view of factors such as the warfare between India and Pakistan and the increasing emergence of China, Japan must pursue active diplomacy in Asia. (AKAMATSU Masao, Member/NK/154/11.July.2002/International Society Subcommittee)
- It is possible that regionalism in East Asia will progress to the stage of forming an economic community similar to the EEC. As East Asia is forecast to be the scene of increasing activity, for example as regards the movement of people and trade, I feel that Japan may develop a society in which East Asia regionalism is pivotal, including through the evolution of its legal system. (UEDA Isamu, Member/NK/151/8.Feb.2001, 151/22.Mar.2001)
- While keeping the relationship with the United States pivotal, Japan should strengthen relations with Southeast Asia, with which it has developed very close economic relations, including through ODA. (SHIOTA Susumu, Member/LP/150/26.Oct.2000)
- I hope to see interpersonal exchanges in new fields with the neighboring region, particularly Korea, China, Hong Kong, and Taiwan. (TAKEYAMA Yuriko, Member/LP/154/28.Mar.2002/International Society Subcommittee)
- I think that there is a possibility that in Asia, too, we could move towards economic integration similar to that of the European Union. (FUJISHIMA Masayuki, Member/LP/154/11.July.2002/International Society Subcommittee)
- To give life to the spirit of Article 9, Japan should encourage the trend towards peace in the Asian region reflected in the success of the summit between North and

South Korea and the conclusion of the Treaty of Amity and Cooperation in Southeast Asia. (HARUNA Naoaki, Member/JCP/150/30.Nov.2000)

- It is important for Japan to consider the direction it should follow in the 21st century on the basis of developments in Asia exemplified by ASEAN, Treaty of Amity and Cooperation in Southeast Asia, and the ASEAN Regional Forum, an organization for dialogue towards peace and security. (YAMAGUCHI Tomio, Member/JCP/150/26.Oct.2000)
- Because Japan lacks the spirit of pursuing links with the international community via Asia, it is not able to show leadership in the quest of security in Northeast Asia, including the easing of tensions on the Korean Peninsula. (HIMORI Fumihiro, Member/SDP/150/7.Dec.2000)
- I hope to see efforts being made towards the realization of the concept of a cooperative system in the Sea of Japan basin as the core of the subregion, linking countries such as Korea, China, and Mongolia. (KONDO Motohiko, Member/Club 21/151/8.Feb.2001)

<Comments by Informants and Others>

- Developments such as the holding of the ASEAN + 3 meeting, the conclusion of free-trade agreements between Japan and Korea and with Singapore, and assistance in resolving currency crises, can be regarded as being steps towards regional integration in East Asia. However, since this integration would in many respects be competitive vis-à-vis the interests of China and Russia, proceeding with it will not be a simple matter. As the leading nation among the maritime states, Japan has a major role to play in the process of regional integration as regards balancing the interest of the two sides. (ICHIMURA Shin'ichi, Informant/150/26.Oct.2000)
- In the Asian region, no system for jointly addressing common problems such as the environment has yet been conceived. In the 21st century, after clearly mapping out a national design, it will be essential to build such a system. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
- In the immediate future it is essential for Japan to supplement its bilateralism with the United States with the multilateralism with East Asia upon which the foundation of regionalism is being built, and gradually increase the relative importance of the latter. In pursuing cooperative relations in East Asia in a horizontal, soft form in connection with low-politics issues such as currency, trade, the environment, and international cooperation, a number of factors must be taken into consideration. These include (1) participation by China, (2) consideration for the relationship with the United States, (3) the furtherance of APEC as the pivot, based on open regionalism, (4) the networking of free-trade agreements and the establishment of an organization to promote that, and (5) multilayered governance.

Rapid action is necessary in the sphere of environmental problems in particular. (TAKAHASHI Susumu, Informant/151/8.Feb.2001)

- Asian societies are aging rapidly. In view of this it is essential for Japan to show leadership in the establishment of a cooperation structure for Asian countries in such areas as labor policies including problems relating to foreign workers, measures to cope with aging, trade policies, and policies for the environment and resources. In doing so, Japan should review its present education system, develop human resources, and build a structure to maintain the resultant productivity. (OGAWA Naohiro, Informant/151/22.Feb.2001)
- While rebuilding the Japan-U.S. relationship into a truly solid edifice, Japan should also build a partnership with neighboring Asian countries: a “common house” in Northeast Asia. For that, the following are among the tasks necessary: in the economic sphere (1) the internationalization of the yen, (2) the transformation of Japan into a major importing country, (3) the building of a joint structure for managing the movement of people, and (4) the development of information and communications, etc.; in the sphere of diplomacy and security the creation of a multilateral framework for bringing stability to the Korean Peninsula; and in the social and cultural sphere the promotion of international interchange and the sharing of history education. (KANG Sanjung, Informant/151/22.Mar.2001)
- While giving importance to both China and the United States, Japan must build multilayered, multidimensional diplomacy in Asia that places greatest emphasis on preventive diplomacy in East Asia. During the course of that, against the backdrop of economic relations it should seek to make its relations more secure and stable by adopting a strategy that includes the following: expanding the framework of a forum for multinational mutual understanding in the spheres of diplomacy and security to encompass Southwest Asia, and strengthening relations with India in the field of IT. (TERASHIMA Jitsuro, Informant/154/9.May.2002/International Society Subcommittee)
- By making active use of the special character of Okinawa, it should be evolved into a region that contributes to the socioeconomic and cultural development of the Asia-Pacific region. By taking such measures as the creation of a special financial zone and the designation of a free-trade area, Okinawa is looking to Asia for opportunities for self-reliant economic development, and is setting out the direction for coexistence with Asia. (ASHITOMI Osamu, Speaker/154/22.Apr.2002/Okinawa Hearing)

b. Comments concerning bilateral relationships

b-1. Comments that refer to relations with Russia

<Comments by Informants and Others>

- We should actively stimulate interpersonal and cultural exchanges with our near-neighbor Russia. (ISHIZUKA Osamu, Speaker/154/24.June.2002/Sapporo Hearing)
- If free-trade agreements are concluded with NAFTA and Russia, Hokkaido has great potential to be a hub for activities such as barter trade, the development of cutting-edge information technologies and advanced medical-care products, and biotechnology. Taking the national character of Russia into consideration, we should conclude a peace treaty and enhance and strengthen cooperative relations between our two countries. (INATSU Sadatoshi, Speaker/154/24.June.2002/Sapporo Hearing)
- With respect to relations between Hokkaido and the international community, given its geographical situation it is essential to improve the relationship with the Russians based on mutual understanding generated by active efforts to keep them informed. However, as things stand at present it will be difficult to conclude a free-trade agreement with Russia. (SATO Satomi, Speaker/154/24.June.2002/Sapporo Hearing)
- Cultural and business interchange is indispensable to the fostering of interaction with Russia. However, I feel that the interchange will not make progress unless a system is established for making it possible to make predictions about Russia's economy and society. (TANAKA Hiroshi, Speaker/154/24.June.2002/Sapporo Hearing)
- Hokkaido should expand its interaction with Russia by such means as the elimination of excessive regulations and receiving the support of local governments and the national government. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)

b-2. Comments that refer to relations with Korean Peninsula

<Comments by Members>

- With respect to the conclusion of free-trade agreements, given the "power politics" inherent in the relationships with the United States and China, the first priority should be given to Korea. (HIRAI Takuya, Member/LDP/154/28.Mar.2002/International Society Subcommittee)

- Japan's Korea policy lacks consistency. The North Korea problem will be a major issue when considering the shape of Japan over the next 20 to 30 years. (FUJISHIMA Masayuki, Member/LP/150/30.Nov.2000)
- While applauding the direction agreed upon at the summit between North and South Korea, Japan also has a role to play in fostering progress in it. (HARUNA Naoaki, Member/JCP/150/28.Sept.2000)
- In regard to problems relating to peace and security in Northeast Asia, such as the North Korea problem, I believe that forward-looking resolutions will be possible if they are addressed by approaches that give priority to peaceful rather than military solutions. (YAMAGUCHI Tomio, Member/JCP/154/25.Apr.2002)
- The concept of a "common house" in Northeast Asia advocated by Informant Prof. KANG is a framework that should also be extended to Southeast Asia. However, it may be that action led by Japan aimed at realizing it will arouse misgivings in South Korea and North Korea that they will be placed under Japan's influence. (KONDO Motohiko, Member/Club 21/151/22.Mar.2001)

<Comments by Informants and Others>

- Having stabilized and strengthened the Japan-U.S. alliance relationship, rational and calm judgment should lead Japan to strengthen its relationship with Korea, and also place importance on friendly relations with China. Then, based on those premises, it will be essential to stabilize the situation on the Korean Peninsula by moving in the direction of normalizing relations with North Korea. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- It would not be appropriate to use force to resolve the Takeshima problem. (ISHIHARA Shintaro, Informant/150/30.Nov.2000)
- In creating a "common house" in Northeast Asia, whereas Japan has problems in its relations with China and with Russia, Korea has good relations with the United States, China, and Russia. Good relations between Japan and Korea by such means as the internationalization of satellite broadcasting are important for Japan's diplomacy. (KANG Sanjung, Informant/151/22.Mar.2001)
- I believe that a free-trade agreement will be concluded between Japan and Korea in the near future. When that occurs, I expect that there will be a byproduct in the form of enhanced security. (HATAKEYAMA Noboru, Informant/154/28.Mar. 2002/International Society Subcommittee)

b-3. Comments that refer to relations between China and Taiwan

<Comments by Members>

- China's policy towards Tibet presents problems as regards humanitarianism and human dignity. In light of this, I do not approve of Japan's diplomatic stance of supporting China through ODA. (EDANO Yukio, Member/DPJ/150/30.Nov.2000)
- I can envisage a number of scenarios for dealing with China, with its huge military strength. They include: (1) strengthening our cooperative ties with Southeast Asian countries, (2) forming a "union of peoples in areas surrounding China", and (3) forming an alliance with China. (SUTO Nobuhiko, Member/DPJ/154/9.May.2002/International Society Subcommittee)
- When considering the concept of a "common house" in Northeast Asia advocated by Informant Prof. KANG, we should note that China is increasing its military strength year by year, and will become a threat to other nations. (SHIOTA Susumu, Member/LP/151/22.Mar.2001)
- Japan's policy towards China is inconsistent. The China problem will be a major issue when considering the shape of Japan over the next 20 to 30 years. (FUJISHIMA Masayuki, Member/LP/150/30.Nov.2000)
- In regard to problems relating to peace and security in Northeast Asia, such as the Taiwan problem, I believe that forward-looking resolutions will be possible if they are addressed by approaches that give priority to peaceful rather than military solutions. (YAMAGUCHI Tomio, Member/JCP/154/25.Apr.2002)
- In the relationship between Japan and China we can see the budding of peace that will lead to the building of a new relationship that transcends the old. (ABE Tomoko, Member/SDP/150/30.Nov.2000)

<Comments by Informants and Others>

- It is essential for Japan to build proper diplomatic relations with China. However, as regards the relationship between China and the United States it is not constructive to make highly emotional assertions. Discussions should be based upon diplomatic considerations. (KONDO Motohiro, Informant/150/12.Oct.2000)
- Japan, jointly with other countries, should conclude an agreement on investment guarantees with the Chinese government. (ICHIMURA Shin'ichi, Informant/150/26.Oct.2000)
- Japan has not been paying attention to the fact that China has been strengthening its military power and its economic power. It would not be appropriate to use force

to resolve the problem of the Senkaku Islands. (ISHIHARA Shintaro, Informant/150/30.Nov.2000)

- To gain the trust of other Asian countries, Japan should, among other things, tell China that it does not accept repression in Tibet, and assert that it will reduce ODA for as long as the repression continues. In addition, in order to assure the establishment of democracy throughout Asia, Japan should play a role in creating an international environment in which the will of the people of Taiwan can be realized. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)
- Development in China will have a decisive influence on Northeast Asia. In China at present, the focus of state administration is on maintaining order at home and overseas rather than on increasing national power. I feel, therefore, that in the short term there is no need to lend credence to the argument that China is a threat. (KANG Sanjung, Informant/151/22.Mar.2001)
- To ensure that China is not a destabilizing factor it would be desirable to induce it to participate in a free-trade area in the Asian region, creating a situation in which unless member countries cooperate, they will not achieve stability and prosperity. (MORIMOTO Satoshi, Informant/153/25.Oct.2001)
- I think it would be difficult to enter into a free-trade agreement with China, given its different political system. (HATAKEYAMA Noboru, Informant/154/28.Mar.2002/International Society Subcommittee)
- When considering its policy towards Taiwan, in the economic sphere Japan should build a strong relationship, but in the security sphere it must keep in mind the linkage of such policy with policy towards China. (TAKUBO Tadae, Informant/154/6.June.2002/International Society Subcommittee)

b-4. Comments that refer to relations with other regions

<Comments by Members>

- With future energy problems in mind, Japan must devote efforts towards bringing about the easing of tensions between India and Pakistan, and the pacification of the internal disturbances in Afghanistan. (MATSUNAMI Kenshiro, Member/NCP/150/28.Sept.2000)

<Comments by Informants and Others>

- While recognizing that there are limits to its capabilities in this area, Japan should endeavor to expedite the Middle-East peace negotiations. It should also devote efforts to bringing stability to Afghanistan and the surrounding region. (TANAKA Akihiko, Informant/150/28.Sept.2000)

- Japan cannot engage independently in diplomacy with the Arab world. Its approach must be to base its policy on that of the United States, or to consider its diplomacy within the context of the order of the international community as a whole. (KONDO Motohiro, Informant/150/12.Oct.2000)
- In view of the present energy situation, as a major oil-importing country Japan should maintain friendly relations with the United States and Arab countries. (ICHIMURA Shin'ichi, Informant/150/26.Oct.2000)
- Given the substantial economic disparity with Myanmar, I think it would be problematic to enter into a free-trade agreement with that country. (HATAKEYAMA Noboru, Informant/154/28.Mar.2002)
- I think that between Japan and the United States the basis exists for tabling discussions on matters such as the conclusion of a free-trade agreement. (TERASHIMA Jitsuro, Informant/154/9.May.2002/International Society Subcommittee)

B. Matters to Take into Consideration when Pursuing Regional Cooperative Relationships

- a. Comments that the impact on developing countries should be taken into consideration

<Comments by Members>

- In light of the spirit of the Preamble of the Constitution, which states that all the peoples of the world should live free from want, and of the pursuit of the development of the world economy and affluence, I feel that in pursuing free-trade agreements we must be conscious of the problems of developing countries and the problem of poverty. (NAKAGAWA Shoichi, Member/LDP/154/28.Mar.2002/International Society Subcommittee)
- Free-trade agreements are currently being promoted in many regions. However, is it not true that free-trade agreements do not eliminate the North-South problem? (AKAMATSU Masao, Member/NK/154/28.Mar.2002/International Society Subcommittee)

<Comments by Informants and Others>

- Free-trade agreements do not lead to the resolution of the North-South problem. In my view, measures to resolve the problems of developing countries through the medium of free-trade agreements are not necessarily effective. (HATAKEYAMA Noboru, Informant/154/28.Mar.2002/International Society Subcommittee)

b. Comments concerning economic blocs

<Comments by Members>

- European countries and the United States are using economic blocs as a strategy to enhance their national interest. I think that misgivings about bloc should be swept away. (NAKAGAWA Masaharu, Member/DPJ/154/28.Mar.2002/International Society Subcommittee)
- Amid an international community in which blocs are being formed by such means as free-trade agreements, Japan has sought to isolate itself, and that isolation has indeed occurred. Rather than promote free-trade agreements, Japan should adopt a stance of opposing the formation of economic blocs, and removing their ill effects. (YAMADA Toshimasa, DPJ/154/28.Mar.2002/International Society Subcommittee, 154/25.July.2002)

<Comments by Informants and Others>

- Over the past 10 years the European Union's external trade policies has been open. I think we should cast aside our concerns about the formation of economic blocs related to free-trade agreements. (HATAKEYAMA Noboru, Informant/154/28.Mar.2002/International Society Subcommittee)

c. Comments that both international and domestic matters should be taken into consideration

<Comments by Members>

- In studying free-trade agreements we must have both a global and a regional perspective. That is, we must have a worldview with which to weigh the impact of free trade and globalization, and a regional view with which to weigh such questions as what, as decentralization progresses, will the relationship between central and local governments be when differences in thinking arise between them. (SUTO Nobuhiko, Member/DPJ/154/28.Mar.2002/International Society Subcommittee)
- In international society during the postwar period, trade agreements between states and between regions have been concluded on the basis of the equality of sovereign rights and the spirit of equality and reciprocity, recognizing each country's right of self-determination and economic sovereignty. In dealing with issues it is important for our approach to pivot both on this basis in international law, and also on the basis of the Constitution, with its espousal of the right to a peaceful existence and international cooperation. (YAMAGUCHI Tomio, Member/JCP/154/28.Mar.2002/International Society Subcommittee)

- d. Comments that domestic conditions relating to agriculture, etc., should be taken into consideration

<Comments by Members>

- In promoting free-trade agreements, attention must be paid to the problem of so-called sustainable limited natural resources such as agricultural, forestry, fisheries, and similar products. (NAKAGAWA Shoichi, Member/LDP/154/28.Mar.2002/International Society Subcommittee)
- The debate on trade liberalization is proceeding despite very difficult problems for agriculture. The debate lacks balance, because there is no debate about the freedom not to export. Also, I feel that there is a tendency towards excessive selfishness on the side of those who advocate liberalization. (HORI Kosuke, Member/LDP/150/12.Oct.2000)
- In light of factor such as the lack of international competitiveness of agricultural produce and the hollowing-out of its domestic industry, I am opposed to Japan's concluding free-trade agreements. (YAMADA Toshimasa, DPJ/154/28.Mar.2002/International Society Subcommittee)
- When examining free-trade agreements it is essential to do so from the perspective that food and agriculture are closely connected with Japan's culture and with environmental issues. (KANEKO Tetsuo, Member/SDP/154/28.Mar.2002/International Society Subcommittee)

<Comments by Informants and Others>

- Alongside the freedom to export it is natural that there also be the freedom not to export. (SONO Ayako, Informant/150/12.Oct.2000)
- With respect to products that should be protected from the standpoint of food security, they should be protected resolutely. As regards other products, however, it is important to liberalize them through such means as free-trade agreements. (HATAKEYAMA Noboru, Informant/154/28.Mar.2002/International Society Subcommittee)

- e. Comments that economic, cultural, historical, and other differences in national characteristics between countries should be taken into consideration

<Comments by Members>

- Japan's participation in the process of economic integration in East Asia is likely to meet with considerable difficulty owing to the numerous problems that affect the region, such as economic disparities, differences in political systems, historical and cultural issues, and differences in national sentiment. A study must immediately be

made of the problems of forming a community. (ISHIKAWA Yozo, Member/LDP/154/28.Mar.2002/International Society Subcommittee, 154/11.July.2002/International Society Subcommittee)

- From an historical and geopolitical perspective, I feel that in some respects it is inappropriate for Japan to advocate the building of cooperative relations in East Asia. (SHIMOMURA Hakubun, Member/LDP/151/8.Feb.2001)
- Perceptions of history inevitably differ from one country to the next, examples being Japan and Korea. It is, however, important to deepen mutual understanding by such means as providing history education with the use of common teaching materials, and making it possible to transfer credits in university education. (OISHI Hisako, Member/DPJ/151/22.Mar.2001)
- With respect to its wars of aggression and colonial domination, Japan needs to share a common historical perception with the Asian countries that were the victims of that aggression. Without that, it will not be possible to build genuine friendly relationships with other Asian countries in the 21st century. (SHIOKAWA Tetsuya, Member/JCP/151/8.Feb.2001, 151/22.Mar.2001)
- In order to win trust in Asia, Japan needs to express remorse for past aggressive wars and colonial rule, and not avoid the reparations issue. (HARUNA Naoaki, Member/JCP/150/28.Sept.2000, 150/30.Nov.2000)
- In ASEAN there are major differences between countries in terms of social system, economic development, culture, and religion. They also share a history of Japanese invasion and colonization during World War II. Therefore, they are cautious towards Japan's involvement in the process of evolving the free-trade area there. Japan's approach should be guided by the principles in its constitution, such as pacifism and democracy, which reflect remorse for its history of colonialism and aggressive war, and give consideration to economic sovereignty and the spirit of equality and reciprocity. (YAMAGUCHI Tomio, Member/JCP/151/22.Mar.2001, 154/28.Mar. 2002/International Society Subcommittee)
- Matters have still not been set right since the last war, and we are not trusted or respected by other Asian countries. Against this current situation, it is doubtful whether we can interact on an equal footing with other peoples in Northeast Asia. (SHIGENO Yasumasa, Member/SDP/151/22.Mar.2001)

<Comments by Informants and Others>

- I think that when deepening ties with Southeast Asian countries, it is important for Japan to show understanding of Islamic culture. (TANAKA Akihiko, Informant/150/28.Sept.2000)

- Japan cannot deny the fact of having waged wars of aggression against Asian countries. This fact must be kept in mind when considering future foreign policy. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
 - In the context of East Asia there are some who think of international relations as involving relations between superiors and inferiors. It is essential that that attitude be corrected. (TAKAHASHI Susumu, Informant/151/8.Feb.2001)
 - In East Asia there is a possibility of establishing a framework for discussing economic and other issues. However, unlike the European Union, which is based on a feeling of unity as a Christian community, East Asia lacks a common identity, and therefore it is doubtful whether it can use the European Union as a model for pursuing its own future course. (SAKAMOTO Takao, Informant/151/22.Mar.2001)
 - After understanding historical, cultural, and other differences between countries and differences in values, we must try to lay down common rules, and regard the entire region as one whole, while respecting every individual. (TANAKA Hiroshi, Speaker/154/24.June.2002/Sapporo Hearing)
- f. Other comments concerning matters to take into consideration when pursuing regional cooperative relationships

<Comments by Members>

- The concept of a “common house” in Northeast Asia advocated by Informant Prof. KANG should be founded on common values such as liberal democracy and free-market economics. Therefore, after first building a framework comprising Japan, the United States, and Korea, we should then appeal for the participation of China and North Korea, in that order. (NAKATANI Gen, Member/LDP/151/22.Mar.2001)
- From the perspective of the argument about Japan’s position in the international community, free-trade agreements could be said to provide “economic security” insofar as they lower the cost of military power. (HIRAI Takuya, Member/LDP/154/28.Mar.2002/International Society Subcommittee)
- In future, as we conclude free-trade agreements and other types of economic agreement, I believe there is a need for collaboration that extends beyond the economic sector into a wide range of fields. (NISHIKAWA Taiichiro, Member/NCP/154/28.Mar.2002/International Society Subcommittee)

<Comments by Informants and Others>

- The building of a regional community in Asia, with all its diversity, should begin from the shared recognition that with the advance of globalization there are issues, such as environmental conservation and resource management, that are beyond the

capabilities of any single country to address. However, the appropriate approach should not be to lay down rules and systems and then act in accordance with them, as in the European Union, but to establish a framework and then create a forum for the discussion of specific issues. Subsequently, in that forum the decision could be made as to whether to make something a common rule or to give it the character of a guideline, and give greater weight to the independence of individual countries' governments. As for the active international lawmaking that takes place in Europe in relation to social policy, I am skeptical as to the extent to which that would serve as reference for Japan, though some aspects are; for example, the method of regulating corporate activity on the basis of a common company law. (NAKAMURA Tamio, Informant/154/11.July.2002, International Society Subcommittee)

- There is a risk that trade liberalization will have consequences such as damaging commodity cycles, destroying the environment, widening the gap between rich and poor, and suppressing human rights. Regulations of some kind are necessary. (ISHIZUKA Osamu, Speaker/154/24.June.2002/Sapporo Hearing)

C. Relationship between Regional Cooperation and the Constitution

- a. Comments concerning the transference of state sovereignty

<Comments by Members>

- As free-trade agreements expand it will become necessary to take factors other than economic factors into consideration. That will give rise to issues that require constitutional study, such as the transference of state sovereignty. (ISHIKAWA Yozo, Member/LDP/154/28.Mar.2002/International Society Subcommittee)
- Unless we follow the proper procedure to revise the Constitution in respect of the portions that protect our state sovereignty, would it not be unconstitutional to transfer it to international institutions? (ITO Shintaro, Member/LDP/154/28.Mar.2002/International Society Subcommittee)
- With the evolution of a unitary market economy since the Cold War, national sovereignty relating to military, judicial, and other matters is inevitably being ceded gradually to supranational institutions, as can be seen from the example of European countries. As regards issues such as collective security and the roles of central and local governments, rearrangement from similar perspectives will be essential. (SENGOKU Yoshito, DPJ/151/14.June.2001, 153/11.Oct.2001)
- With the advance of internationalization and decentralization today, national sovereignty is being transferred to international institutions and to regions. We can say that the age of the strengthening of sovereignty by states has come to an end. (TSUTSUI Nobutaka, Member/DPJ/151/14.June.2001)

- The Basic Law for the Federal Republic of Germany provides for a partial transfer of sovereign powers to international institutions. Should not such a clause be inserted in the Constitution of Japan? (NAKAGAWA Masaharu, Member/DPJ/154/28.Mar.2002/International Society Subcommittee)

<Comments by Informants and Others>

- In East Asia in the future it will be necessary to establish third-party institutions such as the central European Union authorities. At the stage of free-trade agreements, however, it is difficult to take up sovereignty issues and conclude pacts, and so I think it is better not to overemphasize the question of the transfer of sovereignty. (HATAKEYAMA Noboru, Informant/154/28.Mar.2002/International Society Subcommittee)

b. Comments that refer to the connection with Article 9

<Comments by Members>

- When it comes to building a regional community in East Asia, we will not be able to avoid revising the Constitution, with its ideals such as the non-maintenance of war potential. (ISHIKAWA Yozo, Member/LDP/154/11.July.2002/International Society Subcommittee)
- Japan's position and role in the international community should be made clear not in the Preamble of the Constitution but in Article 9. The promotion of free-trade agreements should be regarded as an issue that lies on a continuum with this question. (HIRAI Takuya, Member/LDP/154/28.Mar.2002/International Society Subcommittee)

<Comments by Informants and Others>

- Even with Japan's present Constitution with its idealism reflected in provisions such as for the non-maintenance of war potential, it would be possible to build a regional community. Nevertheless, if we were to enact a constitution that places emphasis on a philosophy of international cooperation encompassing the entire world, I believe that we would be able to contribute more to the establishment of a regional community in East Asia. (NAKAMURA Tamio, Informant/154/11.July.2002, International Society Subcommittee)

c. Other comments concerning the relationship between regional cooperation and the Constitution

<Comments by Members>

- The Preamble of the Constitution refers to the "benefits" enjoyed by the people, a phrase which can be interpreted in different ways according to diverse values. One

might ask whether the promoting of free-trade agreements whose only aims are economic freedom and profit necessarily coincides with the “benefits” of the people, and whether in some respects that may be unconstitutional. (ITO Shintaro, Member/LDP/154/28.Mar.2002/International Society Subcommittee)

- If we think through the question of free-trade agreements, then it will follow that we have to discuss Article 10, which stipulates that the requirements for being a Japanese national will be determined by law. If we avoid that discussion, then we will not be able to generate the values that Japanese people share. (HIRAI Takuya, Member/LDP/154/28.Mar.2002/International Society Subcommittee)
- The relationship between free-trade agreements and the Constitution is problematic insofar as (1) they represent systems in which major countries are able to treat their own industries preferentially, and (2) it is not possible to ignore anti-globalist thinking as regards trade in agricultural produce. (SUTO Nobuhiko, Member/DPJ/154/28.Mar.2002/International Society Subcommittee)
- In discussing the Constitution we should take into consideration the existence of “region-states,” which play a new kind of complementary role in achieving national goals such as the welfare of each nation’s people and the building of peace. Based on this, Japan should adopt a constitutional mentality suited to the new era. (NAKANO Kansei, Member/DPJ/154/11.July.2002/International Society Subcommittee)
- In light of the reconciliation of domestic legal systems with the framework of an international community during the course of European Union integration, the Constitution must also be examined from a global perspective. (YAMAGUCHI Tomio, Member/JCP/153/11.Oct.2001)

<Comments by Informants and Others>

- When regional economic integration enters the stage of the unification of macroeconomic policy, constitutional problems in respect of taxation may arise. (HATAKEYAMA Noboru, Informant/154/28.Mar.2002/International Society Subcommittee)
- The process of formation of the European Union was on the basis of a public order developed by consultation among the member states. This corresponds with the dedication to international cooperation espoused by the Japanese Constitution, namely government that constantly reflects international discussion, and so should be used as a source of reference. (NAKAMURA Tamio, Informant/154/11.July.2002, International Society Subcommittee)
- Based on the Constitution we should foster activities such as peace exchanges, cultural exchanges, and personal exchanges throughout Asia. (YAMAUCHI Tokushin, Speaker/154/22.Apr.2002/Okinawa Hearing)

Subsection 5 Fundamental Human Rights

Subsection 5 Fundamental Human Rights

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Subsection 5 Fundamental Human Rights

1. General Issues Concerning Human Rights

(1) Perspectives for the discussion of human rights

- a. Comments focusing on the relationship between the individual and the state

<Comments by Members>

- With regard to the Constitution, it is important to proclaim that the nation exists for the sake of its citizens, and to explicitly define freedom as the guarantee of the individual's rights to self-realization. Moreover, it should be stated in the Constitution that this guarantee of self-realization necessitates certain rules, the maintenance and upholding of which—in addition to the resolution of problems that individuals are unable to solve on their own—is the role and duty of the state. (ITO Tatsuya, Member/LDP/8.Mar.2001)
- In discussing the Constitution, the fundamental law of the land, the question of how much of a balance should be achieved between the Japanese people and the state is an important one, and should be extensively debated in the Research Commission on the Constitution. (SHINDO Yoshitaka, Member/LDP/150/9.Nov.2000)
- In the final analysis, the basis of human rights is the autonomous individual, but human life is impossible apart from groups and organizations, and even when we speak of the individual and his or her rights, the question of whether the nation to which he or she belongs is guaranteeing those rights is a crucial one. Japanese must realize that they are part of the Japanese nation, and from that position, break free from the constitution and ideas of democracy that were handed to us, rigorously debate the extent of human rights based on respect for the individual that we should recognize, and rewrite the articles of our Constitution in a manner befitting the times in which we live. (TSUCHIYA Shinako, Member/LDP/154/4.July.2002/Human Rights Subcommittee)
- It is important to think of our human rights not just in terms of individual human rights and demands, but as fundamental human rights considered from the perspective of the state, the people, and the planet as a whole. (KOBAYASHI Kenji, Member/DPJ/154/14.Feb.2002/Human Rights Subcommittee)
- In constitutionalism, powers are granted to the state in order to guarantee human rights to the people, but the exercise of those powers of the state is restricted in order to prevent the violation of human rights. The idea that the guarantee of rights derives from the existence of the state is contrary to this. (HARUNA Naoaki, Member/JCP/154/23.May.2002/Human Rights Subcommittee)

- Speaking as a person with both pride and confidence in the Constitution, I do not think that the manner of thinking in which the state comes first and the people second is one that is consonant with visions for our future in the 21st century. (UEDA Munenori, Member/SDP/150/26.Oct.2000)

<Comments by Informants and Others>

- In the Western view of human rights, the state and respect for the individual tend to be seen in polar opposition, while in Japan there is a sense that other things like the family and traditional society mediate between the state and individual, so I think the two views are quite different. (NISHI Osamu, Informant/147/24.Feb.2000)
- I think that the rights of a country's people can only be defended when the country itself is truly independent. (NOHARA Kiyoshi, Speaker/153/26.Nov.2001/Nagoya Hearing)

- b. Comments focused on globalism and the internationalization of guarantees for human rights

<Comments by Members>

- In studying the constitutions of Russia and the other East European countries, I felt very strongly that each of these countries' reflections on their experience with the suppression of human rights under the communist system has led to a strong sense of the imperative for institutional guarantees for human rights. Referring to the provisions in these constitutions for such things as constitutional courts, human rights ombudsmen, official children's rights advocates, and so forth, we should take note of the issue of institutional guarantees for human rights in Japan. (SENGOKU Yoshito, Member/DPJ/151/14.June.2001).
- It would be valuable to investigate the historical process by which fundamental human rights developed from the nineteenth century notion of the right to liberty into a clearly stated expression of the right to livelihood, as well as looking into how the Constitution of Japan relates to documents such as the Universal Declaration of Human Rights and the International Covenants on Human Rights. (SASAKI Rikukai, Member/JCP/147/17.Feb.2000)
- It is essential to survey the extent of progress guarantees of human rights have made within international society, and how Japanese guarantees of human rights look in terms of global standards. (HARUNA Naoaki, Member/JCP/153/6.Dec.2001)
- Chapter Three of the Constitution, "Rights and Duties of the People," is an array of very carefully crafted provisions. Since in this day and age we cannot consider Japanese society in isolation from international society, we should try to put this Chapter Three to work in international society as well. (UDAGAWA Yoshio, Member/Club 21/153/16.Nov.2001/Nagoya Hearing)

<Comments by Informants and Others>

- The liberal democratic system, based on the universal value of respect for the individual, is in the process of being accepted throughout the world as a mode of governance, but with regard to the universal values of human rights and democracy, the world at present seems to agree in principal but differ in terms of the specifics. Even though human rights and democracy are said to be universal values, there are some who would oppose imposing them on other nations by force. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- In the international society of the 20th century, internal suppression of human rights was seen as little more than a domestic issue, but in the 21st century, this can no longer be dismissed as a problem of internal politics. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)
- There is a difference between the concept of human rights centered on civil liberties held by the advanced industrial nations and the concept of human rights centered on the rights of society held by the developing world, and because of this, we should not pay attention solely to the arguments put forth by the advanced nations. The Vienna Declaration of Human Rights of 1993 is quite valuable because many nations had a hand in shaping it. (ONUMA Yasuaki, Informant/153/25.Oct.2001)
- In the United States there is not only the concept of rights “endowed by our Creator,” but also a system that relies on the constitution to defend human rights, in the form of the rights set forth in that document; in the case of Japan, the system is one which has involved our Constitution adopting the larger framework of international human rights law. With regard to guarantees of human rights, we should take international norms into consideration as we think about the Constitution. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)
- In our country, since the Meiji period there has been a kind of Japan-centric thought stressing our ethnic homogeneity, and while this may have been necessary to our development as a modern nation, in our present era of globalization it runs the risk of becoming a source of violations of the rights of foreigners and minorities, so we need to think of human rights guarantees in the context of globalization. In doing so, we should reconfigure the spiritual backbone of the Japanese people, and the approach we take should not be one of individualism, but of respect for social harmony. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)
- There is a framework of international human rights guarantees in Europe, the United States, and Africa, but it does not yet exist in Asia. Japan's leadership in building this framework should be taken up as a major policy initiative in the process of making the ideals of our Constitution a reality. (URABE Noriho, Speaker/151/4.June.2001/Kobe Hearing)

- The advance of globalization has broadened the role of local societies. In the governance of local societies the aspiration for “a culture of peace, non-violence, and human rights” that is a spirit certainly shared through international society, is indispensable. (SHIBAO Susumu, Speaker/151/4.June.2001/Kobe Hearing)

c. Comments focused on human rights guarantees for the disadvantaged and minorities

<Comments by Members>

- Issues of human rights for women, the handicapped, and children are themes that should be discussed exhaustively, and we need to have a broad and far-reaching discussion of the human rights provisions of relevant laws and the Constitution. (ISHIGE Eiko, Member/DPJ/147/9.Mar.2000)
- In thinking about human rights, it is important to listen to those who cannot easily make their voices heard, such as those who are not organized and those who are in the minority in organizations. (KONNO Azuma, Member/DPJ/154/4.July.2002/Human Rights Subcommittee)
- The Constitution is something that seeks to bring together the value of Japanese and foreign residents, children and the elderly, people with handicaps and those without them. (ABE Tomoko, Member/SDP/150/30.Nov.2000)
- The main aim of fundamental human rights guarantees is to defend the liberty of the individual from the power of the state, and in establishing this, we should give primary consideration to protecting the socially disadvantaged. (KANEKO Tetsuo, Member/SDP/154/14.Feb.2002/Human Rights Subcommittee)

<Comments by Informants and Others>

- I think we can say, basically, that Japan is a country that has enacted human rights legislation and is abiding by it. However, in the average Japanese person's observance of human rights there is a tendency to ignore the human rights of people who are not ordinary Japanese. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)

d. Comments focusing on tradition

<Comments by Members>

- The best constitution would be one that includes the good old traditions and culture of Japan, and involves citizens' personal responsibility and self-determination. If it is to be revised, I think it would be fine to start with a clean slate and rewrite it completely. And we shouldn't just sit and debate it endlessly—we should take a blueprint to the people. (TAKEYAMA Yuriko, Member/LP/154/14.Feb.2002/Human Rights Subcommittee)

<Comments by Informants and Others>

- In order to establish rights and freedoms it is sometimes necessary to cautiously and carefully defend things that may seem old-fashioned or perhaps even the enemy of those rights, and work to transform them into something good. “Morality” is a good example. (ITO Tetsuo, Informant/154/23.May.2002/Human Rights Subcommittee)
- The constitutions of other countries are extremely solicitous of the “spirit of the law” of their nations, but in postwar Japan, Occupation policy was implemented with the idea that everything that was Japanese was bad and should be rejected, and because of this, what has gotten emphasized is the idea that there is no “spirit of the law” in Japan, and that everything prior to the present Constitution should be rejected. (ITO Tetsuo, Informant/154/23.May.2002/Human Rights Subcommittee)

e. Other comments

<Comments by Members>

- With regard to a number of issues such as the textbook controversy and the issue of voting rights for foreign permanent residents in local elections, it would be desirable if there were some mechanism in place with regard to human rights and the state of society, and on top of that we had our laws and our debates. (OTA Akihiro, Member/NK/151/22.Mar.2001)
- For a 21st century constitution, a perspective involving the environment and human rights is indispensable, and I think we have to direct our discussions towards a people’s constitution, and environmental constitution, a human rights constitution. (OTA Akihiro, Member/NK/151/14.June.2001)
- We need to aim towards a constitution that has a solid grasp of the fact that human beings are bound by their community, family, history, and so on, and also of the Confucian and Buddhist conceptions of the state that are held by the Japanese people. (Ota Akihiro, Member/NK/154/14.Feb.2002)
- I feel that Japan has a different way of thinking about human rights than a multiethnic society like the United States. (FUJISHIMA Masayuki, Member/LP/153/29.Nov.2001)
- Lately the popular mood has shown a strong tendency to think about criminal penalties from the perspective of the victim. I think this is related to their thinking on human rights. Even if we were to revise the Constitution, we should not alter our respect for fundamental human rights. (MATSUNAMI Kenshiro, Member/NCP/153/29.Nov.2001)

<Comments by Informants and Others>

- The “fundamental human rights” spoken of in the Potsdam Declaration, in other words, were no more than an effort to guarantee the freedoms necessary to build a democratic society; the Declaration was not written after careful consideration of the basis of the grand philosophy of fundamental human rights. (AOYAMA Takenori/Informant/147/24.Feb.2000)
- In order to love and to share their good fortune with their country, their families, and other people, the Japanese people need to discuss, with regard to the Constitution, the fundamental human rights for a new area. (SON Masayoshi/Informant/151/8.Mar.2001)
- If we think really rigorously about human rights, then we find that we must have peace; without peace human rights are not possible. Japan experienced this with World War II. Civil liberties, social rights—these can be realized and brought to life only when connected to peace. (ODANAKA Toshiki/Speaker/151/16.Apr.2001/Sendai Hearing)
- For us the Constitution of Japan is the great source of our respect for the human rights of each individual citizen, and the compass by which local government is guided. (SHIBAO Susumu/Speaker/151/4.June.2001/Kobe Hearing)

(2) Significance and problems of the human rights provisions in the Constitution of Japan
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- a. Comments concerning the significance and characteristics of the human rights provisions in the Constitution

<Comments by Members>

- The significance of the present Constitution lies in the enormous contributions it has made to the establishment of fundamental human rights, with its clear provisions for equality of the sexes, women’s rights, the right to livelihood, and other social rights. (ISHIGE Eiko, Member/DPJ/147/27.Apr.2000)
- The issues incorporated into the new Constitution—guarantees of fundamental human rights, the right to livelihood, and so on—were precisely attuned to the direction of global development at the time. (SASAKI Rikukai, Member/JCP/147/27.Apr.2000)
- The Constitution of Japan has thirty articles containing generous provisions for human rights—not just the right to livelihood, but other social rights and civil

liberties that are pioneering even by global standards. (HARUNA Naoaki, Member/JCP/151/16.Apr.2001/Sendai Hearing)

- Even before the war, there was the Taisho Democracy movement, and other popular movements seeking freedoms of speech and the press, and the “fruits of the age-old struggle,” as Article 97 says, are contained in the Constitution. Moreover, the Constitution of Japan, with the human rights provisions we enjoy at present, came into being as a result of serious reflection on the violations of human rights by state power in the prewar era, as well as the clear affirmation of fundamental human rights expressed in the Potsdam Declaration. (HARUNA Naoaki, Member/JCP/154/23.May.2002/Human Rights Subcommittee)
- In the thirty articles that comprise it, Chapter Three of the Constitution stipulates respect for fundamental human rights in great detail. This is one of the most outstanding features of the Constitution of Japan, and constitutional scholars interpret this as being rooted in serious reflection on the disenfranchised state in which the people were placed under the Meiji Constitution. (YAMAGUCHI Tomio, Member/JCP/149/3.Aug.2000)
- I think the human rights provisions of the Constitution of Japan are a kind of historical summation for the period that ended with the war, a summation that says the state must not encroach on respect for individual dignity and fundamental human rights. (HOSAKA Nobuto, Member/SDP/150/28.Sept.2000)
- People in socialist countries really desire freedom, and it could be said that the freedoms guaranteed under the Constitution of Japan are a reaction against the regimentation of the wartime period. (UDAGAWA Yoshio, Member/Club 21/150/7.Dec.2000)

<Comments by Informants and Others>

- Some of the unique features of the human rights provisions of the Constitution of Japan might be enumerated as 1) the quite detailed and numerous provisions regarding human rights, 2) the large number of provisions regarding criminal procedure, and 3) the detailed provisions on social rights. (SAKAMOTO Masanari/Informant/154/11.Apr.2002/Human Rights Subcommittee)
- b. Comments concerning the issues of implementation of human rights provisions in the Constitution of Japan

<Comments by Members>

- The Constitution proclaims that respect for fundamental human rights is a universal principle, but isn't this a bit out of touch with what is actually going on in the world? (TSUZUKI Yuzuru, Member/LP/153/25.Oct.2001)

- We should thoroughly investigate the aspects of the actual political situation that are impeding the fulfillment of Articles 13 and 25. (SASAKI Rikukai, Member/JCP/147/17.Feb.2000)
- The present Constitution has generous human rights provisions that are pioneering even by world standards. Yet in the current political situation these human rights provisions are not being fully brought to life. (SHIOKAWA Tetsuya, Member/JCP/151/22.Mar.2001)
- On the whole the Constitution respects the individuality of the people and guarantees their right to the pursuit of happiness, and I feel that making this work amid the realities of politics and society is a politician's duty. However, in real life and politics our constitutional rights are not being guaranteed—they are being violated. (HARUNA Naoaki, Member/JCP/147/11.May.2000)
- One thing that has become clear from the open hearings we have been conducting is that what individuals are really grappling with is not how to revise the Constitution, but how to make the ideals of the Constitution work in the real world. Moreover, according to recent newspaper public opinion surveys, a growing number of citizens feel their right to livelihood is not being protected, and this means we should investigate the real status of the people's rights, beginning with the right to livelihood. (HARUNA Naoaki, Member/JCP/151/14.June.2001)
- Although most of the provisions of the International Covenants on Human Rights are reflected in the Constitution of Japan, the United Nations has pointed out that domestic legislation supporting this is inadequate. In light of this, we are being called upon to engage in constitutional politics that actually respects the ideals of the Constitution. (HARUNA Naoaki, Member/JCP/153/14.Feb.2002/Human Rights Subcommittee)
- The task of the Research Commission on the Constitution should not be debate on constitutional revision, but a serious investigation of why we still have not eliminated discrimination, why our human rights are threatened, and why we cannot live in peace, despite the fact that we have a constitution embodying standards that the world might envy. (TOMON Mitsuko, Member/SDP/151/14.June.2001)
- Our thinking on this is not something mired in language about defending the Constitution or not altering it; it is about doing politics in Japan in strict accordance with the Constitution, about making the Constitution work for us in addressing issues such as human rights and environmental problems such as dioxins. (FUKADA Hajime, Member/SDP/147/24.Feb.2000)
- Some time ago there was an issue involving the failure to disclose the verdict in a trial to one of the principals involved in it, despite the provisions of Article 82. This problem was resolved, but in other areas the reality of the situation still deviates

from the Constitution. For all that we talk about international society, Japan is still extremely backward in the area of human rights. (HOSAKA Nobuto, Member/SDP/147/23.Mar.2000)

- There are many cases in which I can't help but feel that even though we have a Constitution that proclaims pacifism and human rights, the existing laws are frequently in considerable opposition to the ideals of the Constitution. (YOSHIMITSU Katsuhiko, Member/SDP/150/9.Nov.2000)
- It seems like almost every day the newspapers are in an uproar with articles about human rights: the relationship between the Act Regarding the Control of Organizations which Have Committed Indiscriminate Mass Murder and freedom of religion, problems over the provisions in the three educational laws requiring students to engage in volunteer work, the continuing agitation for enactment of a fundamental law for the liberation of the *burakumin*, and so on. In the Research Commission on the Constitution we need to make further investigation into fundamental human rights issues. (MATSUNAMI Kenshiro, Member/NCP/151/14.June.2001)

<Comments by Informants and Others>

- If you look at the report by the UN Commission on Human Rights, it is difficult to think that in Japan the provisions of the Constitution are being strictly observed. With regard to human rights issues, the people, politicians, and corporations must raise their consciousness and acquire a sensitivity to human rights; simply changing the provisions of the Constitution isn't going to do anything at all. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- Before we go about revising the Constitution, I think that we must take a hard look at the fact that our nation has not behaved as it should. The state, with its awesome powers, should not encroach upon the human rights of its citizens. Should we be happy with a nation that does not defend the individual either in spirit or in actuality? (NAKATA Narishige, Speaker/151/4.June.2001/Kobe Hearing)

- c. Comments concerning problematic aspects of the human rights provisions in the Constitution of Japan

<Comments by Members>

- In our country, unlike Europe and the U.S. with their rigid ideas of rights and duties, we have long ensured the welfare of the people through the creation of harmony and an orderly society—but with the entrenchment of this Constitution, human relations have become more and more awkward. (NAGASE Jinen, Member/LDP/154/14.Mar.2002/Human Rights Subcommittee)

- The Constitution sets forth ideals, and it is the province of laws to make these ideals concrete. Thus, it is a fallacy to cite matters that can be adequately provided for by legislation as evidence that the Constitution is imperfect. (KONNNO Azuma, Member/DPJ/154/4.July.2002)

<Comments by Informants and Others>

- In the Constitution of Japan, classic concepts of liberty and contemporary ideas about social rights and protection of the socially disadvantaged exist side by side, with all the attendant contradictions. (MUNESUE Toshiyuki, Informant/154/14.Feb.2002/Human Rights Subcommittee)
- Because guarantee of the “negative freedoms” at the heart of the present Constitution is not sufficient in practice to secure the freedoms of contemporary society, we must introduce the principal of “positive freedoms,” and construct a hybrid conception of human rights that transcends the classical categories. (MUNESUE Toshiyuki, Informant/154/14.Feb.2002/Human Rights Subcommittee)
- The present Constitution adopts the schema of the state versus the people with regard to human rights, and because it lacks an international perspective, we should work on human rights guarantees that are conversant with international agreements. (MUNESUE Toshiyuki, Informant/154/14.Feb.2002/Human Rights Subcommittee)
- I don’t think the influence of the Constitution on the emotional life of the Japanese people is so strong that you can claim it has made relations between people more awkward. And I think blaming the decline of filial piety on the Constitution is giving it too much credit. (ANNEN Junji, Informant/154/14.Mar.2002/Human Rights Subcommittee)
- I’m afraid that the word “man” in the passage in Article 97 which reads “The fundamental human rights by this Constitution guaranteed to the people of Japan are the fruits of the age-old struggle of man to be free...” might be misconstrued as referring to people of the West and excluding the Japanese, giving rise to the danger of mistaken notions that everything about prewar Japan was wrong, and that its morality should be totally rejected. This is related to the fact that this article, which has as its source the Virginia Declaration of Rights, did not incorporate the provisions for duties contained in that document, adopting only its provisions regarding rights. (ITO Tetsuo, Informant/154/23.May.2002/Human Rights Subcommittee)

2. General Discussion of Human Rights

(1) The concept, history, and classification of human rights

a. "Natural rights" theory

<Comments by Members>

- There is no such thing as natural rights per se; it's a matter of what a given society chooses to treat as natural rights. Natural rights transcending society simply cannot exist. (ABE Motoo, Member/NCP/147/6.Apr.2000)

<Comments by Informants and Others>

- What underlies the U.S. Bill of Rights is not natural rights theory but a belief that liberty is something that emerges gradually from the midst of tradition and history. It is a mistake in the first place to believe that people are born free and equal, and furthermore, since natural rights and the social contract are also fictions, it's time we stopped singing the same old songs. (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee).
- In my opinion, the concept of "natural rights" is predicated upon the concept of "humanity under God." This connotes an awareness of an "obligation to God." In fact, the provisions originally adopted by various countries contained the principle of "rights predicated upon responsibilities." In comparison, the Constitution of Japan is predicated upon the "abstract individual," denying the existence of a communal background. What is missing here is a sense of the human capacity for wrongdoing, and a theory of self-regulation is also absent. However, thus far these issues have not been given any discussion. I doubt that such an "unencumbered individual," devoid of history and culture, can really become the repository of rights. (ITO Tetsuo, Informant/154/23.May.2002/Human Rights Subcommittee)
- In Britain, there is an empiricist conception of rights that has evolved through the historical development of the state. This conception stands in conflict with the Lockean concept of "natural rights." What we see in the American Revolution is not so much the influence of "natural rights," but rather the influence of a positivist view of rights derived from the traditional conception of the "rights of British subjects." (ITO Tetsuo, Informant/154/23.May.2002/Human Rights Subcommittee)
- For the following reasons, I believe the Japanese Constitution does not provide for "natural rights:" (a) Chapter III prescribes the rights and duties of the people, and not of the individual; (b) Article 12 refers to the "freedoms and rights guaranteed to the people by this Constitution," whereby it can be interpreted that such rights are guaranteed only through the existence of the State and the Constitution; (c) the

Constitution prescribes social rights and other rights that presuppose the existence of the State. (Ito Tetsuo, Informant/154/23.May.2002/Human Rights Subcommittee)

- “Rights” are gradually generated in the context of a community’s history, culture and traditions, and what is commonly recognized as a certain sacred territory is ultimately confirmed as a “right” in a constitution. Underlying this, there exists a “spirit of the law” unique to the community. I think we should acknowledge this, and put “natural right” theory behind us. (ITO Tetsuo, Informant/154/23.May.2002/Human Rights Subcommittee)
- In order for rights to be meaningful, we should not posit some ideal “natural rights,” and instead should think about this empirically, working in a pragmatic manner to frame practical laws and systems to support our rights. (ITO Tetsuo, Informant/154/23.May.2002/Human Rights Subcommittee)
- The idea that rights exist prior to the state is nothing more than a political ideology. Without their being actualized by the power of the state, we cannot enjoy “meaningful rights.” The process by which rights become established as law is one in which the people of a nation-state, through long experience of human relations and political activity, gradually confirm among themselves that certain things are sacred territory. Whether the state came first or rights came first is a moot point; without the state, rights cannot be established, and without rights there can be no state. States which cannot guarantee rights to their people cannot survive. (ITO Tetsuo, Informant/154/23.May.2002/Human Rights Subcommittee)
- “Natural rights” theory was not the main current of world legal thought at the time the Meiji Constitution was enacted. The concept of “legal reservations” (Note: The idea that limitations on rights could be permitted if there were legal provisions authorizing it.) was assumed, and with the exception of the United States, the constitutions of most countries contained such provisions. (ITO Tetsuo, Informant/154/23.May.2002/Human Rights Subcommittee)

b. Comments relating to the concept, significance, and history of human rights

<Comments by Members>

- The schema of the opposition between the state power and the individual is part of the Western conception of human rights, and is in some ways incompatible with the Asian stress on family and community rather than the individual. (ITO Tatsuya, Member/LDP/151/8.Mar.2001)
- Nowadays the people have come to feel quite naturally that fundamental human rights are eternal and unalienable. In other words, it might be said that the present Constitution is founded upon the fact that rights inherent to human beings existed even before the Constitution was written, along with fundamental norms concerning

the relationship among individuals and between individuals and the state that were based on these rights. (TSUSHIMA Yuji, Member/LDP/151/14.June.2001)

- It is a mistake to think that all really important and fundamental matters must be incorporated into the Constitution. The fact is that the Constitution might be defined as nothing more than a way of limiting the exercise of public power and a set of rules stipulated for the purpose of defending human rights. If we cannot share this common ground of understanding, our discussions will not get anywhere. (EDANO Yukio, Member/DPJ/147/27.Apr.2000)
- Mr. ITO has commented to the effect that rights depend on the existence of the state, but I think the North Korean refugees who sought asylum in the Japanese consulate in Shenyang should be regarded as having the right to the pursuit of liberty even if they have abandoned their country. (KONNO Azuma, Member/DPJ/154/23.May.2002/ Human Rights Subcommittee)
- The basic principles of the modern state are that laws established by the Diet control the exercise of state power; that the Diet is founded on the will of the elected representatives of the people, who are sovereign; and that the state must not violate the fundamental rights of the people. These principles are consonant with the universal value of respect for fundamental human rights expressed in the Universal Declaration of Human Rights and the International Covenants on Human Rights. (SENGOKU Yoshito, Member/DPJ/147/27.Apr.2000)
- Modern constitutions have always been created with an awareness of the state, and while the people may entrust the state with certain authority, they have also demanded that the abuse of state power be checked, and that the state make genuine guarantees of the liberties and rights of the individual citizen. (SHIOKAWA Tetsuya, Member/JCP/151/22.Mar.2001)
- [In response to Mr. ITO's comment that "People live in communities, and from that perspective, 'rights' are also subject to limitations"] The existence of community itself is not the issue; what is needed is to take an honest look at the state of fundamental human rights within it via a critical investigation of the form and nature of the community. (UEDA Munenori, Member/SDP/154/23.May.2002/Human Rights Subcommittee).

<Comments by Informants and Others>

- In Britain, since the constitution is thought of as a set of organizing and governing principles, there are many people opposed to viewing fundamental human rights as innate rights. Fundamental human rights are not nearly the object of complete worldwide agreement that Japanese people think they are. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)

- The concept of natural rights, as well as what the term “human rights” specifically refers to changes over time, but I think the movement has generally been towards making it possible for the people to freely exercise their innate talents. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- The freedom of the individual is paramount, and should not be violated. The greatest threat to individual freedom is probably war. In the course of World War II, the world engaged in a terrible trampling on human rights, and it was out of serious reflection on this that the UN framed the Declaration on Human Rights and we became signatories to it. I think this was then that we finally understood how important human rights are. (ODA Makoto, Informant/150/28.Sept.2000)
- Human rights are an absolute, and their absolute nature also functions as a basis for judgment with regard to unconscious prejudice and the like. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)
- The human rights contained in the constitution are not, in essence, something that can be expanded, so it makes sense that they should end up as a list of a small number of items that simply cannot be violated in the conduct of national policy. (ANNEN Junji, Informant/154/14.Mar.2002/Human Rights Subcommittee)
- Human rights are public rights, addressed to the state to clarify the relationship between the state and the people, and they differ from private rights in that they cannot always be enforced in a court of law. Moreover, human rights must be in accordance with justice, and both their content and the parties to whom they apply must be clear. (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee)
- Reflecting on the development of human rights, I think the rights of citizens may be understood as having a procedural character. Many of the rights specified in the constitution are such procedural rights, rights indispensable to political participation. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)
- In Britain, rights are understood as unwritten rules that have evolved within the community. In contrast to this, in Japan there is a tendency to see rights as something conferred on us in written form. (ITO Tetsuo, Informant/154/23.May.2001/Human Rights Subcommittee)
- In the language of Article 11 (“conferred upon the people”) and Article 97 (“in trust”), we glimpse the thinking of the Occupation forces, who believed they were handing down fundamental human rights to a Japanese people who had no conception of rights. Yet in Japan as well, in the historical currents of the Edo and Meiji periods, there was also a struggle to be free and an indigenous concept of rights. (ITO Tetsuo, Informant/154/23.May.2001/Human Rights Subcommittee)

- Fundamental human rights are the highest values of all societies, and form the foundation of all other principles such as the principle of popular sovereignty. These other principles supplement one another as means to serve the ultimate end of securing human liberty. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)

c. Comments referring to the classification of human rights, and their interrelationship

<Comments by Informants and Others>

- Civil liberties (freedom from the state) form the nucleus of human rights; the franchise (freedom toward the state) and social rights (freedoms provided by the state) should not be included among “human rights” in the true sense. (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee)
- In our country there is a tendency to call anything that seems desirable or furthers the interests of a particular group a “human right.” As this results stripping human rights of their gravity, we should be rigorous in our thinking about the concept of “human rights.” (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee)
- The four-part classification, based on Jellinek, of fundamental human rights into civil liberties, beneficiary rights, the franchise, and social rights is simply a list, not a rational classification; there are many rights that it fails to encompass. (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee)
- Since social rights are established by robbing certain people of a portion of their civil liberties, it is difficult for civil liberties and social rights to coexist. (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee)
- Despite the fact that genuine equality fundamentally means equality of opportunity, it has been willfully misconstrued as meaning equality of results. Under this interpretation, freedom and equality are incompatible. (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee)
- Self-help and autonomy are the foundation of the nation, and if the right of claim against the government is abused too frequently to insist upon other rights, what appears to be an advance in rights theory becomes nothing more than a replacement of divinely endowed rights with rights endowed by the state. (ITO Tetsuo, Informant/154/23.May.2002/ Human Rights Subcommittee)

(2) The public welfare

- a. Comments concerning the significance of the public welfare and clarification of the concept

<Comments by Members>

- In thinking about the rights and duties of the people, we need to discuss the public welfare. We need to clarify what constitutes abuse of rights and freedoms, and what the public welfare is. (TAKAICHI Sanae, Member/LDP/150/30.Nov.2000)
- The keyword for the future is going to be coexistence: living together in society and tolerating various views. In order to coexist in a community, certain limitations have to be placed on fundamental human rights from the standpoint of the public welfare, and dealing with these limitations is going to require a case-specific, rational perspective and legislative initiative. (HOZUMI Yoshiyuki, Member/LDP/147/29.Mar.2000)
- Freedom of expression is an extremely important fundamental human right, but it is not freedom to be irresponsible and selfish. An overly aggressive insistence on one's own human rights can end in violating the rights of others, so for the sake of the public welfare, somewhat more specific guidelines should be established in this regard. (MORIYAMA Mayumi, Member/LDP/147/20.Apr.2000)
- Fundamental human rights should be guaranteed to the people, but at the same time rights also have something of the nature of public goods for people, as members of society and their community, to support and develop our nation and society. Because of this, we need to discuss the public welfare in depth, and clarify this concept. (FUJISHIMA Masayuki, Member/LP/151/14.June.2001)
- Exactly where to find the common ground between fundamental human rights and the public welfare is something that probably differs from society to society and gradually changes over time. So even if we say that in the abstract that human rights and the rights of the citizens should be protected absolutely, it's of no use if we haven't reached a stage of development that makes that possible. (ABE Motoo, Member/NCP/147/6.Apr.2000)

<Comments by Informants and Others>

- Limitation of rights in the interest of the public welfare is something that, with regard to freedom of expression, tends to be restricted to cases in which something dangerous or harmful will occur. With regard to economic freedoms this could be done via policy or discretionary legislation. (TAKAHASHI Masatoshi, Informant/147/23.Mar.2000)

- Since the values of our society are likely to become more pluralistic and behavioral norms more particularistic, we should not be trying to limit rights in some cross-the-board manner; what we need to do is develop an essential typology of rights, deliberate on them in detail, weigh their importance relative to the public welfare, and limit them accordingly. (TAKAHASHI Masatoshi, Informant/147/23.Mar.2000)
 - It is difficult to determine the relationship between the public welfare and rights using abstract legal principles. Is the fact that the public good has not been realized in cases such as the Narita Airport dispute really a constitutional problem? I think this is more an issue for legislation and specific policy initiatives. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
 - The public welfare is best thought of in terms of the creation of a shared minimum social infrastructure in order to facilitate the development of the freedoms enjoyed by each individual. (MUNESUE Toshiyuki, Informant/154/14.Feb.2002/Human Rights Subcommittee)
 - The public welfare is a principle limiting the power of the state when it is attempting to restrict human rights—not a command to the people to defend the public welfare. (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee)
 - The public welfare is a general limiting principle on human rights that should be interpreted as telling us not to violate the rights of others. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)
- b. Comments stressing the importance of the public welfare (and the necessity of restrictions on human rights)

<Comments by Members>

- The only thing guaranteeing the rights of the Japanese people is the national government we have created, and in times of national emergency, the restriction of rights through due legal process, in order to restore the status quo ante as quickly as possible, is actually necessary in order for us to continue to enjoy our rights. (ISHIBA Shigeru, Member/LDP/154/23.May.2002/Human Rights Subcommittee)
- I feel that in today's Japan, human relations have become very rigid and unnatural, and have lost their kindness and compassion. I believe this is because the concept of human rights contained in the Constitution has been misused, so that there is a general tendency to reduce all social relations to the question of the rights of the people versus the responsibilities of the government. We need to reconsider the Constitution with a view to distinguishing areas in which social convention and self-responsibility are more appropriate solutions. (NAGASE Jinen, Member/LDP/23.May.2002/Human Rights Subcommittee)

- Compared to the concept of the struggle for democracy contained in the Basic Law for the Federal Republic of Germany, have we Japanese really thought deeply about democracy and properly understood it? Does it not seem that the spirit of liberty in Japan is still quite immature, and tends to lack public spirit. (HANASHI Nobuyuki/LDP/147/11.May.2000)
- Provisions concerning the right to know, the right to privacy, and so forth, need to be written so that they balance rights and duties. (FUNADA Hajime, Member/LDP/147/27.Apr.2000)
- We should continue to leave natural rights, freedom of religion, and so forth unrestricted. However, society is formed on the basis of limiting the selfish desires of individuals, and even with regard to fundamental human rights, we should straighten things up by limiting that which should be limited. (HOZUMI Yoshiyuki, Member/LDP/147/11.May.2000)
- Reflection on the current wave of juvenile crime also speaks to the importance of respecting the human rights of others in addition to the rights of the individual, and the failure to address this point is eloquent testimony to the necessity of revising the Constitution. (YAMASAKI Taku, Member/LDP/147/11.May.2000)
- Public welfare strives for the greatest common good for the overall society of a nation. Intense debate is expected regarding the revision of the Constitution, and the review of Chapter 3 and the establishment of provisions concerning the duty to protect the country are priority issues. Discussions on the Constitution must not conclude simply with the addition of environmental rights and other matters about which agreement can be easily reached. (YAMASAKI Taku, Member/LDP/147/11.May.2000)
- Even fundamental human rights have inherent limitations. (INOUE Kiichi, Member/NCP/154/14.Feb.2002/Human Rights Subcommittee)

<Comments by Informants and Others>

- Respect for fundamental human rights is something we should continue to uphold, but I think a number of problems have emerged over the course of the past fifty years as a result of overemphasizing individual rights. And I think the people as well have consistently supported striking a balance between fundamental human rights and the public welfare. (NISHI Osamu, Informant/147/24.Feb.2000)
- Because the origins of the philosophy of fundamental human rights were not debated at the time of the enactment of the Constitution, rights have been misused, the state has been regarded as evil, and state power has become difficult to manifest. (AOYAMA Takenori, Informant/147/24.Feb.2000)

- There are limitations on rights stemming from their essential nature, including: (1) a certain amount of self-regulation naturally arising from the fact that human beings must live together in the community, and (2) the restrictions arising from the community's own history, culture, and traditions. (ITO Tetsuo, Informant/154/23.May.2002/Human Rights Subcommittee)
- Standard interpretations touch relatively lightly on "the public welfare," interpreting it as "a principle of mutual and interactive coordination among various human rights." In my opinion, this is a dubious notion, for rights only exist because of the existence of the state. In society there is such a thing as the public interest, the components of which are ethical in nature. (ITO Tetsuo, Informant/154/23.May.2002/Human Rights Subcommittee)
- Since we don't all possess the same personality, it is clearly absurd to guarantee human rights in the same way to all people. At the stage in which human rights are linked to specific rights, the limitations of human rights become apparent to a certain extent. (YONETANI Mitsumasa, Speaker/151/16.Apr.2001/Sendai Hearing)
- Nowadays our national character has become one that pushes individual rights and freedoms too far into the foreground. Shouldn't we make it a little more clear that individual freedoms and rights exist within the context of the public welfare? (KOKUBO Masao, Speaker/151/4.June.2001/Kobe Hearing)
- c. Comments warning against the strengthening of restrictions on human rights by public welfare

<Comments by Members>

- The government cites the concept of "the public welfare" in Article 13 of the Constitution as grounds for the restrictions on the human rights of the people contained in the Bill to Respond to Armed Attacks. This is erroneous, for the following reasons:
 - (1) The public welfare is a principle of mutual and interactive coordination among various human rights, and we cannot permit it to be used as grounds for a response to an armed attack completely unrelated to the conflicts among different human rights.
 - (2) The government has cited the Disaster Measures Basic Law as an example of limitation of human rights in the interest of the public welfare, but the intent of the provisions of this law are policy limitations designed to protect the economically and socially disadvantaged, and have their basis not in the "public welfare" of Article 13, but in the "public welfare" mentioned in Article 29, concerned with economic freedoms, as the government itself has stated previously.

(3) The Constitution of Japan is a declaration of pacifism, and under this Constitution, the concept of a military form of public good is untenable. (HARUNA Naoaki, Member/JCP/154/23.May.2002/Human Rights Subcommittee)

- As we see in the controversy over the Compulsory Purchase of Land Law, there has been a tendency lately to side with the powerful—the national and local governments—and overemphasize the concept of the public welfare. (KANEKO Tetsuo, Member, SDP/154/14.Feb.2002/Human Rights Subcommittee)
- The words “public welfare” have an awfully elastic sound to me. (HOSAKA Nobuto, Member/SDP/147/23.Mar.2000)

(3) Constitutional duties

A. Importance of duties and responsibilities; creation of new provisions defining duties

a. Affirmative comments

<Comments by Members>

- In the present Constitution provisions for rights are many, for duties few. This has become one of the sources of problems such as the collapse of families in our aging society. We should take the changing times into consideration and revise the Constitution. (IMAMURA Masahiro, Member/LDP/153/6.Dec.2001)
- In the Constitution there are provisions for the respect of fundamental human rights, but there are practically none concerning duties and service to the nation and the public. I feel the reality of present-day Japan is that rights are so aggressively asserted that it has thrown the workplace and the political arena into a kind of confusion. (SHINDO Yoshitaka, Member/LDP/150/9.Nov.2000)
- I feel that in the postwar Japanese social system and in education the awareness that rights entail responsibilities is extremely shallow. We should proudly proclaim the Asian concept and principle of harmony, of coexistence with nature and with members of other ethnic groups which is included within the notion of rights (SUGIURA Seiken, Member/LDP/147/9.Mar.2000)
- There are many cases in which the freedoms and rights guaranteed under the Constitution have been used as a shield for infringing on the rights of others, though in Article 12 it is stated that the people “shall refrain from any abuse of these freedoms and rights and shall always be responsible for utilizing them for the public welfare.” Provisions regarding duties and responsibilities are still very lax.

(TAKAICHI Sanae, Member/LDP/147/27.Apr.2000, 147/11.May.2000, 150/30.Nov.2000)

- In the present Constitution there are only three articles that contain provisions regarding the duties of citizens. We should be aware of our duties to our country. (NISHIKAWA Kyoko, Member/LDP/151/17.May.2001)
- In the present Constitution the concept of rights and duties is inadequately expressed, so we should create the necessary provisions concerning duties. We must reform the current atmosphere that makes light of our duties and responsibilities to nation, society, and family, and aim toward a society in which each citizen, grounded in the principle of self-responsibility, can achieve personal freedom. (HANASHI Nobuyuki, Member/LDP/147/11.May.2000, 154/23.May.2002/Human Rights Subcommittee)
- I feel that in the half century since the end of the war, the Japanese people have been poisoned by a selfishness born out of excessive individualism, failing to meet their obligations while growing ever more conscious of their rights. (MORIOKA Masahiro, Member/LDP/153/29.Nov.2001)
- In order to abolish state power and militarism, the Constitution contains clear and detailed provisions regarding fundamental human rights, but I feel that it is weak on communal duties and responsibilities towards the nation, society, and family. We must reform the current atmosphere that clamors only for rights while taking highly duties and responsibilities towards the nation, society, and family, and aim toward a society in which each citizen, grounded in the principle of self-responsibility, can achieve personal freedom. (YASUOKA Okiharu, Member/LDP/147/24.Feb.2000, 147/11.May.2000, 151/22.Mar.2001)
- If we are going to write new concepts of human rights such as environmental rights, the people's right to know, and so forth into a new constitution, we must also write in the corresponding duties. (MATSUZAWA Shigefumi, Member/DPJ/147/27.Apr.2000)
- While the Constitution has abundant and detailed provisions concerning rights, there are almost none concerning duties. Strikingly, there is almost a complete absence of the concept of loving one's country, and I think this is a major problem for education. (YAMADA Toshimasa, Member/DPJ/153/6.Dec.2001)
- Rights and freedoms entail responsibilities and duties, and an awareness of them is indispensable to the establishment of the self. (FUJISHIMA Masayuki, Member/LP/150/30.Nov.2000)

<Comments by Informants and Others>

- That fact that freedoms and rights entail responsibilities and duties is something that is obvious to us as human beings, no matter what kind of system we live within. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)
- There are many provisions in the Constitution regarding rights, but it is weak on the perspective of duties to defend society, so in addition to increasing the number of provisions concerning duties, I think a passage on duties should be added to the Preamble in order to strike a balance with discussion of rights. (NISHIZAWA Junichi, Informant/151/8.Feb.2001)
- The present Constitution has stipulated various rights predicated on the individual human subject, but when human beings become a part of specific groups and organizations, duties necessarily arise. The Constitution, based as it is on the premise of a universal humanity, has failed to give proper consideration to duties. (SAKAMOTO Takao, Informant/151/22.Mar.2001)
- The revamping of education in the home and the reeducation of parents is indispensable, but the Constitution, which should set the standard for our values system, has made almost no provision for duties. I would like to see the necessary provisions regarding duties incorporated into it as soon as possible, along with respect for individual rights. (OHMAE Shigeo, Speaker/151/4.June.2001/Kobe Hearing)
- Language should be added to the effect that rights and freedoms entail duties and responsibilities. (TSUKAMOTO Hideki, Speaker/151/4.June.2001/Kobe Hearing)
- There's been a lot of talk lately about rights, but rights entail responsibilities, and I doubt such a clearly defined consciousness of rights and duties is really being fostered in present-day Japan. (NOHARA Kiyoshi, Speaker/153/26.Nov.2001/Nagoya Hearing)

b. Comments urging caution

<Comments by Members>

- It's not that I really disagree with the argument that rights entail duties and responsibilities, but the point of departure for the human rights provisions is the right to liberty and "freedom from the state," and their major premise is that the state must not interfere with the individual. (KURATA Eiki, Member/NK-RN/147/25.May.2000)
- The constitution is a means by which the people set limits to the exercise of state power, so the criticism that it does not adequately discuss duties is completely off the mark. (SHIOKAWA Tetsuya, Member/JCP/151/8.Feb.2001)

<Comments by Informants and Others>

- A constitution is a document thrust upon the state, listing the things the people think should be guaranteed to them, and so the model is for it to be centered on rights. Because of this, a minimal attention to duties is perfectly fine. (OHKUMA Yoshikazu, Informant/151/17.May.2001)
- The provisions regarding duties contained within the present Constitution are perfectly adequate. If we affirm too many duties within the Constitution, it will end up establishing a whole system of duties quite independent from the guarantees of rights. (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee)
- What concerns me at present is the rise of a new form of nationalism, putting the state before the individual. When I hear the tenor of the arguments complaining that people are only asserting their rights and not fulfilling their duties, I am depressed by the total enfeeblement of sense of rights this represents. (NAKATA Narishige, Speaker/151/4.June.2001/Kobe Hearing)

B. Types of duties

- a. Comments on the duty of national defense, military conscription, etc.

<Comments by Members>

- There are those who argue that military conscription is unconstitutional in Japan as it constitutes involuntary and slave-like labor, but any nation in which national defense is regarded as involuntary servitude is not worthy of being called a nation. Military conscription is not unconstitutional. (ISHIBA Shigeru, Member/LDP/154/23.May.2002/Human Rights Subcommittee)
- In event of a defensive war, there should be an obligation to national defense as well as certain limitations on rights in order to enable the people to unite and cooperate in the fight against an external enemy, and these things should be written into law. (YASUOAKA Okiharu, Member/LDP/151/22.Mar.2001)
- Military conscription constitutes involuntary labor in violation of the spirit of Article 18 of the Constitution, and is therefore unconstitutional. (OIDE Akira, Member/DPJ/151/22.Mar.2001)
- No country can exist without certain duties of the people. Defending one's own country is a basic principle of democracy, and in a time of emergency, national defense cannot depend solely on voluntary participation. (TAKEYAMA Yuriko, Member/LP/154/23.May.2002/Human Rights Subcommittee)

- The duty of national defense should be stipulated in the Constitution. (INOUE Kiichi, Member/NCP/154/23.May.2001/Human Rights Subcommittee)

<Comments by Informants and Others>

- At the present time, when it is anticipated that pressure from the Eurasian mainland is likely to increase, we need to think about national mechanisms for responding to this, and about the duty of national defense. In doing so, we should consider whether this needs to be written into the Constitution, and if so, whether such abstract language as “the Japanese people bear an obligation to defend their country” is sufficient. If this does not need to be written in the Constitution, we should consider whether in time of emergency the concept of “the public welfare” might serve adequately in this regard. (SAKAMOTO Takao, Informant/151/22.Mar.2001)
- Without “duties of the people” a nation simply cannot exist; moreover, action of the people to protect their own country is a basic principle of democracy, so “the duty to protect the country” should be specified in the Constitution. This “duty to protect the country” is distinct and different from a “duty to render military service.” (ITO Tetsuo, Informant/154/23.May.2002/Human Rights Subcommittee)
- The defense of one’s nation is a sacred right and responsibility of the people in every country of the world. In a normal country, people live with the awareness that they will defend their country in a crisis. Yet it seems that all the Japanese people have is a kind of personal calm resignation. (NOHARA Kiyoshi, Speaker/153/26.Nov.2001/Nagoya Hearing)

b. Comments on making community service activities compulsory

<Comments by Members>

- Even if we should draft a new constitution, I don’t think it is particularly desirable to prescribe various duties; rather, I am in agreement with the opinion of Ms. INAFUKU that “It is important to create an atmosphere in which greater voluntary participation is possible.” (KYUMA Fumio, Member/LDP/154/22.Apr.2002/Okinawa Hearing)
- I think what is important from an educational standpoint is less a question of whether we should or shouldn’t make community service activities compulsory, but to how much contact children in their formative years have with fully formed individuals. (AKAMATSU Masao, Member/NK/150/12.Oct.2000)
- If making community service activities compulsory means an invigoration of community service activities that offers young people and children a wide range of choices in what sort of activity they will engage in, I would welcome it, but I think

there is a danger of simply cramming them all into some homogenous program. (HOSAKA Nobuto, Member/SDP/150/28.Sept.2000)

- I personally am very much in favor of making community service activities compulsory, but I think it is hard to foster community service activities such as care for the aged and other volunteer work in Japan. I think what will really foster such activities is not so much inserting volunteer work into the educational system, but will come from people's spiritual side. (KONDO Motohiko, Member/Club 21/150/28.Sept.2000, 150/12.Oct.2000)

<Comments by Informants and Others>

- Most people who go to do volunteer work find themselves having to do a lot of mandatory tasks, but these become enjoyable. Making things mandatory is necessary to the process of building self-confidence through enduring heat and cold and hard work. (SONO Ayako, Informant/150/12.Oct.2000)
- The younger generation of which I am a member is likely to be pretty opposed to the idea of making mandatory what is now voluntary. (KATO Masanori, Speaker/153/26.Nov.2001/Nagoya Hearing)
- Social service activity is a symbiotic activity joining those who are providing the service with those who are receiving it, and since its real significance lies in the spirit of voluntarism which supports it, it should not be made mandatory in a homogenous way; rather, various different options should be provided, and activity supported by local communities is essential. (INAFUKU Erika, Speaker/154/22.Apr.2002/Okinawa Hearing)

c. Comments on the obligation to vote

<Comments by Members>

- I have doubts as to whether people elected in elections with low voter participation can truly be regarded as representatives. We need to consider ways of increasing voter turnout, including the issue of whether or not voting should be made compulsory. (UBUKATA Yukio, Member/DPJ/151/17.May.2001)

<Comments by Informants and Others>

- Since as a result of low voter turnout it is becoming difficult to regard elections as reflecting the true will of the people, I think we should institute a de facto system of compulsory voting through restrictions on renewal of driver's licenses or the like. (SON Masayoshi, Informant/151/8.Mar.2001)

C. Other comments

<Comments by Members>

- In the event that we revise the Constitution, I think it would be best if we clearly wrote in certain duties of Japan itself and its duties toward the world, in the form of duties to coexist with nature, and duties toward the environment. (HATOYAMA Kunio, Member/LDP/153/26.Nov.2001/Nagoya Hearing)
- Rights and duties are the opposite sides of the coin, and with regard to environmental rights as well, on the flip side we are called to our duty to protect the environment. I think the relationship between rights and duties should be spelled out as clearly as possible in the Constitution. (NAKANO Kansei, Member/DPJ/154/23.May.2002/Human Rights Subcommittee)

<Comments by Informants and Others>

- With regard to rights and duties, before we think about their place in the Constitution we ought to teach them at home. In today's world, where this has become more difficult, there is a need for the state educational system to provide education that instills the public spirit. (SAKURAI Yoshiko, Informant/150/30.Nov.2001)

(4) The Constitution, civil society, and relationships between private citizens
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<Comments by Members>

- The concept of the right to liberty based on modern constitutional thought has at its base the schema of state power vs. the people, but at present, violation of human rights not just by the state but by private individuals and private groups has become a serious issue. (FUJISHIMA Masayuki, Member/LP/151/14.June.2001, 153/29.Nov.2001)
- The issue of the violation of workers' rights by corporations must not be left to be resolved between labor and management; it is vital that the nation have mechanisms for regulating this. Doing so will not represent an overzealous intervention by the state. (HARUNA Naoaki, Member/JCP/154/14.Feb.2002/Human Rights Subcommittee)

<Comments by Informants and Others>

- The number of human rights problems involving relations between private citizens has grown immensely. These are not so much disputes between individuals as between corporations and individuals. In cases like this, the state should exert itself

to protect the rights of the individual. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)

- Since the present Constitution has neglected to make explicit guarantees of human rights within the context of relations between private citizens, we need to bring such relations, and civil society as well, within the purview of the Constitution, and make the triangular relationship between the state, the individual, and civil society into an object of our consideration. (MUNESUE Toshiyuki, Informant/154/14.Feb.2002/Human Rights Subcommittee)
- With regard to problems of human rights violations between private citizens, it would be good to study ways in which the state can support simple and speedy resort to judicial remedies, but we must also carefully study the means of government intervention, so that it doesn't end in excessive violation by the state of citizens' freedom. (MUNESUE Toshiyuki, Informant/154/14.Feb.2002/Human Rights Subcommittee)
- Article 89 forbids the disbursement of public funds to non-profit organizations. However, in the interests of establishing a foundation upon which individuals can freely exercise their talents in NPOs, and civil society can shed its dependency on government bureaucracy and grow to full maturity, I think we can consider preparing a clause that makes it possible for the state to involve itself in this area, including financial support. (MUNESUE Toshiyuki, Informant/154/2002.2.14/Human Rights Subcommittee)
- The Constitution does not extend to relations between private citizens such as the relationship between labor and management in the workplace, but as we can see from the fact that workers stand in an extremely weak position vis-à-vis their employers, relations between private citizens in the workplace are a particularly grave matter, and the context in which a number of problems crop up: death from overwork, bullying, sexual harassment, and so on. These problems violate the spirit of the Constitution, and I would like to see consideration given to the question of whether constitutional provisions should be created that would lay the groundwork for resolving them. (KUSANO Tadayoshi, Informant/154/14.July.2002/Human Rights Subcommittee)

(5) Who shall enjoy human rights?
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A. Japanese nationality

<Comments by Members>

- Europe is moving in the direction of permitting dual citizenship, and I think as a response to globalization and the growing number of foreign workers, Japan should

also recognize it. (OIDE Akira, Member/DPJ/154/14.Mar.2002/Human Rights Subcommittee)

<Comments by Informants and Others>

- Nationality is determined according to formal conditions prescribed by law, such as family descent, and thus even the status of the “Japanese people” who enjoy constitutional rights remains very vague and open to interpretation in the Constitution. For this reason, I believe it is undesirable as legislative policy to have marked disparities between the treatment of Japanese citizens and foreign nationals. (ANNEN Junji, Informant/154/14.Mar.2002/Human Rights Subcommittee)
- With regard to the status of North and South Korean nationals in Japan, judicial precedent has established the interpretation that individuals who had been registered as Korean in their prewar family registers lost their Japanese citizenship when the San Francisco Peace Treaty went into effect, but I have grave reservations concerning the sort of reasoning that uses a technical system such as the family register as grounds for determining a change in a person’s status in the context of international law. (ANNEN Junji, Informant/154/13.Mar.2002/Human Rights Subcommittee)

B. Rights of foreign nationals

- a. Comments on the status of human rights guarantees for foreign nationals

<Comments by Members>

- We should discuss the rights of foreign nationals and their limitations, which means giving consideration to matters such as the distinction between general rights pertaining to all human beings and specific rights pertaining to citizens. (TAKAICHI Sanae, Member/LDP/147/27.Apr.2000, 150/30.Nov.2000)
- We should discuss the fact that in the Constitution, the enjoyment of fundamental human rights is limited to citizens, and that the way in which this is stipulated at present does not provide for universalizing it to all people living in Japan, including those of foreign nationality. (ISHIGE Eiko, Member/DPJ/147/11.May.2000)
- There are many issues related to the human rights of foreign nationals that require further discussion, including the right to reenter the country; problems concerning alien registration; discrimination encountered in housing, entry into places of business, and school entrance exams; and the right to vote in local elections. (KONNO Azuma, Member/DPJ/153/6.Dec.2001)
- With regard to rights of foreign nationals, I think that rather than taking the cut-and-dried position that “it’s not a constitutional issue and should be dealt with

through legislation,” we should recognize the need to discuss the rights of foreigners in light of the ideals of the constitution. (KONNO Azuma, Member/DPJ/154/14.Mar.2002/Human Rights Subcommittee)

- If the Constitution does not defend respect for all individuals living in Japan, citizens or otherwise, it is not fulfilling its mission. (HIRATA Yoneo, Member/NK-RN/147/17.Feb.2000)
- With regard to guarantees of human rights for foreign nationals and the limitations thereon, as our birthrate continues to decline, we must consider from a long-term perspective how this country should look at our policies on foreign nationals and consider ways to effectively respond to this era of globalization. (FUJISHIMA Masayuki, Member/LP/151/14.June.2001)
- I think guarantees of human rights for foreign nationals are possible through the interpretation and application of the Constitution, even in the absence of provisions directly addressing this issue. (HARUNA Naoaki, Member/JCP/154/14.Feb.2002/Human Rights Subcommittee)
- In thinking about the human rights of foreign nationals, reflection on our previous war of aggression and a correction of the government’s exclusionist attitude towards foreigners is important. Especially with regard to North and South Koreans living in Japan, we must take into consideration the fact that war and other historical developments have compelled many of them to take up permanent residence in our country. Moreover, we must be cognizant of the trend in international society, based on the International Covenants on Human Rights, to treat foreign nationals on the same basis as the citizens of one’s own country. (HARUNA Naoaki, Member/JCP/154/14.Mar.2002/Human Rights Subcommittee)
- In respecting the human rights of foreign nationals, we must make the effort to respect their culture, ethnicity, and identity. (KANEKO Tetsuo, Member/SDP/154/14.Mar.2002/Human Rights Subcommittee)
- The system of resident status, which serves as the basis for limiting the rights of foreigners in Japan is something that needs to be changed as the internationalization of society progresses. (KANEKO Tetsuo, Member/SDP/154/14.Mar.2002/Human Rights Subcommittee)

<Comments by Informants and Others>

- The rights and duties of long-term foreign resident vis-à-vis Japanese society should be clearly stipulated in the Constitution. However, I am opposed to granting them the franchise. (ISHIHARA Shintaro, Informant/150/30.Nov.2000)
- Before we start cracking down on illegal aliens in Japan, we need to establish a domestic system that discourages foreign workers from becoming illegal aliens in

the first place, by providing them with jobs and guaranteeing their human rights. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)

- Even persons who have entered the country illegally have the right to work and the right to receive compensation for overtime. Moreover, we must eliminate discrimination on the basis of job type. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)
- With regard to the rights of foreign nationals, one theory supports the Supreme Court ruling in the McLean case, which holds that the various rights guaranteed under the Constitution should also be recognized for foreigners insofar as is possible given the nature and scope of the legal system governing their residence status. However, to claim that constitutional rights are recognized only within that legal system is tantamount to denying foreign nationals' possession of constitutional rights. The Court's decision and the theory are internally inconsistent. In fact, the proper interpretation is that foreign nationals, insofar as they do not have a right to enter or stay in the country, do not possess rights under the Constitution. However, even if they do not possess constitutional rights, it is still possible to treat foreign nationals and Japanese citizens equally under the law. (ANNEN Junji, Informant/154/14.Mar.2002/Human Rights Subcommittee)
- Even if the status of foreign nationals were to be stipulated in the Constitution, the provisions would have to be very abstract, with their concrete interpretation left up to the courts, so I think it would be better if the Diet, as representatives of the people, worked towards making concrete guarantees of foreigners' rights via legislation. (ANNEN Junji, Informant/154/14.Mar.2002/Human Rights Subcommittee)
- I have some doubts with regard to the issue of whether the present Constitution provides for due treatment of foreign nationals residing in Japan for a certain period. We should check to see whether foreign nationals are receiving adequate protection in terms of social security, education, health care, and the like. (HATAKEYAMA Noboru, Informant/154/28.Mar.2002/International Society Subcommittee)

b. Comments on giving foreign permanent residents the franchise in local elections

b-1. Comments affirmative to giving the franchise

<Comments by Members>

- From the perspective of self-government by residents, the idea that foreign residents should exercise the rights and duties of local residents is something that is becoming an established norm of international society. Court rulings have also determined that the Constitution of Japan does not deny them the right to vote in local elections, so I think we could say that this could be recognized under the present Constitution. By stipulating it positively and clearly in the Constitution, genuine local

self-government would be advanced. (NAKANO Kansei, Member/DPJ/154/28.Feb.2002/Local Autonomy Subcommittee)

- I think voting rights for foreign nationals should be granted to foreign nationals, for the following reasons: (1) local matters should be determined independently and autonomously by local residents, (2) as a mature democratic nation, we should allow the will of foreign residents with especially close ties to the local community to be reflected, (3) people who are living lives no different from Japanese citizens should be accorded the same treatment. Article 22 of the Constitution says that “freedom of all persons to move to a foreign country and divest themselves of their nationality shall be inviolate,” and by the same token, I do not think we can frame our discussion in terms of a linkage between naturalization and the granting of the franchise in local elections. (EDA Yasuyuki, Member/NK/150/30.Nov.2000)
- I think we should grant foreign permanent residents the right to vote in local elections, from the following three perspectives: (1) realization of a mutually tolerant multiethnic society, (2) guarantee of universal human rights as natural rights in the context of globalization, and (3) the principle of decentralization, namely, the realization of local government that is accessible to residents. We should not avoid contact with other ethnic groups out of a sense of the vulnerability of our own culture or traditions; rather, a desirable stance would be to establish solid education regarding our culture and traditions and to give foreign nationals the right to vote in local elections. (OTA Akihiro, Member/NK/151/17.May.2001, 154/14.Mar.2002/Human Rights Subcommittee)
- The right of everyone to a homeland should be recognized, and I am opposed to the point of view that foreign nationals who want the vote should become naturalized citizens. Rather, I think the right to participate in politics should be recognized for all people who live and pay taxes in a particular place. (HARUNA Naoaki, Member/JCP/154/14.Mar.2002/ Human Rights Subcommittee)
- If the right to vote is given to foreign permanent residents, I think they should also be given the right to stand for election. (YAMAGUCHI Tomio, Member/JCP/151/17.May.2001)

<Comments by Informants and Others>

- With regard to the franchise for foreign permanent residents, one option would be for Japan and South Korea to establish reciprocal voting rights in local elections. Another point we should consider is a system of dual citizenship between the two countries. (KANG Sanjung, Informant/151/22.Mar.2001)
- The Constitution can be regarded as allowing local voting rights for permanent foreign residents, and if these were recognized, it would result in an enhancement of local autonomy. Moreover, I think the term “voters of the local public entity” (Note: *Chiho kokyo dantai no jumin*, the term used in the original Japanese-language

Constitution, is the equivalent of “residents of the local public entity” in English.) mentioned in Article 95 allows for the inclusion of foreign permanent residents. (OHKUMA Yoshikazu, Informant/151/17.May.2001)

- I think that we should give foreign permanent residents the right to vote in local elections. Moreover, I think permanent foreign residents should be given the franchise in national elections as well, in accordance with the realities of their living situation. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)

b-2. Comments negative to giving the franchise

<Comments by Members>

- One way of thinking about the franchise is that the right to vote is something that determines the fate and future of the country, and should therefore be given only to those who share that country's fate through possession of citizenship. (NAKATANI Gen, Member/LDP/151/22.Mar.2001)
- The franchise is a right which should only be given to citizens, and foreign permanent residents should exercise that right only after becoming Japanese nationals. Local and national politics are intimately related, and it is undesirable for people who do not have citizenship to participate in national politics even in an indirect manner. I think the issue of voting rights for foreign nationals should be dealt with by relaxing the requirements for gaining citizenship. (HANASHI Nobuyuki, Member/LDP/154/14.Feb.2002/Human Rights Subcommittee, 154/14.Mar.2002/Human Rights Subcommittee)
- The issue should be resolved by lowering the hurdles for the acquisition of citizenship by foreign permanent residents. (TAKEYAMA Yuriko, Member/LP/154/14.Mar.2002.3/Human Rights Subcommittee)

<Comments by Informants and Others>

- I am opposed to extending the franchise to foreign nationals because there is the danger that the intents and interests of foreigners living in a particular area could overturn the intents and interests of ordinary citizens. To exercise the right to vote, one should acquire citizenship, and for this reason, the eligibility requirements for Japanese citizenship should be simplified. (ISHIHARA Shintaro, Informant/150/30.Nov.2000)
- Giving the right to vote to foreign permanent residents who do not have citizenship means that they will be left forever as aliens in the midst of our society. What we should do is basically offer unconditional citizenship to foreign permanent residents, and those who do not want to accept it should not be given the franchise. Moreover, a nation is comprised of its citizens, so in that sense as well, it is citizens who should exercise the right to vote. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)

- The idea that conflicts over the national interest will not arise even if foreigners are given the vote is nothing more than wishful thinking. First of all, we should make Japanese citizenship easier to acquire, and then we should think about whether or not to give foreign nationals the right to vote in local elections. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
- Since many of the foreign permanent residents fulfill most of the requirements for naturalization, that is first thing we should consider. I am not in favor, as legislative policy, of recognizing the right to vote of foreign nationals. (ANNEN Junji, Informant/154/14.Mar.2002/Human Rights Subcommittee)

c. Comments on refugees

<Comments by Members>

- With regard to the refugee issue, I feel the need for humanitarian aid, but we need to handle this with consideration for the fact that our country does not have a history of immigration. (ISHIBA Shigeru, Member/LDP/154/4.July.2002/Human Rights Subcommittee)
- Given the current situation, in which the number of refugees is expected to grow in future, we need to discuss how to handle the issue of the rights of foreign residents in Japan, including those of the refugees we accept under the Convention Relating to the Status of Refugees. (NAKAYAMA Taro, Commission Chairman, Member/LDP/154/4.July.2002/Human Rights Subcommittee)
- The foreign nationals being held in the Nishi-Nihon Immigration Center are being subjected to inhumane treatment. It is important to debate the Constitution, but it is also important to investigate whether or not the principles of the Constitution are actually being applied in our society. Insofar as Japan is a signatory to the Convention Relating to the Status of Refugees and a series of other human-rights agreements, we should implement refugee policies that are based on these conventions. (KONNO Azuma, Member/DPJ/154/25.July.2002)
- As can be seen from the pathetic condition of Immigration Bureau facilities, our country is inadequately prepared to accept refugees. (KANEKO Tetsuo, Member, SPD/154/14.Mar.2002/Human Rights Subcommittee)
- The Preamble of the Constitution affirms the right of all peoples of the world to live in peace, and can be seen as establishing that it is the duty of Japan to protect people who have fled from persecution in their own countries. However, the actual treatment of those who come to Japan seeking protection as refugees amounts to a violation of their human rights. We should take steps to protect the rights of refugees by revising the Immigration Control and Refugee Recognition Act in keeping with the intent of the Constitution. (KITAGAWA Renko, Member/SDP/154/25.July.2002)

<Comments by Informants and Others>

- If we are too zealous about caring for refugees, it becomes difficult to accept very many. Thus, if we are to accept lots of refugees, we shouldn't seek to provide too many special services for them. (ANNEN Junji, Informant/154/14.Mar.2002/Human Rights Subcommittee)
- I have doubts as to whether judicial checks on the Ministry of Justice's process of issuing refugee status are functioning properly, and we need to educate judges to be sufficiently cognizant of this issue. (TANAKA Hiroshi, Speaker/154/24.June.2002/Sapporo Hearing)

d. Comments on immigration, foreign workers, etc.

<Comments by Members>

- With regard to work by foreign nationals, I think we have to consider the fact that the Constitution affirms the right to work for "all citizens" (*subete kokumin ha*), not "all people" (*nanibito mo*) (Note: The original Japanese-language Constitution uses the term *subete kokumin ha* which is the equivalent of "all citizens" although the English-language translation of the Constitution uses "all people."), and that foreign labor conflicts with the interests of Japanese workers. (ISHIBA Shigeru, Member/LDP/154/4.July.2002/Human Rights Subcommittee)
- In future, I think we are probably going to have to relax the qualifications for naturalization. (KYUMA Akio, Member/LDP/150/28.Sept.2000)
- I think it is only natural as a nation to put our national interests first in making foreign policy decisions on ODA and the like, and to ensure the jobs of our own workers as we grapple with the problem of foreign workers. (MORIOKA Masahiro/LDP/153/29.Nov.2001)
- In the future, as the Japanese population declines and we allow in more foreigners, our society will become one in which we will be living in coexistence with people of a number of other cultures and ethnicities. I think we have to discuss whether the principles of the Constitution will continue to be valid in such a case. (YOKOMICHI Takahiro, Member/DPJ/147/6.Apr.2000)
- If we adopt the acceptance of skilled foreigners into our country as a policy for dealing with the declining birthrate and aging of the society, various systemic reforms and changes in our patterns of thinking will be necessary, but I think we are making very slow progress in this regard. (TAKEYAMA Yuriko, Member/LP/150/28.Sept.2000)

<Comments by Informants and Others>

- In order to maintain the vitality of a society with a declining birthrate and an aging population, we need to relax our criteria for naturalization and seek talented people (“New Japanese”) from throughout the world. To achieve this, the Japanese nation (group) will have to look to the future and not the past, and adopt more rational policies towards foreign labor. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- The requirements for acquiring Japanese citizenship are very strict, and there are many foreign nationals who are unable to obtain Japanese citizenship even though they were born and raised here and have paid taxes all their lives. Japan must reform its notions of racial purity. Rather than giving foreign nationals the vote, the eligibility requirements for Japanese citizenship should be relaxed, and the Constitution reformed to extend Japanese citizenship equally to all who love this country. (SON Masayoshi, Informant/151/8.Mar.2001)
- If we are to accept immigrants and give them Japanese citizenship, we need to think anew about what it means to be Japanese. (SAKAMOTO Takao, Informant/151/22.Mar.2001)
- With regard to allowing foreign workers into the country, we have to think very carefully about this given the current employment situation. Yet we should consider accepting them for humanitarian reasons, and we are struggling with how to address this. Moreover, I believe the way this problem is dealt with will probably shift according to the future course of the Japanese economy. (KUSANO Tadayoshi, Informant/154/4.July.2000/ Human Rights Subcommittee)

e. Other comments

<Comments by Members>

- From the point of view of the nation’s interest, isn’t it going a bit too far to legally recognize the right of foreign nationals to be appointed to any civil service position? (KONDO Motohiko, Member/LDP/154/14.Mar.2002/Human Rights Subcommittee)
- We should aim at abolishing the nationality clauses in the laws and ordinances related to veterans’ welfare benefits. (HARUNA, Naoaki, Member/JCP/154/14.Mar.2002/Human Rights Subcommittee)
- In light of the International Covenant on Human Rights, we should reduce restrictions on the freedom of reentry by foreign nationals, as well as limitations on tourist travel. (HARUNA, Naoaki, Member/JCP/154/13.Mar.2002/Human Rights Subcommittee)
- The issue of compensation for military “comfort women” and non-Japanese victims of the atomic bombs is something we must also think about as an issue concerning

the human rights of foreign nationals. (KANEKO Tetsuo, Member/SDP/154/14.Mar.2002/Human Rights Subcommittee).

<Comments by Informants and Others>

- The Constitution does not permit foreign nationals the freedom of reentry into the country or the right to become a civil servant. Although economic freedom, including work, cannot be broadly guaranteed, freedom of expression and freedom of religion can be largely recognized. (ANNEN Junji, Informant/154/14.Mar.2002/Human Rights Subcommittee)

(6) Human rights not provided for in the Constitution (new human rights)

A. Pros and cons of stipulating new rights in the Constitution

- a. Comments advocating stipulation of “new human rights”

<Comments by Members>

- We now have concepts such as the right to privacy, environmental rights, and so forth that were inconceivable fifty years ago. (TAKAICHI Sanae, Member/LDP/147/11.May.2000)
- With regard to the issues surrounding protection of personal information and the Basic Resident Register Network, we should take a look at the Dutch and Finnish constitutions; for issues of bioethics such as genetic engineering and organ transplants, we should consult the Swiss constitution. In this way, we should discuss our own Constitution with reference to these constitutional provisions of other countries. (NAKAYAMA Taro, Commission Chairman, Member/LDP/154/25.July.2002)
- The Constitution is an expression of the most fundamental, intensely sought-after values of the people, so I think it is only natural that we should reconsider the Constitution from the perspective of new values such as environmental rights, the people's right to know, and protection of personal privacy. (IGARASHI Fumihiko, Member/DPJ/150/28.Sept.2000)
- The right to seek public disclosure of information and the right to privacy should be clearly stipulated in the new constitution. (MAKINO Seishu, Member/DPJ/150/7.Dec.2000)
- We should create explicit provisions in the Constitution regarding information disclosure and environmental rights. (TAKEYAMA Yuriko, Member/LP/154/14.Feb.2002.2.14/Human Rights Subcommittee)

<Comments by Informants and Others>

- There is the opinion that the Constitution has become outdated, and should be replaced with a new one more in touch with the times, but if you take, for example, one of the “new human rights” such as environmental rights, I think that this area can be handled by laws. However, to give another example, the power of the mass media has become so terribly strong that I have doubts as to whether the provisions of the present Constitution can really protect the right to privacy. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
 - With regard to “new rights,” I think that after giving serious consideration to the content of “rights pertaining to information” and “environmental rights,” and after clearly differentiating the connotation and denotation of such provisions, it would be fine to write them into the Constitution. (ITO Tetsuo, Informant/154/23.May.2001/Human Rights Subcommittee)
 - Protections for privacy and new provisions regarding environmental rights have been included in almost all recent constitutions of other countries. If, like many other countries, we were to make detailed ongoing revisions to our Constitution, I think the people would come to recognize that the Constitution is directly and quite deeply related to our daily lives. (TEJIMA Norio, Speaker/151/16.Apr.2001/Sendai Hearing)
 - I think it would be desirable to have the right to privacy and the people’s right to know clearly stipulated in the Constitution. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)
- b. Comments arguing against the need for stipulating new human rights, on the grounds that such rights are already guaranteed under the Constitution even if they are not explicitly stipulated in it

<Comments by Members>

- With regard to environmental rights, if the members of the Diet, who have the primary right to interpret the Constitution, recognize them as new human rights based on Article 13, and enact a basic law to that effect, environmental rights can be construed as human rights. (NAKAMURA Tetsuji, Member/DPJ/153/6.Dec.2001)
- Even though the right to privacy and the right to know have been interpreted by legal scholars as derivable from Articles 21 and 13, we should consider whether or not there is any further need to specify them in the Constitution, and if we did, what merits this might possibly have. (YAMAHANA Ikuo, Member/DPJ/149/3.Aug.2000)
- Those pushing hardest for the revision of the Constitution are, if anything, the most tolerant of the destruction of the environment by the big corporations and the U.S. military, and advocates of restrictions on human rights such as telephone

wiretapping by the police. The concept of human rights these people talk about is a complete sham. (SASAKI Rikukai, Member/JCP/147/27.Apr.2000)

- Although there are no explicit provisions in the Constitution for such rights as the right to privacy, the right to know, and environmental rights, citizen's movements have developed them as rights implicit under Articles 13 and 25, and have done much to flesh out their content. There is no such thing as "new human rights" that require being explicitly spelled out in the Constitution in order to be defended, and people who do not understand this fact are making a lot of noise about "new human rights" as a pretext for constitutional revision. What is needed at present is a "constitutional politics" that genuinely works to guarantee the new human rights born out of the progressive efforts of the citizens' movement, without which all we have is sterile debate, no matter how much we play with the wording of articles or study the constitutions of other countries. (HARUNA Naoaki, Member/JCP/147/11.May.2000, 151/8.Mar.2001, 154/14.Feb.2002/Human Rights Subcommittee, 154/11.Apr.2002/Human Rights Subcommittee, 154/25.July.2002)
- New human rights such as the right to privacy and environmental rights are backed up by constitutional prescriptions such as the "right to the pursuit of happiness" in Article 13. What we need to investigate is why this intent has not been adequately put into practice. (YAMAGUCHI Tomio, Member/JCP/149/3.Aug.2000, 150/9.Nov.2000, 151/14.June.2001)
- The human rights taken up in the Constitution are merely the minimum that should be guaranteed, and "new human rights" such as environmental rights and the right to know may be almost indefinitely extended by the enactment of laws within the framework of the existing Constitution. (KANEKO Tetsuo, Member/SDP/154/14.Feb.2002/Human Rights Subcommittee)
- Environmental rights and the right to know should first be implemented as legislation before we start debating the Constitution, and it is strange that the very people who have opposed the explicit stipulation of these rights at the legislative stage should be the ones who are now insisting that they must be written into the Constitution. (TSUJIMOTO Kiyomi, Member/SDP/147/20.Apr.2000)
- The argument is being made that the new human rights are not stipulated in the Constitution, but isn't this basically because the bureaucracy and the LDP regime have been unenthusiastic about them. Has the Constitution ever done anything to hobble the new human rights? (FUKADA Hajime, Member/SDP/147/11.May.2000)

<Comments by Informants and Others>

- The opinion has been stated that there is no language in the Constitution dealing with such new 21st-century developments as environmental issues and the problems of the information society, but with regard to environmental rights I don't see why shouldn't we first read Article 25 as grounds for working towards the

enactment of a Basic Law on the Environment. (SHINDO Eiichi, Informant/147/6.Apr.2000)

- The right to know, information disclosure, and environmental rights are rights that have recently received attention, which is certainly desirable from the standpoint of further upholding human rights, but if we get carried away with a kind of one-sided fundamentalism and write them into the Constitution, subtle conflicts will arise with other constitutional principles, so I think there is room for working this out, not in the Constitution, but at the legislative level. (IOKIBE Makoto, Informant/147/20.Apr.2000)
- Respect for privacy, the environment, and the individual are all important, but we do not necessarily have to put everything the people think is important into written form. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- In this Research Commission on the Constitution, there have been many arguments in favor of inserting so-called “new human rights” into the Constitution. I think this is a bit strange, considering that the Commission members and political parties that are making these arguments have given so little thought to whether they have made any effort at all to make environmental rights a reality. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- There is a movement afoot that aims at resolving the problem of environmental degradation and other issues by revising the Constitution to include provisions for “new human rights” such as environmental rights. But the systemic consistency and thoroughness of the Constitution already provide the necessary framework and guidance for a rational approach to these issues. (ODANAKA Toshiki, Speaker/151/16.Apr.2001/Sendai Hearing)
- There are those of the opinion that the fact that environmental rights, etc. are not stipulated in the Constitution is a reason for revising it, but whatever problems exist, I believe can be quite adequately addressed by beefing up the Basic Law on the Environment and other relevant legislation. (NAKATA Narishige, Speaker/151/4.June.2001/Kobe Hearing)
- The issue of environmental security is a significant one, but I would like to ask the members of the Diet to work to create a global system of environmental security without revising the Constitution. (TAGUCHI Fukuji, Speaker/153/26.Nov. 2001/Nagoya Hearing)
- With regard to the so-called “new human rights,” they have been gradually established over the course of the half century since the war, and confirmed in judicial precedent, so there is no need to make a special effort to write them into the Constitution. (YAMAUCHI Tokushin, Speaker/154/22.Apr.2002/Okinawa Hearing)

- It is not correct to assert that the present Constitution is outdated as a constitution for the 21st century because it does not provide for environmental rights or access to information. These rights already have sufficient status in the existing Constitution; for example, environmental rights come under the rights based on Articles 13 and 25, and access to information is a right based on the “right to know” and associated rights that derive from the freedom of expression guaranteed by Article 21. (MASUGI Eiichi, Speaker/154/24.June.2002/Sapporo Hearing)
- c. Comments arguing against treating “new human rights” as constitutional rights, because they are not in fact fundamental human rights

<Comments by Informants and Others>

- Matters that can be handled based on private law, the enactment of necessary private laws, or the stipulation of the duties of the state scarcely need to be made into fundamental human rights. To do so with ease will invite “human rights inflation” and deeper penetration of the state into civil society. (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee)
- As we can see in the way that the Information Disclosure Act treats the right to know as an issue of government accountability, the right to know can be addressed quite adequately as an issue, not of rights, but of responsibilities. (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee)
- Privacy, in the sense of protection from disclosure of confidential information to others without consent, can be dealt with quite adequately as a right under private law. Moreover, the right of access to personal information as an aspect of the right of control over information concerning oneself can be considered as having been newly established through the enactment of relevant laws and ordinances. (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee)
- Environmental rights are not clear either in terms of their denotation or connotation, and thus cannot be established as rights. (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee)
- If a “new human right” were to be guaranteed under the Constitution, the following conditions would be necessary: (a) it should have a high degree of precedence; (b) its denotations and connotations should be clear; (c) it should not improperly restrict the constitutional freedoms of other parties; (d) the other parties should be identifiable; (e) the scope of the other parties’ obligations should be clear. (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee)

B. Types of “new human rights”

a. Comments on the right to privacy

<Comments by Members>

- If the government were to take information it has amassed on individuals regarding things such as their health and savings and sell it to private corporations, even if this is for some legitimate purpose such as analyzing population characteristics, this would constitute a violation of human rights. (NAKAGAWA Masaharu, Member/DPJ/151/22.Feb.2001)
- In our information-based society, economic and social activities all revolve around information. In this context, the rights and duties involving information—such as the right to control of personal information and the right to privacy—should be firmly established. (TASSO Takuya, Member/LDP/147/27.Apr.2000)
- Magazines and newspapers have no clear regulatory agency, and in the debate over a basic law for protection of personal information they are already seeking exclusion of news reporting from its purview. Given this situation, guarantees of the rights and privacy of reportorial subjects are being left to the press, and it seems unlikely that personal information will in fact be protected. (MATSUNAMI Kenshiro, Member/NCP/150/12.Oct. 2000)

<Comments by Informants and Others>

- In the fields of medicine and genomics, diagnosis and data collection on individuals are important, but if we don't watch our step, there is a danger of violating the right to privacy. (HAYASHIZAKI Yoshihide, Informant/151/22.Feb.2001)
- With advances in information technology, I think it is important to protect the right to privacy. We need to establish rules defining the boundaries of privacy that should be defended. (SON Masayoshi, Informant/151/8.Mar.2001)
- Privacy can be seen as the forming the foundation for freedom of expression and the free participation of citizens in the political arena. It follows that the point of view which considers privacy to be antagonistic to freedom of expression is mistaken, and that certain limitations should be placed on freedom of expression in order to guarantee privacy. Moreover, I think laws to protect personal information are necessary in our Internet society. (MUNESUE Toshiyuki, Informant/154/14.Feb.2002/ Human Rights Subcommittee)
- If the opportunity to revise the Constitution arises, we should stipulate the right of privacy in it, and at that time we should spell out the logical sequence that privacy is directly linked to respect for the individual, and that only on the basis of such

respect can freedom of expression and the other rights be upheld. (MUNESUE Toshiyuki, Informant/154/14.Feb.2002/ Human Rights Subcommittee)

- b. Comments on the “right to know,” the right to seek public disclosure of information, the right to Internet access, etc.

<Comments by Members>

- We need to consider how to balance the right to know and the national interest. (TAKAICHI Sanae, Member/LDP/147/27.Apr.2000)
- We need to make the right to know an explicit part of the Constitution. However, it is also necessary to give full consideration to its relationship to the maintenance of confidential information. (SHIMA Satoshi, Member/DPJ/150/21.Dec.2000)
- While it is true that the Constitution is not set up to deal with the development of information and telecommunications technology, I don't think it would be particularly effective to explicitly stipulate in the Constitution such things as the right to Internet access or protections for privacy; rather, I think we need to make sure the necessary laws are in place, with due consideration given to our relations with other countries. (HOSONO Goshi, Member/DPJ/151/8.Mar.2001)
- With regard to the issues of the right of access to information and information disclosure, we should make provisions in the new constitution concerning freedom of information about and participation in local self-government. (TASSO, Takuya, Member/LP/147/27.Apr.2000)
- With the highly developed state of the information disclosure system and the mass media at this time, we need to thoroughly investigate the people's right to know and the right to privacy and make explicit constitutional provisions regarding them. (FUJISHIMA Masayuki, Member/LP/151/14.June.2001)
- I think we really must incorporate information disclosure into the Constitution. I think information disclosure would help us make a great deal of progress with regard to many aspects of our political and administrative problems (KOIKE Yuriko, Member/NCP/151/16.Apr.2001/Sendai Hearing)

<Comments by Informants and Others>

- Since information is the greatest force in eliciting the public's capacity to think, I would like to see language written into the Constitution that really stresses access to information. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)
- The right to know is a fundamental right of democratic society. However, if we are going to stipulate the right to know in the Constitution, the right not to know must also be reserved. (MURAKAMI Yoichiro, Informant/150/21.Dec.2000)

- In today's information/Internet age, an enormous gap has opened up between people who can connect to the Internet and those who cannot in terms of their abilities to gather, analyze, and disseminate information. Because of this, in addition to the right to education, the right to Internet access should also be recognized. With regard to other aspects of information, I think we should also create provisions concerning the right to protection of privacy, and Internet security. (SON Masayoshi, Informant/151/8.Mar.2001)
 - In the Information Disclosure Act, the practice of unconditionally blotting out all references to the names of individuals is wrong. (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee)
- c. Comments on the environment (environmental rights, duty of protecting the environment, etc.)

<Comments by Members>

- We should aim to be a “nation based on the creativity of science and technology,” and an advanced environmental nation, and environmental rights should be given a significant place in the new constitution. (ITO Kosuke, Member/LDP/153/6.Dec.2001)
- With reference to the environment, I think environmental preservation and the right to live in a wholesome environment should be made an explicit part of the new constitution, along with the prevention and elimination of environmental degradation. (SUGA Yoshihide, Member/LDP/153/6.Dec.2001)
- Matters concerning the environment should be counted among the items in the Constitution that should be examined and revised. (NAKASONE Yasuhiro, Member/LDP/153/6.Dec.2001)
- Environmental problems are not just domestic but global in scale. If we want to be respected as a peaceful, democratic nation, we should establish explicit environmental provisions in the Constitution and proclaim to the world that our country is taking up the issue of the environment as a major challenge. (HANASHI Nobuyuki, Member/LDP/154/14.Feb.2002/Human Rights Subcommittee)
- Even if the world remains at peace, even in the midst of economic development, the human race could still perish. If Japan is to take on the role of a world leader, it should be as a leader on issues of coexistence with nature and the environment, and could we not think of revising the Constitution in this fashion? (HATOYAMA Kunio, Member/LDP/153/26.Nov.2001/Nagoya Hearing)
- In order for our country to be a leader in world politics regarding the environment, we should state explicitly in the Constitution the principle of a nation founded on environmental concerns. (MITSUZUKA Hiroshi, Member/LDP/147/27.Apr.2000)

- From now on the question of how the human race is going to coexist with the environment while continuing to use our science and technology is going to be a serious one, and realizing this, we must give consideration to environmental rights. (MOTEGI Toshimitsu, Member/LDP/154/14.Feb.2002/Human Rights Subcommittee)
- Leaving aside the question of whether or not environmental rights should be written into law, the text of the Constitution has ceased to fit the present state of affairs. (YOKOUCHI Shomei, Member/LDP/147/6.Apr.2000)
- Reflecting on the runaway development and wasted resources of the era of high economic growth, we need to write the concept of a recycling-oriented society vis-a-vis the environment and natural resources into the Constitution, in addition to establishing a basic law on the environment. (ISHII Hajime, Member/DPJ/147/11.May.2000)
- A Japanese constitution for the 21st century should contain a wealth of new human rights, such as environmental rights, and should also incorporate the spirit of animal welfare. It should aim at a society in which all forms of discrimination have been eliminated, the individual is respected, and we live in harmony with the nature and animals. We must become a nation concerned about the global environment, and the environment of space. (OIDE Akira, Member/DPJ/153/6.Dec.2001)
- I think environmental rights means the maintenance of a good environment for all living things, including human beings, and that the national identity Japan presents to the world should be founded upon environmental rights and duties. I think we should create a new constitution as one of the major means to communicating Japan's commitment to protecting the environment, just as Article 9 communicates our commitment to peace. (SHIMA Satoshi, Member/DPJ/150/21.Dec.2000, 153/6.Dec.2001/Nagoya Hearing)
- In the context of the environmental destruction that has taken place, the government must adopt positive measures to deal with it. In this regard, the constitution of Germany contains sound provisions for the maintenance of a natural living environment. (HOSONO Goshi, Member/DPJ/150/28.Sept.2000)
- With regard to environmental rights, I think that the spirit of environmentalism should be expressed throughout the text of the Constitution. (MAKINO Seishu, Member/DPJ/150/7.Dec.2000)
- In thinking about environmental issues, there is an enormous difference between an anthropocentric perspective and one that sees human beings as a form of life that is part of the biosphere as a whole. From now on we must posit, not a human-centered environmental nation, but a nation founded on the principle of ecological humanism. Environmental rights are not something that can be grasped in terms of respect for the individual or the concept of human rights, and trying to read them into Articles

13 and 25 of the Constitution is probably futile. If it proves to be difficult to recognize environmental rights as a human right, then we need to explicitly mention the importance of the environment in the Preamble. (OTA Akihiro, Member/NK-RN/147/11.Dec.2000, 150/9.Nov.2000, 154/11.Apr.2002/Human Rights Subcommittee)

- In essence, environmental issues can be addressed by collective decision-making based on accurate information concerning the environment aimed at balancing it with consumption. Therefore, environmental rights can fundamentally be reduced to a question of rights and responsibilities with regard to information. (TASSO Takuya, Member/LP/147/27.Apr.2000)
- In addition to environmental rights as the rights of all citizens to live in a healthy environment, we should also establish a provision that mandates the duty of all citizens to exert themselves fully in protecting the global environment that is the foundation for the continued existence of the human race. (FUJISHIMA Masayuki, Member/LP/151/14.June.2001)

<Comments by Informants and Others>

- The basis for environmental rights is contained in Article 13, which speaks of the “right to life, liberty, and the pursuit of happiness”; Article 25, which addresses “the right to maintain the minimum standards of wholesome and cultured living”; the Preamble, which establishes the right of the people to live in peace; and Article 9, which orders the state itself to guarantee peace. Taken as a whole, I think this makes it possible to assert environmental rights on the basis of the present Constitution. If we were to try to create a better constitution that more completely embodies the principles of the present one, I think one natural direction to take would be to embark on a constitution that is broadly established on issues of ecology and eco-systems. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- The Constitution of Japan places its emphasis on the life of human beings, and is a bit thin in its concern for coexistence with other living beings. Moreover, since we are not going to be able to avoid the energy crisis that will come about the middle of the 21st century, we should consider drafting a Global Environmental Charter. (SHIMURA Kensuke, Speaker/151/16.Apr.2001/Sendai Hearing)
- If we reach some sort of consensus about environmental rights in the future, I think it would be fine to include them in the Constitution, but I think before that we must initiate a public debate that will bring the people to a better understanding of what is at issue. (HAMADA Takehito, Speaker/151/16.Apr.2001/Sendai Hearing)
- The 21st century is the century of the environment, and with environment as the key word, and we should address in the Constitution the response to problems in the natural environment that are occurring on a global scale. (TSUKAMOTO Hideki, Speaker/151/4.June.2001/Kobe Hearing)

- I am bothered by the fact that discussion of the environment is constantly shadowed by the debate on constitutional revision. The present Constitution is a quite adequate basis for improving the environment, and before we do anything else we should reflect on the fact that we aren't paying enough attention to the environment right now. (NISHI Hideko, Speaker/153/26.Nov.2001/Nagoya Hearing)
- I think the idea of duties towards the environment, of taking care of the environment, is something that the Japanese people have possessed as part of their tradition long before it became a part of European culture. (NOHARA Kiyoshi, Speaker/153/26.Nov.2001/Nagoya Hearing)
- Environmental rights have been recognized de facto by judicial precedent, and have become rooted in the society, so there is no need to specify them in the Constitution. (INAFUKU Erika, Speaker/154/22.Apr.2002/Okinawa Hearing)

3. Discussion of Specific Human Rights

(1) The pursuit of happiness

a. Comments on the dignity of the individual

<Comments by Members>

- The Constitution is constructed around the principle of defending the dignity of the individual, and it was this aspect that has been supported by the majority of the people. I believe that the three basic principles of the Constitution and its specific provisions are all there from the point of view of supporting and defending the dignity of the individual. (HIRATA Yoneo, Member/NK-RN/147/17.Feb.2000)

<Comments by Informants and Others>

- The meaning of respect for the individual as contained in Article 13 is predicated on individuals being able to live self-sufficiently. Because of this, in situations where the basis of people's livelihoods has been completely uprooted – such as in the case of the Great Hanshin-Awaji Earthquake – the respect for the individual demanded by Article 13 is impossible to uphold without providing at least the amount of public assistance necessary to help people get back on their feet. (URABE Noriho, Speaker/151/4.June.2001/Kobe Hearing)
- The dignity of the individual expressed in Article 13 is an extremely important concept, but if anything I think it goes too far in reducing everything to the individual, so that we fail to see what's going on around us, and in fact, the dignity of the individual is not being protected. For the individual to be truly autonomous, his or her relationship with others is crucial. (KOIDO Yasuo, Speaker/153/26. Nov.2001/Nagoya Hearing)
- Today there is a tendency to equate the dignity of the individual with self-centeredness, but the essential meaning of the dignity of the individual rejects both selfishness and totalitarianism, recognizes each and every citizen as an independent person, and embodies the principle of popular sovereignty. (KAKINOHANA Hojun, Speaker/154/22.Apr.2002/Okinawa Hearing)

b. Comments regarding bioethics

<Comments by Members>

- We must examine the following: (1) the relationship between the development of science and technology and the security of humankind, (2) the relationship between academic freedom and the dignity of the individual and the sanctity of life, and (3) the relationship between changes in society's ethics and regulations imposed by the

state with the advancement of the life sciences. (NAKAYAMA Taro, Commission Chairman, Member/LDP/150/21.Dec.2000)

- Human genomic research runs the risk of inviting violations of fundamental human rights. Moreover, the genetic and other data of individuals should be protected by the Constitution and the laws of the nation, and the handling of such data should be restricted. (MITSUBAYASHI Takashi, Member/LDP/151/22.Feb.2001)
- Research in reproductive medicine and genetic technology, depending on its content, carries with it the potential for abuse of rights, and we need to think about what guarantees of rights can be made against such an eventuality. (SHIMA Satoshi, Member/DPJ/150/21.Dec.2000)
- Many new realities have arisen—genetic engineering, organ transplants, genetically manipulated foods, etc.—that were not even imaginable at the time the Constitution was created, and they all have a bearing on fundamental human rights. (SUTO Nobuhiko, Member/DPJ/154/25.July.2002)
- Biotechnology such as developmental biology and genetic research are pregnant with ethical issues regarding the dignity of life, and present us with a situation in which we cannot simply look at this as an issue of academic freedom. (SAITO Tetsuo, Member/NK/154/25.July.2002)
- The perspective of the dignity of the person is valuable in thinking about issues from personal decisions such as whether or not to give birth to a child with disabilities, to broader issues such as placing limitations on human genomic research. The provisions of Articles 11 and 13 of the Constitution are going to be very important guidelines for the development of the life sciences in the 21st century. (HARUNA Naoaki, Member/JCP/151/22.Feb.2003)

<Comments by Informants and Others>

- The form in which the Constitution provides for the dignity of the person and the sanctity of life is of crucial importance. With regard to reproductive medicine and genetic technology, boundaries have to be established between the legitimate exercise of rights and their abuse, and as ultimate principles, the dignity of the person and the sanctity of life must be articulated somewhere. (MURAKAMI Yoichiro, Informant/150/21.Dec.2000)
- Research on the human genome should be subject to certain limitations in order to protect the dignity of the individual, but on the other hand, if we place too much emphasis on the dignity of the individual and hamper research by hemming it in with too many regulations, we will run counter to the welfare of the human race as a whole. (HAYASHIZAKI Yoshihide, Informant/151/22.Feb.2001)

- The European Union Charter on Fundamental Rights should be instructive for Japan, for it has established provisions that clearly reflect recent changes in our society, from human cloning to environmental protection. (NAMAKURA Tamio, Informant/154/11.July.2002/International Society Subcommittee)

c. Other comments

<Comments by Members>

- The issue of peace is debated almost exclusively with reference to Article 9, but is it not possible to discuss defense issues from the perspective of the state having a duty to defend the people's rights to life and liberty spoken of in Article 13? (NAKANO Kansei, Member/DPJ/147/27.Apr.2000)
- Unfortunately one cannot yet say that reproductive health rights—the right of a woman to determine whether or not she will bear a child—are recognized in Japan. (HARA Yoko, Member/SDP/151/22.Feb.2001)

<Comments by Informants and Others>

- Regarding the interpretation of right to the pursuit of happiness, the “theory of a general guarantee of personal interests,” looks at human beings in terms of personhood and as ethical beings. But since human beings are ignorant and irrational creatures, the more convincing position is the “theory of general freedom of action,” which recognizes as a right anything that is important to a given individual, insofar as it does not cause harm to others. (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee)

(2) Equality under the law

a. Comments addressing the meaning of equality

<Comments by Members>

- The equality guaranteed to the people by the state should be equality of opportunity, not equality of results. (TAKAICHI Sanae, Member/LDP/150/30.Nov.2000)
- In contemporary Japanese society there is an argument over whether it is true that so long as there is equality of opportunity, equality of results do not matter. But doesn't the government have a legitimate role in this regard? (YOKOMICHI Takahiro, Member/DPJ/147/6.Apr.2000)
- In Japan, equality has been misinterpreted as “equality of results.” (TAKEYAMA Yuriko, Member/LP/154/11.Apr.2002/Human Rights Subcommittee)

<Comments by Informants and Others>

- That equality cannot be equality of results is perfectly clear; equality means giving everyone the same opportunities. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)
- Freedom and equality are an issue of the starting line, and the gap that opens via competition after that is significant, because it serves as personal incentive. It is wrong to deny this with specious arguments, calling it Social Darwinism. (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee)

b. Comments on general policy issues involving equality

<Comments by Members>

- To eliminate discrimination, laws forbidding discrimination are needed, and to achieve that goal the movement to end discrimination must raise the consciousness and win the approval of society. (HOSOKAWA Ritsuo, Member/DPJ/153/29.Nov.2001)
- We are called upon to build a society that embodies the human rights provisions clearly stated in the Constitution, among them being: the equality under the law of Article 14, the equality of the sexes of Article 24, the right and obligation to work of Article 27, and the right to the pursuit of happiness of Article 13. (HARUNA Naoaki, Member/JCP/151/17.May.2001)
- General human rights legislation has been enacted with the goal of eliminating discrimination, such as the Law Concerning the Promotion of Measures for Human Rights Protection, but because discrimination and human rights violations have various specific sources, I think human rights legislation on specific issues must supplement such general laws. (UEDA Munenori, Member/SDP/153/29.Nov.2001)
- The advances actually taking place within our society in terms of equal participation in society by men and women, and equality of the sexes in the areas of marriage, divorce, and the family should be spelled out in the Constitution; if we do not do so, the Constitution will become increasingly divorced from social reality. (KONDO Motohiko, Member/Club 21/150/9.Nov.2000)

<Comments by Informants and Others>

- There are various different forms of discrimination, and legislation to deal with them individually is needed, but to achieve that we need (1) a cooperative citizens' movement of minorities and the majority population, (2) cooperation between labor unions and NGOs, and (3) local movements based on the units of local government. In addition, a basic law concerning discrimination needs to be enacted. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)

c. Comments on the equality of the sexes

<Comments by Members>

- In Article 26 there is a passage reading “All people shall be obligated to have all boys and girls under their protection receive ordinary educations as provided by law.” Some have questioned why this phrase “boys and girls” is used here, and if it is not discriminatory. (Note: The Japanese term *shijo*, translated as “boys and girls” in the English-language Constitution, carries the connotation of “girls only.”) (NAKAMURA Eiichi, Member/LP/147/9.Mar.2000)
- The achievement of a society in which men and women are equals is linked to efforts to arrest the declining birthrate. (HARA Yoko, Member/SDP/151/22.Feb.2001)

<Comments by Informants and Others>

- Women’s participation in society is restricted by such factors as discriminatory employment practices and the belief that housework is women’s work, which is still strong among men and mothers-in-law. In addition, although the Domestic Violence Law has been enacted, its contents are still inadequate. If women are to be guaranteed the rights that are due to them, there is a further need to improve legislation and change attitudes. (SATO Satomi, Speaker/154/24.June.2002/Sapporo Hearing)

d. Comments on age discrimination

<Comments by Members>

- The Constitution does not have a provision forbidding age discrimination, but the principle of equality articulated in Article 14 carries the implication of forbidding all forms of discrimination, so obviously age discrimination should not be permitted, either. (SHIOKAWA Tetsuya, Member/JCP/151/8.Feb.2001)

<Comments by Informants and Others>

- Article 14 should contain provisions forbidding age discrimination and discrimination on the basis of mental or physical disability. (NISHIZAWA Junichi, Informant/151/8.Feb.2001)

e. Other comments

<Comments by Members>

- As a result of the measures taken to end discrimination against *buraku* communities, the economic gap in our country has been diminished, and *buraku* discrimination stemming from the gap between rich and poor has almost been eliminated. The issue from here on is how to eliminate the discrimination in

marriage and employment that still remains. (MORIOKA Masahiro, Member/LDP/153/29.Nov.2001)

- Not included in the provisions regarding equality in Article 14 are: (1) the prohibition of discrimination on the basis of family status contained in the United Nations Convention on the Rights of the Child, and (2) the right of people with disabilities to full participation as citizens and prohibition of discrimination against them. I think we need to consider whether or not the human rights provisions of the Constitution are adequate in light of present-day international consciousness of human rights. (ISHIGE Eiko, Member/DPJ/147/11.May.2000)
- In Japan we have a number of concrete problems related to discrimination and infringement of human rights, from discrimination against women's participation in society and ethnic discrimination against foreigners living in Japan to discrimination against the Ainu and *burakumin*. (UEDA Munenori, Member/SDP/154/23.May.2002/ Human Rights Subcommittee)
- In debating the Constitution, from the standpoint of equality we must include in the scope of our discussions the emperor system while keeping in view the question of its abolishment or maintenance. (UEDA Munenori, Member/SDP/153/29.Nov.2001, 154/23.May.2002/Human Rights Subcommittee)
- The fact that the Law to Support the Survivors of the Atomic Bomb has not been applied to overseas Japanese victims of the atomic bomb seems to be in violation of Article 14's provisions for equality under the law. (KANEKO Tetsuo/SDP/151/14.June.2001)
- With regard to the problem of discrimination, there is also the issue of so-called "reverse discrimination," in which people manipulate their status as victims of discrimination to gain preferential treatment from the government. We should take this issue into consideration as well. (UDAGAWA Yoshio, Member/Club21/153/29.Nov.2001)

<Comments by Informants and Others>

- In the Meiji period, a homogenous population was created by locating the vast majority of the Japanese people in the middle ground between the lowest stratum of society, the *burakumin*, and the very highest, the emperor. We need to discuss the emperor system, including the question of whether it should be maintained. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)
- Anti-discrimination measures have been greatly improved, through the operation of the spirit of harmony and human security. I think the elimination of discrimination will require a spirit of establishing genuine harmony among all the Japanese people. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)

- If we give preferential treatment to victims of discrimination in order to eliminate discrimination, there will certainly be people who will abuse that system, but this is an inevitable aspect of trying to end discrimination. It is a question of which option we will choose. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)
- I am afraid that if Japan adopts affirmative action (Note: active measures giving preferential treatment to victims of discrimination in order to end discrimination) it will only further entrench discrimination. (MUNESUE Toshiyuki, Informant/154/14.Feb.2002/Human Rights Subcommittee)
- Within the constitutional system, it is essential that all citizens have the right to participate in politics, and at the same time, that all citizens are treated equally. From this perspective, irrational discrimination cannot be tolerated, and discrimination in matters of inheritance against children born out of wedlock violates Article 14 of the Constitution. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)

(3) Freedom of the spirit

a. Comments on the freedom of religion

<Comments by Members>

- As a result of the shift from the prewar system of State Shinto to the postwar secularization of society, we are in reality faced with the problem that we have no social philosophy. I think there is a need for a comprehensive discussion of issues such as education, freedom of religion, and the separation of religion and state. (OTA Akihiro, Member/NK/151/14.June.2001)
- Looking back over the history of politics and religion, I think that the depoliticization of religion is an important issue for the future of our country. (TSUZUKI Yuzuru, Member/LP/153/25.Oct.2001)
- The freedom of religion and separation of religion and state in Article 20 are based on historical reflection on the process by which we moved towards war under the prewar Meiji Constitution. (KANEKO Tetsuo, Member/SDP/151/22.Mar.2001)

<Comments by Informants and Others>

- Freedom of religion is taken as an absolute by an extremely large number of constitutional scholars, and unless there is a grave and present danger, placing limitations on it would be difficult. (TAKAHASHI Masatoshi, Informant/147/23.Mar.2000)

- It is a mistake to think that we went to war as a result of State Shinto; rather, when a war broke out as a result of the international situation at the time and a system of general mobilization was adopted, Shinto was mobilized as well. (SAKAMOTO Takao, Informant/151/22.Mar.2001)
- We should recognize, as Supreme Court decisions have, that separation of religion and state does not constitute an absolute separation, and we need to stipulate in clearly understandable provisions the standards for proving motivation and consequences. (Note: Methods for determining whether an action violates the separation of religion and state by reference to the criteria of whether the motive for the act has religious significance and if its consequences are either supportive or suppressive of religion) There are only a few foreign countries that have provisions for the “separation of religion and state.” (ITO Tetsuo, Informant/154/23.May.2002/Human Rights Subcommittee)
- In the prewar period, Yasukuni Shrine was one of the spiritual pillars of militarism, but in the postwar era, this collusion between politics and Shinto has been eliminated, and the principle of the separation of religion and state is ordained by the Constitution. In this sense, official visits by government leaders to Yasukuni Shrine are unconstitutional. (NAKAKITA Ryutaro, Speaker/151/4.June.2001/Kobe Hearing)

b. Freedom of expression

<Comments by Members>

- If you think that duties must accompany rights, that along with freedoms come responsibilities, and the people bear the responsibility for defending the honor of the nation, then debating the ways in which freedom of speech must be balanced with the individual's right to privacy and the right to a good name. (TAKAICHI Sanae, Member/LDP/147/27.Apr.2000)
- With regard to the adoption of textbooks, a situation arose in which members of a Board of Education and others were the focus of a barrage of anonymous protests. This is an abuse of freedom of speech and an infringement of their human rights. (HANASHI Nobuyuki, Member/LDP/154/23.May.2002/ Human Rights Subcommittee)
- In commercials and such on the private television networks I often run into some pretty questionable use of the Japanese language. We need to get the folks at public broadcasting networks to pay more attention to this. (HORI Kosuke, Member/LDP/150/12.Oct.200)
- In the context of fundamental human rights there are problems such as how to handle such things as people who insist selfishly on their rights while paying no

attention whatsoever to the harm inflicted on other people by sexually-oriented advertising and the like. (HOZUMI Yoshiyuki, Member/LDP/147/23.Mar.2000)

- The freedom of expression spoken of in Article 21 is the fountainhead of democracy and an important right, but in today's world television and the Internet have become powers in their own right, and their graphic depictions of sex are too much to tolerate. Don't you think a time has come that demands the media and the people to exercise their conscience and sense of responsibility, and for us to rethink in concrete terms the meaning of the public welfare? (MORIYAMA Mayumi, Member/LDP/147/27.Apr.2000)
- (With reference to protests to members of a Board of Education over the textbook controversy) We must, along with freedom of expression and freedom of speech, recognize the freedom to protest. (HARUNA Naoaki, Member/JCP/154/23.May.2002/Human Rights Subcommittee)
- I have grave reservations about the Communications Interception Law (we call it the Eavesdropping Law), because it violates the confidentiality of communications. (HOSAKA Nobuto, Member/SDP/147/23.Mar.2000)

<Comments by Informants and Others>

- Despite the fact that freedom of expression is guaranteed in Article 21, the reality is that speech advocating constitutional revision is being subjected to pressure tactics. If this Constitution is really one hundred percent flawless, then such discussion must be free. (AOYAMA Takenori, Informant/147/24.Feb.2000)
- Uninhibited discussion of the Constitution is something that should be perfectly natural under the Constitution of Japan, which guarantees free speech and contains provisions for constitutional revision. (MURATA Koji, Informant/147/9.Mar.2000)
- The idea that the mass media have defended freedom of speech in postwar Japan is a complete lie; in fact, the media have been actively censoring speech by refusing to print what authors, on their own responsibility, have written (SONO Ayako, Informant/150/12.Oct.2000)
- With regard to the approval of textbooks, as long as the texts have met the certification standards, to reject them on matters relating to their content is an infringement of freedom of speech, and simply cannot be tolerated. And we should explain and communicate this fact to other countries. (ONUMA Yasuaki, Informant/153/25.Oct.2001)
- The perspective that sees the citizen's freedom to decide how they will participate in the politics of the nation as a spiritual freedom is one that is lacking in the interpretation and application of the postwar Japanese constitution. (MUNESUE Toshiyuki, Informant/154/14.Feb.2002/Human Rights Subcommittee)

- Since the press has the important role of providing the people with information regarding organizations that are not transparent, it is necessary to have a framework that respects the freedom of expression of the press to the fullest extent possible. I think Japan tilts too far in the direction of respecting privacy. (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee)
- I think the Communications Interception Law is constitutional, since the “interception” can take place only when certain requirements are fulfilled: that the matter involve a major crime, that the potential is high for relevant conversation to take place over the line in question, that the monitoring be based on a warrant, and so on. (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee)
- I think that the Constitution guarantees the freedom to engage in political activity as a union member, even if one is a civil servant. (KUSANO Tadayoshi, Informant/154/4.July.2002/Human Rights Subcommittee)
- The freedom to state that the Constitution of Japan is the source of all evils was first recognized by Japanese society only via the Constitution itself. The people who are criticizing the Constitution would have to acknowledge the fact that the Constitution has placed no taboos on the freedom of criticism. (KANO Fuminaga, Speaker/151/16.Apr.2001/Sendai Hearing)
- I believe that the three emergency response bills tighten restrictions on the media, and constitute a violation of freedom of reportage. (TANAKA Hiroshi, Speaker/154/24.June.2002/Sapporo Hearing)
- The proposed legislation for the protection of human rights provides recourse for those whose human rights are violated by the mass media. This poses a risk to the media’s freedom to report news, and, by extension, to the freedom of expression guaranteed by Article 21 of the Constitution. As the public has to rely on the media for information, it would also lead to violation of the public’s right to know. (SATO Satomi, Speaker/154/24.June.2002/Sapporo Hearing)

c. Comments on academic freedom

<Comments by Members>

- Article 23 of the Constitution guarantees academic freedom, but research on biotechnology, genetic science, and developmental biology are all intimately related to ethics and the dignity of life, and I don’t think the language of Article 21 alone is adequate to deal with these issues. We should debate this in the hope of reaching a national consensus, and should lay down some form of guidelines in the Constitution. (SAITO Tetsuo, Member/NK/153/6.Dec.2001, 154/25.July.2002)

- Despite the fact that academic freedom is guaranteed in Article 23, the current situation in our country does not reflect this. (SHIOKAWA Tetsuya, Member/JCP/151/8.Feb.2001)

(4) Economic freedoms

- a. Comments on the freedom of enterprise, property rights, etc.

<Comments by Informants and Others>

- The capitalist constitution was revised considerably after World War II, and the fundamental rights of workers and the right of the people to their livelihood were adopted. I do not think that the right to own or hold property in Article 29 is an absolute. If it were, the postwar land reforms would not have been constitutional. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- Japan must break free of the mind control exercised by Marxist notions such as the abolition of private ownership and inheritance, and the nationalization of the means of production and distribution. Especially, since the most fundamental human freedom is the right to private property, guarantees for this right should be written even more explicitly into the Constitution. Moreover, since there is presently no clause regarding checks on the encroachment by taxation on private property, these should be specified as well. (WATANABE Shoichi, Informant/150/7.Dec.2000)
- Just as there should be no privileged classes in society, there should be none among corporations. We should establish provisions in the Constitution prohibiting monopolies of any kind, even in such areas as electric power and telecommunications. (SON Masayoshi, Informant/151/8.Mar.2001)

- b. Other comments

<Comments by Members>

- Regarding economic rights, I think there is a need to articulate guarantees of a free and fair market. In support of this it is also important to put the tax structure and system of basic social security in order. (FUJISHIMA Masayuki, Member/LP/151/14.June.2001)

<Comments by Informants and Others>

- Since judicial decisions gave carte blanche to bureaucratic economic policymaking, the economic liberalism inherent in the Constitution of Japan was never given a chance to work. (MUNESUE Toshiyuki, Informant/154/14.Feb.2002/Human Rights Subcommittee)

- Postwar constitutional scholarship has seized and held fast to the concepts of social rights and the right to livelihood. Because of this, it has supported active intervention in the economy—but no one has done any serious investigation of whether this economic intervention has really been linked to protection of the disadvantaged. (MUNESUE Toshiyuki, Informant/154/14.Feb.2002/Human Rights Subcommittee)

(5) Matters pertaining to the family

A. The significance and the role of the family

<Comments by Members>

- There are many causes for concern with regard to the family, as can be seen in the trend towards the nuclear family and the collapse of the institution of family. (HANASHI Nobuyuki, Member/LDP/154/23.May.2002/ Human Rights Subcommittee)
- Article 24 is written from a perspective that sees individualism as the norm which the family should follow. The biggest flaw in the Constitution is items such as article 24 that completely fail to acknowledge such things as family and community. (HATOYAMA Kunio, Member/LDP/150/26.Oct.2000)
- The wife who looks after her elderly in-laws to the end should be given the same rights of inheritance as the biological children. Moreover, I am opposed to such notions as “beautiful family customs”: care for the elderly should not be supported by “beautiful family customs,” but converted into an external economy via nursing-care insurance and the like. (MATSUSHIMA Midori, Member/LDP/154/14.Feb.2002/Human Rights Subcommittee)
- If we are going to posit that the society and family lie between the state and the individual, we need to rethink the relationship of the individuals within the family. (MOTEGI Toshimitsu, Member/LDP/154/14.Feb.2002/Human Rights Subcommittee)
- In postwar Japan, consciousness of rights has run rampant and there has been an epidemic of individualism. The rights of the individual within the home have also been given priority, and consciousness of the need to protect the family and extended family has declined. We should establish provisions in the Constitution regarding the family and obliging the state to honor and protect it. (MORIOKA Masahiro, Member/LDP/153/6.Dec.2001)
- There is criticism that the Constitution leans too far in the direction of individualism, but individualism is not a synonym for selfishness, but a call for us to

respect one another as human beings, and there is no need to see Article 24 in a negative light. (YAMAHANA Ikuo, Member/DPJ/150/26.Oct.2000)

- The Constitution has profound and quite realistic content with regard to the issues of the family and education. (YAMAGUCHI Tomio, Member/JCP/150/26.Oct.2000)
- The argument that such issues as the declining birthrate and degeneration of our culture should be solved at the level of the family and local society not only fails to question the government's responsibility to promote effective measures to address the declining birthrate, but completely shifts the terms of the debate, foisting that responsibility onto the people. (UEDA Munenori, Member/SDP/150/26.Oct.2000)
- Provisions concerning respect for the family should be written into the Constitution. (INOUE Kiichi, Member/NCP/154/23.May.2002/Human Rights Subcommittee)

<Comments by Informants and Others>

- To counter the declining birthrate, we must foster a society in which family and community can educate and assist each other in an atmosphere of warmth. Moreover, we should create a social system in which healthy families capable of bearing and raising children receive more social welfare. (ICHIMURA Shin'ichi, Informant/150/26.Oct.2000)
- Whether it's Asia or Europe, I think people of every region respect the nature of the group as well as the rights of the individual. However, I think it is important that our country's Constitution provides for the protection, not of the individual, but of the family and other social groups. (SON Masayoshi, Informant/151/8.Mar.2001)
- The family is the basis of human society, and its ultimate refuge. We should make explicit provisions in the Constitution regarding respect for the family, and work to protect it. Moreover, as far as these provisions are concerned, we should consult the constitutions of other countries that contain similar provisions, as well as the language in the Universal Declaration of Human Rights and similar documents. (ITO Tetsuo, Informant/154/23.May.2002/Human Rights Subcommittee)
- The holding of rituals for family ancestors is a crucial and defining function of the family. Since the system of inheritance is founded on the recognition of properties held for these rituals, we should treat this system with great care, while at the same time eliminating its negative effects. (ITO Tetsuo, Informant/154/23.May.2002/Human Rights Subcommittee)

B. System for optional use of separate surnames by married couples

a. Comments affirmative to its introduction

<Comments by Members>

- We should recognize the system for use of separate surnames by married couples. (ITO Kosuke, Member/LDP/151/22.Feb.2001)
- There is a real demand for scholars to be able to continue to use their original surname in writing scholarly papers, and lawyers in signing legal documents, so even if it benefits only a small group of people, I would like to see the system of separate surnames introduced. Moreover, fears concerning collapse of the family can be avoided by the manner in which couples make their homes and raise their children. (TSUCHIYA Shinako, Member/LDP/ 154/11.Apr.2002/Human Rights Subcommittee)
- In the system for separate use of surnames, if children not having the right to choose their surname is a problem, all we need to do is give the children that right. Also, it is wrong to reject the use of separate surnames on the grounds that only a minority wants it; if it is necessary for that minority, we should accommodate that within our system. (KONNO Azuma, Member/DPJ/154/11.Apr.2002/Human Rights Subcommittee)
- The separate surname system is not a problem of the generation gap; it is a natural outgrowth of the maturation and development of democracy, and progress in that direction is demanded by our times. (HARUNA Naoaki, Member/JCP/154/ 11.Apr.2002/Human Rights Subcommittee)
- Ways of thinking about the family have changed a great deal, and since choice of surnames is included within the context of respect for the individual and essential equality, I think we should introduce the system for separate surnames. For third parties who have nothing to do with the situation oppose separate surnames on the grounds that this will lead to the collapse of the family is a way of thinking that restricts freedom of choice in our pluralistic society. To begin with, the collapse of the family is a problem of the individual. (HARA Yoko, Member/SDP/ 154/11.Apr.2002/Human Rights Subcommittee)

<Comments by Informants and Others>

- The more choices available, the more freedom, so whatever people want to do with their surname should be fine. Some are of the opinion that introducing a system of separate surnames is going to cause the collapse of the family, but the collapse of the family is something with quite real sources that come well before any controversy over surnames. The superficiality of the argument that separate

surnames will cause families to collapse is totally incredible. (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee)

- Given the present situation, in which women have to change their surnames upon marriage, there are numerous results of this change, starting with the hassle of having to redo all your business cards, so I think a system for optional use of separate surnames by married couples should be adopted. (SATO Satomi, Speaker/154/24.June.2002/Sapporo Hearing)

b. Comments negative to the introduction

<Comments by Members>

- For spouses to bear the same surname is a good tradition of Japan. Moreover, if we introduce a separate surname system, I am concerned that it may be a dangerous step down the road towards the collapse of the family and the kind of juvenile delinquency and out-of-control sexuality we see in northern Europe. (HANASHI Nobuyuki, Member/LDP/11.Apr.2002/Human Rights Subcommittee)
- A system for use of separate surnames will weaken family ties and make marriage and divorce too easy. (MORIOKA Masahiro, Member/LDP/153/6.Dec.2001)

c. Other comments

<Comments by Members>

- The biggest problem is that children would not have the right to decide their own surname, if we introduced the system for separate surnames by married couples. We should also consider giving children the right to choose their surname in the future. (NAKAYAMA Taro, Commission Chairman, Member/LDP/154/11.Apr.2002/Human Rights Subcommittee)
- Faced with today's realities, with only children marrying each other and family lines dying out, we should come to a clear decision on the principles to be followed regarding spouses surnames, and create an appropriate system. (TAKEYAMA Yuriko, Member/LP/154/11.Apr.2002/Human Rights Subcommittee)

(6) Right to livelihood

- a. Comments on the significance of the guarantee of the right to livelihood and issues in its application

<Comments by Members>

- Social security is not something set up solely between the nation and the individual; it is supported by mutual aid between people. The fact this is not touched on at all in the text of Article 25 is inappropriate in terms of making the provisions for the right to livelihood really effective. (TSUSHIMA Yuji, Member/LDP/151/14.June.2001)
- I think the desire for social rights should be posited as a universal human principle. (TSUZUKI Yuzuru, Member/LP/153/25.Oct.2001)
- The provisions of Article 25 stipulate ways for the state to guarantee the right to livelihood, and are epochal in constitutional history, and the question of how to implement this principle in terms of social security is a very important one. The recommendations of the Advisory Council on Social Security in 1995 speak of self-responsibility, but I think the thrust of Article 25 is to place the responsibility unconditionally upon the state. (HARUNA Naoaki, Member/JCP/151/17.May.2001)
- The interminable recession and rising unemployment rate are trampling upon the right to livelihood guaranteed by the Constitution. The Research Commission on the Constitution should make a thorough investigation of the actual state of the people's rights, starting with the right to livelihood. (HARUNA Naoaki, Member/JCP/151/14.June.2001)
- Article 25 stipulates the responsibility of the state to guarantee the right of the people to minimum standards of wholesome and cultured living, but today much of that responsibility is being borne by local government, so the provisions of this article are important for local governments as well. (HARUNA Naoaki, Member/JCP/154/11.July.2002/Local Autonomy Subcommittee)
- The right to livelihood in Article 25 stipulates that it is the responsibility of the state to use its endeavors for the promotion and extension of social security, so we should investigate the realities of the cuts and constraints in social security spending. (YAMAGUCHI Tomio, Member/JCP/151/14.June.2001)

<Comments by Informants and Others>

- The Weimar Constitution made social security a policy goal of the state, but did not go so far as to make it a right of the individual citizen. However, Article 25 of the Constitution of Japan in its first paragraph guarantees the right of the people to a basic livelihood, and in its second paragraph makes this a responsibility of the

state—making our constitution one of the most progressive in the world. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)

- With regard to the intent of Article 25, we need to think about how much the state should involve itself in the life of the individual. I think that the essential aim of a welfare state is to guarantee certain minimum standards by the state. (KIMURA Yoko, Informant/151/17.May.2001)
- I think that among the reasons Islam became a religion of intolerance are discrimination and poverty. In that sense, social rights are extremely important, and could be called the nucleus of human rights. (ONUMA Yasuaki, Informant/153/25.Oct.2001)
- Article 25, which along with clearly stipulating the right to livelihood also sets forth the principle of the social state, is extremely significant. However, some are of the opinion that we should go a step further and stipulate such goals as social solidarity and concern for the disadvantaged in this article. (KUSANO Tadayoshi, Informant/154/4.July.2002/Human Rights Subcommittee)
- Many countries are having difficulty coping with the introduction of globalism and market principles, and in this context, in Japan the constitutional provisions for social rights and the right to livelihood offer a road map for responding to these issues. (ODANAKA Toshiki, Speaker/151/16.Apr.2001/Sendai Hearing)
- The intent of Article 25 has been left up to interpretation, but it seems to me that over the course of many years our Constitution has grown rigid, and the realities of society and the principles of the Constitution have gradually come into conflict. Laws must change with the society. (YONETANI Mitsumasa, Speaker/151/16.Apr.2001/Sendai Hearing)
- The recent trend toward curtailment of the social security that the state is obligated to provide threatens the respect for the right to livelihood stipulated Article 25 and the right to life and pursuit of happiness stipulated in Article 13. In order to uphold the rights stipulated in Article 25 at an even higher level, the phrase “minimum standards” should be eliminated from Article 25, and the duty of the state to provide a guarantee of the people’s “right to health” should be stipulated. (HASHIMOTO Akio, Speaker/151/4.June.2001/Kobe Hearing)

b. Comments on disaster rehabilitation compensation and the right to livelihood

<Comments by Members>

- In the event of a major disaster, a system of condolence payments to people who became disabled and the families of the dead is in place, but there is no support whatsoever for people who have lost their homes and need to rebuild. Laws should

be enacted providing assistance in such cases to help people get back on their feet. (ITO Kosuke, Member/LDP/ 154/6.June.2002/Local Autonomy Subcommittee)

- Huge amounts of tax money will be poured into essential utilities and other public works, as earthquake disaster relief, but if this does not lead to disaster victims reestablishing their independence, it will not lead to the happiness of the people. (NAKAGAWA Masaharu/DPJ/151/4.June.2001/Kobe Hearing)
- From the standpoint of Article 13's respect for the individual and the pursuit of happiness, and Article 25's right to livelihood, public assistance for people who have lost the very foundations of their lives in an earthquake is an obligation under the Constitution. Despite this, no such assistance has been forthcoming for the victims of the Kobe earthquake, and that is a problem. We must investigate the factors obstructing the implementation of public assistance. (HARUNA Naoaki, Member/JCP/151/4.June.2001/Kobe Hearing, 151/14.June.2001, 154/6.June.2002/Local Autonomy Subcommittee)
- The passage of the member-initiated Law Concerning Socioeconomic Rehabilitation Aid for Victims, providing for individual compensation of one million yen, was a victory for a determined citizen's movement. This is gradually opening the way for redirecting the government's adamant position that "individuals will not be given support for losses inflicted by natural disasters" in the direction of a solution starting from the realities of the disaster and proceeding in accordance with the principles of the Constitution. (HARUNA Naoaki, Member/JCP/154/6.June.2002/Local Autonomy Subcommittee)
- The imperative contained in Article 25 means that there is an obvious need to render public assistance to people whose right to livelihood is threatened by a disaster. The fact that this is becoming a matter of common sense for our society is a great leap forward from the standpoint of putting the Constitution to work in our daily lives. (YAMAGUCHI Tomio, Member/JCP/150/28.Sept.2000)
- Compensation for damages in the event of natural disasters is something to be carried out by the national government, not local governments. The government is politically responsible for damages suffered by the people in war, and therefore should be responsible for compensating members of the general public who have suffered in war. (KANEKO Tetsuo, Member/SDP/154/6.June.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- (As mayor of Kobe,) I think that there was a gap between the measures that were actually necessary to provide assistance to the victims and what was actually provided for in the existing laws, when we tried to implement the right to livelihood contained in Article 25 of the Constitution for the urban crisis management at the

time of the Great Hanshin-Awaji Earthquake. We need to debate how to fill that gap. (SASAYAMA Kazutoshi, Speaker/151/4.June.2001/Kobe Hearing)

- With regard to damage to individual homes in a natural disaster, the basic principle is personal responsibility for rebuilding, but in a really major disaster, the infrastructure to support that private rebuilding has itself been lost. In cases such as this, shouldn't housing reconstruction be included among the obligations of the state pursuant to the right to livelihood provided for in Article 25? (SASAYAMA Kazutoshi, Speaker/151/4.June.2001/Kobe Hearing)
- Public assistance directed towards individual private property in the context of earthquake disaster relief is something we need to look at not just from the standpoint of the smooth functioning of the system of private property, but from the perspective of how to ensure and secure the life and safety of each individual human being. (URABE Noriho, Speaker/151/4.June.2001/Kobe Hearing)

c. Other comments

<Comments by Members>

- In the context of this crisis situation, in which global warming and radioactive pollution threaten the very existence of our planet, I think a global environmental right to life is a prerequisite to the discussion of environmental rights. (OIDE Akira, Member/DPJ/154/14.Feb.2002/Human Rights Subcommittee)
- Article 25's provisions concerning the right to livelihood seem to emphasize material factors, but I think the Constitution should also point the way for the "soft" side, i.e., culture. (SAITO Tetsuo, Member/NK/153/6.Dec.2001)
- With regard to the Nursing Care Insurance Law, I believe that the collection of premiums and usage fees even from low-income individuals goes against the principles of Article 25. (HARUNA Naoaki. Member/JCP/151/17.May.2001)
- The state's role is being questioned in the trial over government compensation for victims of Hansen's disease. The treatment of these patients was a denial of their right to livelihood and of their right to equality. We must uphold the spirit of the Constitution. (HARUNA Naoaki. Member/JCP/151/17.May.2001)
- The current situation, in which Japan supplies only 40 percent of its own food supplies, has become one of the most significant threats to our right to livelihood, to our national sovereignty, and to the sovereignty of our people. This statistic is an expression of the gap between the ideals of the Constitution and our present reality; and I believe it is the reality that we must reform. (HARUNA Naoaki. Member/JCP/154/24.June.2002/Sapporo Hearing)

- In light of the right to livelihood provisions of Article 25, I believe there is an issue with the discretionary working hours system, which, when quotas are imposed, can lead to death from overwork and other problems. (OSHIMA Reiko, Member/SDP/151/8.Mar.2001)

<Comments by Informants and Others>

- There have to be substantial reasons for eliminating or reducing premiums for nursing-care insurance, and requiring low-income households who are not subject to residents taxes to pay such premiums does not violate Article 25. (KIMURA Yoko, Informant/151/17.May.2001)

(7) Right to education

- a. Comments on problematic aspects of current education

<Comments by Members>

- In the provisions for compulsory education in Article 26, children have rights, while adults have obligations. Why they didn't just go ahead and simply write that children have to go to school? I have some doubts about Article 26. (HORI Kosuke, Member/LDP/150/12.Oct.2000)

<Comments by Informants and Others>

- Expressions of shame or humility, as well as irony, seem to have gone out of style, and that's sad. I'd like to see our children educated in such a way that they can live together, fluent in a common sensibility of being Japanese. (SONO Ayako, Informant/150/12.Oct.2001)
- Since the war, our love of country has been repressed. Keeping firmly in mind that nationalism can sometimes be wielded in evil ways, we should speak to our children of a beautiful etiquette of nationalism. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- The Fundamental Law of Education was, from the perspective of compatibility with the new constitution, drafted to supplement the moral principles in the Imperial Rescript on Education, and for a brief period after the war it coexisted with the Rescript. Since the abrogation of the Rescript, these moral principles have been lost, and because nothing has been found to replace them, the current paralysis and deterioration of education has been the result. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)

- In rethinking the Fundamental Law of Education, we should start from the understanding that it presupposed that the Imperial Rescript on Education would provide the foundational moral principles, and should discuss how to make up for what was not written into the Fundamental Law of Education itself. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- The problem with postwar education is that rules have disappeared at home and at school, and discipline has been lost. This has led to the present confusion in education and the mass production of youngsters lacking in moral sense. In order to revitalize education in the home, we need to create a manual to educate parents. (OHMAE Shigeo, Speaker/151/4.June.2001/Kobe Hearing)
- The Fundamental Law of Education is just a bunch of abstract verbiage. Because of this, I think we are called on to augment it with the things that really resonate in our hearts; Japanese things, that the Japanese people have valued down through the ages. (NOHARA Kiyoshi, Speaker/153/26.Nov.2001/Nagoya Hearing)
- In today's Japan, there is no consciousness of the need to defend the nation, it is impossible for adults to pass on to their children any system of values that transcends an attachment to personal ease and comfort, and I believe this is where today's problems in education come from. (NOHARA Kiyoshi, Speaker/153/26.Nov.2001/Nagoya Hearing)

b. Comments on the future of education

<Comments by Members>

- Education must be fine-tuned to take into account differences in tradition and culture between local communities, and I think this regional education could become important with regard to the Constitution as well. (NAKAGAWA Shoichi, Member/LDP/151/4.June.2001/Kobe Hearing)
- I think local education in traditional crafts and regional history, and national education in the history and language and other aspects of our country are both important. (NISHIKAWA Kyoko, Member/LDP/151/17.May.2001)
- Education is inseparable from the Constitution and the laws. I think we should teach children about our Constitution and laws, international law, and the various relevant aspects of history and philosophy that come up in this process as part of the compulsory education curriculum. (BANNO Yutaka, Member/DPJ/154/23.May.2002/Politics Subcommittee)
- We should prepare ourselves for the eventuality of a growing influx of foreigners in the future by engaging in the kind of educational and consciousness-raising efforts that will allow us to accept these foreigners into our midst while having pride in

ourselves as Japanese. (TAKAYAMA Yuriko, Member/LDP/154/14.Mar.2002/ Human Rights Subcommittee)

- The pacifism of the Constitution is set against the history of Japan's aggressive wars, the experience of Hiroshima, Nagasaki, and Okinawa, and the suffering of the people of the entire country under the air raids. How this is being valued and taught in the classroom is of great importance. (KANEKO Tetsuo, Member/SDP/ 153/26.Nov.2001/Naogoya Hearing)

<Comments by Informants and Others>

- Japan is a democracy, so there is no need for everyone to have the same view of history; the fact that we can continue to have debates regarding our past history is a sign that Japanese democracy is functioning. If that debate makes some people in neighboring countries uncomfortable, I would like them to understand it in this way. (TANAKA Akihiko, Informant/150/28.Sept.2002)
- I would like to propose a system that would encourage competition between schools, and deliver better educational services: issue coupons to parents and their children, and let them take these coupons to the school of their choice and use them as partial payment for tuition. (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee)
- I don't think we should just be teaching the meaning of the Constitution; rather, it would be desirable if from childhood onward everyone was involved in politics in a variety of ways or participating in society in various ways, so that learning came out of actual practice. (MATSUI Shigenori, Informant/154/2002.5.23/Politics Subcommittee)
- Just as the framers of the Meiji Constitution looked back over Japan's history in the process of drafting it, when it comes to schooling our children in the character of our nation, we should teach them our history, just as it was, from ancient times. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- With regard to the education and welfare of our children, adults must make the greatest effort possible to face the current situation head on and engage in constructive dialogue. In debating the Constitution, I think more than anything else the focus of our discussion should be how best to implement in concrete terms the principles of the UN Convention on the Rights of the Child. (SHIBAO Susumu, Speaker/151/4.June.2001/Kobe Hearing)
- In the course of my three years of volunteer work in high school, I came to feel quite strongly that learning is a right. I believe that the right to education in Article 26 is guaranteed in order that children will have the chance to experience the joy of learning. (INAFUKU Erika, Speaker/154/22.Apr.2002/Okinawa Hearing)

(8) The right to work and fundamental labor rights

A. General aspects

<Comments by Members>

- I believe that Articles 27 and 28 should stand as they are. (OTA Akihiro, Member/NK/154/4/July.2002/Human Rights Subcommittee)
- The rights stipulated in Articles 27 and 28 are treasures born out of the history of brutal working conditions in the prewar era. Moreover, there are few constitutions in other countries that clearly stipulate all of the three rights of labor, so I think these are pioneering provisions. (HARUNA Naoaki, Member/JCP/154/4.July.2002/Human Rights Subcommittee)

<Comments by Informants and Others>

- The basic approach to national policy is to lay out the principles in the Constitution and then enact laws based on these principles. In this regard, Articles 27 and 28 are fundamentally valued. (KUSANO Tadayoshi, Informant/154/4.July.2002/Human Rights Subcommittee)
- With the high ratio of employed workers we have at present, the issue of the rights of labor has become even more important. Moreover, the provisions in its Constitution for labor rights and social rights are important ways in which the state of a nation is judged. (KUSANO Tadayoshi, Informant/154/4.July.2002/Human Rights Subcommittee)

B. The right to work (employment, termination, unemployment, etc.)

- a. Comments on the meaning of “the right to work”

<Comments by Informants and Others>

- Article 27, Paragraph 1 of the Constitution is interpreted as obligating the government to: 1) create a structure that enables the nation to have full employment; 2) provide job opportunities for the unemployed; and 3) pay a living allowance to the unemployed. In my view, policies that violate these obligations are unconstitutional. (KUSANO Tadayoshi, Informant/154/4.July.2002/Human Rights Subcommittee)
- Some are of the opinion that the intent of Article 27, Paragraph 1 should be expanded to include a clear statement of the obligation of the state to promote employment, and pursuant to this, that both the state and employers should

cooperate in developing the skill levels of workers. (KUSANO Tadayoshi, Informant/154/4.July.2002/ Human Rights Subcommittee)

b. Corporate restructuring and safeguards for workers

<Comments by Members>

- While legislative measures to facilitate corporate reorganization are making progress, not enough is being done to legislate protection for workers, and workers' rights are not being defended. We must act quickly to develop such a legal structure. (KOBAYASHI Kenji, Member/DPJ/154/4.July.2002/Human Rights Subcommittee)

<Comments by Informants and Others>

- The enactment of a law to protect workers in the even of corporate restructuring is necessary. Moreover, even if restructuring is rational at the level of individual companies, when you look at it from the national level, there is a tremendous increase in the burden of costs born by the state as a result of increasing unemployment. To resolve this problem, I believe work sharing would be effective. However, even though work sharing as a tool to get us out of the present recession could be implemented through various budgetary measures, a legislative framework would have to be created in order to firmly establish work-sharing in Japan for the medium and long term. (KUSANO Tadayoshi, Informant/154/4.July.2002/Human Rights Subcommittee)

c. Comments on employment for younger workers, etc.

<Comments by Members>

- As a way of coping with young people who do not settle into regular jobs, shouldn't companies make more effort to explain what their work is about and give young people meaningful work to do? (OTA Akihiro, Member/NK/154/4.July.2002/Human Rights Subcommittee)

<Comments by Informants and Others>

- With regard to the problem of the increasing number of young people who do not take regular jobs, I think we need to emphasize the work ethic and professionalism as part of the educational process. (KUSANO Tadayoshi, Informant/154/4.July.2002/Human Rights Subcommittee)
- In order to secure employment for both the elderly and young workers, we either need to expand the employment pie, or introduce work sharing. Moreover, to smooth the transition between the labor force of the elderly and young workers, we need to establish a linkage between mandatory retirement age and the age of pension

eligibility. (KUSANO Tadayoshi, Informant/154/2002.7.4/ Human Rights Subcommittee)

d. Part-time work

<Comments by Members>

- The preferential treatment given in the tax laws to housewives who work part-time has had the reverse effect of serving as a brake on women's work. I believe it's desirable for housewives to work and pay taxes. Moreover, since the number of people seeking part-time work has increased beyond the available employment, I think we should introduce a "Japanese-style work sharing" as a way of dealing with this. (TAKEYAMA Yuriko, Member/LP/154/4.July.2002/Human Rights Subcommittee)

<Comments by Informants and Others>

- In our country as well, households with two working spouses are becoming common, while for many individuals part-time work has become, not a supplement, but their principal employment. I think we need to study the tax implications of this. (KUSANO Tadayoshi, Informant/154/4.July.2002/ Human Rights Subcommittee)

e. Comments on termination

<Comments by Members>

- If you limit the employer's right to terminate his or her employees, one consequence will be that it will rob young people of employment opportunities. For this and other reasons, I believe there is room for changing our fundamental thinking with regard to "employment." (HIRAI Takuya, Member/LDP/154/4.July.2002/Human Rights Subcommittee)

<Comments by Informants and Others>

- With regard to the issue of termination, I think a labor contract law and other laws need to be enacted on the basis of the four requirements for dismissal during restructuring that have been established by judicial precedents. Moreover, in light of the massive numbers of unemployed we are seeing at present, it is difficult to imagine that the employers' right to terminate employees is restricted. (KUSANO Tadayoshi, Informant/154/4.July.2002/Human Rights Subcommittee)

f. Comments on the unemployment insurance system

<Comments by Members>

- Although policy guarantees for the unemployed are one of the duties of the government, in actual practice the brunt of the burden of maintaining the

unemployment insurance system has fallen to workers and employers. Moreover, it is bizarre that in the face of the current recession the government has not increased national treasury funding for this task. If the cause for the growing number of suicides is the increase in the number of unemployed, it would be true that at present, not only fundamental labor rights but even the right to livelihood are being denied. To give positive guarantees of the right to work is crucial. (KANEKO Tetsuo, Member/SDP/154/4.July.2002/Human Rights Subcommittee)

<Comments by Informants and Others>

- The policy of the government to cut the amount of national treasury funding allocated to the unemployment insurance system is incompatible with the intent of the Constitution. (KUSANO Tadayoshi, Informant/154/4.July.2002/Human Rights Subcommittee)

g. Comments on special employment zones

<Comments by Members>

- I am in favor of creating a “special employment zone” system, in which regulations on employment are relaxed in regions with high unemployment. (HIRAI Takuya, Member/LDP/154/4.July.2002/Human Rights Subcommittee)

<Comments by Informants and Others>

- I think the concept of special employment zones is meaningless if it is not carried out on a large geographical scope; but on the other hand, specific effects are predicted if it were carried out on such a scale. I am concerned about this whole matter. (KUSANO Tadayoshi, Informant/154/4.July.2002/ Human Rights Subcommittee)

C. Working conditions, etc.

<Comments by Members>

- Beginning in the 1990s, the system of legal protection for workers was gradually eroded by a series of relaxations of regulations in the labor laws, carried out at the demand of the business sector in the name of the omnipotence of market principles: the liberalization of temporary staffing agencies, the expansion of the discretionary labor system, the relaxation of regulations on fixed-term labor contracts, and so on. This process is directly connected to the massive increase in unemployment, the increased number of deaths *karoshi* (sudden death from overwork) overwork, and other problems. (HARUNA Naoaki, Member/JCP/154/4.July.2002/Human Rights Subcommittee)

- The system for legal protections for workers is much weaker in our country than it is in Europe. Accordingly, we need to (1) set a legal limit to overtime hours in the Labor Standards Law; (2) enact laws to regulate the dismissal of employees, and (3) strengthen regulations through legal enforcement of unpaid overtime. These efforts to strengthen our regulatory system are not only needed; I believe they are also what the Constitution demands. (HARUNA Naoaki, Member/JCP/154/4.July.2002/Human Rights Subcommittee)

<Comments by Informants and Others>

- Article 27, Paragraph 2 of the Constitution is the fundamental provision regarding working conditions; laws and policy that run counter to it are unconstitutional. Problems at the place of employment are not just issues of labor standards; they also involve human dignity and the right to livelihood in Article 25. (KUSANO Tadayoshi, Informant/154/4.July.2002/Human Rights Subcommittee)
- There is an increasing trend toward employing women part-time to bring down labor costs, something which is expanding the inequality between men and women in the workplace, and is a far cry from the principle of equality of the sexes contained in the Constitution. (KUSANO Tadayoshi, Informant/154/4.July.2002/Human Rights Subcommittee)
- We need laws to prevent or prohibit some of the terrible things we are currently seeing: hyper-overtime labor of as much as 4,000 hours in a year, work years with virtually no time off, suicides as a result of on-the job bullying, sexual harassment, and so on. (KUSANO Tadayoshi, Informant/154/4.July.2002/Human Rights Subcommittee)
- Some are of the opinion that we need both to observe the prohibition on exploitation of children in Article 27, Paragraph 3, and provide further constitutional provisions for the sake of children. (KUSANO Tadayoshi, Informant/154/4.July.2002/Human Rights Subcommittee)
- I am not totally opposed to relaxation of certain regulations in our system of labor laws, but I feel the present rush towards deregulation is all too precipitous, and has gone much too far. (KUSANO Tadayoshi, Informant/154/4.July.2002/Human Rights Subcommittee)

D. The right to strike

- a. Comments in favor of giving public workers the right to strike

<Comments by Members>

- The Constitution stipulates the three rights of labor to organize, bargain collectively, and to strike, and if we do not think of public employees as possessing these three

rights in principle, then the recognition of these rights by the Constitution is meaningless. Moreover, with the privatization of the Japanese National Railways, the right to strike was almost automatically recognized, despite the fact that nothing had changed about the actual nature or duties of the work involved, which makes me wonder whether there is any rationality at all to the restrictions on public employees. There are those who fear widespread abuse of the right to strike, but this can be responded to with the limitations on the abuse of rights contained in Article 12. (OIDE Akira, Member/DPJ/4.July.2002/Human Rights Subcommittee)

- After the war, the Americans placed limitations on the three rights of labor with regard to public employees, undermining the content of the Constitution. Moreover, in the recent reform of the public service system, the fundamental rights of labor have not been restored, even though the function of National Personnel Authority recommendations has been curtailed. We must restore to public employees the fundamental rights of labor. (HARUNA Naoaki, Member/JCP/4.July.2002/Human Rights Subcommittee)
- Public employees are workers also, and their fundamental rights of labor should be guaranteed. Based on this major premise, I believe we should ratify ILO Convention No. 151 (concerning Protection of the Right to Organise and Procedures for Determining Conditions of Employment in the Public Service). Moreover, the recent “Guidelines for Reform of the Public Servant System” alters the system of National Personnel Authority recommendations but does nothing to revise any of the labor-related legislation on public employees, which will end up limiting the labor rights of public employees even further. (KANEKO Tetsuo, Member/SDP/154/4.July.2002/Human Rights Subcommittee)
- Article 98, Paragraph 2 of the Constitution can be interpreted as meaning that treaties Japan has ratified, including ILO Convention No. 87 (concerning Freedom of Association and Protection of the Right to Organise), have the same force as domestic law and are judicial models, and that all previous judicial decisions regarding labor strikes are in conflict with the Constitution. (KANEKO Tetsuo, Member/SDP/154/4.July.2002/Human Rights Subcommittee)

<Comments by Informants and Others>

- In our country, throughout the postwar era the fundamental labor rights of public employees have been restricted—a grave situation, hardly what one would expect from one of the advanced industrial nations. RENGO (Japanese Trade Union Confederation) has filed a complaint with the ILO Committee of Experts on the Application of Conventions and Recommendations, which responded with a chairperson’s statement of the committee’s finds that criticized the attitude of the Japanese government, pointing clearly to the fact that in Japan the right of public employees to conclude collective bargaining agreements is being restricted. (KUSANO Tadayoshi, Informant/154/4.July.2002/Human Rights Subcommittee)

- I believe that ILO Convention No. 151 (concerning Protection of Rights to Organise and Procedures for Determining Conditions of Employment in the Public Sector) should be given priority in terms of ratification. (KUSANO Tadayoshi, Informant/154/4.July.2002/Human Rights Subcommittee)
- I do not think that all three of the rights of labor should be recognized for all public employees, but I think our point of departure should be the fact that the three rights of labor are guaranteed by the Constitution even for public employees. Moreover, the fact that public employees do not have the right to conclude collective bargaining agreements is an extremely important problem. We are also calling for the abolishment of the Concerning Regulation of the Ways and Means of Conducting Labor Strikes in the Electric Utilities and Coal Mining Industries in the private sector. (KUSANO Tadayoshi, Informant/154/4.July.2002/ Human Rights Subcommittee)
- It is a fact that in recent years strikes have declined, and that strikes do not succeed without the sympathy of the general public. However, strike activity is the last resort of the working people, and it is an internationally recognized right. (KUSANO Tadayoshi, Informant/154/4.July.2002/Human Rights Subcommittee)
- The recent reforms of the public service system have diminished the powers of the National Personnel Authority and strengthened the personnel rights of the relevant authorities, but there have been no changes with regard to the three rights of labor for public employees, so the reforms have been slanted. Moreover, it is precisely in the case of such crucial reforms that we must have consultation between labor and management, not one-sided tinkering with the system. (KUSANO Tadayoshi, Informant/154/4.July.2002/Human Rights Subcommittee)
- The tendency has been for our courts not to recognize the legal validity of international agreements, but on the other hand, the standards of judgment established by the Supreme Court in the Ministry of Agriculture and Forestry workers' union case have been gradually changing, so the idea of bringing a case concerning public employees' right to strike before a domestic court is no longer unthinkable. (KUSANO Tadayoshi, Informant/154/4.July.2002.7.4/Human Rights Subcommittee)

b. Comments opposed to giving public workers the right to strike

<Comments by Members>

- Public employees are the servants of the whole society, and in reality it is difficult to believe that their working conditions are inferior to those of private sector workers, so from the perspective of impact on the lives of citizens and of fiscal democracy, I think improvements to the system of National Personnel Authority recommendations are preferable to guaranteeing public employees the three rights

of labor. (KONDO Motohiko, Member/LDP/154/4.July.2002/Human Rights Subcommittee)

- The three rights of labor of public employees may be important, but I think that from the standpoint of the citizens of this country who are their employers, what is even more necessary, in view of the huge amount of bureaucratic waste and inefficiency, is to create mechanisms for restructuring and for scaling back the labor conditions of public employees. (HIRAI Takuya, Member/LDP/154/4.July.2002/Human Rights Subcommittee)
- Given the declining number of private sector strikes and the sharp drop-off in the percentage of unionized public employees, I don't really think the public is likely to support a restoration of the fundamental labor rights of public employees. (KOBAYASHI Kenji, Member/DPJ/154/4.July.2002/Human Rights Subcommittee)
- The right to strike and the right to conclude collective bargaining agreements are not recognized for public employees, and the three rights of labor also have not been fully accorded them, but they have a de facto right to collective bargaining, and there is also the system of National Personnel Authority recommendations. So it seems to me that in actual practice, the issue has been almost completely resolved, and we should be proud of this system, with its uniquely Japanese features. (INOUE Kiichi, Member/NCP/154/4.July.2002/Human Rights Subcommittee)

E. Other comments

<Comments by Members>

- National and local public employees are prohibited from having a "union shop" system. Since this is having an adverse effect on the ratio of unionized workers, I think we should consider giving recognition to this system. (OIDE Akira, Member/DPJ/154/4.July.2002/Human Rights Subcommittee)

<Comments by Informants and Others>

- When the Constitution was being enacted, a number of revisions and additions concerning labor rights and social rights were made to the draft, among them being: (1) fair compensation, equality of opportunity, unemployment protection, the right to time off, and the 8-hour work day; (2) guarantee of the right to livelihood; and (3) the obligation to work. The debate on these revisions is still richly suggestive to us, even today. (KUSANO Tadayoshi, Informant/154/4.July.2002/Human Rights Subcommittee)

(9) Other aspects of human rights
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a. Comments on the inviolability of fundamental human rights

<Comments by Informants and Others>

- Article 96 is, I suppose, an acknowledgement that the Constitution is not a completely flawless document, but Article 11 makes a special provision for fundamental human rights as being “eternal and inviolate rights.” (KUBOTA Manae, Speaker/151/16.Apr.2001/Sendai Hearing)
- Now is the time for every one of us to take another good look at the Constitution, and to give particular attention to the language of Article 12 (concerning the responsibility of the people to maintain their freedoms and rights). (NAKATA Narishige, Speaker/151/4.June.2001/Kobe Hearing)

b. Comments on individualism

<Comments by Members>

- Individualism means respect for the individual and the ability to freely make personal decisions, but this has not been manifested in Japanese politics. I think we should reacquaint ourselves with the positive aspects of individualism and rethink our interpretation of it. (OIDE Akira, Member/DPJ/154/14.Feb.2002/Human Rights Subcommittee)
- We need to make a clear distinction between selfishness and individualism. I think the obligation of the individual to respect other individuals has not been a part of the collective consciousness of postwar Japan. (NAKAMURA Tetsuji, Member/DPJ/153/6.Dec.2001)
- After the war, though individualism was stressed as a replacement for totalitarianism, what actually resulted was an epidemic of people narrowly focused on their own private lives, and I think that this situation is something we need to discuss. The “individual” in Article 13’s provision for respect for the individual can be taken as the [idealized] individual of the European Enlightenment, possessed of “liberty, equality, and fraternity,” but I think we’ve reached the stage where we need to discuss a more concrete, existential understanding of the human being. (OTA Akihiro, Member/NK-RN/147/11.May.2000, 150/12.Oct.2000, 151/14.June.2001, 154/11.Apr.2002/Human Rights Subcommittee)
- (In response to informant NISHIZAWA Junichi’s remark that “The responsibilities of the people to society, upon which individualism is predicated, were not articulated in the provisions of the Constitution, and this has led to an amalgamation of individualism with egoism.”) Just because there are fewer provisions for duties in the Constitution doesn’t mean that you can say the Japanese people have tended to

egoism rather than individualism. (FUJISHIMA Masayuki, Member/LP/151/8.Feb.2001)

<Comments by Informants and Others>

- From the perspective of individualism, it is only natural that the people have obligations to society because they have received benefits. But in our country, individualism has gotten mixed up with egoism. (NISHIZAWA Junichi, Informant/151/2001.2.8)

c. Comments on the rights of crime victims

<Comments by Members>

- The human rights of criminals are respected, but the human rights of crime victims are almost completely ignored. Under the present Constitution, who is supposed to take responsibility for these unfortunate people? (HANASHI Nobuyuki, Member/LDP/147/11.May.2000)
- If you compare the rights of the perpetrator with the rights of the victim, you find that if the perpetrator is a minor, their name is kept confidential and pictures of them are not published, but names and pictures of the victims appear in the press, sometimes causing great injury, Shouldn't we give more consideration to the rights of victims as well? (MATSUSHIMA Midori, Member/LDP/154/14.Feb.2002/Human Rights Subcommittee)
- In the Constitution, the emphasis is on protecting individual rights from the power of the state, but it lacks the perspective of how to protect the rights of victims or, in other words, how to defend them before they are violated. (NODA Takeshi, Member/NCP/149/3.Aug.2000)

d. Comments on abolishing the death penalty

<Comments by Members>

- As an issue of human rights, I think the death penalty should be abolished, the question of how to administer the life imprisonment proposed as its replacement is the key to winning over those who presently favor the death penalty. (MATSUNAMI Kenshiro, Member/NCP/153/29.Nov.2001)

<Comments by Informants>

- In consideration of the rights and safety of the individual, it is unthinkable that the state has the right to kill people using the death penalty, so I think we should abolish the death penalty. Moreover, behind the death penalty is a notion of retributive justice that I believe has its origins in Buddhist philosophy, and in

debating the issue of abolishing the death penalty, we should bear these matters in mind as well. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)

- With regard to the issue of criminal punishment, we have to think not just of the victim but also of the criminal, and somehow strike a compromise between the two. In addition, we should consider this not just as a human rights issue, but also in terms of the responsibility of society to reduce the factors contributing to criminal behavior. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)

e. Comments on human rights guarantees in other countries

<Comments by Commission Members>

- In Europe there is a mode of thought that emphasizes human rights, and this has led to the establishment of the European Convention on Human Rights and Fundamental Freedoms and the European Union Charter on Fundamental Rights. (NAKAYAMA Taro, Commission Chairman, Member/LDP/154/11.July.2002/International Society Subcommittee)
- The Chinese government's treatment of Tibet is impermissible from the perspective of humanitarianism and the dignity of the individual, and our country should adopt stringent countermeasures against China. (EDANO Yukio, Member/DPJ/150/30.Nov.2000)
- The problems of protection of human rights in Russia and the nations of Eastern Europe are something that we should take heed of as constitutional issues for the 21st century. (YAMAGUCHI Tomio/JCP/153/11.Oct.2001)
- In looking at the detailed provisions for human rights set forth in the Spanish constitution, I felt a strong determination never to return to the repression of human rights of the Franco years. (KANEKO Tetsuo, Member/SDP/153/11.Oct.2001)

<Comments by Informants and Others>

- In order to win the trust of the nations of Asia, our country should, from a humanitarian perspective, criticize China's oppression of and encroachment on Tibet, and adopt sanctions. (SAKURAI Yoshiko, Informant/150/30.Nov.2000)
- Within the territory of the European Union a system for protecting against violations of human rights has been erected, but whether such a system can function equitably in relations with regions outside the EU is a question only time will answer. (NAKAMURA Tamio, Informant/154/11.July.2002/International Society Subcommittee)

f. Other comments

<Comments by Members>

- In the context of our reevaluation of the Constitution, we must consider global problems of population and the environment as important themes. (ITO Kosuke, Member/LDP/151/22.Feb.2001)
- The fact that personnel of UN peacekeeping operations are permitted the use of weapons is explained on the grounds of “the natural right of self-defense,” but in plainer terms you could call it “human instinct.” When you start tossing around the words “natural right” it runs the risk of being misinterpreted as something sacred and inalienable. (ISHIBA Shigeru, Member/LDP/154/23.May.2002/Human Rights Subcommittee)
- Since Japan has no history of slavery, the “bondage of any kind” of Article 18 has an awfully strange ring to it. (TAKAICHI Sanae, Member/LDP/147/27.Apr.2002)
- Our country is giving more economic assistance than any other country in the world, and I think the idea that assistance to developing nations is a natural duty is something that has confused the issues of human rights with the North-South problem, and I don’t buy it. (MORIOKA Masahiro, Member/LDP/153/29.Nov.2001)
- If we are going to incorporate provisions concerning science and technology into the Constitution, looking at the examples offered by other countries it seems that we might consider provisions for both the state’s encouragement of science and technology and for the people’s right to engage in them. (TSUTSUI Nobutaka, Member/DPJ/151/8.Feb.2001)
- In the German constitution individuals subjected to political persecution have the right of asylum, and if Japan is going to take the path of being a conscientious objector state and a nation that concentrates on civilian service activities, then including such a provision in our Constitution seems quite conceivable. (HOSONO Goshi, Member/DPJ/150/29.Sept.2000)
- When we think of human rights in our information society, consumer protection and protecting the confidentiality of personal information are unavoidable issues, and issues that require a policy response by the government. (HARUNA Naoaki, Member/JCP/151/8.Mar.2001)
- From the standpoint of respect for fundamental human rights, a reappraisal of the Japan-U.S. Status of Forces Agreement is indispensable. (HARUNA Naoaki, Member/JCP/154/22.Apr.2002/Okinawa Hearing)
- The Constitution of the Empire of Japan was completely incompatible with respect for fundamental human rights. (SASAKI Rikukai, Member/JCP/147/24.Feb.2000)

- It is necessary to write into law, clearly and in detail, in what ways the people are to be able to assert their rights, and what possibilities of redress are available to them. (HARA Yoko, Member/SDP/154/11.Apr.2002/Human Rights Subcommittee)

<Comments by Informants and Others>

- In the event that genome sequences are successfully identified, it is important that we protect the intellectual property rights involved, but standards have to be established concerning what kinds of rights are to be protected, and how that protection is to be achieved. (HAYASHIZAKI Yoshihide, Informant/151/22.Feb.2001)
- In our Internet society, crimes using computer viruses are potentially as dangerous as weapons of mass destruction. In order to prevent such crimes from occurring, such acts should be prohibited by the Constitution, and moral education on this issue should be introduced. (SON Masayoshi, Informant/151/8.Mar.2001)
- Justice can only be spoken of with regard to human actions; you cannot talk about justice with reference to abstract concepts such as society. The term “social justice” is the most egregious example of the abuse of the concept of justice. (SAKAMOTO Masanari, Informant/154/11.Apr.2002/Human Rights Subcommittee)
- In the constitutions of other nations that existed at the time the Meiji Constitution was enacted, the idea that there was a sphere “reserved to the law” in guarantees of rights (Note: the idea that limitations could be placed on rights if there were grounds in the provisions in the law for doing so) was thought perfectly natural. So it is not appropriate to completely deny the significance of the Meiji Constitution because it employed this language. (ITO Tetsuo, Informant/154/23.May.2002/Human Rights Subcommittee)
- The human rights situation of the Ainu people today is unsatisfactory. The government should reflect on its past treatment of the Ainu and develop more benign policies toward them, based on an awareness of: 1) the historical process whereby the government’s Ainu policy led to the decline of the Ainu people and their distinct culture; 2) the fact that the existence of the Ainu people means that Japan is not a monoethnic nation; 3) the fact that the Ainu are an indigenous people. (TANAKA Hiroshi, Speaker/154/24.June.2002/Sapporo Hearing)

**Subsection 6 The Political Sector
(Diet, Cabinet, etc.)**

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Subsection 6 The Political Sector (Diet, Cabinet, etc.)

I. Relationship of Diet to Cabinet, and Other Overall Aspects of the Political Sector

1. General Comments on the Political Sector

<Comments by Members>

- The bureaucracy tends to make decisions based on existing laws. Members of the Diet have the ability to introduce legislation in order to reflect the will of the people in creating a society responsive to the needs of our times. This is the *raison d'être* of the Diet member. (TANAKA Makiko, Member/LDP/150/7.Dec.2000)
- Basic national policy begins with the prime minister and the direction he establishes via his philosophy and proposals, which take on increasingly concrete form as they are considered by the Cabinet and debated in the Diet--this is the model of democracy. And of course it goes without saying that this decision-making process must be transparent and fair. (TANAKA Makiko, Member/LDP/150/7.Dec.2000)
- In our increasingly pluralistic society, various needs arise, and the role and responsibility of the political sector in determining where to place our priorities has become extremely important. (TANAKA Makiko, Member/LDP/150/7.Dec.2000)
- With government getting leaner and the political sector playing a smaller role, citizen participation in the form of NPOs and NGOs is indispensable. I think a new democratic system will be created out of these efforts. (NUKAGA Fukushima, Member/LDP/154/23.May.2002/Politics Subcommittee)
- The Constitution is the set of principles expressing the form our nation is to take, and in order to respond to the changing environment facing Japan today, we must consider how to enrich the system of popular sovereignty. (SENGOKU Yoshihito, Member, DPJ/151/14.June.2001)
- In considering the government and its organizations, it is important to maintain the perspective that politics and the people must, in every sense of the word, be involved in government and in its decisions. (SENGOKU Yoshihito, Member, DPJ/154/23.May.2002/Politics Subcommittee)
- The administrative reforms implemented beginning in 2002 are the product of a compromise with the resistance of forces benefiting from the existing system: the ministries, agencies, and bureaucrats, as well as the Diet members who act in their interest. From here on out, we need to aim for more radical reforms. (TSUTSUI Nobutaka, Member/DPJ/153/8.Nov.2001)

- I am feeling how important it is that the Constitution be reflected in our everyday politics, and also how critical it is that we return to the principles of the Constitution in order to think about what shape the country should take. Our country, in the midst of an era of rapid change, lacks the ability to govern itself effectively. We politicians need to use the Constitution to revive the ability to govern, and debate in the Research Commission should be seeking to pour new energy into it. (NAKAGAWA Masaharu, Member/DPJ/151/14.June.2001)
- It is important to discuss, from the perspective of the Constitution, how to make our government and its organizations better reflect the will of the people, and, if necessary, think about revising the Constitution. (SAITO Tetsuo, Member/NK/154/14.Feb.2002 /Politics Subcommittee)
- Even between elections, new issues arise daily, and what the people are thinking can change significantly. The members of the Diet and the political parties must keep these movements of popular consciousness clearly in their field of vision. (SHIOKAWA Tetsuya, Member/JCP/153/8.Nov.2001)
- Looking back over the political reforms of the past decade, resolution of the problem of money and politics is essential from the perspective of the development of our political and government systems. (HARUNA Naoaki, Member/JCP/151/8.Feb.2001)
- The Constitution of Japan, combining both direct and indirect democracy, has created a set of legal norms that points towards a thoroughgoing realization of popular sovereignty. (YAMAGUCHI Tomio, Member/JCP/151/17.May.2001)
- We live in an era in which, if we should set out to design a new system for the government and its organizations, the quality of the politics and the political parties supporting that system will surely be tested. (YAMAGUCHI Tomio, Member/JCP/154/14.Mar.2002/Politics Subcommittee)
- Institutional reform should not become an end in itself, and it would be meaningless to simply carry out reforms without first reflecting on the public's apathy and sense of detachment from politics. (KITAGAWA Renko, Member/SDP/154/14.Mar.2002/Politics Subcommittee)
- I think politics is probably a field where reforms have been slow to take place in Japanese society, so I would like to see us deepen the discussion of items related to the progress of political reforms of the electoral system, the bicameral system, and the like. (INOUE Kiichi, Member/NCP/154/25.July.2002)
- The advent of e-politics, employing IT technology such as electronic voting in the political arena, has the potential to change the face of politics as we know it. We need to exercise our intelligence to figure out how best to incorporate the importance of this into the Constitution. (KOIKE Yuriko, Member/NCP/151/8.Mar.2001)

<Comments by Informants and Others>

- Politics can no longer concentrate its attention solely on the reconciliation of immediate interests; it has no other choice than to engage in various structural issues in the broad sense. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- The most persuasive counter-argument against the recent advocacy for popular election of the prime minister and national referenda would be for the present parliamentary system to demonstrate genuine political leadership and display concrete results. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- Experience has shown that parliamentary government works best in a strong two-party system, with one party assuming responsibility for governing until it hits an impasse, at which point the other party assumes 100 percent responsibility and has its turn. (WATANABE Shoichi, Informant/150/7.Dec.2000)
- The idea of “deliberative democracy”—aimed at realization of objective public good via logical debate seeking to achieve the general public interest—is important for nations today. Public debate in the narrow sense of debate within the Diet is insufficient for the realization of this “deliberative democracy;” the relevant issues must reach society at large through a variety of media, and ordinary citizens must actively participate in the public discourse. (HASEBE Yasuo, Informant/153/8.Nov.2001)
- In creating various systems and mechanisms in the political arena, in addition to making sure that they make sense and have legitimacy, it is also necessary to factor in the interests of the people who will be involved in administering them. (HASEBE Yasuo, Informant/153/8.Nov.2001)
- In light of the fact that the legislative branch plays an important role in policy formation, it would be desirable to take steps to enhance the legislative functions of the Diet. (MORITA Akira, Informant/153/8.Nov.2001)
- The procedures for defining what is public have been unclear in our postwar democracy; the political arena has been seen as a place where partial interests are pursued, while the bureaucracy has been thought of as insulated from this and representative of the interests of the whole. However, in our increasingly pluralistic times, what exactly constitutes the interest of the nation as a whole is unclear, and this system has begun to show its flaws. (MORITA Akira, Informant/153/8.Nov.2001)
- There is a plurality of opinion among the people, but the political process can deliver only one policy program. The role of politics is to integrate and to select from among a variety of policy programs, making them converge into one. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)

- In order for politics to function properly, the role of the media in conveying accurate information about it to the people is of critical importance. Moreover, the media play an important role as a feedback mechanism between the political parties and the people. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)
- In the 1990s a number of reforms, beginning with political reforms, were carried out, but as a result of the fact that institutional reform was seen as the key to a fundamental solution, they did not prove to be effective remedies for the political and administrative pathologies they should properly have addressed. (YAMAGUCHI Jiro, Informant/154/14.Mar.2001/Politics Subcommittee)
- Governing institutions cannot be run according to the provisions of the Constitution alone. We must consider creating certain customary practices and “constitutional conventions” regarding their operation. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
- Lately the mass media have been especially sensationalistic. The mass media need to dig a little more seriously into political issues and deliver more balanced coverage, but the media’s freedom to report the news is a fundamental principle of politics. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
- Revolutionary advances in information technology are creating a need to redefine representative democracy, and debate changes in our political decision-making system. Representatives need to do more than just convey the opinions of the people; they must also put their own ideas forward, and lead the people. (TERASHIMA Jitsuro, Informant/154/9.May.2002/International Society Subcommittee)

2. The Parliamentary Cabinet System

(1) Current state of the parliamentary cabinet system

a. Separation of powers

<Comments by Members>

- We must reexamine the present system, which is based on the idea of a tripartite separation of powers. In reality, the legislative and the executive branches are one, and whoever gains an electoral majority controls both—the head of the ruling party becomes prime minister, and dominates the executive branch. (ISHII Hajime, Member/DPJ/147/11.May.2000)
- The Cabinet is a directive organ and must be thought of as distinct from the bureaucratic apparatus. However, because the prewar way of thinking about this has carried over, and precedent has been established for unity of the Cabinet and the executive, the locus of executive power has in practice become quite unclear. The idea of an adversarial relationship between the Diet on the one hand and the Cabinet and administration on the other forms the basis for the neutrality of the bureaucracy. This is where the fundamental problem of Japan's parliamentary system lies. (KANO Michihiko, Member/DPJ /150/9.Nov.2000)
- The fact that the political sector has abdicated responsibility to bureaucratic institutions is a problem. We must clearly establish the idea that the Cabinet does not equal the bureaucracy. The present parliamentary cabinet system is founded on the two pillars of the Cabinet and the ruling party, and if some awkward situation arises, a Cabinet reshuffle can be used to evade responsibility. (KANO Michihiko, Member/DPJ/150/9.Nov.2000)
- The fact that almost all the legislation laying the groundwork for executive action has been submitted by the Cabinet is a problem. (FUJISHIMA Masayuki, Member/LP/154/14.Mar.2002/Politics Subcommittee)

<Comments by Informants and Others>

- If we start from the assumption that the bureaucracy is part of the non-political sector and should be distinguished from the Cabinet, which is part of the political sector, it is then problematic that the provisions for senior vice ministers and parliamentary secretaries are provided for in the National Government Organization Law that governs the administrative apparatus. The provisions for senior vice ministers and parliamentary secretaries should be placed in the Cabinet Law, because such public servants are close to the Cabinet and essentially belong to the political sector. (MORITA Akira, Informant/153/8.Nov.2001)

b. Relationship to the House of Councillors

<Comments by Members>

- The House of Councillors possesses a de facto power of non-confidence vis-à-vis the Cabinet, but the cabinet has no power to dissolve the House of Councillors. When you think about this in conjunction with the guarantee of long-term security offered by the six-year tenure of members of the House of Councillors, it seems to me this means an imbalance in the adversarial relationship between the Cabinet and the Diet. (SAITO Tetsuo, Member/NK/154/14.Mar.2002/Politics Subcommittee)

<Comments by Informants and Others>

- The center of gravity of the parliamentary cabinet system has been placed between the Cabinet and the House of Representatives, but the Constitution says that the Cabinet must be responsible to the Diet, so the right of the House of Councillors to question the Cabinet is recognized to a certain extent. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)

c. The Diet as highest organ of state

<Comments by Members>

- I agree with the idea that if the Diet and Cabinet are considered as a unity, the Diet should be understood as occupying the superior position; the legal character of Article 41, with its stipulation of the Diet as “the highest organ of state power,” should not be interpreted as merely a political declaration. (TSUTSUI Nobutaka, Member/DPJ/153/8.Nov.2001)

<Comments by Informants and Others>

- In general, the “highest organ of state” of Article 41 is thought of in a political, rather than substantive sense. The Diet, since it is composed of the elected representatives of the people, has democratic legitimacy, but from the principle of the separation of powers, the will of the Diet does not necessarily supersede that of the other two branches of government. (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)
- The Diet as “highest organ of state” expresses a fundamentally political meaning, in light of the fact that the Constitution gives the Diet the power to carry out actions of critical importance to the nation, such as revising the Constitution and enacting legislation. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)

d. Other comments

<Comments by Members>

- The problems of the parliamentary cabinet system are problems of how it should be operated; they do not necessitate constitutional revision. (YAMAGUCHI Tomio, Member/JCP/154/14.Feb.2002/Politics Subcommittee)

<Comments by Informants and Others>

- In Japan, there is much dissatisfaction with the present state of the parliamentary cabinet system. As I see it, however, the problems lie not in the system itself, but in its operation, namely: (1) the frequent changes of leadership resulting from the reckless behavior of the parties; (2) the lack of capacity for smooth decision-making on the responsibility of the Cabinet due to the increasingly rigid nature of the bureaucracy; and (3) the lack of transparency in the relationship between the Cabinet and the ruling parties. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)

(2) The future of the parliamentary cabinet system

a. Selecting the prime minister and his policies as a unit

<Comments by Members>

- The general elections for the House of Representatives are the elections that result in the selection of the prime minister. Premised on the existing system, I think it would be desirable if we instituted something like the British custom of the head of the party gaining the largest number of votes being selected as prime minister. (OKUNO Seisuke, Member/LDP/154/14.Mar.2002/Politics Subcommittee)
- In order to institute a “national cabinet system”—that is, a form of operation of the parliamentary cabinet system by direct democracy, in which, in effect, the people directly choose both the policy program and the prime minister who will be the agent of its implementation—there have to be prime ministerial powers sufficient for him to be able to implement his policy program. (SHIMA Satoshi, Member/DPJ/154/14.Feb.2002/Politics Subcommittee)
- I have felt for some time that in order to radically change Japanese politics, a drastic reform such as introducing popular election of the prime minister is necessary. But if it is possible to operate a parliamentary cabinet system on the British model, in which the people can choose policies and candidates for prime minister at election time, and the prime minister elected in this way has a popular

mandate and can exercise leadership, I do not reject that possibility. (MATSUZAWA Shigefumi, Member/DPJ/154/14.Mar.2002/Politics Subcommittee)

- I think at the time of general elections for the House of Representatives most people have the issue of who will be the next prime minister in mind, and that in fact we are moving closer and closer to a “national cabinet system.” Moreover, in our rapidly changing world, I think this way of doing things has become necessary. (FUJISHIMA Masayuki, Member/LP/154/14.Feb.2002/Politics Subcommittee)
- If the Cabinet is formed by members of the Diet elected on the basis of clearly stated policies, and formed in a way that reflects the results of the election, then I think there is a problem with Cabinet reshuffles clearly undertaken in order to change policies during a term of the House of Representatives. (KANEKO Tetsuo, Member/SDP/154/14.Feb.2002/Politics Subcommittee)
- There are various ways of selecting the leader of the Cabinet, including the direct election of the prime minister and the parliamentary cabinet system, but I think for Japan the parliamentary cabinet system is best. And I think it would be best if we aimed at a “national cabinet system” in working with it. (INOUE Kiichi, Member/NCP/154/14.Feb.2002/Politics Subcommittee)

<Comments by Informants and Others>

- With the kind of “activist state” we have at present, implementation of policy demands strong political leadership. To that end, the Cabinet and its policy programs must be clearly supported by the majority of the people. From this perspective, I think the “national cabinet system” is an appropriate model—a way of operating the parliamentary cabinet system by direct democracy in which, in practice, the people directly choose both the policy program and the prime minister who will be the principal agent of policy implementation. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)
- It is not desirable in terms of the operation of the cabinet parliamentary system for a change in government to occur during a term of the House of Representatives, and for the Cabinet thus formed to continue in place without receiving the mandate of the people. When there is a change of government, the people’s vote of confidence must be sought. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)

b. The importance of popular sovereignty

<Comments by Members>

- We need to establish a parliamentary cabinet system based on popular sovereignty, in which the people participate in politics not just at election time, but in their daily lives, and in which they are guaranteed a proper look into the workings of the

government's processes of policy formulation and implementation. For this purpose we do not need stronger Cabinet functions, but to conceive of a parliamentary cabinet system centering on the Diet, which the Constitution has mandated as the highest organ of the state. (SHIOKAWA Tetsuya, Member/JCP/153/8.Nov.2001)

- The issue facing the parliamentary cabinet system at the present time is not how to achieve decisive political action on the part of the parliamentary majority; rather, it is how, based on the sovereignty of the people, to strengthen the control that the Diet exerts over the executive branch. In that sense, the House of Councillors can play a significant role. (HARUNA Naoaki, Member/JCP/153/8.Nov.2001)

<Comments by Informants and Others>

- The mechanism of the parliamentary cabinet system of our country must be grasped in terms of its relationship to popular sovereignty. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)

c. Strengthening diet control over the cabinet

<Comments by Members>

- Making it possible for parliamentary minorities to invoke the right to conduct investigations in relation to government is the most important thing that can be done to achieve a political system in which regular transfers of power are possible and to improve functions of executive branch oversight. (SHIMA Satoshi, Member/DPJ/154/14.Mar.2002/Politics Subcommittee)
- I think that the ruling parties forming a coalition should also be able to conduct interpellations of the Cabinet, so that they can explain their positions both to the Cabinet and to the people. (OTA Akihiro, Member/NK/153/8.Nov.2001)
- I think the power to control the right of investigation in relation to government in the Diet should be given not only to the opposition parties but also to the ruling parties. (INOUE Kiichi, Member/NCP/154/14.Feb.2002/Politics Subcommittee)

<Comments by Informants and Others >

- If we assume that the various parties making up a coalition government are in consultation as to that government's policies, I doubt there is any meaning in allowing the ruling parties to interpellate the Cabinet. (MORITA Akira, Informant/153/8.Nov.2001)
- It is extremely important to institutionalize the controlling influence of the opposition parties. Since Cabinet policy first takes shape on the basis of discussion within the ruling party, and is then subject to interpellation and alternative policy proposals by the opposition parties, I believe that if more time were allocated to

opposition interpellations, and if the powers of the opposition parties were strengthened just a bit, it would contribute to the genuine acceptance by the people of the policies of the ruling party and Cabinet. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)

- The control of the Cabinet should be performed by the Diet, centering on the opposition parties. For that purpose, we must shape our institutions to permit adequate exercise of this controlling function by the opposition, such as making it possible for the opposition parties to take the lead in exercising the right of investigation in relation to government. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)
- If we go about creating a strong Cabinet, a mechanism to provide checks on this strong Cabinet is also needed, and for this purpose the powers and functions of the Diet need to be strengthened. Since the majority in the Diet is on the side of the Cabinet, it follows that we should construct the system with a view toward giving preferential treatment to the minority. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
- The right of investigation in relation to government should be given, not to the Houses, but to the members of the Diet. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)

d. Rethinking our understanding of the separation of powers

<Comments by Members>

- In Japan, perhaps because the concept of the separation of powers à la Montesquieu is the dominant one, I anticipate a lot of arguments against the idea that senior vice ministers and parliamentary secretaries should be allowed to serve as directors on Diet committees. (SHIMA Satoshi, Member/DPJ/154/14.Mar.2002/Politics Subcommittee)
- In thinking about the operation of the parliamentary cabinet system as a “national cabinet system” and how this would relate to the Constitution, it seems to me that there are going to be problems resulting from the fact that despite its adoption of the tripartite separation of powers, Article 41 designates the Diet as “the highest organ of state power.” (MATSUZAWA Shigefumi, Member/DPJ/154/14.Feb.2002/Politics Subcommittee)
- Rather than “government by the Cabinet,” in which the Diet is posited as part of the process of selecting the governing Cabinet, I would argue that what is needed is a relationship of tension between the Diet and the Cabinet, based on a view of the separation of powers like that of Montesquieu. (SAITO Tetsuo, Member/NK/154/14.Mar.2002/Politics Subcommittee)

- For some time Japan has been an example of the phenomenon of the “administrative state,” in which the administrative branch has had de facto domination over national policy. However, the Cabinet in which the executive power is vested is responsible to the Diet, and I think we need to make fundamental changes in various institutions so that the Diet actually functions as the highest organ of state power. (FUJISHIMA Masayuki, Member/LP/151/14.June.2001)
- In order to make our current parliamentary cabinet system work better, perhaps the prime minister and even the Diet members who have joined the Cabinet should renounce their party and factional affiliations in order to serve as neutral heads of the administrative branch, unconstrained by party ties. (KONDO Motohiko, Member/Club 21/153/8.Nov.2001)

<Comments by Informants and Others >

- The tripartite separation of powers among the legislative, executive, and judicial branches, with no single institution allowed a monopoly of power, will function quite well to defend the vested rights and interests of the members of society without any change in our existing political institutions. However, in contemporary society, appropriate state action grounded in the strong leadership of an executive or governing power that transcends the legislative, executive, and judicial sectors has become necessary. In the parliamentary cabinet system, it is the Cabinet that is interpreted as bearing these functions of state, but in a presidential system it is questionable whether the roles of these executive or governing functions can be effectively assigned. (HASEBE Yasuo, Informant/153/8.Nov.2001)
- In France, they have created a mechanism by which, if you are appointed as a minister of state, you must resign as a member of parliament. In fact, however, legislation cannot proceed without the approval of parliament, making execution of national policy difficult, so at present the way the system works is that the prime minister always comes from the parliamentary majority, even though he formally resign his seat. Therefore, in a parliamentary cabinet system, I don’t think there’s much significance to the prime minister or other cabinet ministers renouncing their party and factional affiliations. (HASEBE Yasuo, Informant/153/8.Nov.2001)
- We should not understand the relationship between the Diet and the Cabinet according to the traditional or commonly held view that it is adversarial, one of checks and balances. Instead, from the fact that the Cabinet is responsible to the Diet, we should understand the Cabinet and the Diet as forming a unified whole that oversees the various administrative entities. The adversarial relationship should be seen as existing between the ruling and opposition parties, rather than between the Diet and Cabinet, and we should consider such issues as the difference of opinion between the government and the ruling party and the meaning of having the ruling party interpellate the Cabinet. From this perspective we should also take

a look at issues such as the right to dissolve the Diet, the ideal form of the House of Councillors, and so on. (MORITA Akira, Informant/153/8.Nov.2001)

- The Diet should not provide a check on the Cabinet conceived as part of the executive branch; rather, the Cabinet and Diet, unified via the ruling parties, should hold the governing power, clearly define the boundaries between themselves and the bureaucracy in the narrow sense, and display the political dynamism of which they are capable. (MORITA Akira, Informant/153/8.Nov.2001)
- In terms of the relationship between the Diet and Cabinet, the basic schema at the time the Constitution was formulated was one of law-making/law-executing; but at present I think it makes more sense to look at the political sphere in terms of a schema of governance/control. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)
- The reason for separating the legislative, executive, and judicial powers was to establish the rule of law. If we are looking at the political sphere rather than the legal sphere, I think it makes more sense to understand this tripartite separation through the schema of governance/control. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)
- The separation of powers under a parliamentary cabinet system should not be understood as an opposition between the legislative and executive branches; rather, it should be seen as a fusion of powers in which the majority in the Diet wields executive power, directs and oversees the executive branch, and creates policy. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
- I think the rule that a member of the legislative branch becomes the head of the executive branch destroys the spirit of the separation of powers, and gives rise to collusion between politicians and bureaucrats and stagnation in government. We need reforms such as making it mandatory for Diet members appointed as government ministers to either resign or suspend their status as members of the Diet. (ASHITOMI Osamu, Speaker/154/22.Apr.2002/Okinawa Hearing)

e. The importance of unity between ruling parties and Cabinet

<Comments by Members>

- Unification of government/ruling party policy-making could play an important role in carrying out the responsibilities of politicians to create comprehensive policy proposals based on medium- and long-range planning and to present bold visions and concepts for the future. (YASUOKA Okiharu, Member/LDP/153/8.Nov.2001)
- The fact that the ruling parties are screening bills in advance is a problem. The role they should be performing is to provide the prime minister and other personnel of

the Cabinet. (NAKAMURA Tetsuji, Member/DPJ/154/14.Feb.2002/Politics Subcommittee)

<Comments by Informants and Others >

- The “dual power structure” of the Cabinet and ruling party or parties is a problem. The ruling party should furnish from its ranks personnel for the Cabinet and related posts, so that a decision by the Cabinet constitutes a decision by the ruling party. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)
- In order to wipe out the tradition of bureaucratic dominance, so that “government” can win the support of the people and do its job politically, we have to establish the model of ruling party support for the Cabinet. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)
- The role of the ruling party is to participate in the formulation of Cabinet policy on the basis of vigorous debate within the party, and then to support the Cabinet. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)
- If screening of bills by the ruling party is prohibited, the question of whether the ruling party will be able to revise bills once they have been submitted to the Diet will probably be resolved case-by-case. With regard to issues that threaten the continuity of the Cabinet, I doubt that such measures as allowing members to go against party-mandated binding votes in order to participate in revisions will be met with much enthusiasm. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)
- It is the members of the Diet who are directly elected by the people, “with whom resides sovereign power,” and the Diet, which is the assembly of these representatives of the people, is therefore the branch of government that possesses the greatest legitimacy: this is the meaning of the phrase “highest organ of state power.” The reason the Cabinet may possess strong powers is because it is formed by the group holding the majority of seats in the Diet. It follows, therefore, that strengthening the powers of the Cabinet would not conflict with the principle of the Diet as the “highest organ of state power.” (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
- The ruling party’s best talent should be placed in the Cabinet to form the highest-level leadership team for national policy; at that time it would be desirable if they shared a commitment to a clear set of policies. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
- The ruling party should pick its leaders in a clearly defined manner, and then unite under that leadership to participate in forming the government, aiming in this way to achieve a common commitment to its policies among its members; it should not

interfere in the executive process from its position in the Diet. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)

- If prior screening of bills within the ruling party is to be forbidden, then the number of political appointments should be increased. Debate within the party and debate within the ministries should be made to overlap by having the majority of the officers of the party's policy research councils appointed to posts within the appropriate ministries. In addition, other back benchers should be put to work in legislative activity, such as staffing Diet committees. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)

f. Comparisons with the presidential system

<Comments by Informants and Others >

- Whether you have a parliamentary system or a presidential system, if you look at it in terms of institutional theory, each has its risks, and to make either work requires a lot of effort. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- I see no clear advantages to introducing to Japan some system of democratic government other than the parliamentary cabinet system, such as the presidential system, or a semi-presidential system such as that of France; because of this, all we can do is work to improve the parliamentary cabinet system by the way we run it. (HASEBE Yasuo, Informant/153/8.Nov.2001)
- I am not saying the parliamentary cabinet system is absolute and a presidential system undesirable, but since in Japan we have adopted a parliamentary system up to this point, it seems that it would be easier to reform things on this basis. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)
- If, as is customary in our country, the power to dissolve the Diet rests solely with the prime minister, the parliamentary cabinet system performs the function of contributing to the fusion of legislative and executive powers and to the strengthening of the power base of the government and ruling party. Therefore, if we are really to pursue the separation of powers, I think it would be better if we had a presidential system, in which the head of the administrative branch is independently elected. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)
- I think a presidential system is better than a parliamentary cabinet system, but even if we retain the latter, I think there is plenty of room for improvement. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)

g. The future of the parliamentary cabinet system

<Comments by Members>

- We should not rigidly assume that the term of office of the prime minister and the terms of office of the Diet members must coincide. (OKUNO Seisuke, Member/LDP/154/14.Mar.2002/Politics Subcommittee)
- In order for an English-style parliamentary cabinet system to work, I think three conditions must be satisfied: (1) rethinking the proper role of the mass media, with their tendency towards sensationalism; (2) providing support for opposition parties in order to create sound parties with the capacity to govern; and (3) promoting further decentralization of government, including fiscal resources, in order to bring politics closer to the people and encourage public involvement. (BANNO Yutaka, Member/DPJ/154/14.Mar.2002/Politics Subcommittee)
- The relationship between the Diet and the Cabinet in a parliamentary cabinet system has changed since the time the Constitution was formulated. To ignore this, and try to avoid a revision of the Constitution that would respond to this change in principles by attempting to resolve the issue through interpretations of the existing document, seems to me to be putting the cart before the horse. (SAITO Tetsuo, Member/NK/154/25.July.2002)
- In order to achieve stronger political leadership, since we cannot expect stable policy implementation with the prime minister and other ministers changing so frequently, I suggest we adopt the principle of one election, one Cabinet. (KOIKE Yuriko, Member/NCP/151/8.Feb.2001)

<Comments by Informants and Others>

- Although the House of Councillors can take action tantamount to a resolution of non-confidence in the Cabinet by exercising its powers over the treatment of bills, the Cabinet has no means of counteracting this, such as a right to dissolve the House of Councillors. This could result in a dysfunctional situation. Hence, in the operation of the national cabinet system, we should establish “constitutional conventions” that would require, for example, that the House of Councillors practice self-restraint in the exercise of its powers. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)
- “One Cabinet, one set of ministers” is the form the parliamentary cabinet system should take. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)

3. Popular Election of the Prime Minister

A. Positive Assessments of the Popular Election System

a. The necessity of prime ministerial leadership

<Comments by Members>

- I am not saying we should change the system just because (1) it would make prompt and effective exercise of leadership possible, or (2) because we should value the energy that is seen when the people directly choose the leader of their country, as in the United States. But I do think that in terms of responding to the needs of our people, we should give consideration to the introduction of popular election of the prime minister. (ITO Kosuke, Member/LDP/154/14.Mar.2002/Politics Subcommittee)
- In this new era, it is important to secure the leadership of the prime minister, and I think we should give further consideration to a system of popular election of the prime minister. (SUGA Yoshihide, Member/LDP/153/6.Dec.2001)
- Even if the prime minister was chosen by direct popular election, this would never devolve into a dictatorship but take a form that would invigorate Japanese leadership. (SHIMA Satoshi, Member/DPJ/147/6.Apr.2000)
- When one considers such factors as (1) although the Constitution adopts a parliamentary cabinet system, the Diet is operated based on putting central importance on standing committees, which makes it difficult for members to direct their attention to the prime minister and party, and (2) the fact that it is difficult for the prime minister to exercise leadership even when he has strong public support, I believe there are limits to what the parliamentary cabinet system can accomplish in terms of providing prompt and effective leadership, and that we should introduce a system of popular election of the prime minister. (SHIMA Satoshi, Member/DPJ/154/14.Mar.2002/Politics Subcommittee)

<Comments by Informants and Others>

- If Japan is to become a world leader, it must first have strong domestic leadership. For that purpose, I think popular election of the prime minister is essential. (KATO Masanori, Speaker/153/26.Nov.2001/Nagoya Hearing)

b. The significance of direct choice on the part of the people

<Comments by Members>

- From the perspective that there is a problem with the fact that the prime minister is determined without the direct involvement of the people, I think we should consider adopting the system of popular election of the prime minister. If this takes place the

respective roles of the three branches of government may change. (ISHII Hajime, Member/DJP/147/11.May.2000)

- I believe it would be desirable to introduce the popular election of the prime minister, for the following reasons: (1) the 21st century demands speed in political decision-making, and (2) with the advance of globalization, if we do not have a more democratic process of political participation, the state and the people are likely to become alienated from one another. (SHIMA Satoshi, Member/DJP/147/27.Apr.2000, 150/30.Nov.2000)
- There must be a top political leader, and if it is to be someone who has the sympathy of the people and can bring them along with him, then the natural conclusion is probably some sort of popular referendum. For example, a slate of possible candidates might be decided in the Diet and then acted upon by the people, but in any case I think the final decision needs to be a popular one. (KONDO Motohiko, Member/Club 21/150/9.Nov.2000)

<Comments by Informants and Others>

- A popular election of the prime minister is a kind of popular referendum, and if it were written into the Constitution, it could solve the problem of political apathy and as a result give birth to a greater sense of responsibility for Japanese politics on the part of the people. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
- The plus side of popular election of the prime minister is that it is a system capable of directly reflecting the will of the people. The minus side is that it can easily descend into mob rule and popularity contests. Moreover, it is also possible that in the selection of the prime minister something like the recent confusion in the American presidential election could arise. But these minus aspects are all part of the costs of a democratic system. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
- There is concern that popular election of the prime minister will result in mob rule, but in the final analysis this comes down to a question of whether or not you trust the people. From time to time they may make a mistake, but when you consider their high level of education and intelligence, I believe that if the Japanese people were asked to have the responsibility of making their own choices, the choices they make will certainly be good ones. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
- Through the introduction of electronic balloting and the like, we should make the 21st century an era in which the people can directly choose their leaders. Whether we choose a presidential system or a direct election of the prime minister, what is important is the question of whether the people will be able to directly exercise their will in choosing their leaders. (SON Masayoshi, Informant/151/8.Mar.2001)

- The idea of the people choosing their leaders through direct electronic balloting has been criticized for being likely to devolve into a popularity contest, but I believe we should give this idea positive consideration, since I think we can count on the people to do their homework, and that selection of leaders in an open system can destroy the politics of cliques and factions. (SON Masayoshi, Informant/151/8.Mar.2001)

c. Other favorable comments

<Comments by Members>

- I do not think that we can debate the pros and cons of popular election of the prime minister from the single example of Israel's failure with this system. In Israel's case, proportional representation, reflecting the country's makeup, gave rise to fragmented multiplicity of political parties, while in Japan, with the introduction of single-seat electorates, we are aiming at a political process centered on the political parties. Given these different circumstances, I don't think this is grounds for arguing that our country can't introduce a system of popular election of the prime minister. (ITO Kosuke, Member/LDP/153/11.Oct.2001, 153/6.Dec.2001)
- In order to extend the fundamental values of self-realization and self-government, I think it is important to give positive consideration to introducing a system of popular election of the prime minister. (ITO Tatsuya, Member/LDP/154/11.Apr.2002/Politics Subcommittee)
- I think we should, by introducing the popular election of the prime minister, move away from the parliamentary cabinet system toward a form of government closer to the presidential system. (FUNADA Hajime, Member/LDP/147/11.May.2000)
- It has been pointed out that the background for the success of the American-style presidential system is a political culture unique to the United States, including two major parties with rather relaxed party discipline, the existence of members of the lower house primarily motivated by the interests of their local constituencies, and considerable consensus on foreign and defense policies between the two parties, whether they are in power or out. However, it seems to me that encouraging the development of such a political culture in Japan would not be impossible, and that the American-style presidential system could be introduced here. (YAMADA Toshimasa, Member/DPJ/153/8.Nov.2001)
- Popular election of the prime minister could play a major role in controlling our bloated bureaucracy. (YAMADA Toshimasa, Member/DPJ/153/8.Nov.2001)
- Elections perform the two somewhat contradictory functions of "reflecting" and "consolidating" the will of the people. Some are of the opinion that popular election of the prime minister would destroy party politics as the performer of these functions, but it seems to me that in a certain sense the system Israel adopted, which involved elections for members of the parliament on a basis of nearly pure

proportional representation to “reflect” the will of the people, concurrent with a popular election of the prime minister to “consolidate,” was perhaps close to an ideal system. (SAITO Tetsuo, Member/NK/153/11.Oct.2001, 153/8.Nov.2001, 154/14.Feb.2002/Politics Subcommittee)

- It would seem that there were problems in the institutional design of the Israeli system of direct popular election of the prime minister, including the fact that the election was based on proportional representation within a single nationwide constituency with an extremely low cutoff point, and that it was predicated on a system that gave the Knesset the right of non-confidence votes against the prime minister. I think it is a bit premature to judge the system of popular election of the prime minister a failure without first giving adequate attention to its institutional design. (SAITO Tetsuo, Member/NK/153/11.Oct.2001, 153/8.Nov.2001)
- I think perhaps we should try giving the prime minister the same sort of powers that are exercised by the heads of local governments. From that perspective I would like to promote the idea of incorporating direct election of the prime minister into the new Constitution. (UDAGAWA Yoshio, Member/Club 21/150/7.Dec.2000)

B. Negative Assessments of the Popular Election System

- a. Addressing of issues via operation of the parliamentary cabinet system

<Comments by Members>

- I have doubts as to the appropriateness for today's Japan of the system of popular election of the prime minister. I think it would be more appropriate to go on working to put contemporary parliamentary democracy into healthier shape. (NUKAGA Fukushima, Member/LDP/154/14.Mar.2002/Politics Subcommittee)
- Introduction of popular election of the prime minister is unnecessary in Japan because of its problematic relationship to the emperor system, and because we can deal with the issues we face by the way we operate the parliamentary cabinet system. (FUJISHIMA Masayuki, Member/LP/151/14.June.2001)
- With regard to the introduction of popular election of the prime minister, we have heard some negative comments from the speakers at the open hearings, saying we don't need to introduce a new system when the parliamentary cabinet system we have has allowed us to select perfectly decent prime ministers. (HARUNA Naoaki, Member/JCP/151/14.June.2001)
- With regard to introducing popular election of the prime minister, a number of people have argued that more vigorous leadership would be possible based on the popular support expressed in a direct election, but I think it is much more important to increase the public's interest in politics through the progress of constitutional

democracy, in which the diverse opinions of the people are carefully debated in the Diet and developed into policy. (KANEKO Tetsuo, Member/SDP/153/11.Oct.2001)

<Comments by Informants and Others >

- To argue that because we have adopted a parliamentary cabinet system the powers of the prime minister are restricted is wrong, institutionally speaking. In the case of Japan, it is the harmful effects of the factional dynamics within the Liberal Democratic Party that have limited the power held by the prime minister. (KANG Sanjung, Informant/151/22.Mar.2001)
- If we were to introduce the system of popular election of prime minister, there is the problem of possible conflict with the position of the emperor as head of state, and the additional problem that simply introducing the system is no guarantee that outstanding leaders will be selected through it. As a precondition for introducing the direct election system we should first make sure that the most powerful member of the ruling party—in name and in fact—becomes the prime minister. (KANG Sanjung, Informant/151/22.Mar.2001)
- Simply introducing popular election of the prime minister does not necessarily mean that we will achieve faster or more appropriate government action or a strengthening of political leadership. And even under the parliamentary cabinet system, we can achieve such ends if we work skillfully. (HASEBE Yasuo, Informant/153/8.Nov.2001)
- Rather than introducing popular election of the prime minister, it would be easier to operate the existing parliamentary cabinet system as a “national cabinet system” to ensure the leadership of the Cabinet. This is quite feasible as well. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)
- If the selection process for the leader of the ruling party or parties was made more transparent, or if was opened to the public, direct popular election of the prime minister would be unnecessary. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
- There are problems with the system of popular election of the prime minister, and on the other hand, in the British parliamentary system there have been many examples of strong prime ministerial leadership. I have my doubts about revising the Constitution and introducing a popular election system. What we need to do is work from within to root out the evils of the present system and to select individuals who are capable of leadership. (TEJIMA Norio, Speaker/151/16.Apr.2001/Sendai Hearing)

b. Danger of a rejection of party politics and decline in the role of the political parties

<Comments by Members>

- There are aspects in which popular election of the prime minister and party politics contradict one another. (FUJISHIMA Masayuki, Member/LP/153/8.Nov.2001)
- A number of negative opinions with regard to the system of popular election of the prime minister have been expressed, from the conclusions of the overseas survey report on Israel to the testimony of informants HASEBE Yasuo and MORITA Akira, which included statements to the effect that introduction of the popular elections system could cause party politics to become dysfunctional, and could give the prime minister a separate basis of legitimacy from the Diet. (HARUNA Naoaki, Member/JCP/153/6.Dec.2001)
- When we think about Japan in the 21st century, I believe it is important to think not in terms of revising the Constitution but in terms of how to make its provisions a reality. From that standpoint, I am opposed to introducing popular election of the prime minister, which would lead to the negation of party politics. (YAMAGUCHI Tomio, Member/JCP/154/14.Mar.2002/Politics Subcommittee)

<Comments by Informants and Others>

- Even if we adopt popular election of the prime minister, the prime minister's political leadership will weaken. Moreover, this will also weaken the role of the political parties in formulating consistent, legitimate policies representing the multiple interests and opinions of society, and presenting these policies along with their candidates for prime minister as a single package for voters to choose. In any case, party politics will not move in a better direction. (HASEBE Yasuo, Informant/153/8.Nov.2001)
- The role the political parties should play is, in the sphere of politics, to pursue partial interests while at same time bringing them to realization in a form consistent with the legitimating principle of the general interest. Popular election of the prime minister would be problematic because it would split this role, resulting in the selection of the general interest by the prime minister and the selection of partial interests by Diet members.

c. The danger of mob rule

<Comments by Members>

- If we were to introduce popular election of the prime minister, looking at the way politicians are evaluated via the mass media these days, there is a danger of it leading to mob rule. (NISHIKAWA Kyoko, LDP/151/17.May.2001)

- In our country I think the people have an innate tendency to be easily swayed by rumor and the like, so I fear that popular election of the prime minister could actually cause more trouble than it solves. (FUJISHIMA Masayuki, Member/LP/153/8.Nov.2001)
 - I think behind public support for direct election of the prime minister lies a kind of popularity contest excitement. Moreover, I do not agree with the idea that if we change the system then politics will change; I think we have a lot of other work to do before we think about adopting a popular election system for prime minister. (HARA Yoko, Member/SDP/153/8.Nov.2001)
 - The present sense of stagnation is directly connected to distrust of politics. I think, therefore people also have a desire to be assertively led in some direction, for someone to make our lives better. These are extremely dangerous signs. And in this climate, I think selection of the prime minister in a direct election could have terribly dangerous results. (HIMORI Fumihiro, Member/SDP/150/9.Nov.2000)
- d. Various issues, including the question of what would happen if the prime minister elected were not from the majority party

<Comments by Informants and Others>

- Introduction of popular election of the prime minister would give the people the satisfaction and sense of responsibility that comes from direct participation in the determination of the nation's fundamental policies, but there is still the possibility that a popularly elected prime minister could lack a stable base of support in the Diet and be unable to get the budget and legislation through the Diet necessary to implement his policies. In such a case, the system would in essence lack functionality. (HASEBE Yasuo, Informant/153/8.Nov.2001)
- The Israeli system of popular election of the prime minister had a problem, in that there could be a conflict between the choice of prime minister and the balance of political parties in the Knesset as a result of parliamentary elections. In the prime ministerial election, the voters are making a choice involving fundamental national policy; on the other hand, in parliamentary elections it is possible that they will vote for candidates representing much more partial interests. (HASEBE Yasuo, Informant/153/8.Nov.2001)
- Even with the system of single-seat electorates, in parliamentary elections voters will probably vote local interests, and the direct election system for prime minister could wind up not functioning very well. (HASEBE Yasuo, Informant/153/8.Nov.2001)
- From the standpoint of believing that the Cabinet and the Diet should operate as a unified political sector, I cannot agree with the popular election system for prime

minister, for it would provide a source of legitimacy separate from the Diet. (MORITA Akira, Informant/153/8.Nov.2001)

- In a system based on popular election of the prime minister, if you look at the relationship between the Diet and the Cabinet from a logical point of view, there are three possibilities: (1) a relationship between equals; (2) a relationship in which the prime minister has superiority; and (3) a relationship in which the Diet has superiority. However, in (1) there is the threat of paralysis in national policy if the two sides come into conflict. In (2), with the prime minister in a strong position, there is the threat of dictatorship, and the problem of how he should be forced to resign should this occur. In (3), the prime minister would be very careful with the Diet, and it is likely he will be unable to exercise his leadership. And in any of these cases, it is impossible to give the popular election system a positive evaluation. (MORITA Akira, Informant/153/8.Nov.2001)
- I am opposed to the introduction of the system of direct election of the prime minister for the following reasons: (1) if we introduce a new system without a fundamental review of the problems in the existing system, we will not obtain good results; (2) in the two foreseeable worst-case scenarios, either a complete split could occur between the prime minister and the Diet majority, or all the parties in the Diet could become indistinguishable from the ruling party; and (3) a concern that political parties will lose their internal cohesion with the loss of tension arising from the responsibility of selecting the nation's leader, and the system of party politics itself could break down. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)

e. Problematic relationship to the emperor system

<Comments by Members>

- Popular election of the prime minister is a problem, because it might diminish the authority and dignity of the emperor. (OKUNO Seisuke, Member/LDP/154/14.Mar.2002/Politics Subcommittee)
- If we were to adopt the system of popular election of the prime minister, the prime minister would take on the character of the head of state, and there would be a problem in relationship to the emperor system. (FUJISHIMA Masayuki, Member/LP/153/8.Nov.2001)
- If the prime minister were popularly elected there would be a difficult problem in terms of deciding who we should think of as the head of state: the prime minister with his charisma derived from the will of the people, or the emperor, dependent upon his traditional charisma. (MATSUNAMI Kenshiro, Member/NCP/153/8.Nov.2001)

<Comments by Informants and Others>

- In the beginning, the parliamentary cabinet system was an institution of a constitutional monarchy. If we were to introduce popular election of the prime minister into our present system just as it is, the elected prime minister would have a position similar to that of the president in a republic, which would embody inherent contradictions with the position of the emperor. If we cannot find some solution to this problem, we should not be calling for the introduction of the popular elections system. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)

f. Problems with a presidential-style popular election of the prime minister

<Comments by Informants and Others >

- If we introduce popular election of the prime minister, in the contemporary state, in which the government is required to involve itself in almost every aspect of the society and economy, I think it would be quite difficult to make it an American-style presidential system which rigorously differentiates the legislative and executive powers. (HASEBE Yasuo, Informant/153/8.Nov.2001)
- The reason the American presidential system can function as it does is a result of the peculiar political culture and customs of the United States, such as comparatively loose party discipline and an ability to transcend partisanship and achieve unity when faced with a major diplomatic or defense crisis. Because of this, I think introducing such a system into our country would be problematic. (HASEBE Yasuo, Informant/153/8.Nov.2001)
- A problem that could arise from adopting the presidential system would be that because the executive and legislative branches are so rigorously separated, when the two of them disagree, it can result in a state of paralysis for national policy. (HASEBE Yasuo, Informant/153/8.Nov.2001)

g. Relationship to decentralization of powers between national and local government

<Comments by Informants and Others>

- Even if we were to introduce a system of popular election of the prime minister, this would have to be predicated on a social system based on decentralization of power among local governments and the national government, and among the various organs of the national government. (KAIHARA Toshitami, Speaker/151/4.June.2001/Kobe Hearing)
- At this stage when the extent of the decentralization of power to local authorities is still unclear, it would be premature to introduce a popular election system for prime minister. If an enormous amount of power is concentrated in a single place it will do

no good for local communities. (SASAYAMA Kazutoshi, Speaker/151/4.June.2001/Kobe Hearing)

h. Other negative comments

<Comments by Members>

- Introduction of a system of popular election of the prime minister is an issue that requires careful deliberation, not just random discussion, on a broad range of topics concerning the relationship with the Diet, the emperor system and our other governing institutions. (NAKAYAMA Taro, Commission Chairman, Member/LDP/153/11.Oct.2001)
- I cannot assent to the introduction of a popular election system for prime minister because it is being positioned as a method for breaking through the resistance to revision of Article 9; because it undermines a number of the rules of parliamentary cabinet system; and because it would permit virtually unchecked exercise of the executive power. (YAMAGUCHI Tomio, Member/JCP/151/17.May.2001)
- Given our current system, I think introduction of popular election of the prime minister would be virtually impossible; we are a parliamentary democracy, and quite apart from the constitutional issues involved, I think there would be major institutional problems if we tried to immediately introduce the popular election system. (KONDO Motohiko, Member/Club 21/150/9.Nov.2000)

<Comments by Informants and Others>

- If a popularly elected prime minister is not subject to control by the Diet there is danger of a dictatorship; rather than introducing the popular election system, another approach would be to fully implement the single-seat constituency system and tie the choice of party to the choice of prime minister. (SAKAMOTO Takao, Informant/151/22.Mar.2001)
- Since introduction of popular election of the prime minister would involve revision of the Constitution, I think it would be quite difficult to implement. (SAKAMOTO Takao, Informant/151/22.Mar.2001)
- The system of popular election of the prime minister is absolutely impossible without a revision of the Constitution. Institutional design for it would necessitate consideration of a wide range of issues, beginning with the issue of dissolution of the House of Representatives, and require a great deal of time and labor. When you think of the costs involved, I think the introduction of this system would be futile. (YAMAGUCHI Jiro/154/14.Mar.2002/Politics Subcommittee)
- Revision of Article 9 to allow the maintenance of armed forces and their dispatch overseas, as well as the concentration of executive power brought about through

adoption of popular election of the prime minister, would not only destroy the admirable structural consistency and integrity of our Constitution and rob it of its vitality, it also presents the danger of actually obstructing the resolution of international and regional conflicts. (ODANAKA Toshiki, Speaker/151/16.Apr.2001/Sendai Hearing)

- The shift to a system of popular election of the prime minister is problematic. If you have a situation like that in Europe and America, where there are frequent changes in government but minor differences in basic policy, this system might work, but in Japan at present, the policies of the different parties are too far apart. I think this might simply confuse the people. (SHIBAO Susumu, Speaker/151/4.June.2001/Kobe Hearing)

C. Issues of Administering a Popular Election System for Prime Minister

- a. Votes of non-confidence against the prime minister

<Comments by Members>

- I believe that the Diet would no longer be able to remove a prime minister chosen in a direct popular election if a popular election system for prime minister were introduced. (NAKAMURA Taro, Chairman of the Commission/LDP/153/8.Nov.2001)
- If we adopted a system of popular election of the prime minister, whether or not the Diet would continue to possess the right to a vote of non-confidence against the prime minister would be at issue, but I think impeachment would be possible. (SHIMA Satoshi, Member/DPJ/154/14.Feb.2002/Politics Subcommittee)

<Comments by Informants and Others>

- The most difficult problem with the system of popular election of the prime minister involves the institutional logic of the parliamentary system: the question of whether the prime minister will be able to dissolve the Diet, and the Diet to remove the prime minister. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- Under a system of popular election of the prime minister and a parliamentary cabinet system with the right to pass non-confidence resolutions and the right to dissolve the Diet, there is the question of whether the Diet could vote non-confidence against a prime minister chosen by the people. But I do not think it is a particularly significant issue, since the Diet itself has also been chosen by the people. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)

b. Relationship to the emperor system

<Comments by Informants and Others>

- Introduction of the system of popular election of the prime minister would not conflict with the emperor system. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
- The emperor is a powerless figure of authority; quite different from the prime minister, who holds real power. This bifurcation of authority and power has existed in the makeup of our country from ancient times, and I don't think it would seem that odd even if the prime minister were to be directly elected and perform a role similar to that of a president. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
- A prime minister directly elected by popular vote would be a kind of representative of the nation, and ought to be treated as the head of state. The emperor is a cultural symbol; it does not matter if he is not posited as head of state. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
- Basically, I would not be troubled by a system of popular election of the prime minister that maintained the forms of our present parliamentary cabinet system. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
- If we adopt a system of popular election of the prime minister, we should make it clear that the emperor is the head of state. (SAKAMOTO Takao, Informant/151/22.Mar.2001)
- If we introduced a system of popular election of the prime minister, the situation could be taken care of by saying that the emperor performs ceremonial and formal functions, while the popularly elected prime minister is engaged in the actual activity of governance. There might be concern regarding a conflict over who is the symbol of the state, the popularly elected prime minister who would be endowed by the will of the people with a kind of charisma, or the emperor, whose charisma is conferred by tradition, but this is an issue of the hearts and minds of the people, not an institutional issue. (HASEBE Yasuo, Informant/153/8.Nov.2001)
- With regard to the relative positions of a popularly elected prime minister and the emperor, if you think about the present state of affairs, the emperor's position is a symbolic one whose legitimacy may be thought to rest upon the general will of the people. On the other hand, the legitimacy of a popularly elected prime minister is based on the support of a majority of the people within certain specific circumstances. From this point of view, I think the emperor's symbolic functions and the prime minister's practical functions could coexist. (MORITA Akira, Informant/153/8.Nov.2001)

- I don't think there is any problem with the emperor confirming the appointment of a popularly elected prime minister. Accordingly, I don't think there is any contradiction between the emperor system and a system of popular election of the prime minister. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
- There is no logical reason a presidential system has to conflict with the emperor system, since we can simply create one that doesn't. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)

c. Other comments

<Comments by Members>

- If we were to adopt a system of popular election of the prime minister, how we should think about the two houses of the Diet is an extremely important issue. (ITO Tatsuya, Member/LDP/154/11.Apr.2002/Politics Subcommittee)
- If a popularly elected prime minister were to choose the ministers of his Cabinet from ranks of the Diet, there is some concern that this would conflict with the Constitution's stipulation that the Cabinet must be collective responsible to the Diet. (NAKAYAMA Taro, Commission Chairman, Member/LDP/153/8.Nov.2001)
- The demerits of a system of popular election of the prime minister, in addition to inefficiency, are that you cannot deny the danger of degenerating into a popularity contest or mob rule. Whether or not the political consciousness of the people would mature under such a system is a major point for consideration. (HIRASAWA Katsuei, Member/LDP/150/7.Dec.2000)
- In terms of the principle of separation of powers, it seems to me that the parliamentary cabinet system revolves around the legislative branch, while the presidential system revolves around the executive branch. If we were to introduce a system of popular election of the prime minister, we would have to sort out its relationship with the separation of powers. (SAITO Tetsuo, Member/NK/153/8.Nov.2001)
- If we were to adopt a system of popular election of the prime minister, a major concern is so-called mob rule. One way to deal with this might be a screening process in which, for example, a candidate would have to be endorsed by at least thirty members of the Diet. (KOIKE Yuriko, Member/NCP/150/7.Dec.2000)

<Comments by Informants and Others>

- With regard to the system of popular election of the prime minister, there are various political dangers at issue, including the concern that it might encourage the rise of a demagogue. On the one hand, a political system in which the people choose

the policies has a certain stability of its own. On the other hand, there can be a real problem if, in making their choice, the people take the attitude of “Oh, whatever, just take care of things for me.” (SASAKI Takeshi, Informant/150/9.Nov.2000)

- There are many issues to consider with regard to the introduction of a system of popular election of the prime minister, including (1) the question of electoral procedure, such as whether a relative majority of votes should be sufficient to elect, or whether runoff elections need to be held until someone achieves an absolute majority, and (2) questions of institutional design, such as whether to devise a system that is a sort of hybrid between the parliamentary cabinet system and the presidential system. (MORITA Akira, Informant/153/8.Nov.2001)
- The system of popular election of the prime minister presents the difficult problem of how to make an elected prime minister resign if he or she engages in acts contrary to the people’s will. (MORITA Akira, Informant/153/8.Nov.2001)
- The success or failure of popular election of the prime minister as a system will be determined by how it is operated. A couple of concrete points to keep in mind are 1) the need to always conduct the elections for prime minister and the Diet as a set, and 2) the need to work at establishing a firm sense of political responsibility on the part of the political parties. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/ Politics Subcommittee)

D. Background of the Theory of Introducing the Popular Election System

<Comments by Members>

- Behind the upsurge of enthusiasm for the idea of popular election of the prime minister is, I think, a sense among the people that we are at an impasse because of the lack of strong prime ministerial leadership in our country at this critical juncture for both Japan and the world; a sense that this leadership cannot provide a timely and well-defined vision of the future or implement the sort of policies the people are seeking. (YASUOKA Okiharu, Member/LDP/153/8.Nov.2001)

<Comments by Informants and Others>

- In the latter half of the 20th century, with the strengthening of international ties, the image of the prime minister as representative of our nation was given greater emphasis, while at the same time the mass media brought the people into much more intimate awareness of the activities of the prime minister. Given these circumstances, the people began to want more of a say in the selection of the prime minister, while on the other hand, prime ministers began to be quite interested how the direct support of the people might be linked to their own legitimacy. I think this is the background of the advocacy for a system of popular election of the prime minister. (MORITA Akira, Informant/153/8.Nov.2001)

E. Other Comments

<Comments by Members>

- I was impressed by the fact that Israel adopted a system of popular election of the prime minister in order to weaken the relative strength of the minor political parties, but that the result was the opposite of what was intended, and ended up strengthening the minor parties instead. (SENGOKU Yoshihito, Member/DPJ/153/11.Oct.2001)
- We should consider the advisability of the system of popular election of the prime minister from the standpoint of how popular sovereignty can be most effectively deepened. (UEDA Isamu, Member/NK/151/14.June.2001)

<Comments by Informants and Others>

- Introduction of the system of popular election of the prime minister would require a major review of the Constitution. (OHKUMA Yoshikazu, Informant/151/17.May.2001)
- Introduction of the system of popular election of the prime minister is an issue that involves the totality of our national institutions, and rejecting it simply out of fears that it will lead to mob rule is inappropriate. (OHKUMA Yoshikazu, Informant/151/17.May.2001)

4. The Political Parties

(1) Current perceptions

<Comments by Members>

- A strong aspect of Japan's party politics is the extremely Japanese role it plays in sustaining the existing power structure. In order to fulfill the promise of Japanese democracy, we must reform party politics itself and push it in a more progressive direction. (ITO Tatsuya, Member/LDP/154/11.Apr.2002/Politics Subcommittee)
- Japan's political parties fight their election campaigns with general slogans, and save concrete policy formulation for the budgetary process. (NUKAGA Fukushima, LDP/154/14.Mar.2002/Politics Subcommittee)
- A democratic parliamentary system almost necessarily demands party politics. In contemporary Japan, no matter how much one may say about the parties losing their credibility, I don't think there's much of anything to replace them. (FUJISHIMA Masayuki, Member/LP/154/11.Apr.2002/Politics Subcommittee)

<Comments by Informants and Others>

- In thinking about political institutions, political parties are the backbone. With regard to party politics, there are problems, not just with the individual parties, but with the party system as a whole, and this is related to the question of how we should organize our electoral system. (TAKAHASHI Susumu, Informant/151/8.Feb.2001)
- Political parties are groups that declare and move towards the realization of a set of principles, but a distinction can be made between "ideological parties" that work these principles into a detailed theoretical system to which they rigorously commit themselves, and "pragmatic parties" that hold their principles more loosely, and are flexible in their response to the actual demands of the people. (TAKAHASHI Susumu, Informant/151/8.Feb.2001)

(2) The nature and role of the parties

<Comments by Members>

- In order to change the nature of the parties, we must think of reforming the consciousness of the people and the politicians, reforming the system, and reforming the decision-making process. (NUKAGA Fukushima, Member/LDP/154/14.Mar.2002/Politics Subcommittee)

<Comments by Informants and Others>

- The role of political parties in the parliamentary cabinet system is to help govern according to the will of the people and for the benefit of the people. In other words, each party presents its policy program to the public and then, in response to feedback, revises the program flexibly in a direction that has majority support. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)
- The desirable situation would be for there to be two main parties, both capable of forming governments, and both with clearly defined platforms for how they would rule. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
- Political parties act in society as private organizations, but on the other hand, in the Diet they play a public role. From the latter perspective, they bear the corresponding responsibility, and should make their operations more transparent. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)
- There are many political issues, and with the increasing diversity of values among the people, I think it is likely that in many cases a political party will not be able to reach internal consensus. Because of this, I think party-mandated binding votes with regard to the proposal, deliberation, and adoption of bills should be eliminated (ENDO Masanori, Speaker/151/16.Apr.2001/Sendai Hearing)

(3) Nature and role of ruling and opposition parties

<Comments by Members>

- In the final decision-making process within the Liberal Democratic Party, contrary to what is written in the party by-laws, unanimous consent of the General Council, the party's highest decision-making body, is required. We are now looking at the possibility of changing this to some format that makes it easier for the top leadership to implement their decisions. (ITO Kosuke, Member/LDP/154/14.Mar.2002/Politics Subcommittee)
- I think we should institutionalize the concept of the shadow cabinet, so that the opposition parties acquire expertise in policy formulation and, should they find themselves in the position of forming a government, the ability to give guidance to professional bureaucrats. (TSUZUKI Yuzuru, Member/LP/153/8.Nov.2001)

(4) On incorporating parties into the constitution; enactment of a Political Parties Law

<Comments by Members>

- Like Germany, we should provide for political parties in the Constitution, and clearly define what role they are supposed to play. (SHIMA Satoshi, Member/DPJ/154/14.Mar.2002/Politics Subcommittee)

<Comments by Informants and Others>

- The status of political parties should be defined and their role and responsibilities clarified in the Constitution. Specifically, the Constitution should clearly state that political parties are a type of public organ for the realization of democratic government and popular sovereignty and that they must have an openness and transparency appropriate to this role. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- In order to sustain the parliamentary system, we need to think about measures, including the Constitution, to gain the trust of the people with regard to the political parties. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- As long as the political parties are receiving public funds, we need to give thought to the form they should take; for example, we should enact legislation that defines guidelines for the election of party leaders, the duty of the parties at election time to present a candidate for prime minister and a detailed platform, and so forth. I think that making clear provisions for political parties in the Constitution, as Germany has done, would also be of great significance. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
- Since the state of the parties exerts an influence on how the two Houses are organized and on the operation of the Diet, clearly defining the status of the parties in the Constitution would be desirable. This would clarify the role and responsibilities of the parties in a democratic society, and might also have the effect of galvanizing the parties. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)

5. On the Introduction of a National Referendum System (Direct Democracy)

a. Positive comments

<Comments by Members>

- I think we should incorporate systems of direct democracy, such as popular election of the prime minister and national referenda, into the Japanese system. Making clear our responsibilities as a nation and as a people, as well as taking responsibility for the results of the choices we have made is a very important part of building a nation-state. Because we don't have such systems at present, the people and the politicians have become estranged from one another within our system of representative government. (MATSUZAWA Shigefumi, Member/DPJ/147/27.Apr.2000)
- From the perspective of deepening popular sovereignty in a real sense, we should discuss the potential for local referenda and other forms of direct democracy. (UEDA Isamu, Member/NK/151/14.June.2001)
- The development of information technology has made national referenda and other forms of direct democracy easier to implement, and we should use them to help create a sound and vigorous parliamentary democracy and firmly establish genuine popular sovereignty. (FUJISHIMA Masayuki, Member/LP/151/14.June.2001)

<Comments by Informants and Others>

- The country's leaders envision what form the nations should take and in what direction people should proceed, and if there were institutional guarantees that when necessary, national referenda would be conducted in response to these proposals, the interest of the people in politics would be greatly increased. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
- I think it is necessary to give popular sovereignty concrete form via a system of national referenda. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
- For the people to increase in self-awareness and responsibility, issues that are suitable for national referenda should be put before them for their feedback; this is not going to lead to a collapse of parliamentary democracy or a diminution of its significance. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
- If the conduct of national referenda is not clearly provided for in the Constitution and other legislation, it would be impossible for the prime minister to suddenly call for a national referendum to sound the people's opinion with regard to a particular issue. Moreover, since even if the prime minister dissolved the Diet, the ensuing election could not possibly be limited to a vote on the issue in question, I think we

need to institutionalize some form of system of national referenda. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)

- If you reflect on the fact that the people seem to have no interest in the Diet other than at a level of who will gain and who will lose, that the Diet's function has been considerably eroded, and that there is a deeply rooted distrust of representative democracy among the people, I think it is necessary to have national referenda on important issues. (MUNESUE Toshiyuki, Informant/154/14.Feb.2002/Human Rights Subcommittee)
- For the sake of democracy, being able to vote for people is important, but so is an element of deciding things for ourselves. For that reason, I think we should orient our discussion toward ways to enhance popular self-determination through the introduction of forms of direct democracy such as the referendum and the initiative. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)
- In the representative system adopted by our present Constitution, there are insufficient provisions for establishing the primacy of the sovereign people over their representatives in the Diet, and about the only opportunity the people have to participate in political decisions is at election time. To deal with this, I think we should consider a system that can guarantee continuous popular sovereignty to the extent that is possible, i.e., the concurrent use of referenda and other forms of direct democracy. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)
- With regard to national referenda, there seem to be two schools of thought: those who believe nothing very good will come out of letting the people decide things directly, and those who think this might result in some pretty good choices. For my part, I think that the more experience the people have in taking responsibility for the consequences of their own decisions, the better. Wouldn't we learn a lot from this? (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)

b. Negative comments

<Comments by Members>

- With regard to policy proposals that have no immediate benefits in the short term but are necessary from a medium- to long-term perspective, such as introducing new taxes, I do not think appropriate decisions would be arrived at by adopting the procedures of direct democracy, such as national referenda. (NAKAGAWA Shoichi, Member/LDP/154/24.June.2002/Sapporo Hearing)
- In today's mass media, where the attitude seems to be to give priority to anything sensational that will raise ratings, news organizations have degenerated into entertainment organizations. Given the present state of affairs, I think introducing the techniques of direct democracy would be extremely dangerous. (KONNO Azuma, Member/DPJ/154/14.Feb.2002/Politics Subcommittee)

- I feel that if we institutionalized a system of national referenda the fundamental forms of parliamentary democracy would be lost. At the very beginning of the Preamble to the Constitution the principles of popular sovereignty and parliamentary democracy are proclaimed, and stipulated as the means by which the Constitution itself and our laws are to be determined. I thus have my doubts about legislation to institutionalize popular referenda. (UDAGAWA Yoshio, Member/Club 21/150/7.Dec.2000)
- If we incorporated national referenda into the Constitution as a way to listen to the will of the people, it seems to me it would overlap with the ways that the popular will is already aggregated: not only the system of parliamentary democracy itself, but specific aspects of it such as dissolution of the House of Representatives, elections for the House of Councillors, and so forth. I have doubts about establishing national referenda as a system. (UDAGAWA Yoshio, Member/Club 21/150/2000.12.7)

<Comments by Informants and Others>

- Guaranteeing the participation of the people in the everyday process of policy formation is an extremely difficult problem, and it is questionable as to whether the people, in an era of increasing specialization of administrative functions really have the capacity to render appropriate judgment on specific policies. As a means for placing some type of control on specialized policy in the form of a direct reflection of the popular will, there is the system of national referenda, premised on public access to information. However, one could also say that it is the work of the members of the Diet to accurately assess the needs and desires of the people and weave them into policy. (MORITA Akira, Informant/153/8.Nov.2001)

c. Other comments

<Comments by Informants and Others >

- People are increasingly interested in direct participation in important political issues through the introduction of national referenda, popular election of the prime minister, and so forth. However, the people's expectations are in conflict: on the one hand, they want to think of their representatives in the Diet not as an elite, but as peers who will take their opinions into account and act accordingly; while on the other hand, they want these same representatives to be leaders, and possess powers of political judgment superior to those of the ordinary citizen. (OHKUMA Yoshikazu, Informant/151/17.May.2001)
- I do not think that national referenda could be permitted under the current Constitution, but if we consider for a moment implementing it under "national cabinet system," then basic policies would be determined by election, and national referenda would in essence mean the prime minister is seeking the mandate of the people. On the other hand, its is also possible to imagine national referenda working

quite well with regard to specific important issues independent of a direct relationship to the policies of the government. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)

II. The Diet

1. The Bicameral System

(1) Current perception of the intent of the Constitution and bicameral system

- a. Comments on the intent of the bicameral system and the status of the House of Councillors

<Comments by Members>

- There are many countries in the world that have adopted the bicameral system, and I think that there is a historical background for this. In Japan, however, I think it is a bit doubtful that there was a historical background that really established positive grounds for the adoption of the bicameral system. (MATSUZAWA Shigefumi, Member/DPJ/154/11.Apr.2002/Politics Subcommittee)

<Comments by Informants and Others>

- The House of Councillors not only possesses the autonomy of the legislature under a presidential system, it also possess the powers with regard to the formation of governments and the participation in government that is enjoyed by the parliament under a parliamentary system. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- The fact that the right of designating the prime minister is also given to the House of Councillors can be understood as the institutionalization of a concrete expression of the Cabinet's responsibility to the Diet. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)
- In terms of the structure of the constitutional system, the House of Representatives is extremely dynamic, carrying the potential for a major change in its composition in a single election; in contrast, I think the House of Councillors is expected to play the role of moderating that dynamism. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)
- On the basis of the debate at the time the Constitution was formulated, as well as the fact that it is predicated on a demand to provide representation of all the people, I think the idea of turning the House of Councillors into something like the old House of Peers is unacceptable. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)

- b. Comments on the awareness of problems with the present state of the bicameral system

<Comments by Members>

- We need to discuss both the powers and organization of the House of Councillors. (ITO Kosuke, Member/LDP/153/6.Dec.2001)
- I think it was anticipated that the bicameral system would function as a kind of double-check, but at present it is pretty hard to say that this function is working effectively. (FUNADA Hajime, Member/LDP/147/11.May.2000)
- From the standpoint of actually deepening popular sovereignty, I think we should consider the issues related to the functioning of the Diet, including the state of the bicameral system. (UEDA Isamu, Member/NK/151/14.June.2001)
- In order for the Diet to truly function as the highest organ of state power, we need to give the bicameral system more significant form. (FUJISHIMA Masayuki, Member/LP/151/14.June.2001)

<Comments by Informants and Others>

- The House of Councillors used to be called a carbon-copy of the House of Representatives, but at present it is performing well its role of providing checks and balances and has become a significant presence. The present House of Councillors is a very active one, and meaningful to the bicameral system. (ISHIHARA Shintaro, Informant/150/30.Nov.2000)
- The deliberations of both houses are important, but I do not think it would be desirable if they both adopted exactly the same style and procedure for conducting those deliberations. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)

(2) The future of the bicameral system

A. Stability of Governments

- a. Comments on the importance of government stability

<Comments by Members>

- The House of Councillors, unlike the House of Representatives, cannot be dissolved, and has a stable structure in which half of its members are up for election every three years and has a more distant relationship to the people than the House of Representatives. However, it has strong powers, including the passage of legislative

bills, and in cases in which the ruling party cannot control a secure majority in the upper house, forming a coalition becomes necessary to the conduct of governmental affairs. I think this is the biggest flaw in the Constitution, and an item we should reform. (YASUOKA Okiharu, Member/LDP/153/8.Nov.2001)

- Even if the ruling party controls a majority in the House of Representatives, if it is a minority in the House of Councillors its cabinet will not stand. This is contrary to the original intentions of the bicameral system, and we must rethink the manner in which the House of Councillors functions. (FUJISHIMA Masayuki, Member/LP/154/14.Feb.2002/Politics Subcommittee)

<Comments by Informants and Others>

- The Constitution gives the House of Councillors certain powers of control over the Cabinet, but insofar as the House of Councillors cannot render a vote of non-confidence against the Cabinet, nor can the Cabinet dissolve the House of Councillors, the House of Councillors could create problems if it overreached the powers vested in it and behaved in such a way as to negate the actions of the Cabinet. The House of Councillors must develop certain conventions of behavior that will keep it aligned with intent of the parliamentary cabinet system set forth in the Constitution. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)

- b. Comments rejecting the placement of importance on only the stability of the government

<Comments by Members>

- We have seen situations in which the position of ruling and opposition parties in the House of Representatives is reversed in the House of Councillors, but the bicameral system has continued to play a certain role in politics. If the roles of the Houses are different, we should think accordingly, and I believe it is a bit inappropriate to see it only in terms of preserving the stability of governments. (KANEKO Tetsuo, Member/SDP/154/11.Apr.2002/Politics Subcommittee)

B. Clarification of the Division of Roles between the Two Houses

<Comments by Members>

- I agree with the opinion of Mr. OISHI Makoto that “As long as we are going to adopt a bicameral system, then the composition and other aspects of each House must be different, or it is meaningless.” At present, both Houses are arenas for confrontation between the parties, which I think is a major defect. (OKUNO Seisuke, Member/LDP/154/11.Apr.2002/Politics Subcommittee)

- If the House of Representatives is to be an institution that aims at accurately reflecting the will of the people, then I think the House of Councillors should aim at reflecting the opinion of professionals, and its composition might be determined by recommendations from various professional fields rather than by election. Another possibility would be to have the House of Representatives specialize in deliberations on the budget and legislation, while the House of Councillors could concentrate on auditing the budget, administrative evaluation, and the like. In any case, we need to radically strengthen the checking function we can expect from the bicameral system by implementing a clear separation of roles between the two Houses. (FUNADA Hajime, Member/LDP/147/11.May.2000)
- The powers of the House of Representatives and the House of Councillors in designating the prime minister are different, but otherwise, especially in their powers with regard to enactment of legislation, they are almost identical. Moreover, the electoral mechanism for both makes it impossible to conduct policy debate from a broad, long-term perspective. Because of this, it has become virtually meaningless to have two Houses, and this is another source of the failure of confidence in the political system. The desirable state for a bicameral system is to have two Houses that each possess their own unique characteristics, and complement one another. Considering these factors, I believe we must boldly rethink the articles of the Constitution dealing with the nature of the Diet. (MORIYAMA Mayumi, LDP/147/20.Apr.2000)
- There is no point in having a bicameral system in its current state. Hasn't the House of Councillors simply become a carbon copy of the House of Representatives? Moreover, it is an awful situation when the election results in the House of Councillors can make it possible to form a coalition or produce other alterations in the composition of the government. If we are to have a bicameral system, we need to give adequate thought, not just to the electoral system, but also to the function of the bicameral system and the special nature of the House of Councillors. (ISHII Hajime, Member/DJP/147/11.May.2000)
- To achieve a better division of roles between the House of Representatives and the House of Councillors, I think we need to have another go at separating their functions and remaking the two Houses. A better balance could be struck by reforming the House of Councillors to give it specialized powers, such as approval of certain personnel appointments, especially high government officials, and oversight of budget deliberations, and also by improving the election system so that minority opinions are reflected in the House of Councillors. (MATSUZAWA Shigefumi, Member/DPJ/154/14.Mar.2002/Politics Subcommittee)
- If the popular will is accurately reflected in the House of Representatives, deliberations in the House of Councillors seem like a waste of time. Because of this, I think we need to establish more of a distinction between the functions of the two

Houses. (FUJISHIMA Masayuki, Member/LP/154/11.Apr.2002/Politics Subcommittee)

<Comments by Informants and Others>

- Looked at from a comparative systems perspective, the general trend is for the upper house to have a longer term of office. I believe the upper house, rather than responding to the political demands of the moment, should engage in deliberations weighted towards a medium- and long-range vision for the nation. (HASEBE Yasuo, Informant/153/8.Nov.2001)
- If the House of Councillors is to fulfill its function as the “chamber of reason,” then it must be secured as a place where the power of the political parties does not really reach, a place not bound by members’ ties to other organizations, a public forum where lively debate aimed at the articulation of the objective public good can take place. For that purpose, a certain number of members representing a diversity of backgrounds should be selected to join it. (HASEBE Yasuo, Informant/153/8.Nov.2001)
- The House of Representatives is the chamber that supports the government and makes the laws and budget. On the other hand, we should strengthen the role of the House of Councillors as a kind of critical think-tank, independent of the ideology of the ruling party, engaged from the broadest possible perspective in research and administrative oversight concerning issues of national policy. And to the extent we do this, the powers of the House of Councillors with regard to the enactment of legislation, designation of the prime minister, and so forth, should be diminished. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
- I think we need to find new roles for the House of Councillors, such as giving it the right to hold confirmation hearings for Supreme Court justices, or perhaps to give it the right of first review in the approval of international agreements. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
- If we assume a bicameral system, then since we want each House to perform independent functions, it is essential that the two Houses should, as far as possible, be organized on different principles. With regard to the relationship between the two Houses, we should reflect on their intent and purpose, and then strive to develop an organic relationship between the organization, powers, and procedures of each House. (OISHI Makoto, 514/11.Apr.2002/Politics Subcommittee)

C. Limiting the Powers of the House of Councillors

a. Comments on limiting the powers of the House of Councillors

<Comments by Members>

- Given the rapid pace of change in today's world, perhaps the term of office for the House of Councillors should be three years, with all members coming up for election at the same time. Since the House of Representatives can be dissolved, it doesn't really matter how long their term of office is, but the House of Councillors cannot be dissolved, and I think it would be fine if their term were even shorter than that of the House of Representatives. (FUJISHIMA, Masayuki, Member/LP/153/8.Nov.2001)

<Comments by Informants and Others>

- When the two houses do not agree on passage of a bill, and it is resubmitted to the House of Representatives, I think the required majority for passage should be changed from the two-thirds of those present now stipulated to an ordinary simple majority. However, in such cases, the House of Representatives should probably be prevented for a specified period of time from exercising its right to repass bills. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)
- In a parliamentary cabinet system, it is natural for the House of Representatives to be the base for the formation and maintenance of governments. On the other hand, for the bicameral system to really work the way it is intended to, the House of Councillors and the ruling government should stand at a certain remove from one another. It follows that we should revise the Constitution to give the House of Representatives the sole right to designate the prime minister. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)

b. Comments on self-restraint by the House of Councillors in the exercise of its powers

<Comments by Members>

- Mr. TAKAHASHI Kazuyuki has stated that in light of the intent of the parliamentary cabinet system to give primacy to the lower house, the House of Councillors should show self-restraint in the exercise of its powers. However, I think that as long as the members of the House of Councillors are directly elected by the people, it is pretty difficult to command the House of Councillors to restrain itself. In any case, the source of the problem lies in the fact that the Constitution has given the two Houses virtually the same powers, and I don't think self-restraint alone is going to work very well. (TANIGAKI Sadakazu, Member/LDP/154/14.Feb.2002/Politics Subcommittee)

<Comments by Informants and Others>

- To take full advantage of the virtues of a bicameral system, it is important that the two Houses be different in composition and function. Under the present Constitution, however, the House of Councillors has comparatively strong powers in the passage of legislation, and in order to run a government, the ruling party must also secure a majority in the House of Councillors, so the true value of the bicameral system is blunted. To really give life to the bicameral system, we might consider reducing the constitutional powers of the House of Councillors, but revision of the Constitution requires the consent of at least two-thirds of the House of Councillors, so in practical terms this would be difficult. Thus, we need to establish a customary practice or “Constitutional conventions” whereby the House of Councillors exercises its powers with restraint. (HASEBE Yasuo, Informant/153/8.Nov.2001)
- Although the House of Councillors can take action tantamount to a resolution of non-confidence in the Cabinet by exercising its powers over the passage of legislation, the Cabinet does not possess the ability to counter this by dissolving the House of Councillors, so there is a possibility the whole system could fall into dysfunctionality. Hence, in operating a “national cabinet system,” we would have to establish certain “constitutional conventions” that would require the House of Councillors to practice self-restraint in the exercise of its powers. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)
- Because the House of Councillors possesses such extremely strong powers with regard to the passage of legislation, it is possible that a state of disequilibrium could arise between the two Houses. However, I do not believe that constitutional revision is needed to correct this. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)

D. Comparisons with Other Countries

<Comments by Members>

- I would like for us to take a good look at what we should maintain and use, and what we need to reform to ensure the future of Japanese-style democracy, including the fact that compared to many foreign countries the number of our representatives relative to population is quite small, and also various issues having to do with the powers of the House of Councillors. (YAMAGUCHI Tomio, Member/JCP/154/11.Apr.2002/Politics Subcommittee)

<Comments by Informants and Others>

- In the United States, joint committees of both houses play a quite active role, while in many European countries it has become customary for governments to revise proposed legislation in order to incorporate the opinions of the upper house, so there

are certainly examples of bicameral systems that are functioning quite well. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)

E. Other Comments

<Comments by Members>

- The issue of the bicameral system is an issue of extent to which the will of the sovereign people is reflected in the Diet as the highest organ of state power. Therefore, our essential task should be to question whether this is happening or not. We need to look carefully at specific issues, such as the content of deliberations and the current state of the power of administrative oversight, and, based on the findings, carry out appropriate reforms. (YAMAGUCHI Tomio, Member/JCP/154/11.Apr.2002/Politics Subcommittee)

(3) Is a bicameral system necessary?

- a. Comments favoring retention of the system

<Comments of Members>

- In our rapidly changing times, I think we should maintain the bicameral system, because I think there is significance in securing the ability of both Houses to deliberate upon matters in their own way. (BANNO Yutaka, Member/154/11.Apr.2002/Politics Subcommittee)

<Comments of Informants and Others>

- No matter what form of electoral system we may adopt, I doubt that the will of the diverse electorate in a populous nation such as Japan can be condensed to fit under a unicameral system, so the maintenance of the bicameral system makes sense. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)

- b. Comments opposed to retention of the system

<Comments of Members>

- I think that conceptually the bicameral system has its strong points, but in practice, since the two Houses are engaged in very similar debates, the result is simply to slow the deliberation and passage of legislation, so I cannot really agree with retaining the bicameral system. (INOUE Kiichi, Member/NCP/154/11.Apr.2002/Politics Subcommittee)

2. The Electoral System

(1) Perceptions of the current electoral system

<Comments of Members>

- Candidates whose constituency is defined as the entire country develop more sense of our country as a whole, and through the election itself are brought to a greater awareness of their own nation. If we adopted such a system for one of the two Houses, I think it would be one way to add meaning to the differences between the two Houses. (NAKAYAMA Taro, Commission Chairman, Member/LDP/154/11.Apr.2002/Politics Subcommittee)
- The electoral system for the House of Representatives is a mixture of two systems with different aims, but from the fixed number of seats, with 300 allotted to single-seat constituencies and 180 to proportional representation, it seems clear that it is a system oriented towards the goal of two major parties. (INOUE Kiichi, Member/NCP/154/14.Feb.2002/Politics Subcommittee)

<Comments of Informants and Others>

- I do not think the combination of a single-seat electorate system and a proportional representation system is inappropriate. The existence of even a single seat reflecting one of the minority opinions in our society has symbolic value, and from that point of view, I think the tempering of the single-seat electorate system with proportional representation can be justified. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/ Politics Subcommittee)
- If the political parties insist on the need to allow dual candidacy for single-seat electorates and the proportional representation system in the general election of the House of Representatives, I do not think we need to prohibit it. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)
- The organizing principles behind the electoral districts for the House of Councillors are a mixed form that on the one hand emphasizes regional representation, while at the same time incorporating the principle of proportionality with regard to population. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)

(2) Problematic aspects of the current electoral system
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a. The single-seat electorate system

<Comments by Members>

- The single-seat electorate system requires fine-tuning of the district boundaries in accordance with changes in population. Moreover, the political reforms instituted under the Hosokawa administration not only did not result in the development of two major parties, they in fact had the opposite effect, inviting a riot of at least 16 different parties at one point. Because of this, I think a return to multiple-seat electorates is desirable. (NAKAYAMA Masaaki, Member/LDP/154/11.Apr.2002/Politics Subcommittee)
- In reality, I think it is impossible to “condense” the will of the people in a single election, and so I think we should make it possible to “reflect” a diversity of opinions in the Diet, and from this point of view I think the single-seat electorate system is undesirable. (SAITO Tetsuo, Member/NK/154/14.Mar.2002/Politics Subcommittee)
- I think that in theory the single-seat electorate system is correct, but in practice there are cases in which someone who was not able to secure the endorsement of one party has stood for election as the candidate of a different party. This makes me wonder if the popular consciousness is mature enough to allow the single-seat electorate system to work effectively. On the other hand, there were lots of problems with the old multiple-seat electorate system, but it did allow for smooth generational transitions and had other advantages, so it is difficult to come to a clear decision on which system is better. (INOUE Kiichi, Member/NCP/154/11.Apr.2002/Politics Subcommittee)
- If we continue as is with the single-seat electorate system, I somehow fear that we are going to wind up with elections leaning heavily in one direction, or else a further increase in voters with no party affiliations. (KONDO Motohiko, Member/Club 21/150/9.Nov.2000)

b. Problems with the combined system of single-seat electorates and proportional representation

<Comments by Members>

- The present electoral system, with the addition of proportional representation, has not taken a form adequate to allow the people to choose leaders and their policies. (NUKAGA Fukushima, Member/LDP/154/14.Mar.2002/Politics Subcommittee)
- The electoral system for the House of Representatives (a single-seat electorate system combined with a proportional representation system) has defects in terms of reflecting the will of the people. (SAITO Tetsuo, Member/NK/153/8.Nov.2001)

<Comments by Informants and Others>

- The combined system of single-seat electorates and proportional representation forces the voters to make a choice that is very difficult to understand: the single-seat system requires them to vote for one individual from among the leading candidates; while the system of proportional representation requires them to vote for the party they support. In order to maintain a plurality of options for the voters, while at the same time delivering a party to the Diet with a clear enough majority to allow it to support a stable government, we might consider another idea, currently used in France, which is to have a single-seat electorate system with two-round elections. (HASEBE Yasuo, Informant/153/8.Nov.2001)
- I am not really in favor of the combined electoral system. I think it would be better if we adopted a purely single-seat electorate system, which makes it conceivable that there could be a change of government at any time. (OISHI Makoto, Informant/154/11.Nov.2000/Politics Subcommittee)

c. Issues regarding the electoral system for the House of Councillors

<Comments by Members>

- It concerns to me that in elections for the House of Councillors there is no readily identifiable organizing principle in terms of the number of seats per constituency, which seems to vary from one to as many as four. (SAITO Tetsuo, Member/NK/154/11.Nov.2000/Politics Subcommittee)

<Comments by Informants and Others>

- The main practical problem with applying the open-list scheme to the proportional representation system in the House of Councillors is that votes for the individual candidates on the list are counted as votes for the party they are affiliated with. Because of this, a candidate who amasses an unusually large number of votes can actually have the effect of allowing candidates from his party to be elected who did not gain enough votes to be elected in their own right. This scheme violates the fundamental principle of one person, one vote, and is thus incompatible with the Constitution. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)

d. Over-similarity of the electoral systems for both Houses

<Comments by Members>

- At present the electoral systems for the two Houses are much too similar, which I think undermines the significance of the bicameral system. (NAKANO Kansei, Member/DPJ/154/11.Apr.2002/Politics Subcommittee)

<Comments by Informants and Others>

- One problem with the electoral system is that the systems adopted for the House of Representatives and the House of Councillors are too similar. For the House of Representatives, the existing system is fine, but I believe we need to do some thinking about the state of the House of Councillors, including its electoral system. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)
- The existing Public Offices Election Law lays down similar methods of organization for the two Houses, but I believe that this detracts from what the bicameral system is intended to achieve. Particularly with regard to the House of Councillors, I think there are far more serious problems than the issue of the apportionment of Diet seats. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)

e. Disparity in the weight of a single vote

<Comments by Members>

- In thinking about the relationship between the Constitution and the idea of a “national cabinet system” as a way of operating our parliamentary cabinet system, I think there is a problem in the fact that there is no provision in Article 44 dealing with the current problem of the disparity in the weight of a single vote, such as prohibiting discrimination on the basis of place of residence. (MATSUZAWA Shigefumi, Member/DPJ/154/14.Feb.2002/Politics Subcommittee)
- If the disparity in the weight of a vote continues to be as large as it is now, equal and fair elections will be impossible. This will distort the voters’ franchise, not only with regard to the legislative branch, but also with regard to the executive, since by electing the members of the House of Representatives the people are also indirectly electing the prime minister. (MATSUZAWA Shigefumi, Member/DPJ/154/11.Apr.2002/Politics Subcommittee)

<Comments by Informants and Others>

- The fact that no effort has been made to implement the one person, one vote system demanded by the Constitution, and that by ignoring the disparity between votes we have wound up with an unequal apportionment of Diet seats, is an excellent example of the gap between the Constitution the Diet created and reality. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)

f. Ages of eligibility for voting and standing for election

<Comments by Informants and Others>

- The existing Public Offices Election Law seems to be alienating the 18 to 20 age bracket from politics itself. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)
- I think having a 5-year difference in the age of eligibility to stand for election between the House of Representatives and the House of Councillors could be a meaningful difference in terms of organizational principles. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)

g. Fixed number of members of the Diet is too small

<Comments by Members>

- From what Mr. OISHI Makoto has said, I gather that Japan does not have an especially large number of Diet members. It seems obvious that the present electoral blocs for the proportional representation seats are too large. I think it would be a good idea if we increased the number of seats in order to have an electoral system tied somewhat more closely to locale. (SAITO Tetsuo, Member/154/11.Apr.2002/Politics Subcommittee)

<Comments by Informants and Others>

- The following points can be cited as the problems of single-seat electorates in our country. First of all, since this system has an enormous amplifying effect on the distribution of Diet seats among constituencies, it has the merit of making changes of government possible without a cross-the-board victory in all constituencies—but this is not actually being used to advantage by the parties when they plan their lists of candidates. Secondly, the single-seat electorates should ideally represent about 100,000 people, but in Japan they are much larger, with about 400,000 voters per seat. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)

h. Other comments

<Comments by Members>

- It seems that the recent reform of the electoral system was intended to make changes of government more possible, but given the extremely strong powers of the House of Councillors under the current system, unlike Britain, where a single lower-house election can result in a change of government, in Japan this still cannot easily happen. (SHIMA Satoshi, Member/DPJ/154/11.Apr.2002/Politics Subcommittee)

- There are a number of distortions in our current electoral system, including the disparity in the weight of a single vote, and the excessive regulations enforced under the Public Offices Election Law. (SHIOKAWA Tetsuya, Member/JCP/153/8.Nov.2001)
- In our country today, campaign pledges are neither honored nor respected. (SHIOKAWA Tetsuya, Member/JCP/153/8.Nov.2001)
- Low voter turnout is not a problem of the system prescribed by our Constitution, but of the current state of politics and the Diet. (KANEKO Tetsuo, Member/SDP/154/14.Feb.2002/Politics Subcommittee)
- I believe that holding simultaneous elections for both Houses is problematic, as the popular will is reflected in the same way in both elections, with virtually the same results. (KANEKO Tetsuo, Member/SDP/154/11.Apr.2002/Politics Subcommittee)

<Comments by Informants and Others>

- In Japan, there is an election for one or the other of the Houses about every year and a half, and despite the fact that we have adopted a parliamentary cabinet system, the results of elections for the House of Councillors, in fact, have an influence on the position of the prime minister. In such circumstances, political stability is hard to attain. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)
- With regard to the issue of simultaneous elections, I think that if elections for the two Houses were held at different times we would get different results, and this would be more in keeping with the way the bicameral system should function. However, as a practical problem, imagine a case in which the elections are held separately, and the voter turnout for the House of Representatives election is much higher than that for the House of Councillors election: in a sense, this would have repercussions for the legitimacy of the members of the upper house. Therefore, we should consider that simultaneous elections probably mean an overall increase in voter turnout. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)

(3) Perspectives on the electoral system

- a. The electoral system as a constitutional principle

<Comments by Members>

- In thinking about Japan's political institutions, the most fundamental issue is whether each and every one of Japan's citizens is given the franchise, equally and

fairly. (MATSUZAWA Shigefumi, Member/DPJ/154/14.Feb.2002/Politics Subcommittee)

- The Constitution, in Articles 14 and 15, provides for equality under the law, universal suffrage, and secrecy of the ballot, while in Article 44 it calls quite strongly for equality in elections. Egalitarianism, universal suffrage, and the secrecy of ballots are very strictly defined constitutional principles. (YAMAGUCHI Tomio, Member/JCP/154/11.Apr.2002/Politics Subcommittee)

<Comments by Informants and Others>

- In principle, the electoral system for both Houses may be determined at the discretion of the Diet, but we should make a distinction between constitutional principles that cannot be altered even by legislation, and items that can be prescribed by law. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)
- The constitutional principles and demands governing the organization of the House of Representatives are that elections be direct and equal. On the other hand, with regard to the organization of the House of Councillors, there is a significant issue with regard to how best to reflect the constitutional role of the upper house in the electoral system. With regard to the election of members of the House of Councillors, I agree with the theory that an indirect system is also possible, and with the opinion that, even under a direct election system, the principle of equal elections is not required. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)
- When we say equal elections we mean doing everything possible to make each vote of equivalent value, on the premise of one person, one vote. However, there is a major difference of opinion as to whether this equivalence must be a mechanical one-to-one count, or an equivalence arrived at after factoring in deviations from the national mean and additional factors other than population ratios. OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)
- I can understand absolute equality of the value of a vote as a general principle, but in order to attain it in practice, we would have to redistrict the municipalities. We should think seriously about whether voters would be comfortable with the idea of constituencies that transcended our established administrative divisions. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)

b. Election results and the will of the people

<Comments by Members>

- If the electoral system is not constituted in a way that makes sense to most of the people, I believe their trust in politics will gradually be undermined. (OKUNO Seisuke, Member/LDP/154/11.Apr.2002/Politics Subcommittee)

- No matter what kind of electoral system we have, I think the issue at the very root of politics is how to achieve the closest possible connection with the citizens. (NAKAYAMA Taro, Commission Chairman, Member/LDP/154/11.Apr.2002/Politics Subcommittee)
- Since election law in a practical sense forms part of constitutional law, I believe we need to discuss the ways in which both Houses can be made to more accurately reflect the will of the people. (SHIMA Satoshi, Member/DPJ/11.Apr.2002/Politics Subcommittee)
- I think the function of elections is to both “reflect” the will of the people, and to “condense” it; that is, to take a plurality of opinion and render it in the final analysis into the smallest possible number of discrete “bundles.” (SAITO Tetsuo, Member/NK/11.Apr.2002/Politics Subcommittee)
- The key to guaranteeing parliamentary democracy is to make sure that the popular will is accurately reflected in the Diet. The fact that the rules for accomplishing this have been destroyed is a major problem we must resolve. (HARUNA Naoaki, Member/JCP/150/9.Nov.2000)
- Respect for the opinions of the minority, that great principle of democracy, is of vital importance from the perspective of reflecting the popular will. (KANEKO Tetsuo, Member/SDP/154/14.Feb.2002/Politics Subcommittee)

<Comments by Informants and Others>

- While it is extremely important for the electoral system to reflect the diversity of the popular will, its other aspect is the creation of an immense power, and in this sense it also possesses the inherent function of condensing the public will and unifying popular opinion. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)
- c. The need for an electoral system that embodies the intent of the bicameral system and is suitable for the authorities resting in each House

<Comments by Members>

- Both Houses reflect the will of the people, and both have adopted similar electoral systems, so I don't think we should create a great gap between their relative powers. I think we should consider what sort of electoral system might be appropriate from the standpoint of the House of Councillors serving as a moderating influence on the dynamism of the House of Representatives. (FUJISHIMA Masayuki, Member/LP/154/11.Apr.2002/Politics Subcommittee)

<Comments by Informants and Others>

- In considering the relationship between the two Houses, in light of the intent of the bicameral system, we should think of the organization, powers, and procedures of each House as an organic whole. Nor should the electoral system be seen as a separate issue for each of the Houses; it should be reexamined from the perspective of how to make the bicameral system more meaningful, based on an understanding of the power relationship between the two Houses. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)
- If the principal purpose of the House of Representatives is to support governments, with the basic unit being the political party, then we should expect to see the House of Councillors play a different role, and in thinking about its electoral system, it should be possible to foreground the opinions of the individual person as the basic unit to be considered. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)

d. Elections as a means for selecting the prime minister

<Comments by Informants and Others>

- If every party were to put forward its own candidate for prime minister at election time, that would mean that some of the candidates had almost no hope of actually becoming prime minister. In order to avoid this situation, I think parties should get together before the election and make formal agreements to support a single candidate who could be expected to pull at least 40 percent of the vote. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)
- Simply reflecting the plurality of popular opinion in the Diet does not unify it, and if we agree that it must be condensed in some way, we should acknowledge that a plurality of opinion does exist, and at election time present the voters with the challenge of selecting the government of their choice. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)

e. Making voting compulsory

<Comments by Members>

- There is some doubt as to whether people elected in elections with very low voter turnout can really be called representatives, so I think we need to consider ways of increasing voter participation, including the idea of making voting compulsory. (UBUKATA Yukio, Member/DPJ/151/17.May.2001)

<Comments by Informants and Others>

- If the voting rate is high among people biased in a particular direction, while an apathetic majority fails to vote at all, then election results do not reflect the normal distribution of popular opinion. Because of this, I think we should adopt measures to increase voter turnout, including making voting practically mandatory. (SON Masayoshi, Informant/151/8.Mar.2001)
- Among the general public we see phenomena such as political apathy, distrust in politics, and low voter turnout, which I think must be called a dereliction of their rights and duties as holders of the franchise. (ENDO Masanori, Speaker/151/16.Apr.2001/Sendai Hearing)

f. Other perspectives on the electoral system

<Comments by Members>

- There is no such thing as a perfect electoral system. To avoid the inevitable system fatigue, we might consider conducting a complete review of the election system periodically, like every ten or twenty years. However, this would be meaningless unless we make the electoral systems for the two Houses completely different. (NAKANO Kansei, Member/DPJ/154/11.Apr.2002/Politics Subcommittee)
- In considering the issues of the electoral system, we need to think about the cause of low voter turnout. I think the issue of how we are to sound out the will of the people with regard to policy will prove to be closely related to the issue of voter turnout. (KANEKO Tetsuo, Member/SPD/154/11.Apr.2002/Politics Subcommittee)

<Comments by Informants and Others>

- It is a mistake to assume that the system of single-seat electorates and a two-party system are some sort of inevitable pair. In thinking about our electoral system, we should give full consideration to the fact that at present in Britain and France, both of which have adopted single-seat electorates, strong third parties have come into being. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)

(4) The ideal electoral system

- a. The electoral system should fulfill the intent of the bicameral system and be suitable for both Houses

<Comments by Members>

- Political parties come and go, but an individual's competence and character can be judged by the way they live their life; for this reason, I think the election method for

the House of Councillors should be casting votes for individual candidates. (OKUNO Seisuke, Member/LDP/154/11.Apr.2002/Politics Subcommittee)

- The House of Representatives is the chamber from which governments are formed, and I think we should encourage the formation of a two-party system in it by instituting an electoral system for it based on simple single-seat electorates. If we did this, I think we could run something like the British parliamentary cabinet system also in Japan. (MATSUZAWA Shigefumi, Member/DPJ/154/14.Mar.2002/Politics Subcommittee)
- I think we need to deepen our discussions to address the differences in electoral systems arising out of bicameral systems. (SAITO Tetsuo, Member/NK/154/11.Apr.2002/Politics Subcommittee)
- The provisions in the present Constitution with regard to the electoral system are quite limited. I think the Constitution should, in its relation to the bicameral system, address the electoral system in concrete and detailed terms. (SAITO Tetsuo, Member/NK/154/11.Apr.2002/Politics Subcommittee)

<Comments by Informants and Others>

- Having similar electoral systems completely undermines the functionality of the two Houses. I think we should try doing this in such a way that each House has an electoral system consistent with its purpose; for example, complete implementation of the single-seat electorates for the House of Representatives, and for the House of Councillors perhaps a system of three representatives from each of the prefectures. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)
- In order to fulfill the promise of the franchise, the Constitution should address not just the principle of elections in general but the principles upon which the electoral methods for each of the Houses should be based. And from the standpoint of reflecting the will of the sovereign people, these principles should be written into the Constitution in a form in which they are visible to all. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)

b. The electoral system should be designed with selection of governments in mind

<Comments by Informants and Others>

- If we set the number of Diet members to 300, all elected from single-seat electorates, then a convergence into two major parties will be achieved. With two parties, the prime minister can take full responsibility for giving orders to the bureaucracy, and if his government should reach an impasse or not perform well, government can be ceded to the other party. (WATANABE Shoichi, Informant/7.Dec.150/2000)

- From the basic principle of democracy, implementation of policies supported by a majority of the people is a political outcome that reflects the will of the people. But even if the distribution of seats in the Diet is faithful to the will of the people, if the actual programs adopted are not the policies supported by a majority of the people, then this cannot be said to be a political outcome in accordance with the will of the people. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)
 - At election time, party, leader, and policies should form a single package, so that it will be clear to the people that via the election they are choosing a prime minister and a fundamental political program for the nation. Moreover, it should be made clear that Diet members are not representatives of local interests, but electors of the prime minister, chosen by the people. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
 - Under the present system, the position of the prime minister selected on the basis of the general election for the House of Representatives has the latent potential for being influenced by the outcome of the election for the House of Councillors, and political stability is not guaranteed. It is important that elections not only express the will of the people, but also secure a stable government, and I think a fundamental rethinking of the system from this perspective is in order. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)
- c. Disparity of the weight of a single vote should be corrected in order to fairly reflect the will of the people

<Comments by Members>

- I am in favor of revising the Constitution. However, unless we reform the odd state of democracy in Japan, where the value of a vote is not equal, we will not be able to conduct this constitutional revision in an atmosphere of fairness and equity. (IWAKUNI Tetsundo, Member/DPJ/147/11.May.2000)
- With regard to the disparity between votes, I believe that it should be explicitly stated in the Constitution that, for instance, in electorate-based elections the disparity cannot be more than two-fold. (MATSUZAWA Shigefumi, Member/DPJ/154/14.Feb.2002/Politics Subcommittee, 154/11.Apr.2002/Politics Subcommittee)
- There should be a constitutional requirement, not just a general requirement, that the disparity between votes approach a one-to-one ratio if the election is to be called fair. (YAMAGUCHI Tomio, Member/JCP/154/11.Apr.2002/Politics Subcommittee)

<Comments by Informants and Others>

- With regard to the disparity between votes, the legislative branch should make some kind of political consideration regarding this, for example, allowing

demographic shifts within the range that does not exceed the disparity of 1:2. Ratios of more than 1:2 are unconstitutional. (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)

- Disparities between votes in elections are an important issue. Constitutional scholars commonly agree that if the disparity is greater than 1:2, it is unconstitutional, but I think if this was written into the Constitution, the prohibition of such discrimination would be clearer. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)
- With regard to the electoral system, if all constituencies were made single-seat, then it would be good to have two-round elections. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
- From the perspective of the two functions that elections have of “reflecting” and “condensing” a diversity of public opinion, the French system of two-round elections is worth studying. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)

d. Lowering of the voting age and unification of the age of eligibility to stand for election

<Comments by Members>

- The voting age should be immediately lowered to 18. And doesn't maintaining a five-year age difference in terms of eligibility to stand for election for the House of Representatives or the House of Councillors seem a little pointless in this day and age? (NAKANO Kansei, Member/DPJ/11.Apr.154/2002/Politics Subcommittee)
- People between the ages of 18 and 20 pay taxes, so implementation of a voting age of 18 should be considered a constitutional requirement. (YAMAGUCHI Tomio, Member/JCP/154/11.Apr.2002/Politics Subcommittee)

<Comments by Informants and Others>

- We should give voting rights to persons 18 and over, so that the opinions of young people will be reflected in national policy. (SON Masayoshi, Informant/151/8.Mar.2001)
- We should revise the election law to give voting rights to those 18 and over. There are many people who take jobs upon graduation from high school and are fulfilling their civic duties as taxpayers, but are denied the vote until they turn 20, and this is a serious problem. We should also consider this in terms of the principle of “no taxation without representation.” (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)

e. The future of the media, and an electoral system adapted to technological innovation

<Comments by Members>

- I think information technology is an important means by which the will of the people can be reflected in national policy. (TSUCHIYA Shinako, Member/LDP/154/9.May.2002/International Society Subcommittee)
- In order to establish a healthy electoral system, we need to question the future of the media and create an electoral system adapted to technological innovation. (BANNO Yutaka, Member/DPJ/154/11.Apr.2002/Politics Subcommittee)
- The current election system does not allow use of the Internet in election campaigns, and this should be revised. (HOSONO Goshi, Member/DPJ/151/8.Mar.2001)
- We should introduce electronic balloting. (HOSONO Goshi, Member/DPJ/151/8.Mar.2001)

<Comments by Informants and Others>

- In the United States, the Internet is being used quite effectively in election campaigns, such as presidential elections, among other things as a way to raise campaign funds from a broad stratum of the people. In our country as well we should look to ways the Internet can be utilized in election campaigns. (SON Masayoshi, Informant/151/8.Mar.2001.3.8)
- With advances in information technology it has become possible to introduce a system of electronic balloting, and I think we should. (SON Masayoshi, Informant/151/8.Mar.2001)
- With regard to the influence of technological innovation on the electoral system, there is the question of using websites or the Internet for voting, and I believe we should go ahead and make the changes that should be made to keep up with the times. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)

f. Other comments on the form the electoral system should take

<Comments by Members>

- When we revise the Constitution, we should change the word “elected” in Article 43 to language that would allow for the adoption of other mechanisms, such as a system of recommendation. (OKUNO Seisuke, Member/LDP/154/11.Apr.2002/Politics Subcommittee)
- Whenever the prime minister is changed, we should take this choice to the people. (BANNO Yutaka, Member/DPJ/154/14.Feb.2002/Politics Subcommittee)

- For elections to the Lower House, the New Komeito has proposed a multiple-seat electorate consisting of 150 constituencies with three seats each, in order to reduce the total number of seats and to correct disparities in the weight of a single vote. (SAITO Tetsuo, Member/NK/154/11.Apr.2002/Politics Subcommittee)
- I believe that there is a problem when a matter that was not at issue during an election is raised after the election as a major policy theme or when a public commitment made during an election is changed after the election. In such cases, I think we need to seek the mandate of the voting public. (KANEKO Tetsuo, Member/SDP/154/11.Apr.2002/Politics Subcommittee)

<Comments by Informants and Others>

- I think we should consider a fundamental reform of the Public Offices Election Law aimed at relaxing the restrictions on election campaigning, with the intent of providing the people with the most extensive information possible in choosing their representatives in the Diet. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- Considering the fact that our country has many contending political stances, and that we want to leave as many options open as possible while at the same time leaving a stable political foundation in the Diet, I believe we should consider adopting the French system of two-round elections based on single-seat electorates. (HASEBE Yasuo, Informant/153/8.Nov.2001)
- If you think of the election law as forming part of constitutional law, it is not a very good idea to conduct one or two elections under a new electoral system and immediately set about changing it. It is much better to work with the system for some time, until its strengths and weaknesses can be fully understood. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)
- There are some who feel that for major policy decisions the lower house should be dissolved immediately and the people given an opportunity to express their will, but when you consider the fact that dissolution is a serious matter that threatens all lower house members with the loss of their seats, there is also justice in the argument that we should put even greater restrictions on dissolving the lower house. I am not especially in favor of moving precipitously to dissolve the Diet any time a controversy arises. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)
- Universal suffrage, free and fair elections, and the secret ballot are all certainly principles that are recognized by interpretations of the Constitution, but Article 14 and 15 were added in the very final stages of formulating the Constitution, and they are not necessarily that well-crafted; there is a certain lack of clarity as to where the authors were trying to provide for the principle of universal suffrage. (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)

- The constitutions of most countries make explicit mention of the important aspects of the election system and of popular suffrage in the constitutional code, and proclaim that they must be observed and respected; in this area, the Constitution of Japan does leave something to be desired. (OISHI Makoto, Informant/154/ 11.Apr.2002/Politics Subcommittee)

3. The Diet: Administration and Procedure

a. The importance of debate among Diet members

<Comments by Members>

- Even members of the ruling party should debate the bills submitted by the Cabinet in the public forum of the Diet, leaving a clear record of their position in the Proceedings—isn't this the job of the Diet members, who are the representatives of all the people of this country? (NAKAMURA Tetsuji, Member/DPJ/154/14.Feb.2002/Politics Subcommittee)
- In increasing the competencies and roles of the parties and Diet members and making the deliberations in the Diet into something of real consequence, it is important that we reflect the diversity of the will of the people and help bring it to greater maturity. (SHIOKAWA Tetsuo, Member/JCP/153/8.Nov.2001.11.8)
- The peculiarly Japanese manner in which the Diet is operated—in which Diet members debate each other only through the mass media—has weakened the Diet itself. To help politicians gain the respect of the people, we must give more time to debate in the Diet. (KITAGAWA Renko, Member/SDP/154/14.Mar.2002/Politics Subcommittee)
- We need to give thought to a system like the American one, in which there is ample time for debate, and laws are enacted as a result of thorough and convincing deliberation. (HIMORI Fumihiko, Member/SDP/9.Nov.150/2000)

<Comments by Informants and Others>

- I believe that if the practice of prior screening of legislation by the members of the ruling party were abolished, and deliberations were conducted in the public arena of the Diet, it would contribute to the establishment of true “deliberative democracy.” (HASEBE Yasuo, Informant/153/8.Nov.2001)
- It is important for the Diet to be able to interpellate or demand investigation into the administrative branch, but at the same time I think it is important to have vigorous debate in the course of legislative deliberations among members of the ruling and opposition parties as well, premised on an increase in the number of political appointments. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)

- b. Exercise of the right of investigation of the government by parliamentary minorities

<Comments by Members>

- Making it possible for a minority group to invoke the right to conduct investigations in relation to government is what we need most in order to enable smooth transition of power between governments and achieve more robust oversight of the executive branch. (SHIMA Satoshi, Member/DPJ/154/14.Mar.2002/Politics Subcommittee)
- In a democracy, in the final analysis the majority rules, but at the same time the methods we use to show respect for minority opinions are an important issue. (KANEKO Tetsuo, Member/SDP/154/14.Feb.2002/Politics Subcommittee)

<Comments by Informants and Others>

- The way the system is supposed to work is for the Cabinet to form policies on the basis of discussion within the ruling party, after which the opposition parties are given the opportunity to interpellate the Diet and propose alternative policies, so it seems to me that if we gave the opposition parties more time to conduct their interpellations and strengthened their powers somewhat, it would also be contribute to a genuine acceptance by the people of the policies of the ruling party and Cabinet. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)
- We need to strengthen the Diet's powers to act as a check upon the Cabinet. In so doing, considering the fact that Diet majority has same positions as the Cabinet, we should construct a system from the perspective of giving preferential treatment to the minority. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
- The right to conduct investigations in relation to government should be given to Diet members, not the Diet. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)

- c. On reform of the procedures for submitting legislation

<Comments by Informants and Others>

- With regard to submitting bills sponsored by Diet members, we should immediately do away with the bizarre convention that they cannot be submitted without first being approved by a party or factional representative, and return to the literal text of the Diet Law, whose requirement for submission of a bill is the sponsorship of 20 members of the House of Representatives or 10 members of the House of Councillors. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
- Under the Constitution of Japan, the dominant way of thinking recognizes the right of the Cabinet to submit legislation, but if you consider the fact that the

Constitution specifies the Diet as the sole law-making body, then it seems to me that this right should be reserved exclusively to members of the Diet. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)

d. On reform of the “no carry-over” principle

<Comments by Informants and Others>

- There are a number of issues with regard to the operation of the Diet that are in need of total reevaluation, among them is the elimination or reconsideration of the principle of not carrying bills over to the next session. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- Since the distribution of forces in the House of Representatives does not fundamentally change from one election to the next general election, this period should be adopted as the basic premise for operation of the House and the Diet. I think it is necessary to revise the current Diet term system and the related no-carry-over principle, and adopt in its place a “legislative assembly term.” (OISHI Makoto, Informant/154/11.Apr.2002/Politics Subcommittee)

e. On clearly determining the status of parties and factions

<Comments by Informants and Others>

- Insofar as parties and factions in the Diet are clearly public institutions, they fulfill public functions. This being the case, we need to reform the system to create certain formally defined rules regarding their status and other matters, which they are obliged to follow in cooperating with the operations of the Diet. (OISHI Makoto, Informant/154/11.Apr.2002/ Politics Subcommittee)

III. The Cabinet

1. Organization of the Cabinet

(1) Strengthening prime ministerial (political) leadership

a. Current perceptions

<Comments by Members>

- The prime minister is referred to as the “head of the Cabinet” in Article 66 of the Constitution, but in the Cabinet Law he is viewed simply as chairman, and in the National Government Organization Law he is almost reduced to the same level as the other cabinet ministers. (SHIMA Satoshi, Member/DPJ/154/4.July.2002/Politics Subcommittee)
- In the present Cabinet Law, the status and functions of the prime minister are unclear, and in present circumstances his leadership and overall coordinating functions are too weak. (TSUTSUI Nobutaka, Member/DPJ/153/8.Nov.2001)
- Under the present system the prime minister possesses strong powers as the head of the Cabinet, and there is no need to revise the Constitution. (YAMAGUCHI Tomio, Member/JCP/154/14.Mar.2002/Politics Subcommittee)
- The prime minister’s status as head of the Cabinet is quite clear in the Constitution. However, the provisions of the Cabinet Law and the National Government Organization Law diminish his status. (KANEKO Tetsuo, Member/SDP/153/8.Nov.2001)

<Comments by Informants and Others>

- The issue with regard to manifesting political leadership within the formal system of the Cabinet is less one of the Constitution and the laws, and is almost entirely to do with political practices, which politicians should be able to deal with. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- The powers of the prime minister are immense. (WATANABE Shoichi, Informant/150/7.Dec.2000)
- The background of the demands for strengthening of prime ministerial leadership and more nimble political decision-making is the fact that in the modern state a number of governance and executive functions are required of the government, involving comprehensive planning and coordinating through intervention in various social and economic areas, as well as giving guidance to the lawmaking activity of the legislative branch. On the other hand, how to control these activities of the government is a major issue, and the appropriate information should be made public,

explanations of policy should be demanded, and their legitimacy debated. (HASEBE Yasuo, Informant/153/8.Nov.2001)

- A comparison of our country with Britain is instructive. In Japan the policy-making process has two axes, the ruling party and the government. In Britain, a significant number of the members of the ruling party enter the government, and decision-making is more unified. This is worth noting for the increased speed and flexibility it gives to decision-making and the greater strength it gives to the political leadership of the prime minister. (HASEBE Yasuo, Informant/153/8.Nov.2001)
- One issue related to the administrative reforms that commenced in 2002 is that the status of the Cabinet Office, which should be the organ supervising and controlling the individual ministries, has become vague: it has been positioned as a kind of think-tank, while at the same time being given a large number of practical responsibilities for policy implementation. How this is to be handled has become a major question. (MORITA Akira, Informant/153/8.Nov.2001)
- There is no barrier in existing law to the leadership powers of the prime minister. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)
- The biggest factor obstructing the prime minister from exercising leadership is not the parliamentary cabinet system itself, but the criticism of the prime minister's policy agenda by the ruling parties—an act that runs counter to the fundamentals of party politics. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
- The “collective responsibility” referred to in Article 66, Paragraph 3 should be understood in the political sense, as in Britain, of the leaders of the ruling party uniting to support the prime minister. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
- Constitutionally, the prime minister possesses extremely strong powers, stronger than those of the American president, but the various subsidiary laws and regulations have bound him hand and foot. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- Constitutionally, the prime minister in our current parliamentary cabinet system possesses very great powers. (KAIHARA Toshitami, Speaker/151/4.June.2001/Kobe Hearing)

b. The future strengthening of prime ministerial leadership

b-1. On revising Article 65

<Comments by Members>

- Article 65 should be revised to read, “Executive power shall be vested in the prime minister,” rather than in the Cabinet. (SHIMA Satoshi, Member/DPJ/154/14.Feb.2002/Politics Subcommittee)

<Comments by Informants and Others>

- Under the present Constitution and Cabinet Law the prime minister possesses strong powers, including the right to appoint and remove ministers of state, but if we were to revise Article 65 so that executive power was vested in the prime minister rather than the Cabinet, it would have the effect of (1) serving to strengthen and clarify the leadership of the prime minister within the Cabinet, which, unlike collegial bodies such as the Diet or Supreme Court, is a pyramidal organization, and (2) serving to give the political parties a greater seriousness of purpose in their selection of candidates for prime minister. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)

b-2. On using administration of the current system to effect improvements

<Comments by Members>

- The prime minister, if he were to make full use of his right to initiate proposals at Cabinet meetings (Cabinet Law: Article 4, Paragraph 2), has the ability to play the leading role in the decision-making process with regard to presentation of new legislation. In this event, prior screening of bills by the ruling party should be abolished, but from the standpoint of retaining a controlling influence on the Cabinet, members of the ruling party would probably seek, when necessary, to amend bills in the course of the deliberative process in the Diet. (SHIMA Satoshi, Member/DPJ/154/14.Feb.2002/Politics Subcommittee)

<Comments by Informants and Others>

- With regard to the exercise of political leadership, even under our present system, the ministers of state have relatively strong powers over the bureaucracy. What is necessary, and vital, is that the political side possesses the ability to secure the cooperation of the career bureaucrats. (MORITA Akira, Informant/153/8.Nov.2001)
- We must establish the custom that the Cabinet be formed by talented members of the ruling party selected by the prime minister, who should exert themselves to fulfill the will of the people as expressed in the election that brought them into office, serving and fulfilling their responsibilities without changes of personnel until the

time of the next election. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)

- Since at present the aims of the political leadership have not really penetrated to the level of senior vice minister and below, the practice of the prime minister making appointments of personnel recommended by the various cabinet ministers should be adopted. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)

b-3. Other comments

<Comments by Members>

- I believe the fact that the powers of the prime minister are extremely vague is what has given rise to the present situation in which the prime minister finds it so difficult to exercise effective leadership. I think we must clarify the powers of the prime minister, beginning with his powers of overall control. (KANO Michihiko, Member/DPJ/150/9.Nov.2000)
- We must modify the legal framework in order to make it possible for the prime minister to exercise effective leadership. (SHIMA Satoshi, Member/DPJ/154/14.Feb.2002/Politics Subcommittee)
- It should have been made clear in the administrative reforms that commenced in 2002, that the Cabinet Office is a distinct entity from the other ministries and agencies of the government. (TSUTSUI Nobutaka, Member/DPJ/153/8.Nov.2001)
- The Cabinet must exercise preeminent leadership. At the same time, we must take parliamentary democracy very seriously indeed, not just in terms of serving as a check on the Cabinet, but in the sense of making national policy clear and understandable to the people. (HIMORI Fumihiko, Member/SDP/150/9.Nov.2000)

<Comments by Informants and Others>

- Giving greater weight to the Cabinet will give greater weight to popular sovereignty. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- With regard to selection of the Cabinet, I think it is fine if the prime minister takes the initiative and appoints a number of people from the private sector. Here the prime minister's power would be strengthened and cabinets possessing much greater individual character could be formed. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
- It has been pointed out that the present cabinet system, which does not accord the prime minister strong powers, is a debasement of the provisions of the present Constitution, which does, though I also think it is possible to understand the logic

behind the current state of the cabinet system. However, compared to the time at which the present cabinet system was established, technology has advanced, times have changed, and I think we need to modify and redesign the system to meet contemporary needs. (MORITA Akira, Informant/153/8.Nov.2001)

- Compared to other advanced nations, our country displays an odd practice of stipulating by law every detail of the administrative structure, with the Diet placing severe constraints on the administrative structure. From the standpoint of viewing the Diet and Cabinet as a united entity, I think we should make it possible for the Cabinet to stand apart from the constraints imposed by the Diet and have more flexibility in reworking its administrative structure. (MORITA Akira, Informant/153/8.Nov.2001)
- Prime ministerial leadership means the leadership that should be displayed by the prime minister, as the highest political leader, toward the executive branch, the ruling party or parties, and the people. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
- In order to promote administrative reform and other policies, the administrative structure of the various ministries should not be governed by laws but, following the example of many European countries, by cabinet orders, thus increasing executive maneuverability. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
- We should break down the compartmentalized administrative structure of the various ministries and strengthen the leadership of the prime minister, making possible prompt and flexible responses to important issues. (TEJIMA Norio, Speaker/151/16.Apr.2001/Sendai Hearing)

(2) The principle of cabinet unanimity

<Comments by Members>

- My interpretation of the Constitution is that it does not require Cabinet decisions to be unanimous. (SHIMA Satoshi, Member/DPJ/154/14.Feb.2002/Politics Subcommittee)
- If you accept a literal reading of Article 6 of the Cabinet Law, you wind up with a situation in which the prime minister can only use the policies decided upon at Cabinet meetings in his directing and supervising of the administrative departments. This article is problematic, and ought to be revised. (TSUTSUI Nobutaka, Member/DPJ/153/8.Nov.2001)

<Comments by Informants and Others>

- The composition and operations of the government administration are subject to the provisions of the Cabinet Law, but we need to consider how far the limitations imposed by the law should reach, and how much should be left to the discretion of the Cabinet itself. I believe there are major problems with so many aspects of the Cabinet being stipulated by the Cabinet Law. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- The Cabinet Law should be revised so that the prime minister can direct and supervise the administrative departments without bringing matters before the Cabinet for a decision. I have fundamental doubts as to whether there is any need to use the Cabinet Law to determine in detail such things as the composition of the Cabinet, the Cabinet decision-making process, and so on. (MORITA Akira, Informant/153/8.Nov.2001)
- Because the prime minister is the only leader designated by a resolution of the Diet, the demonstration of leadership by the prime minister should be vigorously supported. We should consider the appropriateness of the relationship between the prime minister and the other Cabinet ministers as well as the content of Article 6 of the Cabinet Law which states that the prime minister directs and supervises the Cabinet ministers in accordance with the policies decided upon at Cabinet Meetings. (MORITA Akira, Informant/153/8.Nov.2001)
- My interpretation of the Constitution is that Cabinet decisions do not need to be unanimous; a simple majority should be sufficient. (TAKAHASHI Kazuyuki, Informant/154/14.Feb.2002/Politics Subcommittee)
- I think the principle of unanimous cabinet decisions has functioned, in the current context where each cabinet minister has charges of a specific share of the administrative affairs, as a mechanism of self-protection for the various ministries' bureaucracy. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)

(3) The principle of administrative compartmentalization among cabinet ministers

<Comments by Members>

- At present, government public information departments are scattered among various agencies from the Ministry of Public Management, Home Affairs, Posts and Telecommunications to the Cabinet Secretariat, and there is no comprehensive, integrated presentation of information to the public. (SAKAI Takanori, Member/LDP/153/8.Nov.2001)

- The cabinet ministers have a dual role, first as the representative of the ministry which performs the administrative affairs under his/her jurisdiction, and secondly as a participant in the executive functions of the Cabinet—but it is this latter function they should prioritize. (TSUTSUI Nobutaka, Member/DPJ/153/8.Nov.2001)
- With regard to the consultation system used by the Cabinet and the leadership of the prime minister, I do not think it is an issue to which we should give priority; the political platform, which the Cabinet should share, has its basis in the will of the people as formed in the political process. Even though the platform has been embodied in the prime minister through his election by designation, individual policies can be formulated through mutual consultation predicated on the independent judgment of each minister. (SHIOKAWA Tetsuya, Member/JCP/153/8.Nov.2001)

<Comments by Informants and Others>

- Government information should be the responsibility of the Cabinet, probably via an organization under its direct authority. On the other hand, how to divide the work of the Cabinet among its members should be a Cabinet decision, and should include the possibility of administrative compartmentalization. (MORITA Akira, Informant/153/8.Nov.2001)
- In the administrative branch of Japanese government, the weight of the legal framework with the minister at its apex is quite heavy, and the principle of administrative compartmentalization among the ministries and agencies runs quite deep. These factors are a ball and chain for any minister attempting to exercise political leadership. (MORITA Akira, Informant/153/8.Nov.2001)
- In Japan, the establishment of the administrative organization of each ministry and agency is a matter of law, not easily revised. However, if you look at a number of other countries, organizational revision of the ministries and agencies is carried out frequently, under the leadership of the cabinet. If organization of our ministries and agencies were subject to more frequent modification, I think the sense of compartmentalization between them and the work under their jurisdiction might also change. (MORITA Akira, Informant/153/8.Nov.2001)
- In the Japanese bureaucracy, the boundaries between the various administrative fields over which each ministry has jurisdiction are very deeply drawn due to the principle of administrative compartmentalization, and any attempt to coordinate work in a way that transcends these boundaries is extremely difficult. How to achieve that kind of overall coordination is a major issue for the administrative organization. (MORITA Akira, Informant/153/8.Nov.2001)
- We should modify our system so that the principle of compartmentalization between ministries is overcome, each minister participates in Cabinet debate as a true minister of state, with a broad perspective on national policy as a whole, and the

**Cabinet may display its powers of leadership. (YAMAGUCHI Jiro,Informant/
154/14.Mar.2002/Politics Subcommittee)**

2. Relations between Political Leaders and the Bureaucracy

a. Comments critical of the present situation

<Comments by Members>

- The biggest cause of Japan's current impasse is, in terms of decentralization, that the phrase "executive power shall be vested in the Cabinet" has been interpreted to mean that everything should be carried out under the aegis of centralized bureaucratic institutions. (SENGOKU Yoshito, Member/DPJ/151/16.Apr.2001/Sendai Hearing)
- The consciousness of Japanese bureaucrats remains that of the "imperial bureaucracy"; they are solely concerned with their own interests. As a result, they are unable to confront the system fatigue endemic throughout Japan today, and effective reforms have yet to be implemented. (SENGOKU Yoshito, Member/DPJ/ 154/23.May.2002/Politics Subcommittee)
- I sense that among public officials the tendency to think primarily in terms of the interests of their ministry continues unabated; how to exercise democratic control over this bureaucratic mentality is a real issue. (TSUZUKI Yuzuru, Member/LP/153/8.Nov.2001)
- I think the biggest problem with relations between politicians and the bureaucracy is the three-way collusion between politicians, bureaucrats, and financial and business interests. (SHIOKAWA Tetsuya, Member/JCP/153/8.Nov.2001)
- Bureaucrats drafting bills for the party in power can hardly be called political neutrality. What is necessary for political and administrative reform in our country is to make a distinct and genuine separation between politicians and the bureaucracy. Any establishment of political hegemony over the bureaucracy that does not follow this principle will not lead to authentic reform of the relationship between politics and administration. (SHIOKAWA Tetsuya, Member/JCP/153/8.Nov.2001)
- The prime minister and ministers of state have a responsibility to the sovereign people, and there is a problem when the administrative organization places restrictions on the freedom of action of the ministers of state. (KANEKO Tetsuo, Member/SDP/153/8.Nov.2001)

<Comments by Informants and Others>

- Bureaucratic dominance is at the root of most of our structural problems, and the biggest problem it creates is that no action can be taken that is not predicated on the existing bureaucratic compartmentalization of authority, which, moreover, we have no means for correcting. (SASAKI Takeshi, Informant/150/9.Nov.2000)

- “Political leadership” means overcoming compartmentalization of the bureaucracy, achieving policy-making that is systematic and plan-oriented, and making government more strategic. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- Political neutrality on the part of the administrative branch means adopting a fundamental stance of faithful execution of the policies approved by the ruling party; if policies other than those set forth by the ruling party are implemented as if they were genuine public policy, this is a problem. (MORITA Akira, Informant/153/8.Nov.2001)
- The long-standing separation between the ruling party and the Cabinet was a boon to “bureaucratic separatism.” Bureaucrats made allies among their counterparts in the ruling party, who in turn exercised power by helping protect the interests of specific bureaucratic organizations. We have to reform this sort of mechanism. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)

b. On the ideal state of relations between politicians and bureaucrats

<Comments by Members>

- In order to make Japan’s political system and society truly democratic, we must make the transition from bureaucratic to political leadership. (KANO Michihiko, Member/DPJ/150/9.Nov.2000)
- With reference to political/bureaucratic relations, I think we need to clarify institutionally who it is among the politicians that possess the right to direct the bureaucracy. (NAKANO Kansei, Member/DPJ/154/14.Mar.2002/Politics Subcommittee)
- There are roles proper to professional politicians on the one hand, and bureaucrats on the other. The role of the politician is to make the big decisions, to listen to the needs of the people, and to communicate policy results to the people. Just how far the decision-making power of the politician should reach is something we really need to sort out. (OTA Akihiro, Member/NK/153/8.Nov.2001)
- Strengthening political leadership is something that will promote reflection of the popular will in policies, and we should aim at transferring leadership from the bureaucracy to the politicians. (MATSUNAMI Kenshiro, Member/NCP/153/8.Nov.2001)

<Comments by Informants and Others>

- New rules are required in order to secure a balance between political leadership and impartiality of the executive branch. (SASAKI Takeshi, Informant/150/9.Nov.2000)

- The traditional superiority of the bureaucracy in Japan constitutes a problem for democratic politics. Moreover, it is clear that the bureaucracy is incapable of responding flexibly to the needs of the people. In order to create a political process in which it is possible for the people to make their own choices and bear their own responsibilities, we must establish a state of affairs in which the decisions are made by elected politicians and executed by the bureaucrats. (TAKAHASHI Kazuyuki, Informant/14.Feb.2002/Politics Subcommittee)
 - “Political leadership” means a division of labor in which the framework for policy is clearly defined by the ruling party, and the executive branch does the technical work of filling in the details. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
- c. On specific ways of improving the relationship between politicians and bureaucrats

<Comments by Members>

- In contrast to the American system where political appointees rule the bureaucratic world, in Japan I think that, predicated on the division of roles between politicians and bureaucrats, bureaucrats should actively state their opinions and engage in debate with politicians. (OKUNO Seisuke, Member/LDP/154/14.Mar.2002/Politics Subcommittee)
- In Japan, the advisory councils of the various ministries are employed as a venue for coordination of power, and there is a preconception that if the political parties were to express their opinions in this regard, it would wreck a neutral and nicely crafted consensus on the part of these councils. This is making it impossible to break down bureaucratic dominance. If we want to establish political leadership, members of the Diet from the ruling party should be included in the membership of the advisory councils. (SAKAI Takanori, Member/LDP/153/8.Nov.2001)
- In order to resolve the many problems associated with the current state of “bureaucratic dominance,” its narrow focus on ministerial interests, and its resistance to necessary reform, one option might be to introduce a system of political appointments to the bureaucracy. (SENGOKU Yoshito, Member/DPJ/154/23.May.2002/Politics Subcommittee)
- While cloaking themselves in the mantle of political neutrality, bureaucrats are in fact serving as the brain trust in the formulation of the very policies they will be implementing as the policies of the ruling party. In order to convert this reality of bureaucratic power into a more people-oriented politics, the political parties must publicize their platforms and increase their ability to formulate policy proposals. (TSUZUKI Yuzuru, Member/LP/153/8.Nov.2001)
- There is a problem with the fact that advisory councils in the executive branch are debating policy before the Diet has a chance to. We should abolish these advisory

councils and establish them in the Diet. (TSUZUKI Yuzuru, Member/LP/153/8.Nov.2001)

- In making the transition from government led by bureaucrats to government led by politicians, reform of the bureaucracy, including an increase in the number of politically appointed posts within it, will be necessary. (FUJISHIMA Masayuki, Member/LP/154/14.Feb.2002/Politics Subcommittee)
- If ministers and other political appointees are not given lengthy terms in office, I believe that despite institutional reforms “bureaucratic control” will remain intact. (FUJISHIMA Masayuki, Member/LP/154/14.Mar.2002/Politics Subcommittee)
- For politicians to exercise control over bureaucrats, there first has to be an authentic separation of the political and bureaucratic spheres. Cutting through the collusion between politicians, the bureaucracy, and business interests continues to be the most urgent aspect of reform, and we must completely prohibit the corporate political contributions that are at the root of that collusion, prohibit the golden parachuting of high-ranking bureaucrats into the corporate elite, and abandon our over-dependency on the bureaucracy for policy formation and human resources. (HARUNA Naoaki, Member/JCP/150/9.Nov.2000)

<Comments by Informants and Others>

- If policy decisions by bureaucrats frequently lack a medium- to long-term perspective, I think a mechanism to utilize the wisdom of private-sector think-tanks and other organizations is needed to supplement the deficiency. (HASEBE Yasuo, Informant/153/8.Nov.2001)
- It has been suggested that Diet members be allowed to participate in advisory councils, but since the advisory councils are a stage for drafting policy proposals before they are presented to the formal decision-making body of the Diet, it seems a bit odd to have members of that body sitting in. On the other hand, I can also see the logic to having Diet members participate, and put in their two-cents worth. The issue lies in what kind of status is given to the advisory councils. (MORITA Akira, Informant/153/8.Nov.2001)
- To guarantee the mobility of talented human resources, we should re-evaluate the closed world of the public officials system and its system of lifetime job security. I believe we should make it a more open system, including opening its various positions to public competition. (MORITA Akira, Informant/153/8.Nov.2001)
- The idea has been raised of increasing the number of political appointments as a way to help bring about political control of the administrative branch, but the example of the United States, in which this has resulted in bureaucratic corruption and inefficiency can also be pointed to. Moreover, contemporary administrative work requires specialized knowledge and skills, so even if the number of political

appointees is increased, a balance must be struck, and ethical standards are also an issue. (MORITA Akira, Informant/153/8.Nov.2001)

- In the Japanese political system, we see on the one hand an administrative bureaucracy that, under the banner of political neutrality has created its own little world, divorced from politics, while on the other hand we have the political parties, who are struggling to give their various value systems concrete form, but lack the necessary capacities for policy formulation. More efforts should be made to bridge the gap between politics and the bureaucracy: talented administrators could enter the political world, politicians could involve themselves more in the details of policy-making, the parties could set up their own think-tanks, and so forth. (MORITA Akira, Informant/153/8.Nov.2001)
 - Decisions with regard to the public officials system should be made by the political sector, but with consideration for the following: (1) guarantees for the status of public employees; (2) maintenance of public employees as neutral entities, refraining from integrating them into the ruling party or Cabinet; (3) competitive principles should be introduced within the bureaucracy itself. (TAKAHASHI Kazuyuki, Informant/14.Feb.2002/Politics Subcommittee)
 - Since it is the role of politics to present values-based policies, ranks of bureau director-general and above within the ministries and agencies of the central government should be filled by political appointees. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
 - We should construct a system in which from the ministerial level on down, many members of the ruling party enter the ministries and agencies, and “politics” controls “bureaucracy” down to the department level. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
- d. On prohibiting contact between politicians and bureaucrats

<Comments by Members>

- I feel there is a need for radical reform of the relationship between politicians and bureaucrats, but if we take measures such as banning exchanges of opinion between them, we should at least maintain a subconscious awareness that this could lead us into a resurgence of bureaucratic domination or even dictatorship. (NUKAGA Fukushima, Member/LDP/154/14.Mar.2002/Politics Subcommittee)
- If contact between bureaucrats and members of parliament were banned, wouldn't this hinder oversight of the executive branch by the Diet? (FUJISHIMA Masayuki, Member/LP/154/14.Mar.2002/Politics Subcommittee)

<Comments by Informants and Others>

- The issue of barring contact between politicians and bureaucrats needs to be considered separately for the ruling and opposition parties. In the case of the ruling party, in order to structure the will of the party into concrete policies, it must come into contact with “bureaucrats” within the framework of the public institution known as the Cabinet. In the case of the opposition parties, since they are in a weak position compared to the ruling party in terms of access to the information that is the raw material for drafting policies, they need to have the rights of their parliamentary members recognized in terms of the ability to conduct interpellations in the Diet and to demand from the administrative branch the information and explanations necessary to allow them to monitor the executive branch and to submit member-sponsored bills. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)
- As a reform of the relationship between politicians and bureaucrats, I would propose, not a wholesale ban on contact, but a clear definition of the purely administrative sphere—for example, personnel matters from the level of section chief on down, bids on work ordered by government offices, etc.—and establish a rule that politics is not to intrude into this sphere. (YAMAGUCHI Jiro, Informant/154/14.Mar.2002/Politics Subcommittee)

Subsection 7 The Judiciary

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Subsection 7 The Judiciary

1. Judicial Review

(1) Judicial review and Article 81

a. Comments concerning the significance of judicial review

<Comments by Members>

- The Constitution is an extremely important law which defines and regulates the core or structure of the nation. Hence, the Supreme Court's judicial review which determines the constitutionality of legislation is an extremely important function of the state. (YASUOKA Okiharu, Member/LDP/147/25.May.2000)
- As this Commission engages in discussions regarding the directions of Japan and the directions of the Constitution while envisioning a new Japan for the 21st century, it should choose as one of the themes for discussion the importance of judgments on constitutionality, and it should make certain arrangements to ensure that the people will continue to actively engage in discussions concerning the Constitution throughout the future. In this context, I believe the Supreme Court, which stands at the apex of the judiciary, and the judicial review should be chosen as important subjects for discussion. (YASUOKA Okiharu, Member/LDP/147/25.May.2000)

<Comments by Informants and Others>

- The power of judicial review is granted to the judiciary under the theory that the separation of the powers of the legislature, the executive, and the judiciary, and a system of checks and balances are necessary in a democratic system of government and for the preservation of the rule of law. (CHIBA Katsumi, Director, Administrative Affairs Bureau of the General Secretariat of the Supreme Court/147/25.May.2000)
- The Supreme Court is the "guardian of the Constitution" in the sense that it is the ultimate organ for judging the constitutionality of laws, ordinances and other acts of state. (CHIBA Katsumi, Director, Administrative Affairs Bureau of the General Secretariat of the Supreme Court/147/25.May.2000)
- While the Constitution adopts the principle of democracy by majority rule, it also protects the human rights of people in the minority. In certain instances, in order to secure the rights guaranteed under the Constitution, the Court may respect the will of the minority even if this runs counter to the will of the majority as expressed in the Diet. This is the gist of the judicial review. (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)

- The Constitution contains provisions for judicial review so that this may function as the “guardian of the values of the Constitution” to protect the basic principles of the Constitution. (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)
 - The “rule of law” is the fundamental intent of the Constitution. The system of “judicial review” is indispensable as a system for realizing the “rule of law.” (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)
 - The Constitution contains various provisions designed to prevent the expansion and aggrandizement of the government’s administrative powers. These include the system of parliamentary cabinet and the granting of the powers of judicial ruling on administrative matters and the review of constitutionality to the judiciary. Judicial review is able to override the legislation by the Diet. The thoroughness and consistency of this system is unmatched anywhere in the world and is one of the distinguishing features of the Constitution. (ODANAKA Toshiki, Speaker/151/16.Apr.2001/Sendai Hearing)
 - The present Constitution establishes the principle of judicial priority whereby the Court is empowered to determine the constitutionality of laws enacted by the Diet. The intent of the present Constitution is to assign this high and strong position to the judiciary in order to create a system that will preserve the principles of popular sovereignty, the protection of fundamental human rights, and pacifism. (MASUGI Eiichi, Speaker/154/24.June.2002/Sapporo Hearing)
- b. Comments concerning the relation between the Diet and Supreme Court

<Comments by Members>

- Supreme Court judges are appointed by the Cabinet, and the Cabinet is formed through the support of a majority in the Diet. Hence, it can be said that the Diet indirectly holds the right to appoint Supreme Court judges. Moreover, even if a ruling on unconstitutionality is handed down, no procedures have been established for the rectification of the condition of unconstitutionality. In view of this fact, judicial review may be seen as nothing more than a self-regulating measure of the Diet. (IMAMURA Masahiro, Member/LDP/153/29.Nov.2001)
- The primary right to interpret the Constitution rests not with the Court or the Cabinet but with the Diet. Under Article 81, the Court is given the right of judicial review. This has led some to argue that the right to interpret the Constitution rests solely with the Court, but this is wrong. For instance, acts of state are excluded from the Court’s judicial review on the grounds that, under the principle of popular sovereignty, the decisions of the Diet are considered to be rational and subject to the ultimate test of popular election. Therefore, the Diet must thoroughly discuss what the Constitution should be about. The Cabinet Legislation Bureau is involved in interpreting the Constitution only for purposes of judging the constitutionality of legislation, which the Cabinet is empowered to initiate. Therefore, there should be

no reason for the Diet to be bound by the decisions of the Cabinet Legislation Bureau. (NAKAMURA Tetsuji, Member/DPJ/153/6.Dec.2001; 154/25.Apr.2002)

- Popular sovereignty underlies the separation of powers. The decision of whether or not to uphold the Constitution ultimately rests with the sovereign people. Therefore, it is not possible to simply conclude that ultimately the Court is the “guardian of the Constitution.” (SASAKI Rikukai, Member/JCP/147/25.May.2000)

<Comments by Informants and Others>

- When the Supreme Court hands down a ruling that the provisions of a certain law are unconstitutional, how does that influence the effectiveness of the law found to be unconstitutional? Generally, the doctrine of specific efficacy is adopted, which says that the provisions of the law are not automatically nullified. On the other hand, it is believed that the legislative and executive organs will duly respect the Supreme Court’s ruling of unconstitutionality. (CHIBA Katsumi, Director, Administrative Affairs Bureau of the General Secretariat of the Supreme Court/147/25.May.2000)
- In relation to the separation of powers, there is a fundamental question of whether it is desirable for the judiciary to issue a judgment on a major political problem. (CHIBA Katsumi, Director, Administrative Affairs Bureau of the General Secretariat of the Supreme Court/147/25.May.2000)
- The Constitution of Japan is based on the separation of powers. When a specific case is presented to the Court, the Court will make a judgment on constitutionality when the case requires it. (CHIBA Katsumi, Director, Administrative Affairs Bureau of the General Secretariat of the Supreme Court/147/25.May.2000)
- It is clear that over the past 50 years, the relation between the legislative branch and the courts, in particular the relation between the legislative branch and the Supreme Court, has presented a major obstacle to the realization of the principles of the present Constitution. I am hoping that this Commission will, from the perspective of legislators, investigate the legislative facts of the laws that have been judged constitutional and the decisions of the Court in these cases. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- Looking back through history, it is true that the judicial review has in its background a distrust of the legislative branch. Under the current system, when the Court exercises its right to review the constitutionality of a law enacted by the Diet and rules that a law is in fact unconstitutional, the Diet is then required to make a judgment on the method to eliminate the condition of unconstitutionality. As such, we can say that the Diet and the Court are working as the two wheels of a cart to ensure the application of the Constitution. (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)

- If a “Constitutional Department of the Supreme Court” were to be created to deal exclusively with constitutional cases, what effectiveness should be given to its rulings of unconstitutionality? I believe that instead of making a blanket assignment of nullification, the specific methods to be taken for the elimination of unconstitutionality should be left to the discretion of the Diet. (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)
- The guarantee of human rights as expressed by theories of liberalism is not the objective or the purpose of the Constitution. I believe the Constitution’s purpose is to guarantee the processes by which citizens participating in politics can coordinate the wide range of differing views within the political process to arrive at a desirable political structure. In this context, problems which transcend the political process are problems which pertain to politics, and not to the Constitution. Therefore, I believe that we should accept that the scope of the functions of the Court is limited and avoid expecting too much from the Court. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)
- The exclusive right and expected function of the court is to protect those rights that are indispensable to the process of democratic government. Violations of such rights justify rigorous review by the courts. Regarding other types of rights, on the other hand, the courts must duly respect the laws enacted by the Diet comprised of the representatives of the people. When such laws undermine the interests of the people, I believe the principle of democracy is satisfied by rectifying such laws through the will of the people as expressed in the forthcoming election. This is referred to as the “process-based theory of judicial review.” (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)

c. Other comments concerning judicial review

<Comments by Members>

- The current approach to judicial review in Japan focuses on specific cases and differs from the German approach which allows for the “abstract review” of constitutionality. The Japanese system has both positive and negative points. (SENGOKU Yoshito, Member/DPJ/147/25.May.2000)

<Comments by Informants and Others >

- Article 81 implies the following: (1) under Article 76, the courts are vested with only judicial power; (2) there are no provisions for the procedures of a constitutional court which exceeds the framework of the exercise of judicial power. Therefore, as in the case of the opinions of the Supreme Court, I understand this to have confirmed the right to engage in the same form of “judicial review” that has been exercised by the U.S. courts. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)

(2) Status of the exercise of the power of judicial review (so-called “judicial passivism”)
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a. Comments concerning current status

<Comments by Members>

- The following reasons can be given for why the people have not engaged in discussions of the Constitution. (1) The Supreme Court has evaded judicial review on the grounds that the issues presented are of a highly political nature. Consequently, decisions on constitutionality have been made by the Cabinet Legislation Bureau. Finally, the Diet has allowed and accepted these decisions as authoritative and final decisions. (2) The Supreme Court has not affirmed the importance of judicial review, and has failed as the “guardian of the Constitution” to make rulings on constitutionality. (YASUOKA Okiharu, Member/LDP/147/25.May.2000)
- The people should sense the Constitution as a vital and immediate force. However, the sense of immediacy is lacking because we do not have a constitutional court. The people have not been guaranteed a judicial forum to engage in constitutional litigation. (HIMORI Fumihiro, Member/SDP/150/9.Nov.2000)

<Comments by Informants and Others>

- In the exercise of its right of judicial review for the prompt and appropriate protection of human rights, the Supreme Court has consistently maintained a passive stance. (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)
- In the case of Japan, the methods available to the people for challenging the constitutionality of laws are very limited. Japan’s judicial review is the same as that of the United States in that it is an “incidental review system”(review the constitutionality of laws and ordinances in conjunction with resolution of specific incidents.) However, the situation is very different from that of the United States where persons who may potentially suffer disadvantages as a result of the enactment of a law can sue on grounds of unconstitutionality or can sue to suspend the implementation of the law. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)
- In its exercise of the power of “judicial review,” the Supreme Court has adopted a narrow interpretation of the requirements for the exercise of judicial rights, and has closed the door to the people for litigations concerning the constitutionality of laws. I find this to be extremely questionable as it renders meaningless the right of access to the courts as guaranteed under Article 32. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)

- While fundamental human rights may be unavoidably restricted for purposes of public welfare, the courts must carefully examine the purpose of such laws and the methods they employ. In reality, however, the Supreme Court has readily permitted such restrictions on human rights. (MATSUI Shigenori, Informant/154/23.May.2002/ Politics Subcommittee)
- The Supreme Court has ruled to overturn the decisions of the Diet on matters related to economic freedom. On the other hand, in certain respects, it has been willing to very easily accept restrictions on the freedom of expression and other rights that are indispensable to the process of democratic government. From the perspective of a “process-based theory of judicial review,” it would be difficult to conclude that the Supreme Court has properly exercised its power of “judicial review.” (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)

b. Comments concerning the causes of “judicial passivism”

<Comments by Members>

- The courts had no choice but to adopt the stance of “judicial passivism” because the procedures for constitutional revision under Article 96 were too demanding. (SHIMA Satoshi, Member/DPJ/154/23.May.2002/Politics Subcommittee)
- It has been pointed out that the judicial review has failed to function under the Supreme Court partly because of the method by which its judges are appointed. It would be rational to establish a “committee” which would have the benefit of giving full meaning to the provisions of the Constitution for the appointment and confirmation of judges by the Cabinet. (YAMAGUCHI Tomio, Member/JCP/153/29.Nov.2001)
- One of the reasons why the Supreme Court has been reluctant to exercise its powers of judicial review is that the method of appointment of judges is highly defective. The people’s review of Supreme Court judges is not functioning properly. In reality, those appointed by the Cabinet remain on in the Supreme Court. As for the Chief Justice of the Supreme Court, an overwhelming majority have been appointed by Cabinets of the Liberal Democratic Party. (KANEKO Tetsuo, Member/SDP/153/29.Nov.2001)

<Comments by Informants and Others>

- It has been pointed out that one of the systemic reasons that the Supreme Court has been reluctant to exercise its right of judicial review is that it wants to avoid the prolongation of court cases. (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)
- I believe the Supreme Court should have more appropriately exercised its power of “judicial review.” There are complex reasons for the current situation, and the

Court cannot be held totally responsible. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)

- The Cabinet Legislation Bureau is an administrative organ, and its decisions on the Constitution do not have an essential impact on the Court. To argue that the constitutional interpretations of the Cabinet Legislation Bureau are the cause of the Supreme Court's reluctance to exercise its power of "judicial review" is to put the cart before the horse. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)

c. Comments concerning evaluation of "judicial passivism"

<Comments by Members>

- The doctrine and practice of "judicial passivism" is extremely problematic from the perspective of ensuring the proper functioning of the present Constitution. (SHIMA Satoshi, Member/DPJ/154/23.May.2002/Politics Subcommittee)
- The Supreme Court has not sufficiently exercised its power of judicial review, and has delegated the resolution of many problems to political decisions. This is probably one cause of the problems of the Constitution that have emerged in recent years. Furthermore, this failing may have widened the gap between the Constitution and the political reality. (KANEKO Tetsuo, Member/SDP/154/23.May.2002/Politics Subcommittee)
- We can predict that very major differences of opinion can emerge concerning the constitutional interpretation of issues with a direct and vital bearing on Japanese politics or Japan's relations with the international community. An example of this would be the issue of the right of collective self-defense. In such instances, it would be better for the judiciary to reserve its judgment even on matters that would not be excluded from the scope of the Supreme Court's rulings under the "act of state" doctrine. (INOUE Kiichi, Member/NCP/154/23.May.2002/Politics Subcommittee)

<Comments by Informants and Others>

- The Supreme Court has ruled a total of six laws to be unconstitutional. Regrettably, this is an indication of the Supreme Court's excessive tolerance of the legislative branch and its general attitude of permissiveness toward the political segment of government. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- Since the promulgation of the present Constitution, the Supreme Court has ruled a total of only five laws to be unconstitutional, and has been extremely reluctant to exercise its power of "judicial review." For the most part, public opinion and scholarly theories are critical of this situation. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)

- There are two problems related to the issue of the Supreme Court's exercise of its power of "judicial review:" (1) the very small number of decisions affirming unconstitutionality; (2) the limited number of constitutional cases submitted to the Supreme Court because of the extreme restrictions placed on the people's access to litigation concerning the constitutionality of laws. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)

d. Comments concerning so-called doctrine of "act of state"

<Comments by Members>

- Under the principle of the separation of power, the Supreme Court has avoided making rulings on highly political matters by adopting the doctrine of "act of state." Considering that ultimate decisions on important political matters must be made by the people with whom sovereignty resides, in certain respects this is an excuse used to avoid responsibility. (SASAKI Rikukai, Member/JCP/147/25.May.2000)

<Comments by Informants and Others>

- Some areas of constitutional interpretation are the exclusive domain of the Court, while in other areas the judgment of the Diet must be respected. However, the argument that "judicial review" does not extend to certain areas because of their highly political nature should not be accepted. The Constitution establishes the basic rules of the process of government, and the Court has specific rights over matters pertaining to these processes and procedures. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)
- Article 9 presents some extremely subtle issues. In this case, instead of the Court exercising its power of "judicial review," it would be desirable for interpretations and decisions to be made in the political forum. The distinction should not be made according to the political content of the issue. Rather, the distinction should depend on whether or not the issue belongs to the Court's domain. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)

(3) Improving the judicial review
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A. Constitutional Court

a. Comments concerning constitutional court in general

<Comments by Members>

- One of the reasons why Germany and France have undertaken so many constitutional amendments in the postwar period is the existence of their

constitutional courts which have made frequent constitutional rulings. (IMAMURA Masahiro, Member/LDP/153/29.Nov.2001)

- The original purpose of constitutional courts is to give greater stability to the Constitution. However, the establishment of a constitutional court could have the opposite effect of negating the Constitution by handing down numerous rulings on unconstitutionality. (IMAMURA Masahiro, Member/LDP/153/29.Nov.2001)
- In Germany, the public can directly petition the constitutional court to review the constitutionality of a specific matter. I believe we should introduce a similar system in Japan so that the people can become directly involved in constitutional issues. (KANEKO Tetsuo, Member/SDP/153/29.Nov.2001)

<Comments by Informants and Others>

- The establishment of a separate constitutional court is one option. Another option would be to increase the capacity of the Court under the present system. The biggest problem for a constitutional court is who to appoint as judges. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- The following matters should be considered in connection with the establishment of a constitutional court: (1) systems and procedures designed to improve the current situation; (2) the possibility that speedy constitutional decisions may be used as a means to affirm the status quo; (3) possible problems arising due to prolongation of cases; (4) methods to reflect on to rulings the sensitivity to human rights issues that lower court judges have; (5) methods to utilize the strengths of both the judges serving in constitutional court and the judges serving in other courts; (6) preventing the politicization of the judiciary; (7) possible side effects of the establishment of a constitutional court. (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)
- To ensure neutrality and transparency in the appointment of judges to the constitutional court, many steps can be taken such as using the investigative powers of the two houses of the Diet to hold open hearings of the candidates. There are two approaches to appointment: one is that individual judges must be non-partisan, and the other is that the court in its entirety must rise above partisan politics. It will be necessary to carefully examine the pros and cons and the constitutionality of various appointment systems. (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)
- The establishment of a constitutional court will raise the people's awareness of the Constitution. It cannot be denied that this may stimulate general debate on what to do with the Constitution. (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)
- Progress has been made in the scholarly investigation of the judicial concepts and the interpretation of Article 81 based on the judicial powers prescribed in Article 76 Paragraph 1. As a result, theories advocating that there is no room whatsoever for

the establishment of a constitutional court are waning. (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)

- Many countries established constitutional courts in the postwar period because there was a strong awareness that such an organ could play a power role in rebuilding nations based on the rule of law. (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)
- One of the purposes of the constitutional court of Germany is to support the federal system. In reality, it has played a vital role in maintaining and advancing the federal system. But this cannot be said to be the sole purpose of the constitutional court. Priority is given to upholding the Constitution and guaranteeing human rights. (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)

b. Comments concerning pros and cons of the establishment of a constitutional court

b-1. Comments favoring establishment

<Comments by Members>

- We should initiate discussions with the aim of establishing a constitutional court. (SHIMA Satoshi, Member/DPJ/154/23.May.2002/Politics Subcommittee)
- One of the main reasons why the judicial review is dysfunctional is that review can be conducted only within the context of specific cases which appear before the courts. Surveying the situation in Europe, I believe that we should create a constitutional court or a judicial review board in order to establish constitutional order and the rule of law and constitutionalism in the true sense. (SENGOKU Yoshito, Member/DPJ/151/16.Apr.2001/Sendai Hearing)
- A constitutional court should be created when the Constitution is revised. By installing an organ empowered to make authoritative interpretations, we should be able to avoid futile arguments to a certain degree. (NAKANO Kansei, Member/DPJ/147/23.March.2000)
- A constitutional court based on the German model should be established. A constitutional court and a Diet constitutional committee should be part of the vision for the future. (NAKANO Kansei, Member/DPJ/147/11.May.2000)
- I agree with the view that a constitutional court on the German model should be created. (TAKEYAMA Yuriko, Member/LP/154/24.June.2002/Sapporo Hearing)
- The basic policy position of the Liberal Party concerning the Constitution is as follows. A constitutional court should be established to breathe new life into the process of judicial review which has lost its vitality. The constitutional court should also be assigned certain administrative case litigations in order to reduce the

burden of other courts and to thereby facilitate the speedy and appropriate disposal of lawsuits. (TSUZUKI Yuzuru, Member/LP/153/29.Nov.2001)

- A constitutional court should definitely be established so that both the legislative and judicial branches can earnestly take on constitutional problems and engage in active discussions concerning the question of what Japan should strive to be. This will heighten the nation's capacity to respond to change. (FUJISHIMA Masayuki, Member/LP/151/14.June.2001; 154/23.May.2002/Politics Subcommittee)
- It would be desirable to create an independent constitutional court dedicated to constitutional issues. This would also have a beneficial impact on the resolution of problems caused by the vast number of lawsuits before the courts and problems related to the appointment of judges. (FUJISHIMA Masayuki, Member/LP/154/23.May.2002/Politics Subcommittee)
- A constitutional court should be established and empowered to undertake judicial review in the absence of specific cases. At the same time, it is natural that the Diet, as the highest organ of state power, should be vested with the primary authority to interpret the Constitution. (FUTAMI Nobuaki, Member/LP/147/27.Apr.2000)
- The Constitution should be revised to create a constitutional court. (MATSUNAMI Kenshiro, Member/NCP/153/29.Nov.2001)

<Comments by Informants and Others>

- A constitutional court should be established. Under the current judicial system, many constitutional decisions are avoided on the grounds of the doctrine of the act of state. The process of judicial review which deals with matters of highly political nature should be transferred to a constitutional court. (INATSU Sadatoshi, Speaker/154/24.June.2002/Sapporo Hearing)
- An independent constitutional court should be created with the powers to engage in "abstract" judicial review. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)

b-2. Comments not favoring establishment

<Comments by Members>

- For the following reasons, I am not in favor of establishing a constitutional court: (1) the present system of judicial review will suffice if properly activated; (2) in light of the present conditions of the Supreme Court, it is doubtful whether a newly-established constitutional court would be able to function effectively. (YAMAGUCHI Tomio, Member/JCP/154/23.May.2002/Politics Subcommittee)

<Comments by Informants and Others>

- Under the provisions of Article 81, the powers of judicial review have been given to the Supreme Court and to the lower courts. If the Supreme Court were to properly perform its function, there would be no need to create a constitutional court. The Supreme Court would provide authoritative interpretations of the Constitution, thus avoiding futile arguments. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- Even if a constitutional court were to be created, there is no guarantee that the constitutional court would hand down definitive constitutional rulings on all matters presented to it. There is a real possibility that the constitutional court would avoid making definitive rulings on sensitive political issues, either by delaying its rulings or by resorting to other legal principles. (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)
- If a constitutional court is to be established, a broad consensus must first be achieved reflecting the various arguments in favor of and not in favor of establishment for the court to function properly. Though the German model of constitutional court is a superior one, there is no guarantee it would function effectively if established in Japan. (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)
- A system for abstract review of the constitutionality of laws runs various risks. The introduction of such a system should be very cautiously considered. The risks include the assignment of judicial and court-related functions to the political process. (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)
- Even under an American system of “incidental review,” the Court should be able to actively exercise its powers of “judicial review.” Given that legal justification for the judicial review of a specific law is found in the court procedures pertaining to a specific case requiring a judgment on the constitutionality of the law within the context of an adversarial lawsuit between two interested parties, we must conclude that the review of the constitutionality of a law for the purpose of resolving a specific case on hand is highly significant. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)
- Given the current interpretations concerning the Supreme Court, the establishment of a constitutional court will require a constitutional amendment. But there is no reason to believe that a constitutional court will engage in a rigorous review of laws and ordinances. Also, there is no reason to believe that the causes of the Supreme Court’s reluctance to exercise its powers of “judicial review” will be resolved with the establishment of a constitutional court. Moreover, I remain dubious of a system of “judicial review” from which the requirements of “specific case and litigation” have

been removed. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)

- A constitutional decision in the real sense is a decision which has been made within the context of a specific case and a specific law, and at a point where the envelope has been stretched to the limit. Much room remains for reactivating the system in this direction. As such, I question the wisdom of establishing a constitutional court. (ODANAKA Toshiki, Speaker/151/16.Apr.2001/Sendai Hearing)

B. Improving Judicial Review by Means Other Than Establishment of Constitutional Court

- a. Comments concerning establishment of constitutional department in Supreme Court dedicated to constitutional matters

<Comments by Members>

- The following suggestion made by Informant HATAJIRI Tsuyoshi should be affirmatively examined. With the revision of the Court Organization Law, a Constitutional Department should be created within the Supreme Court, apart from the appeals court, to specialize in constitutional cases and matters. (NAKAMURA Tetsuji, Member/DPJ/153/29.Nov.2001; 153/6.Dec.2001)
- Even if a Constitutional Department were to be created within the Supreme Court, I am afraid that this department may also avoid making rulings by citing the doctrine of act of state. (TSUZUKI Yuzuru, Member/LP/153/13.Nov.2001)
- Under the current judicial system, the lower courts are active in making constitutional decisions. Therefore, there is no reason to reform the system to create a Constitutional Department in the Supreme Court. (YAMAGUCHI Tomio, Member/JCP/153/29.Nov.2001)
- The creation of a constitutional court would require a constitutional amendment. On the other hand, the proposal made by Mr. HATAJIRI Tsuyoshi to create a constitutional department within the Supreme Court is practical and easy to understand for the people. Furthermore, this approach has the added advantage that it will effectively reduce the burden on the lower courts. (UDAGAWA Yoshio, Member/Club 21/153/29.Nov.2001)

<Comments by Informants and Others>

- The following three approaches are available for rectifying the passivity of the Supreme Court in exercising its power of judicial review: (1) review the operation of the current system; (2) reform the system through legislative revision; (3) amend the Constitution to create a constitutional court. Of these three approaches, I think constitutional amendment should be avoided. Instead, the Court Organization Law

should be amended to create a Constitutional Department within the Supreme Court that would specialize in handling constitutional cases and would be empowered to deliberate on constitutional questions arising within the context of a specific lawsuit. Such a Department would exist separately from the appeals court of the Supreme Court. Moreover, the judges serving in this Constitutional Department should be appointed by the Cabinet on the recommendations of a “Judiciary Appointments Committee.” (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)

- If a separate Constitutional Department is created within the Supreme Court to specialize in constitutional cases, the question arises whether the decisions of a court that rules exclusively on constitutional matters will be recognized as the exercise of the judicial power as granted under Article 76 Paragraph 1. This question will arise if the Department is empowered to handle cases of constitutionality in the abstract: that is, if the Department is permitted to rule on the constitutionality of specific laws outside the context of an actual lawsuit. On the other hand, this question will not arise if the Department is restricted to deliberating on constitutional issues arising within the context of an actual lawsuit. (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)
- When a lower court makes a ruling of unconstitutionality under the current system, it attracts a great deal of attention of the media and becomes highly visible. It has been argued that, because of this situation, it has become difficult for the lower courts to make rulings of unconstitutionality. By creating a system in which the courts are restricted to deliberating on constitutional issues only within the context of actual lawsuits, which I believe it should be, and constitutional decision can be transferred, the situation can be rectified. This arrangement should significantly increase the number of cases that are transferred from the lower courts. (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)

b. Other comments concerning improvement of judicial review

<Comments by Members>

- Mr. MATSUI Shigenori has advocated creating a “new consciousness” in order to promote a more active exercise of judicial power. I believe one way to achieve this “new consciousness” is to raise the awareness of the Constitution among the Supreme Court judges. (ITO Tatsuya, Member/LDP/154/23.May.2002/Politics Subcommittee)
- Under the Local Autonomy Law, local citizens can file suits questioning the constitutionality of the exercise of official powers by local autonomous bodies. However, there is absolutely no corresponding system by which the people can question the constitutionality of the central government’s exercise of power. This is a major problem even under the present Constitutional system. The Supreme Court

should state in a ruling that a system corresponding to citizen lawsuits should be created or urge the Diet to create such a system through other means. In any case, unless such action is taken, constitutional litigation and constitutional rulings will not be activated. (SENGOKU Yoshito, Member/DPJ/147/25.May.2000)

- The courts should be prepared to act with greater speed and clarity in handing down constitutional rulings. Two specific methods are available. First, we could create a constitutional court on the German model and empower it to handle abstract cases. Second, the Constitution and the Court Organization Law can be revised to contain an explicit statement that the courts are empowered to determine the constitutionality of laws through court cases. (ITO Shigeru, Member/SDP/147/25.May.2000)
- We should avoid a situation in which an independent organ can make one-sided constitutional interpretations concerning important legislative bills. From the perspective of the principle of the separation of powers, each branch of government should play its role appropriately as determined in the Constitution. In this context, the question of how to carry out the functions that a constitutional court, if it existed, would perform presents us with an extremely crucial problem. (KANEKO Tetsuo, Member/SDP/153/11.Oct.2001)

<Comments by Informants and Others>

- Given that the basic function of the judiciary is to protect individual rights, it is important to revise the present system in such a way as to make full use of its strengths. These strengths can be summarized as follows: (1) constitutional rulings are made in the context of actual cases before the courts; (2) the people can take the initiative in launching a review; (3) lower courts are also empowered to review the constitutionality of laws. To fully activate and utilize these positive aspects, the independence of the Supreme Court must be assured, as must be the civil liberties of judges. There are two basic requirements for this: the appointment system of judges must be revised, and the path should be more widely opened for allowing the people's participation in the courts. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- It is both possible and important for the lower courts to exercise the power of "judiciary review" and to hand down rulings on unconstitutionality. However, it is also important to abide by the precedents of the Supreme Court. I believe that lower court judges, functioning under this restriction, must abide by their conscience as a judge to make rulings on the constitutionality of laws. To facilitate this, certain revisions must be made in the system for the appointment of lower court judges. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)
- What is needed now is not the establishment of a constitutional court, but rather the implementation of certain changes that will promote a more active exercise of

judicial power. The changes that need to be made are: rectification of the rigid system of appointment of Supreme Court judges; a more liberal interpretation of the requirements of "cases and controversies" to facilitate bringing actions for the confirmation of the unconstitutionality and suspension of laws; the creation of a "new consciousness." (MATSUI Shigenori, Informant/154/23.May.2002/ Politics Subcommittee)

- To firmly establish the system of "judicial review," it is necessary to establish the Constitution as the supreme law, and to promote an awareness of this matter among judges. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)
- Even under a system of incidental review, there should be the option of courts making more active use of the system. Currently, judges are exercising self-restraint in this matter. To break free from this situation, it will be necessary to change the court systems. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)

2. Judicial System in General

a. Comments concerning the legitimacy of the judiciary

<Comments by Members>

- The concepts contained in the Constitution are broad and abstract. I am a little concerned about delegating judgment on such abstract matters to the courts solely on the basis of the principle of “rule of law.” (SAITO Tetsuo, Member/NK/154/23.May.2002/Politics Subcommittee)
- Japan is a nation based on popular sovereignty. Therefore, the trust and confidence of the people constitute the greatest source of legitimacy for judicial decisions based on the Constitution. (ITO Shigeru, Member/SDP/147/25.May.2000)

<Comments by Informants and Others>

- The judiciary can be understood to represent the systematization of the concept of the “rule of law.” Judges, acting under the Constitution, have a role of ensuring that laws enacted through the process of representative democracy are duly observed. Corresponding to the fact that the Diet derives its legitimacy through elections by the people, it can be said that the laws provide the basis of all the legitimacy of the judiciary. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)
- In the adversarial framework of plaintiff and defendant, the judge assumes a neutral position in resolving the case on hand based on the prescriptions of laws. It is these special procedures that provide the courts with their unique value, and it is these special procedures that confer legitimacy to judicial powers. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)

b. Comments concerning personnel systems of the Courts

<Comments by Members>

- Because Article 80 prescribes a ten year term of office for judges, the number of lawyers becoming judges is extremely small. New provisions should be studied and an amendment made to allow the appointment of short-term and part-time judges. (SUGIURA Seiken, Member/LDP/149/3.Aug.2000)
- On the matter of remuneration, the Constitution contains provisions concerning only judges. The provisions of Article 79 and Article 80 concerning the status and remuneration of judges should be examined, with due consideration to the position of the judiciary in the nation’s structure of government. (NAKAYAMA Taro, Commission Chairman, Member/LDP/154/14.Feb.2002/Politics Subcommittee)

- The courts have applied extremely demanding requirements concerning eligibility in the filing of administrative litigations. Furthermore, the higher you go in the appeals process, the more likely it is for the courts to rule in favor of the government and for them to opt for a passive stance on constitutional issues. Consequently, it seems the courts are not providing adequately strong checks on the government. This problem can be traced to the fact that the appointment of judges is strongly influenced by the views of the government. The system should be revised to require Diet confirmation of judges. (HOSOKAWA Ritsuo, Member/DPJ/153/6.Dec.2001)
- Japan's judges are appointed and promoted under the same career system as government bureaucrats. This should be changed. The following judiciary-related systems should be reviewed and examined: integration of legal professions, jury trial or citizen-participation system (system in which judges and citizens would work together to decide sentences in trials), and popular review. (ITO Shigeru, Member/SDP/147/25.May.2000)

<Comments by Informants and Others>

- Regarding the appointment of judges to serve in the Constitutional Department of the Supreme Court, there are various possible ways of appointment of members of a "Judiciary Appointments Committee," and various ways to structure this department. However, should the recommendation of the "Judiciary Appointments Committee" be binding on the Cabinet, this could violate the provision of the Constitution which grants the power to appoint judges to the Cabinet. (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)
- It cannot be said that professional judges can supply all the knowledge and sensitivities that are needed for constitutional interpretation. A much broader perspective is required. Likewise, it is desirable for Supreme Court appointees to have a broad knowledge that satisfies this requirement. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)

c. Comments concerning pros and cons of introduction of jury trial

<Comments by Informants and Others>

- It is desirable for citizens to participate in trials. Hence, the introduction of jury trial and other similar system is very much worth considering. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)

d. Comments concerning popular review of Supreme Court judges

<Comments by Members>

- Popular review of judges at the time of general elections is based on the principle that sovereignty rests with the people. However, it is necessary to carefully examine

whether direct popular review of judges is based on adequate knowledge and information. Suppose popular review is terminated and replaced with a system for confirmation by the Diet. Perhaps a system could be created in which members of the Diet, who were elected by the people, would review judges. It seems to me that such a system will provide a more meaningful review of the qualification of judges. (NAKAYAMA Taro, Commission Chairman, Member/LDP/154/14.Mar.2002/Politics Subcommittee)

- If the system for popular review is to be examined, it must be done with full awareness of past history wherein, for a short period after the war, a commission was created for the appointment of Supreme Court judges but failed to take root. (YAMAGUCHI Tomio, Member/JCP/154/14.Mar.2002/Politics Subcommittee)

e. Comments concerning the relation between the Diet and the Courts

<Comments by Members>

- In connection with the interpretation of laws by the courts, as the legislative branch of government, the Diet should formulate guidelines for clarifying the intent and purpose of the enactment of legislation. (INOUE Kiichi, Member/NCP/154/23.May.2002/Politics Subcommittee)

<Comments by Informants and Others>

- The power to interpret the law has been granted to the courts by the Constitution, and the Diet should not issue instructions concerning interpretation by the courts. However, it is very meaningful to include an explicit statement of the intent and purpose of the law when it is enacted. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)
- I believe the role and function of the courts to be quite restricted. It does not include the realization of social justice and the elimination of all forms of evil in society, nor does it include the constant monitoring of the Diet to ensure that its decisions are correct and proper. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)

f. Comments concerning the judicial system in general

<Comments by Members>

- In its role as the “guardian of the Constitution,” the Supreme Court should, as experts and specialists, become actively involved in the discussion of systemic reforms, including judicial reform.(YASUOKA Okiharu, Member/LDP/147/25.May.2000)

- The Cabinet Legislation Bureau is acting as if its authority exceeds that of the Supreme Court and has claimed a monopoly on official interpretations of the Constitution. It is highly problematic that the Bureau creates fait accompli by engaging in highly strained constitutional interpretations. This situation cannot be permitted to continue in 21st-century Japan. (SENGOKU Yoshito, Member/DPJ/147/25.May.2000)
- The most important things that we must do in connection with the realization of the spirit of the Constitution is to seriously review the many constitutional trials, including the Asahi Case for the guarantee of the right to livelihood, cases involving the constitutionality of the Self-Defense Forces, and cases involving the separation of religion and state. (FUKADA Hajime, Member/SDP/147/11.May.2000)

<Comments by Informants and Others>

- The Special Courts System was abolished and the judicial system was unified in the postwar years in order to quickly and democratically realize the guarantee of human rights. But there is the view that unspecialized courts, for instance, have been unable to rule effectively in administrative cases. The argument has been made that this should be rectified through the creation of administrative courts and other specialized courts. (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)
- If the laws reach all segments of society and if the people are able to participate in and become familiar with the judicial process, the courts will gain public confidence as a powerful fortress preserving and protecting citizen's rights. In a broader sense, this is what rule of law means. (MASUGI Eiichi, Speaker/154/24.June.2002/Sapporo Hearing)
- The Constitution puts the judiciary in a very important position, but in reality, the judiciary plays an extremely small role. Because of this gap, in various areas we see that problems are resolved by resorting to certain principles that are totally unrelated to the law. The realization that the system does not correspond to the contemporary age has instigated the call for judicial reform. (MASUGI Eiichi, Speaker/154/24.June.2002/Sapporo Hearing)

Subsection 8 Finance

Subsection 8 Finance

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Subsection 8 Finance

1. Doctrine of Taxation by Legislation

<Comments by Members>

- There is no need to revise Article 84 which prescribes the doctrine of taxation based on legislation. While complying with the requirement of this article, we should seek to establish a tax structure which corresponds to the society that we want to realize. (TSUJIMOTO Kiyomi, Member/SDP/150/7.Dec.2000)

<Comments by Informants and Others>

- A maximum allowable tax rate should be written into the Constitution to firmly ensure the right to private property. (WATANABE Shoichi, Informant/150/7.Dec.2000)

2. Subsidization of Private Education

- a. Comments advocating constitutionality of private education subsidization or opposing revision of Article 89

<Comments by Members>

- The spirit of Article 89 is that private education and social welfare activities should maintain a certain distance from politics and government, and that this is how the people's mutual support activities should be pursued. Government subsidization of private education and social welfare organizations does not contradict the Constitution. (DOI Ryuichi, Member/DPJ/147/23.Mar.2000)

<Comments by Informants and Others>

- Subsidization of private education is a necessary and indispensable system for people seeking to receive an university education, and such subsidization is highly significant. In addition to Article 89, the Constitution in Article 26 establishes the people's right to education, as well as the right to receive an equal education regardless of economic status. I believe the subsidization of private education corresponds to this principle. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)

- b. Comments advocating unconstitutionality of private education subsidization or favoring revision of Article 89

<Comments by Members>

- It seems the Americans who drafted Article 89 had their own country in mind which treats Christianity as if it were the national religion. The fact that Shinto was treated the same way in prewar Japan lead to the banning of fiscal appropriations for religion. This is a problem, and Article 89 should be examined from this perspective. (SATO Megumu, Member/LDP/147/27.Apr.2000)
- Article 89 has been interpreted to mean that government subsidization of private education is constitutional. But this differs from what one expects the article to mean in the first reading. Article 89 should be revised after first determining the direction that we want to take on this issue. (HOZUMI Yoshiyuki, Member/LDP/147/23. Mar.2000)
- Private schools derive their source of life from the fact that they are not under the control of public authority. A faithful reading of Article 89 leads to the conclusion that the allocation of government subsidies to private schools is unconstitutional. (MATSUNAMI Kenshiro, Member/NCP/150/9.Nov.2000)

<Comments by Informants and Others>

- Subsidization of private education violates the provisions of Article 89 and is unconstitutional. (NISHI Osamu, Informant/147/24.Feb.2000)
- Article 89 should be revised to explicitly allow government subsidization of private education, on the condition that such subsidies are allocated for an appropriate purpose and that they are not disbursed and thereafter forgotten. (TAKAHASHI Masatoshi, Informant/147/23.Mar.2000)
- According to Article 89, subsidization of private education is obviously unconstitutional. To argue that subsidization of private education is not unconstitutional is mere sophistry. (ENDO Masanori, Speaker/151/16.Apr.2001/Sendai Hearing)
- There is a contradiction between the provisions of Article 89 and the reality of subsidization of private education. The Constitution should be revised to allow for subsidization. (TSUKAMOTO Hideki, Speaker/151/4.June.2001/Kobe Hearing)

Subsection 9 Local Self-Government

Subsection 9 Local Self-Government

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Subsection 9 Local Self-Government

I. Provisions on Local Self-Government (Chapter 8)

1. Significance of Provisions on Local Self-Government (Chapter 8)

(1) Formulation process of Chapter 8 provisions on local self-government

- a. Comments referring to prewar system of local self-governance

<Comments by Members>

- There was a great deal of remorse concerning the prewar appointment system of prefectural governors and the wartime system of total mobilization for the war of aggression which enveloped everyone from the Emperor and prefectural governors down to heads of neighborhood associations. From this perspective, it was understood that local self-government was a crucial and indispensable requirement for the establishment of democracy in postwar Japan. Chapter 8 of the Constitution was written for this purpose, and has come to be widely supported by the people today. (HARUNA Naoaki, Member/JCP/147/20.Apr.2000)
- Prewar Japan did have a local government system, but there was no self-government in the sense that residents were unable to make decisions and act on their own will. I believe that is why almost none of the draft proposals that were being received for the present Constitution contained any mention of local self-government. (HARUNA Naoaki, Member/JCP/147/20.Apr.2000)

<Comments by Informants and Others>

- The inclusion of the chapter on local self-government in the Constitution fixed as a system a different version of the two-tiered system of local government which had existed in Japan since the Meiji Era, consisting of the prefectures on one level and municipalities on another. Although the provisions of the Constitution did not fix the different types of local public bodies, this system became fixed as a result of the introduction of direct popular election of heads of local public bodies. (AMAKAWA Akira, Informant/147/20.Apr.2000)
- The term “self-government” came into use in the prewar era with the introduction of the system of municipalities. Likewise, the terms “self-government by residents” and “self-government of organizations” appeared in administrative law. Therefore, it cannot be said that self-government did not exist in prewar Japan. The reason that most of the proposed constitutional drafts did not contain the principle of local self-government was that the authors remained under the strong influence of the Meiji Constitution which did not contain provisions for local self-government. (AMAKAWA Akira, Informant/147/20.Apr.2000)

- In numerous parts of Chapter 8 of the Constitution, authority is delegated to determination by legislation. I believe that this reflects prewar practices. Under the Meiji Constitution, matters concerning government administrators and administrative organizations were determined under the Emperor's administrative powers, while matters pertaining to self-government were determined by law. (AMAKAWA Akira, Informant/147/20.Apr.2000)

b. Comments concerning ideas of the GHQ for local self-government

<Comments by Members>

- As mentioned in the preamble of the Maastricht Treaty, the 21st century is the century of decentralization and self-government. When the present Constitution was being written, the GHQ drafters did not have a clear blueprint for local self-government, and this is probably the source of the ambiguity in the provisions of the present Constitution concerning local self-government. (KANO Michihiko, Member/DPJ/147/11.May2000)

<Comments by Informants and Others>

- The chapter on "local government" was included in the GHQ draft of the Constitution for the following reasons. (1) The Americans believed that the development of a political system which reflected the will of the people would provide a guarantee against Japan's remilitarization. (2) Some GHQ drafters, such as Milo Rowell, championed the insertion of provisions concerning decentralization of power. On the other hand, the drafters did not arrive at a consensus regarding what specific provisions to include. (AMAKAWA Akira, Informant/147/20.Apr.2000)
- In the drafting process, there probably was a dichotomy of positions concerning the model of local government to be adopted. The American side subscribed to the idea of actually splitting the structure of government. The Japanese side viewed local public bodies as a link for unifying national and local government organizations, and as entities possessing both national and local identities. (AMAKAWA Akira, Informant/147/20.Apr.2000)

c. Comments concerning introduction of popular election of heads of local government

<Comments by Members>

- The Japanese government modified the GHQ draft by inserting the phrase "principle of local autonomy." At the same time, the government opposed the popular election of heads of local government. I find this to be highly contradictory. (HARUNA Naoaki, Member/JCP/147/20.Apr.2000)

<Comments by Informants and Others>

- The Japanese government added the phrase “principle of local autonomy” to the GHQ draft, but opposed the popular election of heads of local government. This is probably because they could not envision direct popular elections and were thinking along the lines of indirect election or appointment through the Diet. (AMAKAWA Akira, Informant/147/20.Apr.2000)
 - It can be said that the existence of the GHQ draft conferred legitimacy to the citizen’s movement for the popular election of mayors which preceded the reform of the system of local government. This draft responded to, and in turn, added fuel to the people’s desire to elect new leaders based on the will of the people. (AMAKAWA Akira, Informant/147/20.Apr.2000)
 - The most important impact of Chapter 8 of the present Constitution was that it led to the adoption of the popular election of heads of local government, a matter on which the leaders of the Japanese government exhibited maximum reluctance. Government leaders feared that direct popular elections would undermine political stability, but the system was eagerly accepted by the people as a means for promoting the process of democratization. (AMAKAWA Akira, Informant/147/20.Apr.2000)
 - The wartime system had turned the clock back on the development of self-government that had shown progress since the Meiji Era. The reaction to and will to rectify this interruption and the desire to expand the system of self-government is responsible for the introduction of the popular election of prefectural governors. (AMAKAWA Akira, Informant/147/20.Apr.2000)
- d. Comments concerning discussion of *Do-shu* system around the time of promulgation of the Constitution

<Comments by Informants and Others>

- We see developments going in two directions during the war: centralization on one hand, and the reorganization of prefectures to create larger regional states on the other. In the postwar reaction to the wartime regime, new directions for reform of local government organization gathered momentum based on the expansion of the powers of self-government. However, there was a continued awareness of the need to follow up on the program that existed from before the war of introducing larger regional states as the government’s unit of administration. (AMAKAWA Akira, Informant/147/20.Apr.2000)
- The reform of local administration was discussed in the Diet, as well as by scholars and administrators. The general consensus in all of these discussions was that if prefectures were to be granted full powers of self-government, it would be desirable to introduce a *do-shu* system (a system which integrates the prefectures into a small

number of states or prefectures) of larger regional states as the government's unit of administration. (AMAKAWA Akira, Informant/147/20.Apr.2000)

e. Miscellaneous comments

<Comments by Members>

- Chapter 8 stands together with Chapter 2 as the two most important features of the present Constitution. Chapter 8 was born of the reaction to the prewar system of central control of local government. Because this entailed new powers and systems never before experienced in Japanese history, there is no doubt that there were many difficulties and obstructions to clearly defining and thereafter realizing the principle of local autonomy. (YAMAGUCHI Tomio, Member/JCP/151/17.May.2001)

<Comments by Informants and Others>

- Notwithstanding its very large volume, the present Local Government Law was debated and enacted in a very short period of time. Some evaluate this affirmatively by saying that speedy enactment was possible because the Local Government Law was linked to the prewar system. Others are critical and argue that the Local Government Law is inconsistent with the Constitution in various parts. (AMAKAWA Akira, Informant/147/20.Apr.2000)
- With the dissolution of the prewar Ministry of Interior and the dissolution of the military, a great deal of attention was focused on the status of the police within the context of the tide of decentralization and the transfer of power to local government. (AMAKAWA Akira, Informant/147/20.Apr.2000)

(2) Significance of Provisions on Local Self-Government (Chapter 8)
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a. Comments emphasizing significance of local self-government (Chapter 8)

<Comments by Members>

- The Constitution's chapter on local self-government can be our guideline for the 21st century. It is based on the belief that local self-government is indispensable to a democratic Japan and establishes the principle of local self-government, whereas this principle was seldom seen in earlier constitutions anywhere in the world. (HARUNA Naoaki, Member/JCP/154/28.Feb.2002/Local Autonomy Subcommittee; 154/28.Mar.2002/Local Autonomy Subcommittee; 154/9.May.2002/Local Autonomy Subcommittee; 154/11.July.2002/Local Autonomy Subcommittee)
- The fact that the Constitution contains a chapter on "Local Self-Government" is proof of its importance. As a matter of fact, this chapter has played a vital role in

the postwar development of self-governance. We should be mindful of its importance when considering Japan's future diplomatic policies and initiatives. (TSUJIMOTO Kiyomi, Member/SDP/147/20.Apr.2000)

- During the war, local governments were intentionally inducted into the war effort. In light of this fact, we should understand that there is a close relation between local self-government and demilitarization. I believe this to be the significance of Chapter 8. (TSUJIMOTO Kiyomi, Member/SDP/147/20.Apr.2000)

<Comments by Informants and Others>

- The rights invested in local governments (the right of local self-government) are comparable to human rights and constitute the inalienable rights of local governments. This system supports the foundations of popular sovereignty and democracy. As in the case of human rights, I believe that no constitutional amendment can deny or negate the right of local autonomy. (OHKUMA Yoshikazu, Informant/151/17.May.2001)
- Because Japan was unable to sweep away its historical experiences of political centralization under the Meiji Constitution immediately after the present Constitution was promulgated, the position was taken that local self-government was merely a system allowed for under the Constitution (doctrine of systemic guarantee). Therefore, the Shaup Report, which expressed the need for stronger local self-government, could not be driven forward with force. From the perspective of the position that self-government is an inherent and inalienable right of local governments (doctrine of inalienable right), it is necessary to aim to attain higher levels of local self-government. (OHKUMA Yoshikazu, Informant/151/17.May.2001)
- The Meiji Constitution did not contain provisions concerning local self-government, but that does not imply that local self-government was ignored. Starting with the system of municipalities, steady progress was made in local self-government beginning in the Meiji Era. I believe the present Constitution is commendable in that it gave explicit form to local self-government and marked a new beginning. (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)
- At the time of the promulgation of the Constitution of Japan, it was both epoch-making and highly significant on a global level that the Constitution contained systemic guarantees for local self-government. (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)
- In the prewar period, the projected implication of "self-government" in local self-government was "self-restraining." In light of this, the provisions of the present Constitution were epoch-making. But that does not mean that earlier movements for local self-government did not exist. Various strongly-rooted movements for democracy and local self-government existed before the war. (JINNO Naohiko, Informant/154/9.May.2002/Local Autonomy Subcommittee)

b. Comments pointing to inadequacies of local self-government (Chapter 8)

<Comments by Members>

- The present Constitution consists of 103 articles, but only four articles concern local self-government. (SHIOTA Susumu, Member/LP/151/17.May.2001)
- Article 92 and the other articles concerning local self-government are inadequate from the perspective of decentralization and local sovereignty because they exhibit the influence of the old system of government appointment of prefectural governors. (FUTAMI Nobuaki, Member/LP/147/20.Apr.2000)
- Chapter 8 of the Constitution delegates the determination of many matters to legislation and does not contain sufficient provisions. (NAKAMURA Eiichi, Member/NCP/147/20.Apr.2000)

<Comments by Informants and Others>

- The Constitution's provisions for local self-government do not adequately reflect the principle of decentralization. Local self-government should be more firmly established by revising the Constitution to include explicit provisions for the following: clarification of the status of local self-government in the national system; clarification of the division of functions between central and local governments; amalgamation of municipalities; maintenance of autonomous fiscal resources by local governments; and transfer of the tax base. (ASHITOMI Osamu, Speaker/154/22.Apr.2002/Okinawa Hearing)

c. Miscellaneous comments

<Comments by Informants and Others>

- Discussion is needed regarding Chapter 8, including the relation between the central and local governments. There is much room for discussion, given that a centralized political structure persists notwithstanding the provisions of the Constitution (KITAGAWA Masayasu, Informant/154/11.July.2002/Local Autonomy Subcommittee)
- (Responding to the question: What provisions can be added to the Constitution's four articles on local self-government?) Putting aside the question of whether the provisions of the four articles are adequate, I am not in favor of including detailed provisions in the Constitution. Detailed provisions will rob of us the flexibility needed to respond to the changing times. (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)

2. Significance of “Principle of Local Autonomy”

(1) Meaning of “principle of local autonomy”

<Comments by Members>

- In a sense, the phrase “principle of local autonomy” appearing in Article 92 is very difficult to understand. (NISHIKAWA Kyoko, Member/LDP/151/17.May.2001)
- The phrase “principle of local autonomy” is extremely vague. As Informant OHKUMA Yoshikazu has suggested, I think this should be replaced by a more explicit definition, such as “local self-government by means of direct democracy.” (SHIOTA Susumu, Member/LP/151/17.May.2001)

<Comments by Informants and Others>

- The phrase “principle of local autonomy” is very difficult to understand and can be interpreted at will. My own interpretation differs from that of constitutional scholars. I understand this phrase to constitute a systemic guarantee of a process of government administration which is responsive to the hopes, demands and grievances of the citizens. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/Local Autonomy Subcommittee)
- In Japan, local power has always been weak. Japan is vastly different from the United States which started with states and where various powers were ensured through covenants between the states and the federal government. When the Constitution of Japan was promulgated, probably the drafters had the American and European cases in mind. But the phrase “principle of local autonomy” seems to have been adopted without the drafters being able to figure out how to explain what this meant. (TEJIMA Norio, Speaker/151/16.Apr.2001/Sendai Hearing)

(2) Significance, assessment and future of “principle of local autonomy”

<Comments by Members>

- It is highly significant that many of the Informants addressing the Local Autonomy Subcommittee have positively assessed Chapter 8 of the Constitution and have taken the position that its provisions must be fully utilized in the 21st century. In the future, the principle of local autonomy must be further enriched by providing for citizen’s self-governance and the self-governance of local bodies. I believe this is the direction the world is taking. (HARUNA Naoaki, Member/JCP/154/25.July.2002)

- I believe the “principle of local autonomy” means that local government bodies exist independently of the central government, and are meant to perform their tasks creatively in the absence of central-government supervision, and in a manner that conforms to local conditions as determined through the independent and autonomous expression of the will of the citizens. However, reality is a far cry from this. As conveyed in the expression “one-third autonomy,” the central government is extensively involved in matters pertaining to local government. (YAMAGUCHI Tomio, Member/JCP/151/17.May.2001)

<Comments by Informants and Others>

- I think that the concept of the autonomy of citizens and local public organizations is based on an integrated system of local government wherein the prefectures and other local public entities play a double role of both the central and local government. I think that some other wording will have to be devised in order to separate the functions of the central and local governments and to clarify where responsibility lies. (AMAKAWA Akira, Informant/147/20.Apr.2000)
- The concepts of the autonomy of citizens and the autonomy of public organizations probably did not originate in the United States. Autonomy of citizens, which played an important role in postwar reforms, can be understood in the context of the international tide of broadly-defined democratization. (AMAKAWA Akira, Informant/147/20.Apr.2000)
- With regard to the autonomy of public organizations, we are beginning to see embryonic developments in the establishment of equal and cooperative relations between central and local governments, which is the aim of decentralization reform. Regarding the autonomy of citizens, it has been pointed out that the debate concerning whether to emphasize direct as opposed to indirect democratic processes has not necessarily been clarified. Ideally, direct democracy should be established as the fundamental principle. From that perspective, direct participation of citizens in local self-government should be further promoted. (OHKUMA Yoshikazu, Informant/151/17.May.2001)
- The “principle of local autonomy” of Article 92 declares that local public bodies have the inalienable right to exercise self-government in at least some areas. The problem is that the areas in which this right can be exercised have not been thus far clarified. The Diet provides the best forum for deliberating on this issue. (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)
- The Council for Decentralization Reform stated in its final report that clarification of the proper form of taxation and fiscal resources will lead to the realization of the Constitution’s “principle of local autonomy.” (JINNO Naohiko, Informant/154/9.May.2002/Local Autonomy Subcommittee)

- My purpose in standing for election as mayor of Kashimadai Town was to implement the principle of local autonomy. When the first 10 percent across-the-board reduction in area under rice cultivation was ordered, I was made painfully aware of the fact that the principle of local autonomy does not exist in the face of the centralized powers of the nation. (KANO Fuminaga, Speaker/151/16.Apr.2001/Sendai Hearing)

II. Need for Decentralization Reform and Related Challenges

1. Trend towards Decentralization and Need for Decentralization Reform

- a. Comments identifying problems in the current centralized system as reasons for necessity of decentralization

<Comments by Members>

- Under a centralized system, the central government has been engaged in building town halls and schools according to single and uniform standards and patterns for the entire country. This has undermined the development of unique municipalities based on local strengths, traditions and history. (ITO Kosuke, Member/LDP/ 154/28.Mar.2002/ Local Autonomy Subcommittee; 154/9.May.2002/ Local Autonomy Subcommittee)
- Japan's centralized bureaucratic structure was at the core of Japan's tremendous success in development which amazed the entire world. As we search for a new vision for Japan, probably the most crucial issue that we face is how to reform this centralized bureaucratic structure. Deregulation, the review of special public corporations and other related issues are all parts of the same problem. The challenge is to promote the maturation of the nation by encouraging the people to fully exploit the emerging possibilities around them for maximum self-realization, and for local and regional communities to make full use of their own unique features and possibilities. In the future, an effective division of responsibilities and functions must be established between basic units of self-government, regional units of self-government, and the central government. During this process, whatever portions of the bureaucratic structure that can be transferred from the center to the periphery should be transferred. To make this possible, politicians must join with the people in developing a blueprint, and thereafter managing this process. (YASUOKA Okiharu, Member/LDP/154/25.July.2002)
- Extreme centralization of power lies at the root of many of the crises surrounding Japan. Prompt steps must be taken to develop a decentralized society, and to establish such principles as regional independence, autonomy, and self-responsibility. (NAGAI Eiji, Member/DPJ/154/25.July.2002)
- The recent degradation of educational institutions, and the moral hazards that have ravaged the business community, the judiciary, as well as the world of politicians are rooted in the extreme centralization of power which has encouraged an incapacitating dependence on the center combined with a loss of self-reliance and self-responsibility. Centralization performed well during the period of Japan's accelerated economic growth. However, more recently, it has become bogged down and is one of the causes of the prolongation of economic recession. We need to create a system of government that will promote local independence by means of thorough

decentralization. (NAGAI Eiji, Member/DPJ/154/28.Mar.2002/Local Autonomy Subcommittee; 154/9.May.2002/Local Autonomy Subcommittee; 154/6.June.2002/Local Autonomy Subcommittee; 154/11.July.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- In the past, Japan was able to garner great success by creating a society amenable to centralized control. Now it is necessary to decentralize, not only in pursuit of economic success, but also to respond to the growing diversification and pluralization of values pertinent to the process of self-realization. (KITAGAWA Masayasu, Informant/154/11.July.2002/Local Autonomy Subcommittee)
- b. Comments advocating decentralization for reasons other than problems of centralization

<Comments by Members>

- The population is concentrated in such large cities as Tokyo and Osaka, leading to an imbalance in cultural and economic power. To rectify this situation, decentralization should be considered in the context of policies for national land development. (HANASHI Nobuyuki, Member/LDP/154/28.Feb.2002/Local Autonomy Subcommittee)
- Japan today has lost sight of its goals. We need to re-establish national objectives and systems for realizing them. Japan should strive to create a mature society through the “realization of a nation based on transparent self-government.” This should be the national objective. (YASUOKA Okiharu, Member/LDP/154/11.July.2002/Local Autonomy Subcommittee)
- Looking straight into the reality of declining birth rates and rapid aging of society, we will realize that decentralization is the only path available. (WATANABE Hiromichi, Member/LDP/154/28.Feb.2002/ Local Autonomy Subcommittee; 154/28.Mar.2002/Local Autonomy Subcommittee)
- While pursuing democracy, Japan has created rules of democracy which function as walls, and has fallen under the illusion that democracy consists of protecting these walls. Now, more than ever before, we need to “democratize democracy.” Decentralization, disclosure and access to information are essential for this purpose. (NAKANO Kansei, Member/DPJ/154/11.July.2002/Local Autonomy Subcommittee)
- The biggest problem is that the Constitution’s spirit of local autonomy has not been realized. For instance: (1) various delegated functions remained in place until quite recently; (2) the center continues to exert financial control over the periphery by transforming the Local allocation tax into subsidy systems and by failing to transfer the tax base to the periphery; (3) as seen in the government’s passive stance on

people's referenda, all aspects of Chapter 8 must be fully utilized. (HARUNA Naoaki, Member/JCP/154/28.Feb.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- We are seeing a clash between the historical tide of democracy that Japan has pursued and the tide of decentralization that has covered Japan and other developed countries since the second half of the 20th century. As a result of this clash, Japan is now taking active steps to promote decentralization. (JINNO Naohiko, Informant/154/9.May.2002/Local Autonomy Subcommittee)

c. Other comments concerning decentralization

<Comments by Members>

- Decentralization and the reform of the social security system are linked and must be undertaken in tandem. (KOBAYASHI Mamoru, Member/DPJ/151/17.May.2001)
- During the 21st century, the 20th-century nation state will split into a "state portion" consisting of the functions of the state, and a "national identity portion" supporting the decentralized autonomy of residents. The latter portion will give shape to regional coexistence and community-consciousness through its properties of local allegiance. Therefore, when considering the directions that Japan should take in the 21st century, emphasis must be placed on the periphery. (OTA Akihiro, Member/NK/151/17.May.2001; 151/14.June.2001)

<Comments by Informants and Others>

- During the 21st century, people will lead highly creative lives in their own regions under the following conditions: (1) limited natural environment; (2) independent cultures nurtured by the regions; (3) highly developed information society. Under these conditions, local residents will play a central role in the political process as the driving force of democracy, and local self-government will itself become a vital arena for the development of democracy. (OHKUMA Yoshikazu, Informant/151/17.May.2001)
- Today, decentralization represents a global tide driven by the following five forces: (1) democratization; (2) cultural identity; (3) the end of modernization; (4) administrative and fiscal reform; (5) globalization. A certain direction in decentralization can be observed. Decentralization is moving from "decentralization of bureaucracy and governance" to "decentralization in self-government," which is to say from "delegation of powers" to "transfer of powers." (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)
- Decentralization constitutes a part of the general reform in government systems which was launched in the second half of the 20th century in response to the

increasingly apparent gap between existing systems and contemporary reality brought about by social advances. It now represents a global tide. Unlike the global tide of decentralization, Japan's decentralization reform was born out of specific demands to later merge with the tide of administrative reform. (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)

- To end Japan's present paralysis, national and local civil servants and politicians must break free of the mentality of "don't rock the boat." They must create new values with enthusiasm and pride, and launch new systems that bear the hallmarks of principles and vision. (KITAGAWA Masayasu, Informant/154/11.July.2002/Local Autonomy Subcommittee)
- Municipalities throughout the country are engaged in regional development based on the principle of decentralization and aimed at realizing the ideals of the Constitution. We see municipalities protecting and fostering the Constitution in much the same way that a parent nurtures its child. (KANO Fuminaga, Speaker/151/16.Apr.2001/Sendai Hearing)
- We must strive to establish the Constitution and its principles by promoting independence in local communities and the development of regional economies. For this purpose, the following lines of action must be pursued in accordance with the principle of self-responsibility in local autonomy: establish independent fiscal resources, promote the amalgamation of municipalities, and undertake bold initiatives for deregulation. (ASHITOMI Osamu, Speaker/154/22.Apr.2002/Okinawa Hearing)

2. Issues in Decentralization

(1) General issues

a. Comments concerning issues that may arise following current decentralization reform

<Comments by Members>

- The reorganization of the central government ministries is very likely to result in the creation of mega-ministries without any progress being made in the delegation of power. Instead of promoting decentralization, reorganization may further strengthen the grip of centralized control. (YOKOMICHI Takahiro, Member/DPJ/147/6.Apr.2000)

<Comments by Informants and Others>

- We should be aware that, even though there is only one Constitution, depending on the laws that are enacted, very major differences can appear in the system of local autonomy. (AMAKAWA Akira, Informant/147/20.Apr.2000)
- The achievements of decentralization reform promoted by the Council for Decentralization Reform have been summarized as follows: (1) the abolition of delegated functions; (2) the reduction of central government intervention through division of the administrative functions of local autonomous bodies into statutory administrative functions and autonomous administrative functions; (3) establishment of the Committee for Handling Disputes Between Central and Local Governments for ruling on disputes between national and local governments. Problems that must be addressed in the future include: (1) the transfer of tax base and fiscal resources; (2) problems related to the design of local government, including the relative domains of municipalities and prefectures, and whether or not the present two-tiered system should be continued; (3) capacity-building in local government bodies to facilitate autonomy. (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)
- Under the decentralization reform promoted by the Committee for the Promotion of Decentralization, the administrative functions of local autonomous bodies were divided into statutory administrative functions and autonomous administrative functions. While intervention by the central government is now subject to statutory procedures, nothing has really changed. Local governments continue to accept tasks with a single telephone call from the central ministries. Although a Committee for Handling Disputes Between Central and Local Governments has been created, no change can be expected in actual conditions unless this organ is effectively utilized. For this purpose, the Commission will now have to be fully empowered. (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)

- (Following the abolition of delegated functions:) We are hearing from various quarters that local governments now have greater freedom to act on their own discretion. On the other hand, there are those who say that practices of functional delegation can still be seen because the development of local legislation and standards are very demanding tasks. (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)
- The abolition of delegated functions has had some positive results because it has resolved the asymmetry between “decision-making” and “execution.” But the asymmetry between “administrative responsibilities” and “taxation rights” remains unchanged. Thus, local governments continue to be burdened by numerous tasks and responsibilities, while their taxation rights remain curtailed. (JINNO Naohiko, Informant/154/9.May.2002/Local Autonomy Subcommittee)
- Under the Comprehensive Decentralization Law, the hierarchical relation between central and local governments has undergone significant change. In the future, the center and peripheries should work toward mutual development based on relations of “equality and cooperation” instead of “equality and conflict.” (KITAGAWA Masayasu, Informant/154/11.July.2002/Local Autonomy Subcommittee)

b. Comments concerning principles of decentralization and local autonomy

<Comments by Members>

- I have been made painfully aware of the need for individual local governments to work creatively toward the further promotion of local autonomy. At the same time, I realize that we are faced with the question of how to pursue a well-balanced and uniform development of the entire country. (HANASHI Nobuyuki, Member/LDP/154/25.July.2002)
- In promoting decentralization, we should discard the principle of uniform nationwide development and should accept the emergence of disparities among various regions as being sound and healthy. (HIRAI Takuya, Member/LDP/154/28.Feb.2002/ Local Autonomy Subcommittee; 154/6.June.2002/ Local Autonomy Subcommittee)
- Each nation has its own background of birth and development. Therefore, we should discuss the principle of local autonomy in the context of our own concept of the nation. (NAKANO Kansei, Member/DPJ/154/6.June.2002/ Local Autonomy Subcommittee)
- Municipal amalgamation and discussions of the introduction of a *do-shu* system of larger regional states should not be imposed from above in contradiction to the will of the people. This will prove injurious to the realization of the principle of local autonomy and will result in the distortion of autonomy. (HARUNA Naoaki, Member/JCP/154/25.July.2002)

- The provisions of the Constitution must be used as the foundation for examining problems related to local autonomy. Acting on this basis, we must adopt an attitude of seeking to realize and foster the Constitution's principles of local autonomy as we consider what the relation between the central and local governments should be in the 21st century. (YAMAGUCHI Tomio, Member/JCP/151/17.May.2001)

<Comments by Informants and Others>

- The need for citizens to participate in local autonomy is internationally recognized. Article 10 of the World Charter for Local Self-Government states the following: "Local authorities shall be entitled to define appropriate forms of popular participation and civic engagement in decision-making and in fulfillment of their function of community leadership." (OHKUMA Yoshikazu, Informant/151/17.May.2001)
- Decentralization implies a departure from uniformity and equality. If we do not like diversity and being different or being behind other regions, decentralization will remain alien to Japan. But Japanese history reveals a great deal of regional diversity of culture. We became accustomed to centralization in the process of modernization. But I believe the willingness to accept diversity is written into the DNA of the Japanese people. (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)
- (Regarding the Koizumi Cabinet's proposal to promote local competition together with local independence as part of the program for structural reform:) I support local independence, but I do not support intra-regional competition. The aim is for residents to live and enjoy happy lives. It would be very unfortunate if people always have to keep an eye on what their neighboring regions are doing. (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)
- Under centralization, we have a system of "centralized bureaucratic government" that is run by bureaucrats. In this system, local governments have little choice but to acquiesce to decisions made by the central government. The outcome is nationwide uniformity. Under a system of "decentralized self-government," we will have a "mosaic nation" which allows each locality to express its individuality. This approach presents a higher potential for development. (KITAGAWA Masayasu, Informant/154/11.July.2002/Local Autonomy Subcommittee)
- Some fear that the transfer of power to the local level will encourage special interests and will lead to policy failure. But there can be no growth if local governments forego self-decision and self-responsibility and continue to depend on the national government. Furthermore, prefectural governments must not obstruct the independence of municipalities by opting for centralized measures. (KITAGAWA Masayasu, Informant/154/11.July.2002/Local Autonomy Subcommittee)

- I agree with the proposal that the term “governance” should be translated to mean “co-governance” instead of “rule.” The *raison d’être* of local governments is to be found in ensuring the rights of citizens, and it is in this way that local governments can gain a more important role in relation to the central government. (KAIHARA Toshitami, Speaker/151/4.June.2001/Kobe Hearing)
- Fostering a human-rights culture of peace and non-violence is indispensable to the governance of local communities. Local communities must establish ties of solidarity with the international community, and this must be a solidarity aimed at the establishment of a human-rights culture of peace and non-violence. In this age of globalization, this is a spirit that is shared by the entire world. We must engage in extensive debate on the role of the state and the establishment of democracy for the achievement of local autonomy, and this age demands that this debate be conducted within the framework of the principles of peace and human rights. (SHIBAO Susumu, Speaker/151/4.June.2001/Kobe Hearing)

c. Miscellaneous comments

<Comments by Members>

- We should consider the direction of decentralization in light of the potential for electronic government and electronic local government. (HIRAI Takuya, Member/LDP/154/28.Feb.2002/Local Autonomy Subcommittee; 154/28.Mar.2002/Local Autonomy Subcommittee; 154/9.May.2002/Local Autonomy Subcommittee; 154/6.June.2002/Local Autonomy Subcommittee)
- Special administrative zones with specific purposes should be established to promote the development of greater regional individuality. Examples of this would be special welfare zones and special education zones. (HIRAI Takuya, Member/LDP/154/9.May.2002/Local Autonomy Subcommittee)
- Unless the National Association of Governors and other local-government related organizations take the initiative, there can be no progress in decentralization. (NAGAI Eiji, Member/DPJ/154/6.June.2002/Local Autonomy Subcommittee)
- The problem that arises in discussions of decentralization is that the Diet has thus far failed to make a political decision on this matter. In the future, the Diet must take affirmative action to present its vision on the following issues: (1) where to draw the line between enactment by national laws and by local ordinances; (2) the transfer of fiscal resources; (3) the relation between cities and other units of local government. (NAKAGAWA Masaharu, Member/DPJ/154/28.Mar.2002/Local Autonomy Subcommittee)
- To promote decentralization, regional culture and regional political parties must be nurtured. This requires the dispersal of mass media organizations currently concentrated in Tokyo. For this purpose, the transfer of capital functions from Tokyo

would be an effective measure. (NAKAMURA Tetsuji, Member/DPJ/154/28.Feb.2002/Local Autonomy Subcommittee)

- Unlike the United States, in the case of Japan, there is a gap between the quality of hospitals, schools and other public services available in the cities and elsewhere. I feel that the Japanese people do not enjoy fair access to public services. (TAKEYAMA Yuriko, Member/LP/154/28.Feb.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- Japanese national sovereignty does not exist in Okinawa. I believe Okinawa is the victim of discrimination as seen from the perspectives of the Constitution's principles of local autonomy, pacifism, and democracy. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- The structural reforms being promoted by the Koizumi Cabinet are inclined towards introducing market principles to the public sector. This may lead to general confusion in society. (JINNO Naohiko, Informant/154/9.May.2002/Local Autonomy Subcommittee)
- In Mie Prefecture, we have adopted a system of "New Public Management" (NPM) which entails the introduction private-sector management tools such as performance evaluations. By taking this approach, we have pursued the following types of reforms and transformations: (1) shift away from following the dictates of precedence to prefectural management based on vision and strategy; (2) shift away from "budget-oriented principle" focused on acquisition and full expenditure of funds to "balance-sheet-oriented principle" focused on raising the residents' level of satisfaction; (3) shift away from compartmentalized to a "flat" structure of government. (KITAGAWA Masayasu, Informant/154/11.July.2002/Local Autonomy Subcommittee)
- NPM advocates that the market mechanism should be actively utilized when a certain public service can be more efficiently performed by the private sector. (KITAGAWA Masayasu, Informant/154/11.July.2002/ Local Autonomy Subcommittee)
- The central and local governments should work together to translate the idea of special economic zones into reality. (KITAGAWA Masayasu, Informant/154/11.July.2002/Local Autonomy Subcommittee)
- Members of the Diet and prefectural governors should engage in frank discussions and share their ideas for the realization of local autonomy. (KITAGAWA Masayasu, Informant/154/11.July.2002/Local Autonomy Subcommittee)
- In the process of decentralization, I think it is necessary to distinguish between tasks and functions that should be assigned to larger regional administrative units

and those tasks and functions that require carefully-tailored implementation. Education and welfare should be undertaken in local communities with attention to administrative details. On the other hand, problems related to efficiency should be handled on a larger regional scale. (SHIBAO Susumu, Speaker/151/4.June.2001/Kobe Hearing)

(2) Relation between central and local governments

- a. Comments concerning the relation between central and local governments (division of functions, etc.)

<Comments by Members>

- From the perspective of Japan's structural reform, the future relation between the central and local governments in Japan must be clarified by reviewing the allocation of tax base and fiscal resources between the central and local governments, and by studying the federal system of foreign countries. (ITO Kosuke, Member/LDP/154/25.July.2002)
- In the United Kingdom, the heads of local governments are indirectly elected. For this reason, they usually belong to political parties. In Japan, there is a growing trend for heads of local governments and the chairmen of local assemblies to be politically independent. If decentralization proceeds on this basis, the ties connecting the periphery to the center may disappear. (SAKAI Takanori, Member/LDP/153/8.Nov.2001)
- Under the principle of popular sovereignty, the right to make ultimate decisions on matters of the will of the nation rests with the people. In a centralized state, because of the scale and intensity of centralized power, a gap emerges between the will of the people and the will of the state. Local matters should be decided on the local level, various powers and fiscal resources should be transferred to the local level, and issues which are very close to the lives of local residents should be decided on the local level. Such an approach will advance the cause of democracy and will promote freedom from the state. (OIDE Akira, Member/DPJ/153/6.Dec.2001)
- The integration of the European Union is highly instructive. It shows that centralized political control of the modern state by a single ethnic group must advance toward the transfer of sovereignty to transnational and multilateral organizations, combined with the transfer of powers to the local level. But this does not mean that the nation state will disappear. Hence, it is necessary to think in terms of restricting the functions of the central government, defining the functions of local governments and creating new public entities based on regional and local communities. (SENGOKU Yoshito, Member/DPJ/151/14.June.2001)

- Decentralization will obviously create regional disparities, but there is no need to aim for uniformity. As individual regions develop along the lines of their own unique cultures and strengths, the crucial question will be to what extent the national government is able to cooperate with local governments, including the provision of financial resources. (KONDO Motohiko, Member/Club 21/151/17.May.2001)

<Comments by Informants and Others>

- The Shaup Report clearly delineates and separates the functions of the central and local governments. However, in Japan today, we have an integrated form of administration wherein certain levels of government play a double roll. (AMAKAWA Akira, Informant/147/20.Apr.2000)
- One of the approaches to systems of local government is to clearly determine the assignment of functions and responsibilities. (AMAKAWA Akira, Informant/147/20.Apr.2000)
- Various laws have already been enacted concerning decentralization. Probably during the 21st century we will have to further clarify the relation between central and local governments and to define their respective spheres of responsibility. I believe that this would be a wise choice for the coming age. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- It would be wrong to focus our discussions solely on the pursuit of decentralization. The liberation of central politics from local politics is an important matter for the political system at the center. The confused overlapping of national and local politics creates problems in government affairs. It is important to revise the relationship so that responsibilities and costs can be integrated as far as possible. I believe that a review of government affairs will itself lead to a review of the relation between the central and local governments. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- The local level exists because of the nation, and the people exist because of the nation. The reverse is also true: the center exists because of the periphery. The problems such as military bases and nuclear power facilities which face local communities have a very important bearing on the fate of the nation. Therefore, the will and the specific needs of local communities must be taken into account. (ISHIHARA Shintaro, Informant/150/30.Nov.2000)
- Two things are important when we think of the future of Japan: the transfer of the tax base to the local level, and the allocation of administrative functions among local governments. Small local governments are being forced to do too much. Some administrative functions, such as civil engineering projects, could be transferred to the prefectural or county level. (KIMURA Yoko, Informant/151/17.May.2001)
- What will be the relation between the central and local governments in the 21st century? In pursuit of the happiness and welfare of the people and of residents, the

respective spheres of responsibility will be delineated and a system of democratic management will be established whereby the people will be able to directly voice their views concerning important matters of government. (OHKUMA Yoshikazu, Informant/151/17.May.2001)

- In the process of decentralization, the following four points will be important in defining the relation between the central and local governments: (1) to what extent will administrative powers be given to local government; (2) to what extent will fiscal resources be transferred to local government; (3) to what extent will the central government control and supervise the method of execution of administrative functions; (4) how and by whom will personnel decisions concerning local civil servants be made. (MORITA Akira, Informant/153/8.Nov.2001)
- What will be the relation between the central and local governments after the completion of decentralization? Local governments should exercise authority with their own independent financial resources using civil servants that they themselves have hired. However, the question of regional disparities will remain. From this perspective, if total and pure autonomy were to be achieved, the operation of such a system may prove difficult. The challenge is how to adjust the system to balance these two factors. (MORITA Akira, Informant/153/8.Nov.2001)
- In the current system, the central and local governments are too closely intertwined. Should one fall, everything else will crash. This undermines the fundamental strength and soundness of the national government. A new form of relationship should be pursued in which the respective responsibilities of the national and local governments are fully delineated so that each wing is independent of the other and the two sides, standing in their own domain, mutually cooperate to respond to the needs of the people. (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)
- The apron strings must be cut in the relation between the central and local governments. What local governments are capable of doing should be left to them, and the central government should undertake to perform those functions that are best performed by the central government. Local governments should stop depending on the central government, and the central government should properly perform its essential functions. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/Local Autonomy Subcommittee)
- In countries with federal systems, the division of functions between the central and local governments is well established. Individual states have considerable authority in matters of self-government and operate on the principle of citizens' autonomy. In France and some other countries, by allowing mayors to serve concurrently as members of parliament, the periphery performs a function of check-and-balance on national affairs. We should examine such possibilities for Japan. (KAIHARA Toshitami, Speaker/151/4.June.2001/Kobe Hearing)

- Numerous complaints and petitions concerning local administration are filed by citizens. In light of the principles of the Constitution, many of these are justified but, unfortunately, it is not possible to respond to all of them. In order to respond to the expectations of citizens, it is necessary to bolster the measures of the national government which are rooted in the Constitution. In particular, active support must be given to local governments. (SHIBAO Susumu, Speaker/151/4.June.2001/Kobe Hearing)
- b. Comments concerning constitutional provisions pertaining to the relation of the central and local governments

<Comments by Members>

- The Constitution should contain a clearer statement of the equal standing of the central and local governments. (WATANABE Hiromichi, Member/LDP/154/28.Feb.2002/Local Autonomy Subcommittee)
- The term “government” does not appear in the Constitution. However, in reality, the central government does exist, while local governments do not. In clarifying the functions of the central and local governments, the Constitution should be revised to include specific provisions concerning the central government and local governments. Such a revision would add greater clarity to the “principle of local autonomy.” (KANO Michihiko, Member/DPJ/147/20.Apr.2000)
- The Constitution should be revised to include explicit mention of the equal standing of the central and local governments, and the independent power of taxation of local governments. (SENGOKU Yoshito, DPJ/151/16.Apr.2001)
- It does not matter that the Constitution contains few provisions concerning local autonomy. All that is needed is a single solemn provision which assigns greater power and authority to local governments. (NAKANO Kansei, Member/DPJ/154/6.June.2002/Local Autonomy Subcommittee)
- Constitutional revision is not necessary for promoting decentralization. Enough can be done through legislation. (YOKOMICHI Takahiro, Member/DPJ/147/6.Apr.2000)
- The rule that ordinances enacted by local governments should not exceed the provisions of national legislation does not seem to agree with what the Constitution calls for. (HIMORI Fumihiro, Member/SDP/151/17.May.2001)
- We should trust in the capacity of local government and transfer greater powers to it. This approach should be considered if the Constitution is to be revised. (NISHIKAWA Taiichiro, Member/NCP/154/6.June.2002/ Local Autonomy Subcommittee)

<Comments by Informants and Others>

- The Comprehensive Decentralization Law is an epoch-making piece of legislation enacted under the Murayama Cabinet. However, in the final stages of deliberation, the bill lost its teeth. As can be surmised from this, even if the Constitution were revised to include the principle of decentralization, it is doubtful whether it would be properly implemented. A more effective and desirable approach would be to enact a basic law for decentralization. (SHINDO Eiichi, Informant/147/6.Apr.2000)
- Instead of looking after the needs of local politics, the central government should seek to develop its own capacity to the point where it can raise its performance to the level of international standards. What is required of local politics is to develop an acute sense of its own cost and to effectively apply this awareness to its political activities. If this process is allowed to run its course, the problems of the number of local governments, their size and the issue of introducing a *do-shu* system of larger regional states will naturally come to the fore. I believe this will provide a new perspective from which Chapter 8 can be rewritten. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- To what extent can legislation be used to deal with the issues of the central and local governments? To a certain extent, this is a problem of legislative practice which is linked to the “principle of local autonomy.” However, it is also a problem that relates to the Constitution. (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)
- As a result of centralization, the center has absorbed most of the energy and the periphery is unable to muster the necessary power. I believe that it is necessary to revise the Constitution to clarify the respective functions of the central and local governments and to include provisions concerning the right of taxation. (TEJIMA Norio, Speaker/151/16.Apr.2001/Sendai Hearing)

c. Comments concerning the “prescriptive density” of legislation

<Comments by Members>

- Under the current legal framework, the central government determines all standards designed to achieve a national minimum. An example of this is the number of pupils per teacher in schools. This authority should be transferred to local governments, and we should discuss the areas in which the national government should continue to create standards. (NAKAGAWA Masaharu, Member/DPJ/154/28.Mar.2002/Local Autonomy Subcommittee)
- We need to enact legislation that will restrict the powers of the national government. (NAKAGAWA Masaharu, Member/DPJ/154/6.June.2002/ Local Autonomy Subcommittee)

<Comments by Informants and Others>

- The right of local governments to determine their own administrative structures as they see fit is a very important factor in local autonomy. Therefore, we must review the Local Autonomy Law and other laws which prescribe uniform standards and measures. Regarding Article 93 and the direct popular election of head of local governments, while a system of centralized appointment is out of the question, the Constitution's provision does offer considerable leeway on how to proceed. (MORITA Akira, Informant/153/8.Nov.2001)
- Regarding the administrative functions of local government, the central government has defined and specified them in too much detail. An example of this is the long-term care insurance system. An alternative approach would be to establish a general framework and leave the details to the local level. Or, in the case of statutory administrative functions, a system could be designed whereby when a task is identified as a statutory function, the necessary fiscal resources are simultaneously transferred to the local level. Such changes would promote a new consciousness in both the central and local governments. (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)
- There are no rules on the level of detail that the central government can include in its legislation. Hence, when a highly detailed law is enacted, it effectively reduces the possibility for local legislation. The question is how to control the "prescriptive density" of legislation (the level of detail contained in the provisions of laws). A realistic approach would be for the Diet to exercise self-restraint. (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)
- When the central government makes very detailed decisions, the result is nationwide uniformity and loss of freedom of action where local conditions do not match the decisions. Future interaction between the central and local governments must seek to provide freedom, flexibility, and options to the local level. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/ Local Autonomy Subcommittee)

d. Comments concerning conveying the will of the periphery to the center

<Comments by Members>

- In promoting decentralization, we must devise systems that will allow the local level to convey its will to the center. (KANEKO Tetsuo, Member/SDP/154/11.July.2002/ Local Autonomy Subcommittee)

<Comments by Informants and Others>

- As town mayor, I have paid special attention to the following two questions: (1) how can the Constitution be utilized in town development; (2) how can information on

town development under decentralization be transmitted to the entire country, and how can this be reflected in the policies of the central government. We have taken the following specific actions: (1) emphasis on local characteristics and tradition in education; (2) nationwide dissemination of information on building a town that is protected against flood damage. (KANO Fuminaga, Speaker/151/16.Apr.2001/Sendai Hearing)

- If greater authority is to be delegated to the local offices of national agencies, systems must be designed to reflect the will of local residents. For example, heads of such local offices could be chosen through popular election or by appointment subject to the approval of prefectural governors. (KAIHARA Toshitami, Speaker/151/4.June.2001/Kobe Hearing)
 - As a prior advocate of legislation restricting centralized powers, I hold the Comprehensive Decentralization Law in very high regard. The Diet and national government, however, have established very detailed prescriptions regarding the long-term care insurance system, the amalgamation of municipalities, and the system of local finance. These detailed prescriptions have left extremely little room for the operation of local autonomy. Moreover, no provisions have been made in these systems to allow the local governments to express their views. This has led me to ask whether this is really decentralization. (KAIHARA Toshitami, Speaker/151/4.June.2001/Kobe Hearing)
 - While the world is moving toward decentralized societies, under our current system of local autonomy, everything is determined by laws enacted by the Diet. To integrate local views in the enactment of national legislation pertaining to the local level, certain restrictions should be placed on the right of the Diet to enact such legislation. Various approaches are available for projecting the will of the periphery on the center. The sphere of national legislation could be restricted. Or, as in the case of Germany and France, representatives of local governments could participate in the decision-making process of the Diet. Such measures should be adopted to provide institutional assurances to the principle of local autonomy. (KAIHARA Toshitami, Speaker/151/4.June.2001/Kobe Hearing)
- e. Comments concerning division of functions of national and local governments in school education

<Comments by Members>

- In promoting decentralization, in the field of education, the national government should perform the role of fostering a sound patriotism and encouraging young people to have pride in being Japanese. (MORIOKA Masahiro, Member/LDP/154/28.Feb.2002/Local Autonomy Subcommittee)
- In the process of decentralization, in the field of education, greater autonomy should be given to the local level. The authority to hire teachers in municipal schools should

be transferred from the prefecture to the municipalities. Also, the local level should be allowed to make its own decisions on the content of education and school holidays. (TAKEYAMA Yuriko, Member/LP/154/6.June.2002/Local Autonomy Subcommittee; 154/11.July.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- In the field of education, each locality should be able to develop its own creative program which reflects the characteristics of the locality. The right to make such decisions should be delegated to regions of a given size. (OHKUMA Yoshikazu, Informant/151/17.May.2001)
- For local communities and basic units of local government, issues pertaining to children must be examined concretely with reference to the actual living conditions of the children. (SHIBAO Susumu, Speaker/151/4.June.2001/Kobe Hearing)

f. Miscellaneous comments

<Comments by Members>

- The division of functions of the central and local governments must be scrutinized, and efforts must be made on both sides to promote the development of the country. (NAGAI Eiji, Member/DPJ/154/11.July.2002/Local Autonomy Subcommittee)
- There are two movements in Europe: EU integration and the strengthening of local governments. In Japan also, it seems we are moving toward an age when the central government will no longer be absolute. (TSUTSUI Nobutaka, Member/DPJ/154/9.May.2002/Local Autonomy Subcommittee)
- As globalization advances, national borders will eventually disappear. In that case, I think it would be perfectly acceptable for Kyushu, for example, to turn its attention from Tokyo to the neighboring countries of South Korea and China. (TAKEYAMA Yuriko, Member/LP/154/28.Feb.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- Prefectural assembly members are held in higher esteem than members of municipal assemblies. It seems to me that this situation originates in the old system where prefectural governors were under the administrative authority of the Emperor and in certain respects were the emissaries of the central government. (AMAKAWA Akira, Informant/147/20.Apr.2000)
- I think it is important for local governments throughout the country to develop their own diverse diplomatic channels based on the special features and human resources of their regions. Such channels would function to complement the diplomatic policies

of the central government. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/ Local Autonomy Subcommittee)

- All powers and authorities should be transferred to the local level, excluding those powers that constitute the core of the state. This transfer of authority will certainly bring into question the value of the prefecture, and we may well make the transition to a two-tiered structure consisting only of the national government and municipalities. (KITAGAWA Masayasu, Informant/154/11.July.2002/ Local Autonomy Subcommittee)
- It is important to develop systems for conveying the views of the periphery to the center. Since the enactment of the Comprehensive Decentralization Law, there has been a significant increase in autonomous administrative functions which local governments can take care of themselves. This may have the effect of reducing the opportunities of local governments to present their views to the national government. On the other hand, I believe the establishment of the Committee for Handling Disputes Between Central and Local Governments is bringing tremendous pressure to bear on the national government. (KITAGAWA Masayasu, Informant/154/11.July.2002/Local Autonomy Subcommittee)

(3) Internal and mutual relations of local government entities

A. Comments Concerning Two-Tiered Structure of Local Government Entities

<Comments by Members>

- Under the Meiji Constitution, prefectural governments functioned as the regional agencies of the central government. Under the Comprehensive Decentralization Law, the prefectures stand on par with the central and local governments. Moreover, the ordinance-designated cities are basically endowed with the same powers as the prefecture. Finally, tremendous progress has been made in the development of information and transportation networks. Putting all these together, I am led to believe that prefectures are no longer needed. (SHIOTA Susumu, Member/LP/151/17.May.2001)
- With progress in the amalgamation of municipalities, the issue of the abolition or consolidation of prefectures as the intermediate unit of government will quickly come to the fore. (INOUE Kiichi, Member/NCP/154/11.July.2002/ Politics Subcommittee)
- In its “Scenario of the Rebuilding of Japan,” the Liberal Party has proposed the abolition of prefectures and the creation of a total of 300 equal-ranking cities throughout Japan. This policy proposal is both fair and lucid. (NAKAMURA Eiichi, Member/NCP/147/20.Apr.2000)

<Comments by Informants and Others>

- What would happen if the prefecture as the intermediate unit of government were to be abolished? All the administrative functions not performed by municipalities would have to be performed by the central government. From the perspective of both the local residents and the national government, a two-tiered structure of local government would conform more closely to the Constitution. (OHKUMA Yoshikazu, Informant/151/17.May.2001)
- With the amalgamation of municipalities, the question of what to do with the prefectures becomes unavoidable. Such possibilities as the amalgamation of prefectures, the introduction of a *do-shu* system of larger regional states, and the introduction of a federal system will probably be considered in the future. (KITAGAWA Masayasu, Informant/154/11.July.2002/ Local Autonomy Subcommittee)
- The cost-benefit relation is quite tangible in municipalities which comprise the basic unit of self-government. However, the cost-benefit relation is nebulous in the case of prefectures because their functions are delegated to them by the central government, and they execute these functions through the municipalities. The issue before us is what to do with the three-tiered government structure of central government, prefecture and municipalities. (KITAGAWA Masayasu, Informant/154/11.July.2002/ Local Autonomy Subcommittee)
- I am not opposed to the elimination of prefectures as the intermediate unit of government. A two-tiered system will probably function more easily than today's three-tiered system. I think the best solution would be a system of "two-tiered plus supplementary agencies." In this scheme, regional agencies of the central government would take care of trans-regional matters. (KITAGAWA Masayasu, Informant/154/11.July.2002/Local Autonomy Subcommittee)
- As decentralization progresses, a problem that arises is the two-tiered structure of local government consisting of municipalities and prefectures. The issue of prefectures should be discussed in tandem with the issue of municipalities. (KANO Fuminaga, Speaker/151/16.Apr.2001/Sendai Hearing)

B. Comments Concerning Organization and Structure of Local Government Entities

- a. Comments arguing that regional features and diversity be allowed to affect the organization and structure of local government entities

<Comments by Members>

- I think it is fine to have diversity in the basic unit of self-government. We should discuss the various possible forms of the basic unit of self-government with greater

flexibility. (NAKAGAWA Masaharu, Member/DPJ/154/28.Mar.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- There are various formal and detailed statutory regulations concerning the organization and structure of local government entities as determined primarily by the central government and the Local Autonomy Law. But in the process of decentralization, municipalities, including towns and villages, should be allowed to determine their own organization and structure with a high degree of diversity, flexibility, and regional character. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/Local Autonomy Subcommittee)
- b. Comments concerning the relation between assemblies and heads of local government (introduction of assembly-based cabinet, city management system, etc.)

<Comments by Members>

- The local governments throughout the country have adopted an uniform presidential system of government. Moreover, the heads of local governments have overwhelming powers in their relations with local assemblies. It is questionable whether such a system is appropriate. With an eye to the importance of citizen participation, we should consider the introduction of more desirable systems, such as the European council model, or the system of assembly-based cabinet. (NAKAGAWA Masaharu, Member/DPJ/154/6.June.2002/ Local Autonomy Subcommittee; 154/11.July.2002/Local Autonomy Subcommittee)
- In the United States, a city manager system (city assembly appoints a professional administrator who oversees the administration of the municipality) has been adopted by many smaller municipalities. This type of system should be considered in Japan. (NAKANO Kansei, Member/DPJ/154/6.June.2002/ Local Autonomy Subcommittee)

<Comments by Informants and Others>

- In some foreign countries, local governments have been given broad options of organizational structures to choose from, including an assembly-based cabinet system and the so-called city manager system. Greater diversity in municipal structure should be allowed in Japan. For this purpose, if the provisions of Article 93 Paragraph 2 concerning the direct popular election of heads and assembly members of local governments are interpreted to mean “the prohibition of appointment by central government,” the Constitution will not restrict such changes. This point warrants future examination. (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)

- There is no problem if local assemblies choose to introduce a council system or an assembly-based cabinet system. Complete nationwide uniformity, covering everything between Hokkaido and Okinawa, should be suspended. Due provisions should be made for flexibility and diversity in local systems, including the option to choose a presidential system, a cabinet system, or to delegate administrative functions. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/Local Autonomy Subcommittee)
- I do not think that there are any fundamental defects in the current relation between the heads of local government and local assemblies. However, it is a problem when a head joins forces with the majority party to operate behind closed doors. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/ Local Autonomy Subcommittee)

c. Comments concerning local assemblies

<Comments by Members>

- The number of assembly seats should not be uniformly determined by law, but should be independently determined by each local government based on local conditions. (ITO Kosuke, Member/LDP/154/11.July.2002/ Local Autonomy Subcommittee)
- I have serious doubts whether persons elected in elections with voter turnouts of less than 50% can really bear the responsibility of assembly member. (UBUKATA Yukio, Member/DPJ/151/17.May.2002)
- Local governments must understand the needs of citizens and act with speed. For this purpose, local assemblies need members who can speak out on such subjects as education and long-term care from the perspective of ordinary citizens. (TAKEYAMA Yuriko, Member/LP/154/6.June.2002/Local Autonomy Subcommittee)
- (Regarding methods for allowing employed persons to participate in local assemblies:) I saw on television that in smaller British cities, the local assembly meets at night. I think that this could be a viable option for small municipalities in Japan. (NISHIKAWA Taiichiro, Member/NCP/154/6.June.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- The people (residents) recognize assembly members as the representatives of the people (residents). At the same time, assembly members must be knowledgeable and have high ethical standards. This means that the people (residents) expect those in positions of political responsibility to have the high level of knowledge needed to make the correct judgment on what really needs to be protected and preserved, and

what must not be infringed upon. (OHKUMA Yoshikazu, Informant/151/17.May.2001)

- In this age of decentralization, the invigoration of local assemblies is an absolute requirement. Practices of closed-door politics which degrade the assemblies to a mere formality must be rectified. The Local Autonomy Law contains very detailed and inflexible provisions concerning local assemblies. These must be revised to allow for diversity and self-determination in how to run local assemblies. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/Local Autonomy Subcommittee)
- The eligibility criteria for local assembly members are the same as for members of the national Diet. This should be revised to encourage the inclusion of persons who really represent the residents. Also, the system should be revised to allow school teachers and civil servants to serve as assembly members while retaining their professional status. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/Local Autonomy Subcommittee)

d. Comments concerning term limits for heads of local governments

<Comments by Members>

- As progress is made in the amalgamation of municipalities, the question will arise of term limits for heads of local government in whose hands power is concentrated. I think that applying a uniform framework will lead to regional revitalization. (NAKAYAMA Taro, Commission Chairman, Member/LDP/154/14.Feb.2002/Local Autonomy Subcommittee)
- In promoting decentralization, term limits should be placed on local government heads (NAGAI Eiji, Member/DPJ/154/28.Feb.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- Under the old system of government-appointed prefectural governors, one of the points that was debated at the time of the first revision of the law was the issue of the term of office. Because governors were apt to be reassigned to other prefectures after a relatively brief period of time, the decision was made to institute a four-year term to provide greater stability and to allow the governors to concentrate on their current assignment. (AMAKAWA Akira, Informant/147/20.Apr.2000)
- Heads of local governments are given vast powers under a presidential system. Multiple terms of service frequently invite problems by transforming the exercise of power into its own purpose. Therefore, term limits should be introduced for heads of local government. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/ Local Autonomy Subcommittee)

e. Comments concerning independent administrative committees

<Comments by Members>

- (Responding to the view that Board of Education members should be chosen through popular election:) Popular election of Board of Education members will inject ideological conflicts among members and obstruct the function of the Board. (MORIOKA Masahiro, Member/LDP/154/6.June.2002/ Local Autonomy Subcommittee)
- In the United States, Board of Education members are chosen through popular election. The same kind of system should be considered for Japan. (NAKANO Kansei, Member/DPJ/154/6.June.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- Members of independent administrative committees who are appointed by the head of the local government and approved by the assembly, such as the Public Safety Commission and the Board of Education, are frequently part-timers lacking proper expertise. As a result, the organization of these committees is often characterized by half measures. Furthermore, the emphasis on neutrality creates various defects. For instance, appointees tend to lack the required expert or professional capacities and cannot be held accountable to the residents. The following measures should be considered for injecting more democratic elements: (1) place the independent administrative committees directly under the popularly elected head of local government; (2) choose committee members through popular election. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/Local Autonomy Subcommittee)
- (Responding to the statement that popular election of Board of Education members will inject ideological conflicts among members and obstruct the function of the Board:) Such posts as the head of local government or the Minister of Education, Culture, Sports, Science and Technology are political positions filled by persons who have been chosen through an electoral process. There is no problem if the members of a Board of Education chosen through election have party affiliations. The system will function properly if the members engage in discussions in a public forum. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/ Local Autonomy Subcommittee)
- It should be considered whether it is a good thing for the Board of Education to be independent notwithstanding its extensive powers which include authority over budget and personnel decisions. We should also examine why the relation between the Boards of Education and the prefectural and municipal governments is not going well. (KITAGAWA Masayasu, Informant/154/11.July.2002/Local Autonomy Subcommittee)

f. Miscellaneous comments

<Comments by Informants and Others>

- The audit system for local governments is not functioning properly because the auditors and those being audited share a sense of oneness. Auditors should be elected, and the system should be revised to maintain a sense of tension between the auditors and those being audited. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/Local Autonomy Subcommittee)

C. Comments Concerning Relations between Designated Cities and Prefectures

<Comments by Members>

- It is a problem that designated cities, core cities and other elements of the system of municipalities are uniformly subject to the same legal provisions. The respective roles of the prefectural and municipal governments should be reviewed. (WATANABE Hiromichi, Member/LDP/154/28.Mar.2002/ Local Autonomy Subcommittee)
- There is considerable duplication between designated cities and prefectural governments as they tend to create similar administrative facilities. Hence, the relation between the two should be reviewed. Particular attention should be given to examining whether or not the delegation of major powers to designated cities has a positive impact on relations with the prefecture and with other municipalities. (NAKAMURA Tetsuji, Member/DPJ/154/28.Feb.2002/ Local Autonomy Subcommittee; 154/28.Mar.2002/ Local Autonomy Subcommittee)
- The administrative wards of a designated city, such as Kawasaki, have populations of 200,000 to 250,000 people. It is problematic that these wards do not have powers of self-government and that they simply function as administrative conduits. (NAGAI Eiji, Member/DPJ/154/28.Mar.2002/Local Autonomy Subcommittee; 154/6.June.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- Efforts to maintain the current uniform municipal system are not reasonable. Diversity in the relation between prefectures and municipalities must also be considered. For instance, designated cities could be elevated to the status of prefecture, while small towns and villages could be placed under the direction and supervision of the prefectural government. (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)
- The number of designated cities can be expected to increase with the progress of decentralization. But this could create difficulties with prefectural governments. For instance, this could engender greater conflict and competition between the two units

of government, and a larger portion of prefectural assembly members will be elected from designated cities. In consideration of the independence of individual cities, the option should be created allowing designated cities to secede from the prefecture. (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)

D. Comments Concerning Relations among Prefectures

<Comments by Members>

- When considering the introduction of a *do-shu* system of larger regional states, the transition from “competition” among local governments to “cooperation” among local governments becomes very important. (NAKAMURA Tetsuji, Member/DPJ/154/11.July.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- Many things can be more speedily taken care of on the local level than by the national government. A new business model could be created by five or six prefectures coming together. (KITAGAWA Masayasu, Informant/154/11.July.2002/Local Autonomy Subcommittee)
- Prefectural governments should actively cooperate and divide certain functions among themselves. Such initiatives will lead the way to regional unions, amalgamations and the introduction of a *do-shu* system of larger regional states. (KITAGAWA Masayasu, Informant/154/11.July.2002/Local Autonomy Subcommittee)

(4) Matters concerning infrastructure development for decentralization reform
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- a. Comments concerning need for human resources education

<Comments by Members>

- The fostering of human resources is very important to promoting decentralization. In this sense, the fact that many key posts in local government are held by national civil servants seconded from the central government ministries is an obstruction to decentralization. Instead of depending on seconded national civil servants, a system should be created to allow people to be brought in from the private sector. (ITO Kosuke, Member/LDP/154/11.July.2002/Local Autonomy Subcommittee)
- To promote decentralization, together with the transfer of powers and fiscal resources, it is critically important to establish access to the necessary human

resources. (WATANABE Hiromichi, Member/LDP/154/28.Feb.2002/Local Autonomy Subcommittee)

- Regarding a *do-shu* system of larger regional states, I believe it is better to use the term “regional republics” because government administration should be geared towards the local level. Under a *do-shu* system, it will be necessary to close the gap in consciousness between the cities and the peripheries by encouraging personnel exchange between the cities and the basic units of self-government. (NAKAMURA Tetsuji, Member/DPJ/154/28.Mar.2002/Local Autonomy Subcommittee)
- In order for prefectural governors to promote prefectural reform, it is extremely important for prefectural employees to undergo a change in consciousness. (INOUE Kiichi, Member/NCP/154/11.July.2002/Local Autonomy Subcommittee)
- To promote decentralization, the sense of dependence on the central government must be eliminated. Education for the development of a new consciousness is very important. (KOIKE Yuriko, Member/NCP/154/28.Feb.2002/ Local Autonomy Subcommittee)

<Comments by Informants and Others>

- Decentralization requires the training and education of human resources with a strong sense of independence. It is extremely important to educate people to be able to think and express ideas on their own, and so that they will remain fully confident of themselves when they are not doing what others are doing. (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)
- What is required of local-government human resources? It is necessary to educate people to know the national legal system and to have the ability to discover and define problems so that they can draft legislation and develop a grasp on fiscal resources. (IWASAKI Mikiko, Informant/154/28.Feb.2002/ Local Autonomy Subcommittee)
- To change the consciousness of prefectural government employees, we started with the following changes in the way we worked: (1) we committed to thorough consultation and discussion; (2) changed the organizational structure; (3) changed the summer dress code to short-sleeve and no-tie. (KITAGAWA Masayasu, Informant/154/11.July.2002/Local Autonomy Subcommittee)

- b. Other comments (information disclosure, citizen participation, collaboration with volunteers and NPOs)

<Comments by Members>

- Considering the recent political and bureaucratic scandals, I believe the tender system for public projects must be revised. (ITO Kosuke, Member/LDP/154/11.July.2002/Local Autonomy Subcommittee)
- Unless the people are prepared and willing to participate in self-government, decentralization cannot lead to the happiness of the people. We must promote a sense of citizen's autonomy among the people. (NAKAGAWA Masaharu, Member/DPJ/154/28.Feb.2002/Local Autonomy Subcommittee)
- One of the reasons that decentralization has not become established in Japan is that we are very far behind in the area of citizens' participation based on the disclosure of information by local government and the participation of citizens in the political process. (HIMORI Fumihiko, Member/SDP/154/28.Feb.2002/ Local Autonomy Subcommittee)
- In local autonomy, an extremely important role must be played by volunteers, NPOs and other citizens and groups who are prepared to take the initiative. To promote decentralization, it is not enough for local governments to work alone. They must involve such citizens and organizations in collaborative efforts. (YOKOMITSU Katsuhiko, Member/SDP/154/28.Mar.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- Local government in the age of decentralization must involve the participation of citizens in the public sector. Citizen participation implies the possibility to participate in all four stages of planning, decision-making, implementation and evaluation of projects undertaken by local governments. In decentralized local communities, these possibilities must be institutionalized and made effective. (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)
- Up until now, local governments have stood in the position of spenders of tax money. In the future, they will have to adopt the concept of "everything starts with the residents." This means that as they implement their policies, they must place themselves in the shoes of taxpayers and evaluate whether satisfactory administrative services are being provided. (KITAGAWA Masayasu, Informant/154/11.July.2002/Local Autonomy Subcommittee)
- In the Mie Prefectural Government, we have decided to go beyond "disclosure of information" which provides information on decisions made only when requests for such disclosure are received. Our aim is to take the initiative for active "presentation of information," including information concerning the policy-making

process, in order to achieve “sharing of information” with our citizens. This makes the people accountable to the prefectural government, and old patterns of “dependent democracy” are rendered obsolete and unworkable. (KITAGAWA Masayasu, Informant/154/11.July.2002/Local Autonomy Subcommittee)

- Regarding government accounting practices, cash-basis accounting that only captures the flow of funds fails to adequately express the stock side of assets in possession and liabilities generated by the issue of bonds. Therefore, the accounting system should be changed to accrual-basis accounting. (KITAGAWA Masayasu, Informant/154/11.July.2002/Local Autonomy Subcommittee)
- Regarding the reform of the tender system, the Mie Prefectural Government is considering various options, including an electronic tender system. Also, as a first step toward preventing *marunage* (full subcontracting of successful tenders), we have devised a system for monthly payment of costs. (KITAGAWA Masayasu, Informant/154/11.July.2002/Local Autonomy Subcommittee)
- While increasing the role of the international community, it is said that the process of globalization will simultaneously increase the role of local communities in the domestic scene. In particular, local communities must seek to resolve such close-to-life issues as education, welfare and the environment through a system of governance based on citizen participation, including the local government, NPOs, and NGOs. (SHIBAO Susumu, Speaker/151/4.June.2001/Kobe Hearing)

III. Specific Issues Pertaining to Local Autonomy

1. *Do-shu* System (Including Federal System)

(1) *Do-shu* system and the constitution

<Comments by Members>

- With regard to Article 92 of the Constitution, I subscribe to the position that the abolition of prefectures and the adoption of a *do-shu* system of larger regional states does not contradict the provisions of Article 92. If this Commission is to discuss the revision of the Constitution, I would call on it to discuss the adoption of a *do-shu* system. (SUGIURA Seiken, Member/LDP/149/3.Aug.2000)
- I believe that Japan should be thoroughly decentralized, and that we should pursue a Japanese form of federalism. Discussion of this issue will inevitably lead us to the question of the Constitution. (TARUTOKO Shinji, Member/DPJ/147/20.Apr.2000)
- We should go forward with decentralization and aim to establish a decentralized federal system, that is a *do-shu* system of larger regional states. The functions of the national government, the *do-shu* and local governments, as well as the functions of the public and private sectors should be explicitly stated in the Constitution so that the national and other levels of government will not obstruct the private sector from doing the things that it is capable of doing. (MATSUZAWA Shigefumi, Member/DPJ/147/27.Apr.2000)

<Comments by Informants and Others>

- The essential difference between a *do-shu* and a federal system is that, under a federal system, the division of the legislative powers of the national and state governments are made explicit in the Constitution. Hence, the Constitution would have to be revised if Japan were to adopt a federal system. (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)
- Countries under a federal system require detailed rules and provisions concerning the relation between the federal and state governments. On the other hand, in countries under a unified system, such as Japan, the determination of the form and establishment of local government systems is itself subject to the authority of the national government. Therefore, it is quite natural that the design of Japan's local government system has been delegated to legislation. (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)

(2) Pros and cons of <i>Do-shu</i> system
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a. Comments in favor of adopting *Do-shu* system

<Comments by Members>

- Adoption of a *do-shu* system should be positively considered in promoting decentralization. (ITO Kosuke, Member/LDP/154/28.Mar.2002/Local Autonomy Subcommittee)
- In past discussions concerning the *do-shu* system, the central government has presented the *do-shu* system as a vehicle for the execution of the powers of the central government. By contrast, in the discussions of this Commission, the *do-shu* system has been considered as a vehicle for executing those regional functions that cannot be properly handled by the prefectures. In other words, this Commission envisions a bottom-up approach in which the *do-shu* system functions as something similar to a federation of prefectures. Our future discussions should be based on a concrete and well-defined image of what it is we actually have in mind. (HANASHI Nobuyuki, Member/LDP/154/25.July.2002)
- After progress has been made in the amalgamation of municipalities and the transfer of the powers of taxation and fiscal resources to the basic units of self-government, the intermediate unit of the prefecture should be replaced by a *do-shu* system to eliminate waste and to create a streamlined structure of government. (YASUOKA Okiharu, Member/LDP/154/11.July.2002/Local Autonomy Subcommittee)
- The current centralized system is responsible for the fact that Japan has come to a dead-end in politics, economics and various other areas. In surveying the 21st century, I believe that Japan should aim to adopt a decentralized federal system. (KANO Michihiko, Member/DPJ/147/20.Apr.2000)
- Large regional government units (regional republics) should be established to eliminate the disparities between cities and other areas, and the exchange of personnel should be promoted between the basic units of self-government in cities and other areas of the country. (NAKAMURA Tetsuji, Member/DPJ/154/28.Mar.2002/Local Autonomy Subcommittee)
- What should be done to achieve the ultimate form of decentralization? Perhaps a federal system would be asking for too much, but at least it is necessary to adopt a *do-shu* system. (NAGAI Eiji, Member/DPJ/154/28.Mar.2002/Local Autonomy Subcommittee; 154/9.May.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- In thinking about the future of Japan, a *do-shu* system should be considered as an option. (KIMURA Yoko, Informant/151/17.May.2001)

b. Comments against adopting *Do-shu* system

<Comments by Members>

- In local autonomy, the autonomy of citizens is an extremely important matter. I cannot agree with the adoption of a *do-shu* system for the following reasons: (1) there is no conceptual rationale for why local government units should be enlarged; (2) if adopted, there is the danger that opinions of the citizens will be less likely to be reflected in local government. (HARUNA Naoaki, Member/JCP/154/28.Mar.2002/ Local Autonomy Subcommittee; 11.July.2002/ Local Autonomy Subcommittee)

c. Miscellaneous comments

<Comments by Informants and Others>

- The Constitution demands that the basic units of self-government be preserved and maintained as the vehicles of self-government. Judging from the historical background and other factors, there is great significance in the current prefectures. (AMAKAWA Akira, Informant/147/20.Apr.2000)
- The *do-shu* system was considered immediately after the war. Was not this idea discarded when a strong impression was given that a system for popular election of heads of local government would be adopted? (AMAKAWA Akira, Informant/147/20.Apr.2000)
- By adopting a federal system and placing the federal capital in Naha, Japan will be able to open itself to Asia and to rise above today's uni-polar concentration in Tokyo. (MUSHAKOJI Kinhide, Informant/153/29.Nov.2001)

(3) Other issues related to <i>Do-shu</i> system

<Comments by Members>

- Discussions of the *do-shu* system contain two approaches. In one approach, the *do-shu* take over the functions of the national government. In the other, they simply perform the function of regional coordinator. The important thing is to determine whether the emphasis is to be placed on the basic unit of self-government or on *do-shu*. (NAKAGAWA Masaharu, Member/DPJ/154/6.June.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- If a *do-shu* system is adopted, what will the local administration of the national government look like, and what will be the status of the staff? Also, how will administrative functions be divided between the national and local governments? These are important questions that will have to be answered. (AMAKAWA Akira, Informant/147/20.Apr.2000)
- Under the current Constitution, a *do-shu* system implies creating larger units of local government to which more extensive powers will be granted. Suppose regional states are to be created. The problem is that, thus far, there has been no discussion of the structure of government that will be installed in these states. Hence, at the stage that we are now, we should not rush to discuss the introduction of a *do-shu* system. (MORITA Akira, Informant/153/8.Nov.2001)
- The introduction of a federal system poses the following problems: (1) the Constitution will have to be revised; (2) one of the houses of a bicameral system would have to consist of regional representatives; (3) even if a federal system were to be adopted, there is no guarantee that more power will be transferred to the basic units of self-government. (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)
- The introduction of a *do-shu* system poses the following problems: (1) how to define the regions; (2) how the system should be designed, including method of election of governors; (3) whether to maintain a two-tier system or to move to a three-tier system. (IWASAKI Mikiko, Informant/154/28.Feb.2002/ Local Autonomy Subcommittee)
- Japan's system of local government differs from the "federal model" which is based on constitutional provisions for the division of legislative powers. What Japan has is a "unified model" in which the status and powers of local government are determined through legislation. Japan should pursue maximum decentralization within the "unified model," which will not require revision of the Constitution, as follows: (1) grant discretionary executive powers to local governments; (2) develop a system which allows local governments to influence the decisions of the central government. The adoption of a *do-shu* system is certainly worth considering. However, due caution is called for because the contents of the system can vary significantly according to how the system is specifically designed. (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)
- Current discussions of the *do-shu* system contain two approaches: (1) the transfer of the powers and functions of the national government to the *do-shu*; (2) the transfer of regional functions which prefectures cannot properly cope with from bottom upwards to the *do-shu*. These two possible approaches should be carefully reviewed in determining whether it is necessary to create another public layer above the

prefectures. (JINNO Naohiko, Informant/154/9.May.2002/ Local Autonomy Subcommittee)

- The amalgamation of municipalities will create basic units of self-government with more power than now. On the other hand, the prefectural governments will be given the task of supporting the basic units of self-government that remain weak. In this process, the current system of 47 prefectures will come under scrutiny and various ideas for joining several prefectures to create larger regional units will be examined. However, I am opposed to any *do-shu* system in which the newly-created units are to act merely as regional agents of the national government. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/Local Autonomy Subcommittee)
- Discussions of a *do-shu* system should not be about transforming the small (prefectures) into the large (states), but about transforming the large (national government) into the small (states). (KAIHARA Toshitami, Speaker/151/4.June.2001/Kobe Hearing)

2. Amalgamation of Municipalities

(1) Pros and cons of promoting the amalgamation of municipalities

A. Comments in Favor of Amalgamation of Municipalities

<Comments by Members>

- The amalgamation of municipalities should be actively promoted. However, I believe that unless the current systems of taxation, fiscal resources and subsidies are boldly revamped, progress will not be made in amalgamation. (ITO Kosuke, Member/LDP/154/28.Mar.2002/Local Autonomy Subcommittee)
- To respond to the fiscal crisis and various changes in social structure, it is necessary to actively promote the amalgamation of municipalities. (EDA Yasuyuki, Member/NK/154/28.Mar.2002/Local Autonomy Subcommittee)
- Amalgamation should be promoted to bring the total number of municipalities to about 300. Parallel to the enlargement of the scale of municipalities, fiscal resources should be transferred to the local level so that public works that are supported by subsidies from the national government can be financed by local fiscal resources. (FUJISHIMA Masayuki, Member/LP/154/28.Mar.2002/ Local Autonomy Subcommittee)

<Comments by Informants and Others>

- The re-organization of municipalities cannot be avoided for self-government in an environment characterized by falling birth rates and the aging of society. The challenge of long-term care will provide an opportunity to consider the issue of reorganization. From the perspective of the long-term insurance system, if local units of a scale of several thousand people are to be created, I believe that amalgamation is a better option than regional federation. In my estimation, the optimum scale for local autonomous entities is 50,000 people. (KIMURA Yoko, Informant/151/17.May.2001)
- The primary focus of municipal amalgamation is the resolution of fiscal problems and the maintenance of local administrative services and social welfare services under conditions of declining population. To achieve the municipal scale necessary for the attainment of a certain level of efficiency, in the case of isolated islands and mountainous regions, the basic unit of self-government will have to cover very large areas. It is highly questionable whether such large geographic areas are desirable as local social units. Thus, in the case of mountainous regions, new concepts and arrangements will have to be examined. (MORITA Akira, Informant/153/8.Nov.2001)

- Japan should pursue the Northern European model of large-scale basic units of self-government providing public services under a two-tiered system. The amalgamation of municipalities is indispensable for this purpose. (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)
- Municipal amalgamations have recently attracted attention for the following reasons: (1) given today's severe fiscal conditions, the maintenance of administrative services requires the achievement of a certain scale and level of administrative and fiscal capacity; (2) the expiration date (March 31, 2005) of the preferential fiscal measures for amalgamation is approaching; (3) the need to respond to the expanding geographic area of daily activities of residents; (4) the need to respond to aging of society and to industrial hollowing-out. (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)
- The following criticisms can be made of the amalgamation of municipalities: (1) amalgamation promoted by the national government runs counter to the principle of local autonomy; (2) amalgamation destroys local communities; (3) regional federation should be pursued instead of creating large units of self-government through amalgamation, or the prefectural governments should take over the responsibilities of small towns and villages. These arguments can be rebutted as follows: (1) the national and prefectural governments must coordinate the process so that all municipalities on average will be able to generally strengthen their administrative capacities; (2) because the maintenance of administrative services is important, it is necessary to consider the form of local governments in light of balancing a wide range of values; (3) the option of regional federation should be reserved for use only when amalgamation does not provide the wanted results, and the transfer of administrative functions to prefectural governments runs counter to the principle of decentralization. (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)
- The problem of amalgamation involves the clash of the following two opposing values: (1) the principle that basic units of self-government should, as far as possible, provide their own administrative functions; (2) today's basic units of self-government should do what they can, and the rest should be delegated to larger regional bodies. Taking into account the path that Japan has taken so far, as well as the position of the municipalities and the views of the residents, Japan should opt for approach (1) and promote the amalgamation of municipalities in order to bolster their administrative and fiscal capabilities. (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)
- (Responding to the statement that residents' autonomy will be more difficult to achieve under larger units of self-government:) (1) From the perspective of residents' autonomy, smaller units of self-government may be more ideal. But to maintain high levels of administrative and fiscal capabilities, enlargement is unavoidable. On the other hand, information and communication technologies can be used to develop

new forms of residents' autonomy. (2) To promote residents' participation, the Special Law on Mergers of Municipal Authorities provides some room for autonomy of the pre-amalgamation town and villages. The law states that specific arrangements should be considered in individual regions. (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)

- Today's towns and villages lack the expert staff needed to cope with contemporary issues in areas such as education, the environment, and disaster prevention. These units must be enlarged so that they can develop the necessary capacities. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/ Local Autonomy Subcommittee)
- Suppose that instead of amalgamating, administrative cooperatives are created to take care of such needs as fire-fighting and garbage collection. The problem is that, if there is an earthquake or some other disaster, there is no leadership in place that is capable, for example, of directing the operations of fire-fighters. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/Local Autonomy Subcommittee)
- In light of the shortage of experts in such areas as long-term care and urban planning, municipalities must merge to reach a certain size in order to be able to achieve autonomy and independence. (KITAGAWA Masayasu, Informant/154/11.July.2002/Local Autonomy Subcommittee)

B. Comments Advocating Caution in the Promotion of Municipal Amalgamation

a. Comments advocating respect for municipal self-determination

<Comments by Members>

- As society proceeds to age, local governments will have an increasingly important role to play. Due respect should be paid to regional diversity, including the age structure and other features of the local population, and municipal self-determination. (KANEKO Tetsuo, Member/SDP/154/9.May.2002/ Local Autonomy Subcommittee)
- As in the case of Yamatsuri Town in Fukushima Prefecture, there is the option of avoiding amalgamation and maintaining the current unit. In fact, can it not be said that this option better conforms to the principle of local autonomy? When considering amalgamation, maximum attention must be paid to the voice and the views of residents. (YOKOMITSU Katsuhiko, Member/SDP/154/28.Mar.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- The initiative in municipal amalgamations should be taken by the municipalities themselves when they consider this to be a necessary measure. The national and

prefectural governments should strictly keep to a supportive role. (OHKUMA Yoshikazu, Informant/151/17.May.2001)

- b. Comments arguing that residents' participation in local autonomy will be obstructed in larger units

<Comments by Members>

- As municipalities merge and larger units are formed, the significance of residents' autonomy will be weakened. (HARUNA Naoaki, Member/JCP/154/28.Mar.2002/ Local Autonomy Subcommittee)
- As municipalities merge and larger units are formed, it will become increasingly difficult to fine tune participation by residents, to engage the residents in community development and to provide social welfare services. (HIMORI Fumihiro, Member/SDP/154/28.Feb.2002/Local Autonomy Subcommittee)

- c. Other comments

<Comments by Members>

- Problems of the long-term care insurance system and municipal amalgamations are very intricately related to the challenge of providing finely-tuned services to residents. However, when the amalgamated units become too large, there is the reverse risk that services may become stretched out too thinly. (NISHIKAWA Kyoko, Member/LDP/151/17.May.2001)
- Amalgamations in mountainous regions are of questionable value because they will create government units covering large geographic areas without resulting in stronger local finances. Similarly, amalgamations in thinly-populated regions will not resolve the population problem. In such regions, it would probably be more effective to create administrative cooperatives to jointly take care of such tasks as garbage collection and disposal and fire-fighting. (KANEKO Tetsuo, Member/SDP/154/9.May.2002/Local Autonomy Subcommittee;154/6.June.2002/ Local Autonomy Subcommittee)

C. Comments Concerning Optimal Scale of Municipalities

<Comments by Members>

- As units of government become enlarged through municipal amalgamations, one option would be to create independent administrative committees covering the basic unit of local community. School districts could perhaps be used as the basic unit of local community. (SAKAI Takanori, Member/LDP/153/8.Nov.2001)
- The purpose of municipal amalgamation certainly is not just to create larger units of local government. (NISHIKAWA Kyoko, Member/LDP/151/17.May.2001)

- The policy of municipal amalgamations currently being promoted aims to reduce the total number of municipalities from roughly 3,000 to 1,000. It is the view of the Liberal Party that the number should be reduced to about 300 municipalities of roughly the same size. (FUJISHIMA Masayuki, Member/LP/151/17.May.2001; 154/28.Mar.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- I cannot give an exact number on optimal scale. There are separate and distinct optimal scales for major cities, urban areas, suburban areas and rural areas. To determine a single optimal scale for all municipalities throughout Japan runs completely counter to the principle of local autonomy. (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)
- Optimal scale differs according to local conditions, such as between urban and rural areas. Unless extreme care is taken, discussions of optimal scale can easily lead to misunderstandings. (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)
- Today's towns and villages generally range in size between 5,000 and 8,000 residents. At this size, it is difficult to cope effectively with various contemporary problems. The national government has been talking about a scale of 250,000 to 300,000 residents. But at this level, the municipalities tend to become too far removed from the residents. Considering the necessary municipal capacity-building and the issue of nearness, I think that it would be good for three or four towns and villages of 5,000 to 8,000 people to merge to form units of 20,000 to 30,000 people. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/Local Autonomy Subcommittee)

D. Comments Concerning Government Promotion of Municipal Amalgamation

- a. Comments advocating assigning priority to the transfer of tax and fiscal resources to local level

<Comments by Members>

- The postponement of the transfer of tax and fiscal resources and the goal to reduce the total number of municipalities to 1,000 by March 31, 2005 are in themselves highly problematic from the perspective of decentralization. (HARUNA Naoaki, Member/JCP/154/28.Feb.2002/Local Autonomy Subcommittee; 154/28.Mar.2002/Local Autonomy Subcommittee; 154/9.May.2002/Local Autonomy Subcommittee; 154/6.June.2002/Local Autonomy Subcommittee)
- One of the reasons given for promoting municipal amalgamations is the deterioration of local finances. But this is a highly problematic argument because the deterioration of local finances is the result of the economic policies of the

national government which has sought to counter the economic slowdown by pressing local governments to undertake public works investments in the absence of proper fiscal resources. (HARUNA Naoaki, Member/JCP/154/28.Mar.2002/Local Autonomy Subcommittee)

- Instead of going forward with the transfer of fiscal resources, the revisions of the Special Law on Mergers of Municipal Authorities undertaken in 1997 and December 2000 were designed to promote municipal amalgamations through such incentives as the issue of local government bonds and the extension of the Local allocation tax. This approach taken by the national government clearly contradicts the principle of decentralization. Furthermore, the government policy of strengthening local finances through amalgamation contains no provisions for the development of independent local fiscal resources. Size cannot set everything right. The lack of clarity which now exists in the division of functions between prefectural and municipal governments should be reviewed. (KANEKO Tetsuo, Member/SDP/154/9.May.2002/Local Autonomy Subcommittee)
- The national government is taking advantage of the fiscal crisis to promote amalgamation. But size provides no guarantee of a solution, as can be seen from the fact that almost all of the designated cities are facing fiscal crisis. Instead of promoting amalgamation, measures should be taken to promote the transfer of tax and fiscal resources to the local level. (HIMORI Fumihiko, Member/SDP/154/28.Feb.2002/Local Autonomy Subcommittee)

b. Other comments

<Comments by Members>

- Definite schedules are being prepared for municipal amalgamations. However, the current discussions are being initiated from above, and too much emphasis is being placed on fiscal problems. (NAKAGAWA Masaharu, Member/DPJ/151/4.June.2001/Kobe Hearing)
- There is an element of coercion in the program for municipal amalgamations. The Special Law on Mergers of Municipal Authorities provides the “carrot” of preferential fiscal treatment, as well as the “stick” in the form of threatened curtailment of the functions of small-scale towns and villages, and the review of the “stratified supplement system” which provides preferential treatment for Local allocation tax to small-scale municipalities. (YOKOMITSU Katsuhiko, Member/SDP/154/28.Mar.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- We are deciding between two choices: citizen participation combined with poor quality of public services, or limited citizen participation combined with indirect but good quality of public services. It is not logical for the entire country to be pressed to

make a decision according to uniform standards which apply equally to all geographical parts of the nation, including major urban areas and remote mountainous regions. (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)

- I feel that the current policy for the promotion of amalgamations is uniform and roughly formed. For the following reasons, we need to develop finely-tuned responses which take into consideration the scale and regional conditions facing individual municipalities. (1) The need for and effect of amalgamation differs significantly from region to region. (2) The preferential fiscal treatment provided under the Special Law on Mergers of Municipal Authorities for promoting amalgamations bears considerable weight and comes at a time when the national government itself is facing a fiscal crisis. It is problematic if large cities are drawn to amalgamation by the promise of preferential fiscal treatment. (3) The goal of 1,000 municipalities has taken on a life of its own. Achievement of this goal would be meaningless if small-scale municipalities are being left behind. (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)
- The national government is trying to promote municipal amalgamations through preferential programs centered on “hardware projects” (public works) to be financed through the issue of special amalgamation bonds. This approach will only increase debt and exacerbate the fiscal crisis. Amalgamation should be used as a means to establish access to the human resources needed in such areas as the environment, IT, and education. What the national government should actually be doing is to provide assistance in the development of these human resources. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/Local Autonomy Subcommittee)

(2) Other Issues Related to the Amalgamation of Municipalities

<Comments by Members>

- It is necessary to first determine whether amalgamation is the means or the ends for the localities. (HIRAI Takuya, Member/LDP/154/6.June.2002/Local Autonomy Subcommittee)
- The policy of amalgamation is currently being promoted within prefectural boundaries. I believe that amalgamations straddling prefectural boundaries should be permitted. On the other hand, as in the case of Asuka Village, villages with a strong individual identity have little to gain through amalgamation. (MORIOKA Masahiro, Member/LDP/154/28.Mar.2002/Local Autonomy Subcommittee)
- The following actions should be taken in promoting municipal amalgamations: (1) presentation of model cases designed to reduce local anxieties; (2) extensive

discussions aimed to prevent the obstruction of residents' autonomy. (NAKAGAWA Masaharu, Member/DPJ/154/28.Mar.2002/Local Autonomy Subcommittee)

- The prefectural governments are encouraging their municipalities to amalgamate. The reason why local residents are not very responsive is that the concept and purpose of amalgamation remains unclear. (TAKEYAMA Yuriko, Member/LP/154/28.Feb.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- The *raison d'être* of local governments include: (1) providing an arena for the political participation of residents; (2) provision of public services. The former requires "small local units," while the latter involves economies of scale and requires "large local units." The key issue is how to balance these two contradictory values. (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)
- There are other methods available for eliminating the disparity in administrative services among local administrative units. For instance, smaller municipalities can discard the principle of autarky. In designated services such as hospital management, smaller municipalities can join neighboring municipalities to provide region-wide services. (IWASAKI Mikiko, Informant/154/28.Feb.2002/ Local Autonomy Subcommittee)
- (Regarding the people's views on municipal amalgamation:) The disclosure of information is very important. People will be able to decide if they are provided with adequate information on how their choices of public services will increase. At the present time, there is far too little information available for decision-making. In determining how a region will be developed, it is necessary to allow for the participation of civil society. (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)
- The small-scale towns and villages of the mountainous regions face the following serious questions regarding amalgamation: (1) Will local administrative and fiscal capabilities be really improved? (2) Won't the area covered by the new entity be too large? (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)
- Municipal amalgamations will have a major impact on the status of prefectures. Amalgamation will result in a growing number of core cities and designated cities. The governments of prefectures containing such cities will experience a curtailment in their functions. On the other hand, it is possible that governments of prefectures containing large numbers of small-scale towns and villages will experience an enlargement of their functions. In light of these considerations, the issues of the status and reorganization of prefectures can be expected to become part of the agenda for future discussions. (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)

- Voluntary amalgamation may result in poorer municipalities being left behind. From the perspective of regional and national development, the combination of richer and poorer localities should be considered with the national and prefectural governments playing a coordinating role. (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)
- To promote amalgamation, it is very important that the residents understand its purpose and necessity. Hence, amalgamation should be promoted after the residents come to realize that this will rectify regional disparities in fiscal capabilities, and will boost the fiscal capabilities of local government units. (JINNO Naohiko, Informant/154/9.May.2002/Local Autonomy Subcommittee)
- The disadvantage of amalgamation is the growing distance between residents and the government. The disadvantage of not amalgamating is that the fiscal foundations cannot be strengthened. Whichever path is taken, the most important thing is to resolve the resulting disadvantages. (JINNO Naohiko, Informant/154/9.May.2002/Local Autonomy Subcommittee)

3. Local Finances

(1) Relation between local finances and the Constitution

<Comments by Members>

- The opinion has been stated that the present Constitution should be revised to include explicit provisions for the independent powers of taxation of local governments. But based to the principle of local autonomy as established in Article 92 and the intent of the principles of the autonomy of local government organizations and the autonomy of residents, local governments are obviously already endowed with independent powers of taxation. (HARUNA Naoaki, Member/JCP/147/20.Apr.2000)
- (Responding to a statement pointing out that Chapter 8 of the Constitution does not contain explicit provisions for the independent fiscal powers of local government:) Article 92 establishes the principles of residents' autonomy and the autonomy of local public entities. Article 94 defines the powers of local public entities. The widely accepted theory is that independent powers of taxation do exist as a means to guaranteeing these principles and powers. (HARUNA Naoaki, Member/JCP/154/28.Mar.2002/ Local Autonomy Subcommittee; 154/9.May.2002/ Local Autonomy Subcommittee)

<Comments by Informants and Others>

- I believe the question of whether the Constitution should include provisions concerning independent powers of taxation is a question that must be put to a political judgment. (AMAKAWA Akira, Informant/147/20.Apr.2000)
- Some subscribe to the view that the Constitution should contain explicit provisions concerning the independent fiscal resources of local governments. (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)
- The final report of the Committee for the Promotion of Decentralization contains the following statement. "The Constitution of Japan does not contain provisions concerning local taxation and fiscal resources, whereas the European Charter of Local Self-Government does contain explicit provisions. In light of this fact, the clarification of matters related to local taxation and fiscal resources will give concrete form to the 'principle of local autonomy.'" This line of argument should be considered. (JINNO Naohiko, Informant/154/9.May.2002/ Local Autonomy Subcommittee)
- Basic principles concerning fiscal matters should either be specified in the Constitution or set forth separately in a basic law. (JINNO Naohiko, Informant/154/9.May.2002/Local Autonomy Subcommittee)

- Regarding decentralization, from the side of local governments, we are strongly urging that fiscal resources be reallocated. However, to implement such a reallocation, there is no need to revise the Constitution to include provisions concerning the independent powers of taxation of local governments. Instead, we ask that this be done through legislation enacted within the current framework of the principle of local autonomy. (KANO Fuminaga, Speaker/151/16.Apr.2001/Sendai Hearing)

(2) Issues in local finance

A. General Matters

<Comments by Members>

- If we are to promote the transfer of tax base and fiscal resources to the local level, we must first formulate a viable and concrete vision of what we aim to accomplish. (NAKAGAWA Masaharu, Member/DPJ /154/28.Mar.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- Under the current system, local governments have extremely limited autonomy in both revenues and expenditures. Even if they want to undertake creative projects, the system continues to bar them from making the necessary budgetary provisions. Consequently, while fiscally well-endowed localities may be able to institute various types of administrative services, poorer regions certainly cannot. This situation aggravates regional disparities. (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)
- The Committee for the Promotion of Decentralization has argued that the desirable form of local autonomy from the perspective of local finances is as follows: (1) The relative ratios of the national and local governments are 6:4 in terms of revenue, and 4:6 in terms of expenditures. The current imbalance should be corrected. (2) Local taxes should be used to finance local services so that the relation between benefits and burdens can be clarified. (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)
- Economic globalization advanced throughout the second half of the 20th century. At the same time, there was a trend toward localization, defined as the promotion of decentralization and the transfer of decision-making powers to local governments. Responding to the process of localization, the European Charter of Local Self-Government adopted the “principle of subsidiarity” whereby municipalities are given priority in executive matters. At the same time, regarding local finances, the Charter adopts the principle of fiscal independence to be supplemented by a

financial equalization system. The following reasons are given for adopting the principle of fiscal independence: (1) clarification of the relation between benefits and burdens; (2) invigoration of democracy; (3) implementation of appropriate policies; (4) raising the level of local autonomy. (JINNO Naohiko, Informant/154/9.May.2002/Local Autonomy Subcommittee)

- In promoting decentralization, the following measures should be taken regarding local finances: (1) “vertical financial equalization” (the transfer of powers and fiscal resources from the national government to the local level) involving the allocation of administrative functions and powers of taxation between the central and local governments; (2) “horizontal financial equalization” (adjustment of disparities among local governments by the national government) involving financial equalization among local autonomous entities. If many administrative functions are given to the local level and decentralization advances with vertical financial adjustments, this gives rise to financial disparities among local governments. To rectify this problem, it becomes increasingly necessary to institute mechanisms of horizontal financial equalization. (JINNO Naohiko, Informant/154/9.May.2002/Local Autonomy Subcommittee)
- The problem with creating a tax agency to be jointly operated by a number of local governments is that it is unclear who will take responsibility for the failure to collect taxes. From the academic perspective of public finance, it is considered better for the three powers of levying, legislating and collecting taxes to be integrated. (JINNO Naohiko, Informant/154/9.May.2002/Local Autonomy Subcommittee)
- By promising that local governments can use the Local allocation tax to redeem local government bonds, the government has effectively biased local finances towards “hardware” projects. The system of local finance must be revised so that all local public works projects, regardless of whether they are “hardware” or “software” oriented, will be selected and implemented in order of priority as determined on the basis of the real needs of the residents. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/Local Autonomy Subcommittee)

B. Comments Concerning the Transfer of Tax Base and Sources of Revenue

- a. Comments arguing that transfer of tax base and sources of revenue is necessary

<Comments by Members>

- There can be no progress in the amalgamation of municipalities and in decentralization unless the systems of taxation, fiscal resources, and subsidies are reviewed and revamped. (ITO Kosuke, Member/LDP/154/28.Mar.2002/Local Autonomy Subcommittee)
- Notwithstanding the enactment of the Comprehensive Decentralization Law, not much progress has been made in decentralization because no action has been taken

to guarantee the finances or the fiscal resources of local governments. Although decentralization is being advocated, government administration by subsidization continues. This entire structure merits to be named the “Japanese disease.” It generates certain moral hazards on the part of local governments, and is the cause of our enormous fiscal deficits. (SENGOKU Yoshito, DPJ/151/16.Apr.2001/Sendai Hearing)

- If local governments are to be strengthened, it is absolutely necessary to strengthen local finances. (TSUTSUI Nobutaka, Member/DPJ/154/9.May.2002/Local Autonomy Subcommittee)
- The transfer of administrative powers, taxation and fiscal resources are absolutely indispensable to the promotion of decentralization. (TAKEYAMA Yuriko, Member/LP/154/9.May.2002/Local Autonomy Subcommittee)
- In order to endow local governments with the “ability” to undertake those projects that are now financed through central government subsidies, it will be important to promote municipal amalgamation while also acting to transfer the tax base and fiscal resources to the local level. (FUJISHIMA Masayuki, Member/LP/154/28.Mar.2002/Local Autonomy Subcommittee)
- Unless the transfer of tax base and fiscal resources is carried out, it will be impossible to achieve decentralization in the true sense. (KANEKO Tetsuo, Member/SDP/154/11.July.2002/Local Autonomy Subcommittee)
- Unless the tax base and fiscal resources distribution ratio between the national and local governments is dramatically altered, local governments will not have the financial resources needed for accepting the powers of self-determination. (HIMORI Fumihiro, Member/SDP/151/17.May.2001)
- For the promotion of decentralization, it is essential for local governments to be given their own fiscal resources. Powers of taxation should be granted to local governments. (NISHIKAWA Taiichiro, Member/NCP/154/6.June.2002/ Local Autonomy Subcommittee)

<Comments by Informants and Others>

- In the following cases, decentralization cannot be achieved even though numerous administrative functions may be assigned to the local level. (1) The central government continues to hold decision-making powers, and the asymmetry between “decision-making” and “expenditures” persists. (2) If powers of taxation are not granted to local governments, and the asymmetry between “administrative functions” and “powers of taxation” persists. Japan ended up with a “centralized but dispersed system” because the powers of taxation and decision-making were not granted to the local level. It is important to change this to a “decentralized and dispersed system.” In the course of the recent decentralization reform, delegated

functions were abolished, and an improvement was made in the asymmetry between “decision-making” and “expenditures.” However, because the powers of taxation were not granted to local governments, no improvement has been made in the asymmetry between “administrative functions” and “powers of taxation.” (JINNO Naohiko, Informant/154/9.May.2002/Local Autonomy Subcommittee)

- Local taxes are like the maintenance charges paid on a condominium. The independent revenue of local governments should basically be derived from inhabitant taxes. (JINNO Naohiko, Informant/154/9.May.2002/Local Autonomy Subcommittee)
- I support the idea of establishing local fiscal resources by changing over from subsidies to local allocation tax and other taxes. Subsidies tend to be spent on unnecessary projects, while general-account resources are allocated with far greater care and discretion. This modification will result in fiscal streamlining. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/ Local Autonomy Subcommittee)
- I believe the transfer of tax base and fiscal resources to the local level will inevitably proceed. However, at the local level, the feeling that work is being forced upon them by the national government must be corrected. (KITAGAWA Masayasu, Informant/154/11.July.2002/Local Autonomy Subcommittee)

- b. Comments concerning concrete measures for the transfer of tax base and fiscal resources

<Comments by Members>

- The subsidization system should be completely eliminated, the tax base should be transferred to the local level, and an adjustment fund should be created to ensure fairness among local governments. (TSUTSUI Nobutaka, Member/DPJ/154/28.Feb.2002/Local Autonomy Subcommittee)
- The views of the Ministry of Finance and the Ministry of Public Management and Home Affairs are not in agreement on the transfer of tax base and fiscal resources. A political decision has to be made on which course to take. (NAKAGAWA Masaharu, Member/DPJ/154/28.Mar.2002/Local Autonomy Subcommittee)
- If all the tax base and fiscal resources are transferred to the local level, this would create greater disparity among local governments. Therefore, it would be desirable for the local tax base and fiscal resources to be limited to such items as personal inhabitant taxes and real estate taxes. The central government should collect all other taxes and mechanically allocate these resources to the local level. (INOUE Kiichi, Member/NCP/154/9.May.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- First of all, the tax base should be transferred to the local level. Next, the subsidy system which is based on a complex set of conditions and requirements should be revised to allow local governments to exercise greater discretion. To cope with local governments with insufficient tax resources, the national government should provide certain guarantees and undertake horizontal financial equalization. (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)
- The ideal condition for the future would be a situation in which independent fiscal resources account for 50 percent to 70 percent of local government revenues. It is important to raise the ratio of independent fiscal resources to the point where only two-thirds of all local governments are receiving local allocation tax. (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)
- The Committee for the Promotion of Decentralization is recommending the following course of action. Subsidies used by the central government to exercise control over local governments should be rationalized and consolidated. The funds released through the reduction of subsidies should be placed in a general account, as in the case of local allocation tax, that can be freely used by local governments. In the next stage, transfer of the tax base and fiscal resources should be implemented so that the links between revenues and expenditures, and between benefits and burdens is clearly established. (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)
- I believe the two core taxes of personal income taxes and consumption taxes should be transferred. How should taxes on income be transferred? At the present time, local taxes (resident tax) are subject to progressive rates, as are national taxes (income tax). For instance, the local tax rate could be changed to a 10 percent proportional tax and combined with national income tax which would remain progressive. (JINNO Naohiko, Informant/154/9.May.2002/Local Autonomy Subcommittee)
- Corporate business taxes account for a major portion of prefectural tax revenues. However, corporate business taxes are heavily influenced by economic conditions. Measures should be taken to stabilize the revenue structure of prefectural taxes. Various options are available. A poll tax on businesses could be introduced. Furthermore, corporate business taxes could be transferred to the national government in exchange for personal income taxes. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/Local Autonomy Subcommittee)
- (Regarding the fact that 50 percent of the salaries of teachers in compulsory education are paid for by the national government:) The charge to the national treasury is determined by the number of teachers. Hence, the general problem of subsidies, whereby projects are primarily undertaken because subsidies are

available, does not arise in this case. Therefore, instead of working on the revision of this system, priority should be given to reforming the system of subsidies. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/ Local Autonomy Subcommittee)

- Minister Katayama for Public Management, Home Affairs, Posts and Telecommunications has proposed a 5.5 trillion yen transfer of tax base and fiscal resources to the local level. In my view, this is a forward-looking and good proposal. (KITAGAWA Masayasu, Informant/154/11.July.2002/ Local Autonomy Subcommittee)

c. Comments concerning independent local taxation

<Comments by Members>

- From the perspective of clarifying the benefit and burden, it is desirable for local governments to have their own independent tax base and fiscal resources. Tokyo's "bank tax" would be an example of this. It is necessary to change the system so local governments can take the initiative in creatively exercising their right of taxation. (ITO Kosuke, Member/LDP/154/28.Mar.2002/Local Autonomy Subcommittee; 154/9.May.2002/Local Autonomy Subcommittee)
- Thanks to the enactment of the Comprehensive Decentralization Law, it has become easier to introduce non-legislated normal taxes. Also, with the introduction of non-legislated earmarked taxes, local governments are moving towards introducing independent taxes. The introduction of independent taxes will raise the interest of residents in taxation. (ITO Kosuke, Member/LDP/154/6.June.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- (Regarding Tokyo's bank tax:) From the perspective of "benefit and burden," the logical approach would be to levy taxes on residents. I have my doubts concerning taxes which shift the burden to corporations or persons not residing in the area. (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)
- (Regarding Tokyo's bank tax:) While it is generally understood that business taxes are subject to the beneficiary principle, the court has ruled that business taxes can be levied according to the principle of ability to pay. The court was obviously mistaken in its interpretation. Because of this ruling, local governments are now at a loss as to what criteria applies to the exercise of their powers of independent taxation. I am concerned that local governments may become more reluctant about independent taxation. (JINNO Naohiko, Informant/154/9.May.2002/Local Autonomy Subcommittee)

- Independent taxation by local governments may have various positive side-effects such as an educational and public-awareness impact on environmental preservation. However, it certainly is not realistic to think that the current huge fiscal shortfalls can be covered through independent taxation. Local independent taxes should not be subject to the check and control of the national government. Rather, the role of checking the advisability of such taxes should be performed either by local assemblies or by the courts where lawsuits by taxpayers are filed. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/Local Autonomy Subcommittee)
- The awareness of local residents as taxpayers must be raised. For this purpose, it is more important for local governments to be able to freely determine the rate of real-estate and inhabitant taxes than to have access to non-legislated taxation. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/ Local Autonomy Subcommittee)
- It will be difficult to establish independent fiscal resources by means of independent taxation. There are no stable sources of tax revenue available, and that will obstruct stability in such programs as welfare and education. Hence, it is necessary for the national and local governments to get together and think about taxes. (KITAGAWA Masayasu, Informant/154/11.July.2002/Local Autonomy Subcommittee)

C. Comments Concerning Financial Equalization Systems

a. Comments concerning the need for financial equalization systems

<Comments by Members>

- The financial equalization function of the local allocation tax is extremely important. (WATANABE Hiromichi, Member/LDP/154/28.Feb.2002/ Local Autonomy Subcommittee)
- Suppose a portion of the income tax revenues are transferred to the local level. Compared to Tokyo, a prefecture such as Tottori would experience a very significant drop in fiscal resources. No doubt, it will be necessary to create a new financial equalization system to cope with this situation. (NAKAGAWA Masaharu, Member/DPJ/154/6.June.2002/Local Autonomy Subcommittee)
- Financial equalization systems are important. It is necessary to raise the level of transparency and to establish solid standards for such systems. (NAGAI Eiji, Member/DPJ/154/9.May.2002/Local Autonomy Subcommittee)
- The transfer of tax base and fiscal resources to the local level is important. But in order to rectify regional disparities, we will continue to need some form of reallocation mechanism, such as the local allocation tax system. (EDA Yasuyuki, Member/NK/154/28.Feb.2002/Local Autonomy Subcommittee)

- The local allocation tax performs both functions of providing fiscal resources and adjusting fiscal disparities. Now is the time to support this system. (HARUNA Naoaki, Member/JCP/154/28.Feb.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- The national government has the responsibility to perform horizontal financial equalization functions through a system of equalizing grants that would be equivalent to the local allocation tax system. (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)
- The transfer of tax base and fiscal resources to the local level is important. But because of very significant regional disparities, even if the process of transfer progresses, only a few local governments will be able to support themselves based on independent fiscal resources. In the final analysis, some form of financial equalization will be necessary. (MORITA Akira, Informant/154/28.Mar.2002/Local Autonomy Subcommittee)
- Progress can be made in decentralization by assigning more administrative functions to the local level. However, this will heighten the need for financial equalization as a means to rectify regional disparities in fiscal capacity. (JINNO Naohiko, Informant/154/9.May.2002/Local Autonomy Subcommittee)
- In the case of Japan, there is an extremely uneven distribution of tax base and fiscal resources. Consequently, if there is going to be a transfer of tax base and fiscal resources to the local level, we will need to institute even stronger financial equalization functions than are in place today. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/Local Autonomy Subcommittee)

b. Comments concerning problems of the local allocation tax system

<Comments by Members>

- Under the current local allocation tax system, payments of tax grants are reduced when a local government successfully raises its tax-collection ratio. Hence, local governments tend to focus more energy on extracting subsidies from the national government than on raising their tax-collection ratio. The system must be revised to reward those whose efforts are successful. (WATANABE Hiromichi, Member/LDP/154/28.Feb.2002/Local Autonomy Subcommittee)
- The content of the local allocation tax system is extremely complicated. This point also requires revision. (WATANABE Hiromichi, Member/LDP/154/6.June.2002/Local Autonomy Subcommittee)
- Japan's current local allocation tax system is designed in such a way that any local government which successfully raises its own tax revenues or other revenues suffers

a cutback in tax grant payments. The local allocation tax system must be revised so that it does not negate the successful efforts made by local governments. (TSUTSUI Nobutaka, Member/DPJ/154/28.Feb.2002/ Local Autonomy Subcommittee; 154/9.May.2002/Local Autonomy Subcommittee)

- Special allocation tax is being used as leverage to facilitate the *amakudari* re-employment of retired central government bureaucrats at the local level. (INOUE Kiichi, Member/NCP/154/9.May.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- Special allocation tax is one of the most important points that must be examined when reviewing the local tax grant system. (JINNO Naohiko, Informant/154/9.May.2002/Local Autonomy Subcommittee)
- The most important point in reforming the local allocation tax system is the current arrangement which prioritizes hardware projects by allowing the use of local allocation tax in the redemption of local government bonds. This system, which encourages local governments to undertake enormous debts backed by local allocation tax, should be revised. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/Local Autonomy Subcommittee)
- Local allocation tax plays an important adjustment role, and it would be difficult to make immediate changes. However, the system does have certain problems that must be examined, such as the lack of clarity in overall structure and grant calculation standards. (KITAGAWA Masayasu, Informant/154/11.July.2002/Local Autonomy Subcommittee)

D. Comments Concerning Problems of Current Government Measures

<Comments by Members>

- The recent posture of the government leaves me with a strong impression that it intends to curtail the local allocation tax before launching a transfer of tax base and fiscal resources. To wit, there has been talk of a one trillion yen cut in the local allocation tax and the review of the stratified supplement system. At this rate, I am afraid that local governments will become impoverished. (HARUNA Naoaki, Member/JCP/154/9.May.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- There is talk of a one trillion yen cutback and the revision of the stratified supplement system. But I believe it is more important to pursue structural reform with a focus on the financial equalization function of the local allocation tax. Instead of making minor changes, I believe it is necessary to undertake a fundamental review of the system based on a policy decision that financial equalization will be

implemented after the transfer of tax base and fiscal resources. (IWASAKI Mikiko, Informant/154/28.Feb.2002/Local Autonomy Subcommittee)

- (Regarding the argument that local allocation tax should first be curtailed:) No modifications can be made in “horizontal financial equalization” until “vertical financial equalization” has been implemented and the powers of taxation and administrative functions have been fully assigned. The idea of starting by modifying the system of “horizontal financial equalization” is tantamount to putting the cart before the horse. (JINNO Naohiko, Informant/154/9.May.2002/Local Autonomy Subcommittee)
- Under the current local tax grant system, local governments are obligated by the national government to perform certain tasks to maintain a national minimum. When a local government does not have the fiscal capacity to fulfill these obligations, the shortage in funds is covered by local allocation tax. Suppose local allocation tax is reduced while no changes are made in the level of obligations. Local governments would be overwhelmed just trying to fulfill these statutory obligations. (JINNO Naohiko, Informant/154/9.May.2002/Local Autonomy Subcommittee)

4. Residents' Referendums

a. Comments favoring introduction

<Comments by Members>

- People want to participate directly in local politics and to make their views known through referendums. This certainly conforms with democratic principles. (NAKAGAWA Masaharu, Member/DPJ/154/28.Feb.2002/ Local Autonomy Subcommittee)
- For the “democratization of democracy,” it is important to add a provision for the expansion of local referendums to the Constitution. (NAKANO Kansei, Member/DPJ/154/11.July.2002/Local Autonomy Subcommittee)
- We are drafting a bill concerning local referendums to guarantee a permanent means for the expression of the views of residents. However, the government has not taken a positive stance towards this initiative. (HARUNA Naoaki, Member/JCP/154/28.Feb.2002/Local Autonomy Subcommittee)
- In November 2001, the Japanese Communist Party presented a proposal for the creation and legislation of a system of local referendums. (YAMAGUCHI Tomio, Member/JCP/151/17.May.2001)
- When deciding on important local matters, I believe the standard approach would be to formulate policies reflecting the assembly election results. But issues on hand are not necessarily debated in elections. In light of this fact, I believe that local referendums can be a very major key in bringing local politics closer to the residents. (KANEKO Tetsuo, Member/SDP/153/8.Nov.2001)
- It seems to me that local government ordinances concerning local referendums will be enacted by local governments to reflect the conditions of their areas, and in the process, problems concerning local referendums including related laws will be dealt with. (HIMORI Fumihiro, Member/SDP/151/17.May.2001)

<Comments by Informants and Others>

- In order to strengthen the right of local autonomy and citizens' self-government, local referendums should be positively reevaluated by moving from the conventional principles of representative democracy to the principle of direct democracy. A constitutional provision on this matter would be desirable. When making important political decisions, government representatives and administrators should take into account the views expressed by the people. Problems that may arise when local referendums are implemented should not be used as an excuse to avoid implementation. Nor should we lose sight of the essence of direct democracy which

is contained in the principles of popular sovereignty and local citizens' sovereignty. (OHKUMA Yoshikazu, Informant/151/17.May.2001)

- Opposition to policy-making via direct referendums is rooted in the view that the public is ignorant. If the people are blinded by their immediate interests, they will reap what they have sown, and they will have to accept responsibility for their own choices and decisions. From the perspective of educating the people, I believe that it is better to allow this process to be repeated. (YUKI Yoichiro, Informant/154/24.June.2002/Sapporo Hearing)

b. Comments advocating caution in introduction

<Comments by Members>

- Local referendums should be restricted to local matters. Matters related to the entire nation, such as national security and the environment, should be left to parliamentary deliberations. (HANASHI Nobuyuki, Member/LDP/154/28.Feb.2002/Local Autonomy Subcommittee)
- Local referendums will be difficult to implement if this gives rise to neighborhood coercion, or agitation and obstruction by non-residents. (SHIOTA Susumu, Member/LP/151/17.May.2001)
- To implement local referendums in Japan, it seems to me that citizens do not yet have the training for understanding the matter that may be presented to them for their decision. (KONDO Motohiko, Member/Club 21/151/17.May.2001)

<Comments by Informants and Others>

- One of the reasons that people want referendums is the dissatisfaction they feel for the failure of the normal political channels, such as the assembly and government administration, to properly reflect their demands. In this sense, local referendums are desirable from a democratic perspective because they do reflect the will of the people. As they involve the will of all the citizens, decisions made through referendum are very weighty and will prove difficult to reverse. Hence, it is extremely dangerous to resort to referendums in an offhanded way. In light of these considerations, the first thing to be done is to modify the normal political channels to facilitate more extensive participation of citizens in the operations of local assemblies and local administrative bodies. (MORITA Akira, Informant/153/8.Nov.2001)
- Matters of national policy should not be submitted to local referendums. Considerable funds should be spent on procedures for determining the will of the region. (MORITA Akira, Informant/153/8.Nov.2001)

- c. Comments concerning problems and reservations concerning introduction or implementation

<Comments by Members>

- Local referendums represent an extremely precious right that the people living in an area can use to express their real views. However, in reviewing past local referendums, one notices that referendums tend to become expressions of the local egoism of residents. (NISHIKAWA Kyoko, Member/LDP/151/17.May.2001)
- When holding a local referendum, the disclosure of information and reference materials pertaining to the issue on hand must be fair and impartial to both sides of the question. (UBUKATA Yukio, Member/DPJ/151/17.May.2002)
- When issues that are very close to the daily lives of residents, such as the location of a garbage disposal site, are put to a referendum, there is the possibility that residents will invariably turn these initiatives down. This will tie the hands of the local government. (UBUKATA Yukio, Member/DPJ/151/17.May.2002)
- Matters related to national policy were put to local referendums held in Maki Town and Kariwa Village. But these resulted in the worst possible outcome. On the one hand, the national government does not have to abide by the voting results in any case. On the other hand, the voting split these localities into two and left a sense of estrangement in the communities. (KONDO Motohiko, Member/Club 21/153/8.Nov.2001)

<Comments by Informants and Others>

- Today, there is considerable discussion of local referendums and whether the outcome is binding on the local assembly. In the United States, such a system was instituted a century ago. This shows that Japan is very far behind in this area and that we have yet to achieve local autonomy. I ask that these matters be taken into consideration in your discussions. (SHINDO Eiichi, Informant/147/6.Apr.2000)
- Public opinion polls show that the people are demanding that national referendums be used in selecting the prime minister and making important policy decisions. I do not think that this atmosphere will change in the 21st century. However, proper attention must be paid to the following matter. In the area of local politics, these demands are already being met, or can be readily met. The point is that the people may be thinking in terms of generating systemic competition between the central and local governments. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- There are many questions that must be answered if a local referendum system is to become operational, including the following: (1) is the outcome to be treated as legally binding; (2) under what conditions should an issue be put to a referendum; (3) what is the relation between citizens' demands and assembly resolutions or

decisions made by the head of the local government; (4) what should be the timing of the referendum; (5) should there be a required minimum voter turnout for a referendum to be valid; (6) who will be eligible to vote on matters affecting a certain region. (OHKUMA Yoshikazu, Informant/151/17.May.2001)

- Before a local referendum is conducted, the following measures need to be implemented: (1) development of a negative list of issues that are inappropriate for inclusion in local referendums; (2) clear presentation of the issue on hand with a focus on the discussions and deliberations of the local assembly; (3) adequate research and discussion concerning the principal issue on hand; (4) confirmation that the outcome is legally binding. (OHKUMA Yoshikazu, Informant/151/17.May.2001)
- The biggest problem with local referendums is that they tend to be politically exploited by the side that believes it has the support of the majority on the issue at hand. (MORITA Akira, Informant/153/8.Nov.2001)

d. Other comments

<Comments by Members>

- Regarding direct democracy, Informant ISHIZUKA has stated that we should learn from the example of Switzerland whose constitution includes provisions concerning referendums. Switzerland differs from Japan in both history and background, and I do not think that we should necessarily follow the Swiss example. (NAKAGAWA Shoichi, Member/LDP/154/24.June.2002/Sapporo Hearing)
- The right to recall the head of local government or assembly members constitutes an inalienable right of the citizens. Decisions on such matters should be made through local referendums. (NISHIKAWA Kyoko, Member/LDP/151/17.May.2001)

<Comments by Informants and Others>

- According to the public opinion poll concerning the Constitution which was conducted by the Japan Public Opinion Poll Association (March 31 - April 1, 2001), strong public demand exists for the introduction of systems of direct democracy. I myself conducted a survey of prefectural and local assembly members (March 31, 2001). What I found was that there is stronger support for direct democracy among municipal assembly members whose activities are more closely linked to local residents than among prefectural assembly members. (OHKUMA Yoshikazu, Informant/151/17.May.2001)

Subsection 10 Constitutional Amendment

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Subsection 10 Constitutional Amendment

1. Procedures for Constitutional Amendment

(1) Significance of procedures for constitutional amendment (Article 96)

<Comments by Members>

- It is my understanding that the amendment procedures of Article 96 make it clear that sovereignty resides in the people. (NAKAYAMA Taro, Commission Chairman, Member/LDP/151/16.Apr.2001/Sendai Hearing)
- The two-thirds majority provision of Article 96 has had a major political impact. I believe it is the responsibility of the Research Commission on the Constitution to discuss and to arrive at definite conclusions instead of merely expanding or reducing the scope of constitutional interpretation. Regarding Article 96, we should discuss how this very demanding condition has rendered the Constitution one of the most inflexible in the world. (SHIMA Satoshi, Member/DPJ/147/6.Apr.2000)
- According to Article 99, members of the Diet have the obligation to respect and uphold the Constitution. On the other hand, Article 96 states that amendments to the Constitution can be initiated through a concurring vote of two-thirds or more of all the members of each House. From this I conclude that members of the Diet have the responsibility to discuss amendments to the Constitution and make this their concern. (SHIMA Satoshi, Member/DPJ/154/22.Apr.2002/Okinawa Hearing)
- The Constitution contains the following provisions concerning amendment. The Diet initiates an amendment and submits this to a national referendum which serves as a forum through which the people, with whom sovereignty resides, can express their views. (NAKANO Kansei, Member/DPJ/147/23.Mar.2000)

<Comments by Informants and Others>

- The Constitution is a man-made code of laws. It is obvious that it should be amended to conform to the changes in reality which began immediately after enactment, and this is why amendment procedures are prescribed in Article 96. To refer to the Constitution as an “immutable code of laws” is an abuse of the term. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- The fact that Article 96 prescribes amendment procedures is an admission made in the Constitution itself, albeit an extremely cautious admission, that the Constitution is not an absolute, complete and flawless document. (KUBOTA Manae, Informant/151/26.Apr.2001/Sendai Hearing)

(2) Easing the requirements of amendment procedures
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A. Comments Favoring Easing of Requirements of Amendment Procedures

a. General comments

<Comments by Members>

- The amendment procedures of the Constitution of Japan are perhaps the most demanding of any constitution in the world. The Constitution needs to be modified to match the changes in the age, but the present requirements effectively block the possibility of amendment. Suppose the inability to amend the Constitution leads us into a very serious political divide. I am extremely concerned that, in the final stage, the inability to amend the Constitution may generate a movement whereby people will resort to violence in order to push through their political demands. (TANIKAWA Kazuo, Member/LDP/154/25.July.2002)
- Article 96 is one of the provisions of the Constitution. Therefore, I believe we should examine the specifics of the amendment procedures. (HATOYAMA Kunio, Member/LDP/149/3.Aug.2000)
- We should discuss whether the Constitution can actually be amended under the amendment procedures of Article 96. It is through the amendment of Article 96 itself that we will be able to create a Constitution which matches the needs of the age. (FUTADA Koji, Member/LDP/153/6.Dec.2001)
- To preserve confidence in the Constitution, amendment procedures should be eased so that revisions can be quickly made when necessary. (FUNADA Hajime, Member/LDP/147/27.Apr.2000)
- At a time when the Constitution is to be reviewed once again, after the general rules and the arena for discussions have been established, this Commission should endeavor to develop an “intersubjective” consensus. Therefore, I believe that this Commission should discuss the two-thirds majority requirement and method of national referendum under the procedures for amendment. (DOI Ryuichi, Member/DPJ/147/23.Mar.2000)
- The amendment procedures should be revised so that, assuming that a *do-shu* system (a system which integrates the prefectures into a small number of states or prefectures) is adopted, amendments can be initiated and ratified through the concurring vote of the Diet, national referendum and *do-shu* assemblies. (MATSUZAWA Shigefumi, Member/DPJ/147/27.Apr.2000)
- One possible approach would be for us to restrict our discussions to the revision of the amendment procedures. (ABE Motoo, Member/LP/147/24.Feb.2000)

- The procedures for constitutional amendment require the ultimate expression of the popular will. The procedures should be amended along more practical lines. (TASSO Takuya, Member/LP/147/27.Apr.2000)
- The present Constitution has never been amended. As can be seen from this fact, the procedural conditions of Article 96 are too demanding. Prompt action should be taken to enact legislation determining the procedural rules for amendment. (FUJISHIMA Masayuki, Member/LP/153/11.Oct.2001, 154/23.May.2002/Politics Subcommittee)

<Comments by Informants and Others>

- Because the conditions for amendment established under Article 96 are too demanding, there is hesitation to even discuss constitutional revision or emergency situations. The provisions should be revised to make it easier to reflect the will of the people. In its present condition, I feel that we will not be able to respond to the changing times. (AOYAMA Takenori, Informant/147/24.Feb.2000)
- If the Diet is unable to initiate amendments, this creates both real and psychological problems which will eventually transform the Constitution into an immutable code of laws. In this connection, the procedures of Article 96 pose a problem, particularly the conditions which apply to the initiation of amendment by the Diet. This poses both a constitutional and a political problem. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- Repeated constitutional debate under a system where the initiation of amendment is not a practical possibility may have a negative influence and may become the cause of the prolongation of political “stagnation.” The conditions pertaining to initiation of amendments should be eased in order to create a healthy sense of tension between politicians and the Constitution. There are several possible approaches to easing the requirements. I do not have in mind any portion of the procedures that must be absolutely revised. Conversely, I do not have any portion in mind that absolutely must not be revised. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- Suppose changes are made so that initiation of amendments by the Diet is no longer difficult. In this instance, the fact that amendment is practically possible would actually increase the political risk and need for commitment for political parties, and I feel that the political parties would be forced to carefully examine proposed amendments and would be left with very little room for maintaining an ambiguous or uncommitted attitude. (SASAKI Takeshi, Informant/150/9.Nov.2000)
- I am aware that some people are concerned that a revision of the conditions for the initiation of amendments may trigger a long series of amendment proposals. But the emergence of a real possibility of amendment has the effect of forcing politicians to adopt more determined and committed stances. Furthermore, the conditions that

apply to the subsequent national referendum can be discussed separately from the initiating conditions. Therefore, changing the initiating requirements will not immediately lead to the situation that has been feared. (SASAKI Takeshi, Informant/150/9.Nov.2000)

- The amendment conditions defined under Article 96 are extremely severe, and it is highly unlikely that amendments will ever be initiated under these conditions. Therefore, the conditions should be eased. (TEJIMA Norio, Speaker/151/16.Apr.2001/Sendai Hearing)

b. Comments referring to specific conditions of amendment

<Comments by Members>

- Regarding the constitutional provisions for the amendment of the Constitution, the following questions and issues should be discussed: (1) the requirement of a two-thirds majority in each House applies equally to both Houses; (2) the failure to enact legislation determining national referendum procedures for constitutional amendment can be said to constitute an act of legislative nonfeasance; (3) modification of amendment procedures such that an amendment supported by more than two-thirds of both Houses will not require ratification by national referendum. (SHIMA Satoshi, Member/DPJ/154/11.Apr.2002/Politics Subcommittee, 154/23.May.2002/Politics Subcommittee)
- The conditions for the amendment of the Constitution of Japan are perhaps the most demanding of any constitution in the world. Given the requirement for two-thirds majority in both Houses, any initiative to modify the status of the House of Councillors would fail because a two-third majority in the House of Councillors would be virtually impossible to achieve. (YAMADA Toshimasa, Member/DPJ/153/8.Nov.2001)
- The Liberal Party's draft of a new Constitution proposes that constitutional amendments be carried by a simple majority of both Houses. (TAKEYAMA Yuriko, Member/LP/150/7.Dec.2000)
- Regarding amendment procedures, the conditions for initiating an amendment should be revised to a simple majority of both Houses. (FUJISHIMA Masayuki, Member/LP/151/14.June.2001)

<Comments by Informants and Others>

- It is true that the requirements for amendment of the Constitution of Japan are very demanding. I do not think there is any way that the provisions concerning national referenda can be altered. The requirement of a two-thirds majority of both Houses is thought to be particularly demanding. In this regard, we should examine the German case where, notwithstanding the fact that amendment conditions are

about as demanding as in Japan, numerous constitutional amendments have been made. (TAKAHASHI Masatoshi, Informant/147/23.Mar.2000)

- The Article 96 provision which requires a “concurring vote of two-thirds or more of all the members of each House” should be revised to a simple majority. Regarding the national referendum, I believe that this provision should not be eliminated. (ENDO Masanori, Speaker/151/16.Apr.2001/Sendai Hearing)
- Public opinion polls show growing support for constitutional amendment. But once a specific amendment is put before the people, doubt remains whether a majority will support it. Therefore, even if the rules for initiating amendments are changed to a simple majority, there is not much to fear. Moreover, as long as the requirement for a national referendum remains, procedures for constitutional amendment will not be the same as for the enactment of legislation. (ENDO Masanori, Speaker/151/16.Apr.2001/Sendai Hearing)
- I believe the provisions concerning amendment procedures should be loosely interpreted. Such matters as the Article 96 provision for “two-thirds majority” and “simple majority” should be more carefully examined to determine what they mean. (TANAKA Hidemichi, Speaker/151/16.Apr.2001/Sendai Hearing)

c. Other comments

<Comments by Members>

- If a conspicuous gap develops between the people and the Constitution, or between the views of the people concerning the Constitution and political developments, by the time the Constitution is amended, the Constitution may have already been rendered irrelevant. (SASAKI Takeshi, Informant/150/9.Nov.2000)

B. Comments Advocating Caution in Easing of Requirements of Amendment Procedures

a. General comments

<Comments by Members>

- The problem of the amendment procedures of Article 96 must be considered from the perspective of the people with whom sovereignty resides. The question of whether the requirements are demanding or not is not the issue here. (YAMAGUCHI Tomio, Member/JCP/154/23.May.2002)

<Comments by Informants and Others>

- Constitutional amendment is an issue of national importance. Due caution must be exercised in determining the procedures for research on this subject. Discussion can

take place only after this has been done. (OHKUMA Yoshikazu, Informant/151/17.May.2001)

- The procedures for constitutional amendment are very important and should be left as demanding as they are now. (SHIMURA Kensuke, Speaker/151/16.Apr.2001/Sendai Hearing)

b. Comments referring to specific conditions of amendment

<Comments by Members>

- Given the growing diversification of the views of the people and international conditions, efforts must be made to reach an “intersubjective” consensus for attempting to modify the Constitution. For this reason, the requirement of Article 96 for a two-thirds majority of both Houses should remain unchanged. (DOI Ryuichi, Member/DPJ/147/23.Mar.2000)
- The national referendum required under amendment procedures embodies the principle of popular sovereignty. The easing of this condition may jeopardize the fundamental principle of the present Constitution. (HARUNA Naoaki, Member/JCP/150/9.Nov.2000)
- Article 96 requires the concurring vote of two-thirds or more of the members of both Houses and a national referendum. These amendment procedures are extremely appropriate and are very important for the purposes of maintaining a democratic constitution. (FUKADA Hajime, Member/SDP/147/24.Feb.2000)

<Comments by Informants and Others>

- The following two points can be made concerning the amendment procedures of Article 96. (1) The easing of amendment conditions, particularly the elimination of the national referendum, would violate the principle of popular sovereignty, and therefore would infringe upon the limits of constitutional amendment and cannot be made the subject of amendment. (2) Some have argued that constitutional revision is normal, citing the case of some countries that have made numerous amendments. Such arguments made without fully considering the history and systems of these countries are almost totally meaningless. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- Regarding the required two-thirds majority of all the members of each House, this requirement was carried over from the Meiji Constitution. In view of the fact that 60% to 70% of public opinion favors constitutional amendment, this requirement is not necessarily a very demanding one. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)

- Amendments will certainly be facilitated if the required two-thirds majority is reduced to a simple majority. However, in the context of Japan's "third opening" in which the nation is endeavoring to transform itself, instead of forcefully pushing an amendment through on a simple majority, I would hope that the courage will be mustered to accomplish this with a two-thirds majority. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
- If the two-thirds majority condition for initiating amendments were to be reduced to a simple majority, constitutional amendment would be brought to the level of the enactment of ordinary legislation and would seriously undermine the status of the Constitution. (KUBOTA Manae, Informant/151/16.Apr.2001/Sendai Hearing)
- Given the requirement of a two-thirds majority in the Diet, amendment is impossible unless extensive debate is undertaken and considerable efforts made to convince the people. In other words, if the process of the debate is presented to the people, and the people conclude that the proposed amendment is really worthwhile, it would be possible to achieve a two-thirds majority. Hence, I think this condition is very important. (HAMADA Takehito, Speaker/151/16.Apr.2001/Sendai Hearing)

c. Other comments

<Comments by Members>

- It is said that the amendment procedures are very demanding, but I think it is the politicians who are making amendment difficult. (OKUNO Seisuke, Member/LDP/154/23.May.2002/Politics Subcommittee)

(3) National referendum law on constitutional amendment
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<Comments by Members>

- It is worth discussing the current situation in which no laws have been enacted concerning the implementation of national referenda required by the Constitution's amendment procedures. It is the legislation's responsibility to the people to enact such laws. (ISHIBA Shigeru, Member/LDP/147/27.Apr.2000)
- The Constitution contains provisions for amendment, but laws prescribing the specific procedures for amendment do not exist, and therefore the Constitution cannot be amended. This is indeed a strange situation. (KONDO Motohiko, Member/Club 21/154/6.June.2002/International Society Subcommittee)
- Article 96 of the Constitution of Japan states that constitutional amendment requires a national referendum. But no laws have been enacted to define the procedures of the referendum, giving me the impression that a situation of

legislative nonfeasance has remained unattended for more than 50 years. (NAKAYAMA Taro, Commission Chairman, Member/LDP/153/11.Oct.2001)

- While this Commission is committed to conducting research for a period of five years, I am gravely concerned to see that the Liberal Democratic Party is now preparing to submit a bill concerning national referendum for constitutional amendment. (OSHIMA Reiko, Member/SDP/154/28.Feb.2002)
- It is very strange to see that there is a movement afoot to submit a bill concerning national referendum for constitutional amendment although this Commission has yet to issue any form of report. We must avoid a situation in which discussions of constitutional amendment take on a life of their own as supported only by those who are committed to the goal of realizing constitutional revision. (HARA Yoko, Member/SDP/153/6.Dec.2001)

<Comments by Informants and Others>

- Mr. NAKAMURA Eichi has suggested that the word “general” be removed from the phrase “general election of members of the Diet.” If an agreement can be reached in the Diet, there is no problem with making modifications such as these that do not entail a fundamental revamping of the Constitution. However, under current conditions, the provisions of Article 96 would apply even to such minor adjustments. Therefore, it is extremely important to enact legislation (national referendum law) pertaining to constitutional amendment. (MURATA Koji, Informant/147/9.Mar.2000)
- It is a defect of the legal system that no laws have been enacted to determine the procedures for constitutional amendment. In my personal opinion, as a general matter, this defect should be rectified. (KUSANO Tadayoshi, Informant/154/4.July.2002/Human Rights Subcommittee)
- Article 99 establishes the obligation to respect and uphold the Constitution. I cannot help but conclude that the failure to enact laws concerning the amendment procedures of Article 96 represents a violation of Article 99. (ENDO Masanori, Speaker/151/16.Apr.2001/Sendai Hearing)
- Article 96 refers to “all the members of each House.” Explicit provisions should be appended to clarify whether this implies the current or full membership of each House. The same applies to the question of whether the Cabinet is empowered to submit a proposal for constitutional amendment. (ENDO Masanori, Speaker/151/16.Apr.2001/Sendai Hearing)

(4) Committees related to the Constitution

<Comments by Members>

- (Regarding the future promulgation of a new constitution:) At such time, a standing committee on constitutional matters should be established in the Diet mandated to check the constitution at ten-year intervals and to initiate reviews. (MATSUZAWA Shigefumi, Member/DPJ/147/27.Apr.2000)
- According to the provisions of the Constitution, the initiation of constitutional amendments is the exclusive right of the Diet. This renders the Diet responsible for the Constitution. Failure to form committees to discuss the Constitution represents negligence. (NAKANO Kansei, Member/DPJ/147/27.Apr.2000)

<Comments by Informants and Others>

- It would be inappropriate to delegate matters related to constitutional amendment to external deliberative councils. On the other hand, an amendment proposal obviously cannot be presented to the people until it has been first thoroughly debated. Hence, putting aside the question of whether or not to make it a standing committee, some form of committee should be established within the Diet to serve as a forum for deliberating on issues in preparation for initiating amendments. (SASAKI Takeshi, Informant/150/9.Nov.2000)

(5) Miscellaneous

<Comments by Members>

- Discussions of the Constitution and the question of what to do with amendment procedures should be kept separate. (HARUNA Naoaki, Member/JCP/150/9.Nov.2000)

<Comments by Informants and Others>

- The following two questions should be discussed in relation to amendment procedures. (1) If the initiation of constitutional amendments is virtually impossible, or thought to be so by responsible persons, and if such a situation is left unattended, what impact would this have on partisan politics and on the relation of the people to the political process? (2) Does the creation of a situation in which problems related to initiating constitutional amendments cannot be resolved in the political arena have a positive or negative impact on politics? (SASAKI Takeshi, Informant/150/9.Nov.2000)

- We can assume that the Constitution exists for the benefit of society, the nation and the people. Then, if we take the position that, in principle, the Constitution can be constantly modified, the obvious conclusion is that provisions for amendment should be established. (YONETANI Mitsumasa, Speaker/151/16.Apr.2001/Sendai Hearing)
- The possibility of constitutional amendment is not restricted to any specific provision, such as the provisions of Article 9. The views and opinions which individuals hold regarding the Constitution are protected by the freedom of thought and creed. The central principle of popular sovereignty is that the Constitution was established by the will of the people. The important thing is for the people to think earnestly, and for the leaders to clearly determine what the people want. Excluding certain provisions that are mutually inseparable, the combination of several amendments under a single proposal is obviously contrary to these principles and objectives. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)

2. Limits to Constitutional Amendment

a. Comments advocating limits to constitutional amendment

<Comments by Informants and Others>

- Sovereignty is the ultimate source of power. From the perspective of this most important meaning of the term sovereignty, it is not possible for two ultimate sources of power to stand on an equal footing. There can be no continuum linking monarchical sovereignty and popular sovereignty. Therefore, in the matter of transferring the source of sovereignty, the doctrine of unlimited constitutional amendment cannot stand. (TAKAHASHI Masatoshi, Informant/147/23.Mar.2000)
- Under the current Constitution, if we accept that the principles of popular sovereignty and the guarantee of human rights cannot be expunged through constitutional amendment, we are led to conclude that the principle of local autonomy which provides the foundation for these principles also cannot be eliminated through constitutional amendment. (OKUMA Yoshikazu, Informant/151/17.May.2001)
- In the process of amendment, it is important to distinguish between what it is we want to change and what must not be changed. Moreover, we will need to clarify what we want to change and how we want to change it. In reality, this means that specific provisions will be more amenable to modification. Regarding local autonomy, amendments pertaining to local autonomy should be promoted on the condition that such amendments contribute to the strengthening of democracy. (OHKUMA Yoshikazu, Informant/151/17.May.2001)
- There are certain limits to constitutional amendment in the sense that amendments which negate the basic principles of the Constitution cannot be permitted. From this perspective, I believe that any revision of the amendment procedures of Article 96 would transgress the allowable limits of constitutional revision. (ODANAKA Toshiki, Speaker/151/16.Apr.2001/Sendai Hearing)

b. Comments advocating unlimited constitutional amendment

<Comments by Members>

- If the doctrine of limited constitutional amendment says that certain portions of the Constitution cannot be changed even if 99% of the people favor such an amendment, then it is necessary to re-examine this doctrine. It is extremely strange to think that absolute power has been ceded to our predecessors and that they are favored over ourselves and our contemporaries. (ISHIBA Shigeru, Member/LDP/147/23.Mar.2000)

c. Other comments

<Comments by Informants and Others>

- If a new constitution is to be formulated, and if that constitution is to be enacted through the popular will, certain procedural rules should be established whereby the draft is deliberated upon in a constitutional assembly and submitted to a national referendum. If a complete revision of the Constitution were to be attempted under the amendment rules contained in the current Constitution, because no organ exists to judge the validity of such a revision, the revised constitution would be unconstitutional from the perspective of the current Constitution, but nevertheless valid. Such an outcome would earn the criticism of future generations. (AOYAMA Takenori, Informant/147/24.Feb.2000)
- It is not thought that the emperor system itself cannot be modified through a constitutional amendment. However, even if the emperor system were to be revised, it is conceivable that the emperor would remain endowed with traditional charisma. (HASEBE Yasuo, Informant/153/8.Nov.2001)
- The Constitution uses such terms as “forever” and “for all time.” However, these terms do not imply a state of eternal indispensability. (YONETANI Mitsumasa, Speaker/151/16.Apr.2001/Sendai Hearing)

3. Comparison with Constitutional Amendment Procedures of Other Countries

<Comments by Members>

- In most of the countries that we researched, constitutional amendments require a two-thirds parliamentary majority. In light of this fact, the two-thirds majority requirement that is considered to be a major obstacle in Japan has not been a real obstacle in other countries. (HANASHI Nobuyuki, Member/LDP/153/11.Oct.2001)
- I believe that in most foreign countries, the procedures for constitutional amendment are designed to facilitate amendment. (FUJISHIMA Masayuki, Member/LP/150/9.Nov.2000)

<Comments by Informants and Others>

- It is argued that constitutional amendment is difficult. However, as the Constitution is the basic law of the land, it is natural for amendment to be difficult. Conditions for amendment in the United States are extremely demanding. In addition to a two-thirds majority in Congress, an amendment must be ratified by three-fourths of all the states. In comparison to this, I do not believe that the requirements established in the Constitution of Japan are very difficult. (KUBOTA Manae, Informant/151/16.Apr.2001/Sendai Hearing)

Subsection 11 Supreme Law

Subsection 11 Supreme Law

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Subsection 11 Supreme Law

1. Constitution as Supreme Law and Observance of Treaties and International Laws

- a. Comments advocating priority of Constitution over treaties

<Comments by Informants and Others>

- Treaties are subject to review of constitutionality. This obviously means that as a matter of legal priority, the Constitution stands above treaties. (HATAJIRI Tsuyoshi, Informant/153/29.Nov.2001)
- The Constitution is the supreme law in the context of the domestic legal order. Insofar as treaty provisions are applicable to domestic laws, treaties cannot stand in violation of the Constitution. (MATSUI Shigenori, Informant/154/23.May.2002/Politics Subcommittee)

- b. Comments denying the importance of priority or saying that judgment cannot be made

<Comments by Informants and Others>

- In the case of a treaty invested with very high authority, such as the UN Charter, it is not immediately possible to judge whether legal priority rests with the Constitution or the treaty. Because the current Constitution prescribes the duty to observe treaties, major emphasis must be placed on the observance of such internationally established covenants and conventions. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- Article 98 states that Japan must faithfully observe the treaties that it has concluded. Moreover, even in instances where Japan is not a signatory, Japan is bound by the provisions of international common law. Therefore, the question of priority between the Constitution and treaties is not a particularly important one. (ANNEN Junji, Informant/154/14.Mar.2002/Human Rights Subcommittee)

- c. Other comments

<Comments by Informants and Others>

- If through the deletion of Article 9 Paragraph 2 it is determined that Japan can exercise the right of collective self-defense, then because the present Constitution prescribes the observance of international treaties, it would be natural for Japan to actively cooperate in the undertakings of the United Nations. (TANAKA Akihiko, Informant/150/28.Sept.2000)

2. Duty to Respect and Uphold the Constitution

- a. Comments concerning the relation between the duty to respect and uphold the Constitution and amendment of the Constitution

<Comments by Members>

- Article 99 prescribes the obligation to respect and uphold the Constitution. It is obvious from this provision that civil servants, local government organizations and politicians must all observe the Constitution. But this is a completely different matter from the need to consider the revision of the Constitution after the passage of more than 50 years from its enactment. (KYUMA Fumio, Member/LDP/154/22.Apr.2002/Okinawa Hearing)
- As is obvious from the amendment procedures established under Article 96, the Constitution was enacted with the possibility of future revision. Statements made by cabinet ministers concerning constitutional amendment do not violate the duty to respect and uphold the Constitution. I earnestly hope that this moot point will not come up for discussion in this Commission. (TAKAICHI Sanae, Member/LDP/147/11.May.2000)
- I seriously question those who argue that the Constitution is wonderful because it is an immutable code of laws, not a single letter of which has been modified over the past 55 years. While it is the obvious duty of those in public office to respect and uphold the Constitution, the act of modifying the Constitution to conform to the changing times and to match the needs of the people is also an act of respect and upholding the Constitution. (NISHIDA Takeshi, Member/NCP/147/11.May.2000)

<Comments by Informants and Others>

- Those who argue that the Constitution is an immutable code of laws are either mistaken in their understanding or are misusing the term. If this argument is being made in the context of the fact that various cabinet ministers advocating constitutional revision have been forced into resignation, this would simply reveal a lack of understanding of the Article 99 obligation of ministers of state to respect and uphold the Constitution. (KOBAYASHI Takeshi, Informant/150/9.Nov.2000)
- The Constitution should be revised when the need arises. In fact, this is what upholding the Constitution really implies. (YONETANI Mitsumasa, Speaker/151/16.Apr.2001/Sendai Hearing)

b. Other comments

<Comments by Members>

- When one observes the Diet deliberations on the Anti-terrorism Special Measures Law, one begins to question whether the Constitution, notwithstanding the fact it is the supreme law, is being preserved and respected. (KANEKO Tetsuo, Member/SDP/153/6.Dec.2001)

<Comments by Informants and Others>

- It is true that the Constitution is the supreme law among all statutory laws. But one should also consider the Constitution in light of natural law, such as higher levels of human ideals and the demands of conscience. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- I believe that the Constitution contains provisions that are applicable not only to the state, local governments and civil servants, but to all the people of the country. (NISHIZAWA Junichi, Informant/151/8.Feb.2001)
- The provisions of Article 99 concerning the obligation to respect and uphold the Constitution apply to the emperor, members of Diet and others. It can be surmised that the positions mentioned under Article 99 were those positions which, at the time of the formulation of the Constitution, were thought to present the greatest risk or probability of advocating constitutional revision in the future. (YAMAUCHI Tokushin, Speaker/154/22.Apr.2002/Okinawa Hearing)
- If the government is to ask the people and the business community to pursue structural reform, and if it is to preach the virtues of a nation under the rule of law, it is first and foremost the politicians who work in the highest decision-making organ which stands at the center of power that must straighten themselves out and abide by the Article 99 obligation to respect and uphold the Constitution. (YAMAUCHI Tokushin, Speaker/154/22.Apr.2002/Okinawa Hearing)

3. Right of Resistance

<Comments by Informants and Others>

- Democracy and the principle of popular sovereignty constitute a self-contained logical system. The system starts with the recognition of the human rights of the individual and ends with the individual's right of resistance. To promote greater understanding of this matter among the people, it is desirable to include explicit provisions for the right of resistance in the Constitution. (YUKI Yoichiro, Speaker/154/24.June.2002/Sapporo Hearing)

**Subsection 12 Other Matters
(National Emergencies)**

Subsection 12 Other Matters (National Emergencies)

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Subsection 12 Other Matters (National Emergencies)

1. Pros and Cons of Constitutional Amendment Concerning Response to National Emergencies

- a. Comments favoring inclusion of basic provisions in Constitution concerning response to national emergencies
 - a-1. Comments concerning lack of basic provisions concerning response to national emergencies in present Constitution

<Comments by Members>

- The Constitution does not contain basic provisions concerning the enactment of emergency-response laws. This matter should be examined. (TAKAICHI Sanae, Member/LDP/147/27.Apr.2000)
- The present Constitution is such that it cannot respond to the urgent issues facing Japan, such as crisis management requirements. (MITSUZUKA Hiroshi, Member/LDP/147/27.Apr.2000)
- The Constitution does not take into consideration such possibilities as armed attacks, national emergencies, large-scale terrorist attacks, and cyber-terrorism. The Constitution does not provide any grounds to justify the presence of the U.S. military on Japanese soil, nor does it ensure that the constitutional order will be upheld by the U.S. army in the event of a national emergency. (SUTO Nobuhiko, Member/DPJ/154/9.May.2002/ International Society Subcommittee,154/25. July.2002)

<Comments by Informants and Others>

- The present Constitution is fully operational under normal conditions. However, the Constitution does not provide for national emergencies and is extremely lacking in balance in this respect. (AOYAMA Takenori, Informant/147/24.Feb.2000)
 - a-2. Comments advocating inclusion of basic provisions in Constitution concerning response to national emergencies

<Comments by Members>

- The Constitution does not contain any provisions concerning crisis situations, such as national emergencies and natural disasters. The Constitution should be revised to include explicit provisions regarding such matters. (NAKASONE Yasuhiro, Member/LDP/153/6.Dec.2001)

- The Constitution includes almost no provisions concerning national emergencies. In past emergencies, the government has resorted to extra-legal measures to which the Diet has given its approval. Given that emergencies require prompt action, the Constitution should be revised to include provisions concerning the powers of the prime minister and government under emergency conditions. (FUNADA Hajime, Member/LDP/147/6.Apr.2000)
- There is a gap between the Constitution and current realities. One example is the absence of emergency-response provisions. The Constitution should be revised to bring it into line with current realities. (YOKOUCHI Shomei, Member/LDP/147/6.Apr.2000)
- In the past, Japan has enacted laws only after a specific problem has arisen. This approach makes it difficult to respond effectively. The Constitution should include explicit provisions concerning national emergencies, including armed attacks. (KOBAYASHI Kenji, Member/DPJ/154/25.Apr.2002)
- In the event of a natural disaster, the Self-Defense Forces have a major role to play in protecting the property of local residents. The role of the Self-Defense Forces in case of natural disaster or armed attack should be clearly determined. This does not in any way contradict the principle of pacifism. (AKAMATSU Masao, Member/NK/154/22.Apr.2002/Okinawa Hearing)
- It is a serious problem that the Constitution contains no provisions concerning national emergencies. Since the end of the Cold War, East Asia has constantly faced the possibility of a sudden and unexpected crisis of major proportions. Given this situation, the Constitution should be revised to include explicit provisions concerning emergency situations and provisions to allow the Self-Defense Forces to take prompt action. (FUJISHIMA Masayuki, Member/LP/151/14.June.2002, 153/6.Dec.2001, 154/25.Apr.2002)
- The fact that the Constitution as supreme law contains no provisions concerning crisis management can obstruct the enactment of relevant laws. Therefore, it is necessary to include explicit provisions in the Constitution concerning methods of coping with natural disasters and crisis management in general, and to provide for the establishment of a chief officer for crisis management. (KONDO Motohiko, Member/Club 21/151/22.Mar.2001, 151/4.June.2001/Kobe Hearing)

<Comments by Informants and Others>

- Some form of rules are needed for coping with emergency situations. It would be desirable to specify such rules in the Constitution, but these may also be specified through legislation. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- In comparison to the situation in foreign countries, it is very strange that we have no provisions covering emergency situations. The Constitution should include

definitions and guidelines for coping with emergencies. (SAKAMOTO Takao, Informant/151/22.Mar.2001)

- After developing a national strategy which clearly identifies the interests of Japan as a sovereign nation and sets forth a vision for the country, the legal framework should be reviewed. During this process of review, the Constitution should be amended to include provisions concerning the responsibilities and powers of the prime minister pertaining to crisis management, as well as the rights and obligations of the people during a national emergency. (MORIMOTO Satoshi, Informant/153/25.Oct.2001)
- As a nation, we should explicitly include in the Constitution certain principles of crisis management in order to prepare for emergency situations. (TEJIMA Norio, Speaker/151/16.Apr.2001/Sendai Hearing)
- Including explicit provisions in the Constitution concerning natural disasters would have important meaning. (KOKUBO Masao, Speaker/151/4.June.2001/Kobe Hearing)
- If a proper system of crisis management and emergency response had existed, the damage of the Great Hanshin-Awaji Earthquake could have been minimized. It is natural for a nation to prepare itself against foreign aggression. From the perspective of protecting the lives and property of the people, the inability of the state to respond to crises and emergencies is tantamount to gross negligence. Therefore, the Constitution should contain explicit provisions concerning the response to crises and national emergencies. (TSUKAMOTO Hideki, Speaker/151/4.June.2001/Kobe Hearing)
- From the perspective of protecting the lives of the people, the Constitution should include explicit provisions concerning emergency measures and the responsibilities of the state in major disasters. (HASHIMOTO Akio, Speaker/151/4.June.2001/Kobe Hearing)
- Internationally, it is common sense that personal rights are restricted in times of emergency. Under the current legal framework, Japan is unable to respond appropriately to emergencies. For this reason, after first revising Article 9, necessary legislation should be enacted. (MEGUMI Ryunosuke, Speaker/154/22.Apr.2002/Okinawa Hearing)

- b. Comments advocating caution in inclusion of basic provisions in Constitution concerning response to national emergencies

<Comments by Informants and Others>

- Instead of amending the Constitution to include crisis-management provisions, it is more important to develop the actual systems needed for responding to crisis. (SHINDO Eiichi, Informant/147/6.Apr.2000)
- Although the Constitution does not include crisis-management provisions, it should be obvious that the state bears responsibility in such matters. (KAIHARA Toshitami, Speaker/151/4.June.2001/Kobe Hearing)
- I oppose the three emergency response bills. Moreover, I oppose any constitutional amendment that would permit Japan to wage war without going through a constitutional checking process. (TANAKA Hiroshi, Speaker/154/24.June.2002/Sapporo Hearing)

2. Pros and Cons of Developing Legislation Concerning Response to National Emergencies

a. Comments concerning defects in legal system

<Comments by Members>

- Emergency response bills should obviously have been enacted. We have been negligent on this point. (KYUMA Fumio, Member/LDP/150/28.Sep.2000)
- In view of the fact that crisis-management legislation has not been developed, it is necessary to examine systems for responding to national emergencies. (YASUOKA Okiharu, Member/LDP/147/11.May.2000)
- Japan today does not have adequate legal systems for coping with national emergencies. (SHIMA Satoshi, Member/DPJ/147/6.Apr.2000)
- It is the duty of politicians to develop a sound awareness of crisis management, to examine possible crisis situations from all angles and to thereupon develop a legal system capable of responding to such contingencies. Politicians have been negligent in that they have failed to fulfill this obligation for more than 50 years. (BANNO Yutaka, Member/DPJ/154/25.Apr.2002)
- One of the important issues that a cabinet invested with broad-ranging executive powers must take up is the problem of crisis management. Japan lags behind the rest of the world in this field. Laws governing emergency situations, are part of crisis management and should be debated within the framework of the Constitution in light of current realities. (INOUE Kiichi, Member/NCP/154/14.Mar.2002/Politics Subcommittee)
- A proper awareness of crisis is lacking, and there is no background in taking a strategic approach to crisis management. Consequently, there is no popular support for defense, and systems pertaining to national crisis management have not been developed. (KOIKE Yuriko, Member/NCP/151/22.Mar.2001)
- Because of constitutional restrictions, adequate responses have not been taken in emergency situations, such as in cases of terrorism and large-scale disasters. (NODA Takeshi, Member/NCP/149/3.Aug.2000)

<Comments by Informants and Others>

- Unless emergency-response legislation is enacted, the Self-Defense Forces will not be able to function effectively in case of an emergency. Emergency-response legislation should have been enacted when the Self-Defense Forces were initially created. (ITO Tetsuo, Informant/154/23.May.2002/Human Rights Subcommittee)

- In the interpretation of the Constitution, the Self-Defense Forces are not recognized as a military force. For this reason, the enactment of necessary emergency-response legislation has been delayed. (KOIDO Yasuo, Speaker/153/26.Nov.2001/Nagoya Hearing)
 - As in any normal country, Japan must clearly define its line of command. Otherwise, Japan may not be able to take appropriate action in an emergency. (MEGUMI Ryunosuke, Speaker/154/22.Apr.2002/Okinawa Hearing)
- b. Comments concerning enactment of emergency-response legislation
- b-1. Comments concerning pros and cons of enactment of emergency-response legislation
- b-1-1. Comments favoring enactment of emergency-response legislation

<Comments by Members>

- In view of the Tokyo subway sarin gas attack, we should discuss Japan's response to both domestic and international emergencies. (HANASHI Nobuyuki, Member/LDP/147/11.May.2000)
- It is necessary to clarify crisis-management procedures. (SUTO Nobuhiko, Member/DPJ/153/6.Dec.2001)
- Regarding deliberations concerning the three emergency-response bills, priority should be given to examining matters that relate to the U.S. military. This is because of the importance of ensuring the smooth operations of the U.S. armed forces in Japan and coordinating such activities with the rights and liberties guaranteed to the people. (KOBAYASHI Kenji, Member/DPJ/154/25.Apr.2002)
- If proper legal systems are not in place, basic human rights may be more seriously infringed upon in case of a national emergency. For this reason, I believe that emergency-response legislation should be enacted. (SHIMA Satoshi, Member/DPJ/154/22.Apr.2002/Okinawa Hearing)
- It is obviously necessary to constantly pursue peace diplomacy. But it is also necessary to prepare for contingencies and to enact emergency-response legislation. (AKAMATSU Masao, Member/NK/154/25.Apr.2002, 154/6.June.2002/International Society Subcommittee)
- Regarding the enactment of emergency-response legislation, there are various levels of "emergency," and each level requires its own unique response. With this in mind, a systematic approach must be taken to the development of legislation. In this process, given the importance of ensuring the smooth operations of the U.S. armed forces and the protection of the rights and liberties guaranteed to the people, it will

be particularly important to coordinate these two factors. (FUJISHIMA Masayuki, Member/LP/154/25.Apr.2002)

- The Japanese people do not have a well-developed awareness of political crisis management. In order to protect the people, we must consider effective methods for responding to crises. Such responses must be centered on the government which has a monopoly on the “legitimate use of force.” (KONDO Motohiko, Member/Club 21/151/22.Mar.2001)

<Comments by Informants and Others>

- In case of national emergency, if proper legal systems have not been established in advance, the result may be excessively discretionary measures. To avoid this, emergency-response legislation should be enacted as quickly as possible. (TANAKA Akihiko, Informant/150/28.Sept.2000)
- The United States is asking Japan to agree to exercise the right of collective self-defense and to militarize the Self-Defense Forces. In this context, although it feels that the bills are inadequate, the United States welcomes Japan’s enactment of emergency-response legislation. I do not think that there are any countries, including the Republic of Korea, that would oppose Japan’s enactment of emergency-response legislation out of hand. (TAKUBO Tadae, Informant/154/6.June.2002/International Society Subcommittee)
- The role to be played by prefectural governors in case of natural disaster has already been clearly defined. Because the same has not been done for national emergencies, emergency-response laws must be enacted. (KATAYAMA Yoshihiro, Informant/154/6.June.2002/Local Autonomy Subcommittee)
- I cannot understand the argument that the enactment of emergency-response legislation will lead to war. In case of emergency, if the Self-Defense Forces have no other option but to act under supralegal measures, this would violate the rule of law which constitutes the most fundamental principle of the modern state. Therefore, emergency-response laws should be enacted as a democratic means to controlling the Self-Defense Forces through the rule of law. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- With the delays in the enactment of emergency-response legislation, if Japan were to be threatened by a foreign power the Self-Defense Forces would prove dysfunctional and the rights of the people would be infringed upon. (KOIDO Yasuo, Speaker/153/26.Nov.2001/Nagoya Hearing)
- In light of the events of 9-11, it is necessary to enact emergency-response legislation and to prepare for contingencies. Such laws should determine how the Self-Defense Forces would jointly operate with the U.S. armed forces, and would thereby protect

the people from panic and insecurity. (ASHITOMI Osamu, Speaker/154/22.Apr.2002/Okinawa Hearing)

b-1-2. Comments not in favor of emergency-response legislation

<Comments by Members>

- The purpose of the bill to respond to armed attacks is to facilitate the provision of logistical support to the U.S. armed forces in the event of a situation in areas surrounding Japan. Not only is this bill humiliating to a sovereign state, but it is unacceptable in light of the provisions of Article 9. Therefore, I am opposed to this bill. While I oppose the revision of Article 9, it is clear that the enactment of such a bill requires the prior revision of Article 9. (OIDE Akira, Member/DPJ/154/25.July.2002)
- The three emergency-response bills contain the following problems: unjustified restriction of fundamental human rights; ambiguous definition of what constitutes an emergency; undermining the principle of civilian control; violation of local autonomy. The emergency-response bills should not transcend the limits of supplementing and strengthening the Self-Defense Forces Law. (KONNO Azuma, Member/DPJ/154/25.Apr.2002)
- It is the experience of the people of Okinawa that the military does not protect the people and that peace cannot be created through force. It was clear that the people of Okinawa oppose the emergency-response bills because of this experience. (HARUNA Naoaki, Member/JCP/154/25.Apr.2002)
- After the end of World War II, Japan rejoined the international society professing the faith that it will never again repeat the horrors of war. However, the emergency-response bills are predicated on the exercise of force. The very act of deliberating on such bills violates the Constitution's principle of pacifism, and is criticized by Asian countries who claim that Japan has not kept its faith. Furthermore, the structure of these bills is such that the Japanese people will inevitably be dragged into war if the United States goes to war. I would like to proceed with the discussions in the Diet from the position of opposition to the bills. (YAMAGUCHI Tomio, Member/JCP/154/14.Mar.2002/Politics Subcommittee, 154/25.Apr.2002, 154/9.May.2002/International Society Subcommittee)
- The very fact that the issue of emergency-response legislation has been brought up goes against the international tide of humanity's efforts expended in the building of peace. This is an act of barbarism which stands in contradiction to the tide of history. (UEDA Munenori, Member/SDP/154/25.Apr.2002)
- The criteria for determining an emergency situation under the proposed bill to respond to armed attacks are very ambiguous. This gives rise to the danger that Okinawa, the site of numerous U.S. military bases and installations, may be

dragged into the military operations of the U.S. armed forces. The experiences of the people of Okinawa show that the military does not and cannot protect the people. With this in mind, the deliberations on the emergency-response bills should thoroughly examine what it takes to create peace. We must never again walk the path to war. In accordance with the principles enunciated in the Preamble, we must pursue a political program that will prevent the occurrence of contingencies through constant efforts made for peace. (KANEKO Tetsuo ,Member/SDP/154/22. Apr.2002/ Okinawa Hearing, 154/25.Apr.2002, 154/4.July.2002/ Politics Subcommittee)

<Comments by Informants and Others>

- Instead of preparing for contingencies, we should prevent the occurrence of conflicts by actively pursuing the diplomacy of peace. (ARAKAKI Tsutomu,Speaker/154/22.Apr.2002/Okinawa Hearing)
- When considering the emergency-response bills, we have to keep in mind that there are certain situations in which the government cannot be trusted. (KAKINOHANA Hojun, Speaker/154/22.Apr.2002/Okinawa Hearing)
- I am opposed to the movement to enact the emergency-response bills because it represents a preparation for putting the nation on a war footing which ignores Article 9 and the structure established in the Constitution. (YAMAUCHI Tokushin, Speaker/154/22.Apr.2002/Okinawa Hearing)
- I am opposed to the three emergency-response bills because there is a very high possibility that these will violate the basic principles of the Constitution, such as pacifism, respect for fundamental human rights, local autonomy and democratic government. (TANAKA Hiroshi, Speaker/154/24.June.2002/Sapporo Hearing)

b-2. Comments concerning the relation between the emergency-response bills and fundamental human rights

b-2-1. Comments advocating that certain restrictions on human rights are admissible in emergencies

<Comments by Members>

- The International Covenant on Civil and Political Rights, of which Japan is a signatory, states that services and duties that the state may demand of its people in times of emergency or disasters do not constitute forced labor. Therefore, the view that Article 103 of the Self-Defense Forces Law permitting issuance of orders for certain specialists to perform certain duties in times of emergency violates Article 18 of the Constitution is not justified. (ISHIBA Shigeru, Member/LDP/154/4.July.2002)

- In preparation of a situation in which the nation comes under foreign attack, from the perspective of the duty of the people to protect the nation, various types of duties and restrictions on rights should be codified and enacted into law. Such matters as responding to situations in areas surrounding Japan, cooperation with international police authorities, and military services and other duties of the people to protect the nation are issues which affect the very foundations of the nation. (YASUOKA Okiharu, Member/LDP/151/22.Mar.2001)
- Regarding the restriction of the rights of the people in national emergencies, such judgment should be based on criteria other than the “welfare of the public.” (FUJISHIMA Masayuki, Member/LP/154/25.Apr.2002)

<Comments by Informants and Others>

- As in the case of disasters, the penalizing of private individuals violating obligations pertaining to the storage of strategic goods during national emergencies does not raise constitutional problems. (ANNEN Junji, Informant/154/14.Mar.2002/Human Rights Subcommittee)
- In considering crisis management, it is important to realize the following point. For a nation that is emerging from a crisis situation and is endeavoring to return to an orderly state, its highest priority is not the protection of individual human rights. Precedence must be given to the preservation of the government which is the guarantor of those rights. (ITO Tetsuo, Informant/154/23.May.2002/Human Rights Subcommittee)
- For fundamental human rights to be guaranteed, it is necessary for the nation and society to exist. Therefore, it is natural for fundamental human rights to come under certain constraints in instances of national emergency. (MEGUMI Ryunosuke, Speaker/154/22.Apr.2002/Okinawa Hearing)

b-2-2. Comments concerning possible violation of human rights by emergency-response legislation

<Comments by Members>

- I believe that the rights and liberties guaranteed to the people will be violated by the military actions and operations of the Self-Defense Forces during national emergencies. (KANEKO Tetsuo, Member/SDP/154/22.Apr.2002/Okinawa Hearing)

<Comments by Informants and Others>

- It is the position of RENGO (Japanese Trade Union Confederation) that it is necessary to make preparations for emergencies. However, we are opposed to the three emergency-response bills. On the question of whether orders to provide labor services in times of emergency violates the Constitution, opinions vary among

various labor unions. (KUSANO Tadayoshi, Informant/154/4.July.2002/Human Rights Subcommittee)

- I oppose the three emergency-response bills because they contain the following problems: no provisions have been made for a system for control by the people; the rights and liberties of the people are liable to be restricted on the basis of very ambiguous criteria; no provisions have been made for systems to protect the people; the use of force is the only form of response considered. (ARAKAKI Tsutomu, Speaker/154/22.Apr.2002/Okinawa Hearing)
- I have serious doubts concerning the enactment of the emergency-response bills. Will these bills not lead to the repetition of the horrors of the past war? Will they not restrict the rights of the people? Will they not threaten the peace? (INAFUKU Erika, Speaker/154/22.Apr.2002/Okinawa Hearing)
- In light of the experiences of World War II, the enactment of the emergency-response bills will result in the violation of the rights of all the people. In addition, the Diet will be violating Article 99 of the Constitution. Therefore, I believe the emergency-response bills cannot be accepted from the perspective of the Constitution. Japan should think about how it can become a country that prevents emergencies from happening. (YAMAUCHI Tokushin, Speaker/154/22.Apr.2002/Okinawa Hearing)
- I oppose the three emergency-response bills because they contradict the Constitution's principle of pacifism and may violate the fundamental human rights of the people. (MASUGI Eiichi, Speaker/154/24.June.2002/Sapporo Hearing)

b-3. Comments concerning the relation between the emergency-response bills and local autonomy

<Comments by Members>

- If Japan were to come under armed attack, the normal approach would be for the local government to judge the situation and to ask the national government for help if necessary. As a matter of fact, the Self-Defense Forces Law is designed to respect local sovereignty. Because the emergency-response bills aim to permit the national government to act on behalf of local governments, they will infringe upon local autonomy. (KONNO Azuma, Member/DPJ/154/6.June2002/ Local Autonomy Subcommittee)
- Under the proposed bill to respond to armed attacks, the prime minister is given powers of administrative subrogation. As such, in the course of deliberating upon this bill, it will be necessary to discuss how we should regard local autonomy. (SHIMA Satoshi, Member/DPJ/154/25.Apr.2002)

- Notwithstanding the fact that the protection of the lives, safety and property of the citizens constitutes the most important mission of local governments, the three emergency-response bills will permit the national government to restrict these rights and powers in cases of emergency. This is problematic as it contradicts the principle of decentralization which is founded on the principles of equality and cooperation. (HARUNA Naoaki, Member/JCP/154/9.May.2002/Local Autonomy Subcommittee)
- Deliberations on the three emergency-response bills are proceeding along a highly centralized approach. For instance, no explanation has been given to local governments whose cooperation is needed under the proposed system. (KANEKO Tetsuo, Member/SDP/154/9.May.2002/Local Autonomy Subcommittee)

<Comments by Informants and Others>

- If local governments are to play a role during emergencies, that role would be the protection of the lives of the people. Local governments must think ahead and determine what they can do to protect the lives of the people in major disasters and other situations. (JINNO Naohiko, Informant/154/9.May.2002/ Local Autonomy Subcommittee)

b-4. Other comments concerning enactment of emergency-response legislation

<Comments by Members>

- The following matters should be taken into consideration when thinking about the emergency-response bills: (1) no one wants war; (2) the probability of Japan being attacked is low, but that does not mean that the emergency-response bills are not needed; (3) it is the Self-Defense Forces who will have to protect the people in times of emergency that are really hoping for peace. (KONDO Motohiko, Member/LDP/154/6.June.2002/International Society Subcommittee)
- In deliberating upon the three emergency-response bills, while taking into consideration the fact that many of the contradictions pertaining to national security are concentrated in Okinawa, full discussion should be undertaken in the direction of permitting the exercise of the right to collective self-defense. (NAKAGAWA Masaharu, Member/DPJ/154/25.Apr.2002)

<Comments by Informants and Others>

- Special attention must be paid to the question of whether Japan is in a position to make its own subjective judgments on national emergencies. To obtain the ability to make its own judgment, Japan must do the following: review the Japan-U.S. Security Arrangements, including the revision of the Japan-U.S. Status of Forces Agreement and the reduction of U.S. military bases in Japan; design systems for information collection and information infrastructure needed for gauging and

making judgments on international conditions. (TERASHIMA Jitsuro, Informant/154/9.May.2002/International Society Subcommittee)

c. Comments concerning development of laws for responding to natural disasters

<Comments by Members>

- During the open hearings held in Kobe, the view was expressed that adequate powers should be given to heads of municipalities to cope with disaster situations. Importance must be given to the views of those who are working closely with the citizens and are endeavoring to apply the provisions and principles of the Constitution to real administrative situations. (YAMAGUCHI Tomio, Member/JCP/151/14.June.2001)

<Comments by Informants and Others>

- Crisis management is emphasized in Japan. However, in the event of a natural disaster, the most important thing is to provide financial assistance to the victims as quickly as possible in order to make them feel secure. (ODA Minoru, Informant/150/28.Sept.2000)
- We should not expect too much of the Self-Defense Forces in primary rescue efforts. The primary rescue system should consist of police, fire-fighters and local government employees functioning under the prefectural governor who is responsible for regional disaster response. The important thing is to ensure that the system can be managed and can function properly. As for regional disaster prevention systems, some form of organization similar to the Federal Emergency Management Agency should be created. It is also necessary to train human resources to have the necessary experiences and knowledge. (KAIHARA Toshitami, Speaker/151/4.June.2001/Kobe Hearing)
- I believe that revision of the laws concerning disaster-response would facilitate rescue and support operations in the event of disasters. (KOKUBO Masao, Speaker/151/4.June.2001/Kobe Hearing)
- Regarding crisis management in a large-scale natural disaster, laws must be enacted to develop the following types of response and support systems: empowerment of heads of municipalities to act directly in disaster sites, including issuance of mobilization orders to police and Self-Defense Forces; development of community-based cooperative systems; responding to the actual needs of victims for sustaining their living environment from the perspective of guaranteeing the right of livelihood. (SASAYAMA Kazutoshi, Speaker/151/4.June.2001/Kobe Hearing)
- The inadequate response to the large-scale natural disaster can be blamed on the compartmentalized administrative structure. It is necessary to create an organization such as the U.S. Federal Emergency Management Agency and take

other legislative measures to develop a system that will allow quick assessment and response to disaster. (SHIBAO Susumu, Speaker/151/4.June.2001/Kobe Hearing)

- To push the responsibility of disaster-response upon the Self-Defense Forces which itself is an unconstitutional entity, while making no efforts to create a specialized organization for disaster-response, will not gain the support of the people. (ARAKAKI Tsutomu, Speaker/154/22.Apr.2002/Okinawa Hearing)

Section 4

Miscellaneous Subjects

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Section 4 Miscellaneous Subjects

1. Process of Formulation of the Constitution of the Empire of Japan

<Comments by Members>

- The emperor system was incorporated into the Meiji Constitution because it was a convenient way to unify national opinion. (FUJISHIMA Masayuki, Member/LP/154/4.July.2002/Politics Subcommittee)
- I believe there were two reasons why the Meiji Constitution was drafted and enacted hastily: (1) the need to modernize quickly for international reasons; (2) the decision had already been made to establish a parliament as a result of the People's Rights Movement. (YAMAGUCHI Tomio, Member/JCP/154/4.July.2002/Politics Subcommittee)
- When examining the Meiji Constitution, in addition to studying the Constitution of Empire of Japan, we must revisit the draft constitution written by UEKI Emori. (YAMAGUCHI Tomio, Member/JCP/154/4.July.2002/Politics Subcommittee)

<Comments by Informants>

- The Meiji government did not establish a constitution for twenty years after the Meiji Restoration. The political motivation behind this was to establish the emperor system in the absence of any legal constraints. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- When the Meiji Constitution was established, the world was living in an era of “territory games” where military force played an important role. In such an environment, the emperor stood at the center of the state and handed down the Constitution to the citizens. This is how the constitution of the Japanese nation-state was created. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
- The Meiji Constitution adopted a doctrine of “national polity” which claimed that the “Emperor system was unique in the world.” But this doctrine did not exist in ancient times and was the single-handed creation of YOSHIDA Shoin dating to the closing years of the Tokugawa Period. Because of this doctrine of the emperor, the Meiji Constitution was referred to as a constitution granted by the emperor. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
- INOUE Kowashi referred to the rule of the emperor as *shirasu* (court). By making this doctrinal distinction, he intended to resolve the conflict between the role of the emperor as the overseer of all governing power and the role of parliamentary politics. (SAKAMOTO Takao, Informant/151/22.Mar.2001)

- When the Meiji Constitution was being drafted, the main focus of attention was on establishing a stable political foundation to counter the political forces that were emerging from the Freedom and People's Rights Movement. The House of Representatives was created to reflect the popular will. But a variety of arrangements were made to keep it in check. One of these was the institution of the House of Peers appointed by the emperor to function within the Diet. Another measure was to design the system so that there would be a relatively deep divide between the Diet and the emperor's powers of government and administration. (MORITA Akira, Informant/153/8.Nov.2001)
- The imperial rescript issued in September 1876 on the drafting of the national constitution was meant to integrate Japan's political tradition with a modern constitution, and placed importance on the character of the nation. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- The chief architects of the Meiji Constitution, ITO Hirobumi, INOUE Kowashi, and KANEKO Kentaro, recognized that a constitution must be founded on history and tradition. However, they did not by any means subscribe to reactionary positions. Rather, they believed that the "Japanese perspective" should not be forgotten in formulating a modern constitution. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- Excluding those in government circles, I believe that everyone, including members of the Freedom and People's Rights Movement, felt that there was no contradiction between the rule of the emperor and democracy, or between the rule of the emperor and fundamental human rights. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)

2. The Emperor System and Constitutional Monarchy

(1) Comments concerning the emperor system in the Constitution of the Empire of Japan

<Comments by Members>

- Reading ITO Hirobumi's "Commentary on the Constitution," it is unlikely that a doctrine of constitutional monarchy could have evolved or been derived from the Meiji Constitution. (YAMAGUCHI Tomio, Member/JCP/154/4.July.2002/Politics Subcommittee)

<Comments by Informants>

- It can be said that the Meiji Constitution established a constitutional monarchy. (NISHI Osamu, Informant/147/24.Feb.2000)
- Imperial sovereignty is the most important fundamental principle of the Meiji Constitution. (NISHI Osamu, Informant/147/24.Feb.2000)
- In interpreting the Meiji Constitution, the UESUGI interpretation posits that because the emperor is the absolute sovereign, he is empowered to do anything. As opposed to this, MINOBE theorized that the emperor should not be a dictator and should listen to his state ministers and other advisory organs, as well as to the House of Representatives which reflected the views of the people. The MINOBE theory reflects a focusing on higher ideals and the essence of the nation, and a revising of the constitution by interpretation. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- When drafting the constitution, ITO Hirobumi adopted a constitutionalism similar to those of Europe and created a system of monarchy in accordance with the constitution. Rather than establishing a national religion, as Christianity was in Europe, he arrived at the emperor as the central axis of the nation. (KANG Sanjung, Informant/151/22.Mar.2001)
- Article 55 of the Meiji Constitution states that without the countersignature of a state minister, a decree will not have the effect of an imperial edict. In essence, this means that the political responsibility falls on the ministers. This establishes the advisory role of the ministers of state, and preserves and protects the inviolability of the emperor and relieves him from political and legal responsibility. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- The statement, "the Emperor is sacred and inviolable," in Article 3 of the Meiji Constitution is a very common provision under systems of constitutional monarchy. It means that the emperor in a constitutional monarchy is free from blame or

responsibility and is not answerable to his subjects. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)

- ITO Hirobumi envisaged the emperor system as a collective leadership structure that included ministers of state and Privy Counselors. In this context, the “emperor” is not a political actor, but rather the embodiment of certain political principles. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- One of the characteristics of the Meiji Constitution was the creation of separate spheres of power (powers which exist under the oversight of the emperor were compartmentalized). The fault of the system was that there was a lack of lateral linkage between separate compartments of power. Although it was the role of the emperor to bridge and integrate these compartments of power, it was understood that under the “standard procedures of the Constitution,” the emperor would refrain from performing this function. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- The elder statesmen, performed the functions of government on behalf of the emperor. However, as the elder statesmen died out, a void developed at the center of government. This void was one of the causes of the great tragedies of the Showa period because it allowed the military to proceed unchecked. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- I think the political system under both the Meiji Constitution and the present Constitution is a constitutional monarchy. The latter part of Article 4 of the Meiji Constitution states, “. . . and exercises them, according to the provisions of the present Constitution.” This could be interpreted as a provision designed to place restrictions on the powers of the monarch. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- According to the Meiji Constitution, the emperor is god. Absolute loyalty to the emperor and country were taught in schools. (KAKINOHANA Hojun, Speaker/154/22.Apr.2002/Okinawa Hearing)

(2) Other comments

<Comments by Members>

- I believe the emperor system was conceived in order to avoid the type of chaos evident in ancient China. I think it is necessary to uphold the wisdom of separating power from authority in order to safeguard our traditions. (NAKAYAMA Masaaki, Member/LDP/154/4.July.2002/Politics Subcommittee)

<Comments by Informants and Others>

- When referring to the emperor as “god,” the meaning of this is the concept of “God” which appears in the writings of MOTOORI Norinaga as follows: “the strange and mysterious force that is not of this world.” The concept of emperor can be traced back to one who presided over agricultural rites and ceremonies in ancient times. Then, we have a gradual accumulation of doctrines and ideas over time. Confucianism provided the idea of a benevolent and virtuous monarch. To this was added the idea of emperor as the protector and preserver of culture. Finally, Western thought introduced the concept of a constitutional monarch. (SAKAMOTO Takao, Informant/151/22.Mar.2001)
- In the Japanese system, there is a very apt separation between authority and power. Because the emperor is the fountainhead of authority, no matter what circumstances those in power may fall into, the continuity of the state is guaranteed. This is the wisdom of our nation. (YAGI Hidetsugu, Informant/154/4.July.2002/ Politics Subcommittee)
- Constitutional monarchy presupposes a “passive sovereign.” The emperor is an entity that transcends and is unrelated to government operations and responsibilities. In this way the emperor’s inviolability is ensured, and he can also function as a symbol that unites a nation with conflicting elements. In this system, the emperor is a ceremonial and spiritual entity. He is not a principal actor in government, but the source of spiritual support for the political system and the personification of political traditions. (YAGI Hidetsugu, Informant/154/4.July.2002/ Politics Subcommittee)

3. The Cabinet System under the Constitution of the Empire of Japan

<Comments by Members>

- Under the Meiji Constitution, the resignation of one Cabinet member meant the resignation of the entire Cabinet. Appointments of the Ministers of the Army and Navy gave rise to the problems of encroachment upon the authority of supreme command. (NAKAYAMA Masaaki, Member/LDP/154/4.July.2002/ Politics Subcommittee)
- Under the Meiji Constitution, the powers of the Cabinet, whose function was to advise the emperor, were much stronger than those of the Diet. I believe the authority of the Diet was merely a formality. (KANEKO Tetsuo, Member/SDP/154/4.July.2002/Politics Subcommittee)

<Comments by Informants and Others>

- Under the Cabinet system of the Meiji Constitution, the independence of the authority of supreme command was ensured. The military was thereby placed under the direct jurisdiction of the emperor and was removed from the political process. The Ministers of the Army and Navy who were members of the Cabinet, used this as a justification to exercise the right to report directly to the emperor. For this reason, the independence of the authority of supreme command became extremely significant. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- The prewar Privy Council frequently obstructed the progress of democracy and became a headache for the government. (KITAOKA Shinichi, Informant/147/6.Apr.2000)
- ITO Hirobumi and INOUE Kowashi had different ideas about the emperor. They also disagreed on the relation between the Cabinet system and the emperor. As a result, the organization of the Cabinet under the Meiji Constitution was a product of a compromise between their two views. Therefore, there were ambiguities in the subsequent interpretation and application of the Constitution. (YAGI Hidetsugu, Informant/154/4.Jul.2002/Politics Subcommittee)
- At first, there was considerable uncertainty concerning the interpretation and application of the provisions of Article 55 of the Meiji Constitution. ("The respective Ministers of State shall give their advice to the Emperor, and be responsible for it.") Later, emphasis came to be placed on "advice to the Emperor," and the interpretation and application of the provision generally went in the direction of making the Cabinet the principal actor in the political process. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)

- We must keep in mind that because the prime minister was given only very limited powers in government, the military was able to intervene in politics. This intervention was facilitated by the system of appointment of active military officers to the posts of Ministers of the Army and Navy, and was justified on the grounds of the independence of the authority of supreme command. This intervention brought about the tragedy of the negation of the Meiji Constitution's entire structure of government. I feel that to avoid this tragedy, it would have been necessary to give more power to the prime minister. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- In the operation of the Meiji Constitution, there were certain instances where the Diet held a minister to be politically responsible. The generally accepted interpretation at the time was that the Diet was in fact empowered to hold a minister accountable. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)

4. Evaluation of the Constitution of the Empire of Japan

(1) The Constitution of the Empire of Japan

<Comments by Members>

- I believe the Meiji Constitution can be faulted for its acknowledgment of the independence of supreme command. Another defect was that by placing too many matters under the jurisdiction of the emperor, the Meiji Constitution was overly dependent on the rule of the emperor. (OKUNO Seisuke, Member/LDP/154/4.July.2002/Politics Subcommittee)
- The existence of the Meiji Constitution was one of the factors which led our country into war and the misery of defeat. I think the Meiji Constitution was flawed. (SUGIURA Seiken, Member/LDP/147/9.Mar.2000)
- Somewhere along the way, the concept that the nation belongs to the people was transformed into the notion that the nation belongs to the emperor. From there the development of the nation took priority over all else. This state of affairs became the cause of great misfortune for Japan. In an effort to rectify this, Japan threw out all that was bad and all that was good in a single stroke. (OTA Akihiro, Member/NK/154/23.May.2002/Human Rights Subcommittee)
- The Constitution of the Empire of Japan was totally incompatible with the respect for fundamental human rights. (SASAKI Rikukai, Member/JCP/147/24.Feb.2000)
- When examining the Meiji Constitution from a historical perspective, in addition to its legal structure, we must study the role that the Constitution played in history. (YAMAGUCHI Tomio, Member/JCP/154/4.July.2002/Politics Subcommittee)
- I do not consider the form of government under the Meiji Constitution to have been a constitutional monarchy. The Meiji Constitution declares the absolute power of the emperor, and it has no common foundation with the present Constitution of Japan. It should be treated as one of the constitutions and principles that are rejected in the Preamble of the new Constitution. (YAMAGUCHI Tomio, Member/JCP/154/25.July.2002)
- It can be said that because the Meiji Constitution was not revised for 57 years, it no longer conformed with the changes in society, and became unable to adequately deal with problems such as human rights. However, if you take into consideration the condition and the developmental stage of the society of the time, the Meiji Constitution did fulfill a certain role by creating and maintaining a stable order. (ABE Motoo, Member/NCP/147/6.Apr.2000)

- The timing of the adoption of a constitutional monarchy in Japan and the international environment it was in were very significant. At that time, the imperialistic powers of the West were becoming more powerful, and Japan needed to establish unity and stability in its society. We can point to various weaknesses in the Meiji Constitution, such as the independence of supreme command and the absence of provisions concerning human rights. However, I believe the biggest problem was that the Constitution was not revised even once during the Meiji period and into the Showa period. (ABE Motoo, Member/NCP/147/27.Apr.2000)

<Comments by Informants and Others>

- The Constitution of the Empire of Japan provided a system that was capable of supporting a responsible government with fully democratic tendencies. (AOYAMA Takenori, Informant/147/24.Feb.2000)
- As seen in the views of ITO Hirobumi and HOZUMI Yatsuka, the Meiji Constitution and the Imperial Household Law were considered to be of equal importance. The Meiji Constitution was not designed for the control and management of the affairs of state. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- During the period of ten years prior to being defeated in war, Japan essentially functioned without a constitution as evidenced by the enactment of the National Mobilization Law and the creation of the Taisei Yokusankai (Imperial Rule Assistance Association). Even the Meiji Constitution had been set aside during this period. (HASEGAWA Masayasu, Informant/147/23.Mar.2000)
- As early as in 1915, SAITO Takao pointed out the defect in the Meiji Constitution which he said could support an extreme form of monarchy depending on how its provisions were applied. Thought should have been given to revising the Constitution. (MATSUMOTO Ken'ichi, Informant/150/7.Dec.2000)
- The Meiji Constitution was the world's first constitution to be enacted independently by a non-white nation, and it generated tremendous power in putting Japan on the fast track to modernization. (WATANABE Shoichi, Informant/150/7.Dec.2000)
- The two main defects of the Meiji Constitution were: (1) it contained no explicit provisions concerning the prime minister and cabinet; (2) supreme command was given powers that came from being placed under the immediate jurisdiction of the emperor. (WATANABE Shoichi, Informant/150/7.Dec.2000)
- I believe the Meiji Constitution assigned too many powers to be the prerogative of the emperor. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- Although the Meiji Constitution contained various problems, such as the assignment of supreme power, it was never once revised. This rigid stance may have

been the cause of the tragic events of latter years. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)

- In the schools today, the order established by the Meiji Constitution is depicted as one of absolutism under the emperor system. Because of this mistaken understanding, the people's opinion of the Meiji Constitution is extremely low. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- Making the Meiji Constitution look bad is just an attempt to make the present Constitution look better. Such arguments that seek to idealize the present Constitution unfairly degrade the Meiji Constitution. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- It is certain that the Meiji Constitution emphasized a system native to Japan. However, it did not disregard universal elements. (YAGI Hidetsugu, Informant/154/4.July.2002/Politics Subcommittee)
- In a booklet distributed by the government around 1935, the people are told to pledge absolute allegiance to the emperor who descends from an unbroken imperial line. The booklet also speaks of extending the nation of one big family centered on the emperor in all directions through the spirit of universal brotherhood. As for the role of women, the booklet rejects the Western model of the individualized woman who is a partner in marriage. Instead, it advocates a suffocating vision for Japanese women who are to resign themselves to the household which they serve and to make patience their virtue. (KUBOTA Manae, Speaker/151/16.Apr.2001/Sendai Hearing)

(2) Comments comparing the Meiji Constitution to the current Constitution
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<Comments by Members>

- For the sake of argument, let us assume that postwar Japan had retained the Meiji Constitution. Would Japan have been recognized and been able to act in the international society during the second half of the 20th century? Consider this question and the anachronism of various positions becomes immediately apparent. Arguments that the Constitution was imposed upon Japan and that Japan should formulate its own constitution are in fact rooted in an anachronistic wish to return to the Meiji Constitution. (SENGOKU Yoshito, Member/DPJ/151/14.June.2001)
- I understand that the Meiji Constitution and the current Constitution are not conflicting, but rather have various elements in common. I believe that in the current Constitution the emphasis is on universality, while the Meiji Constitution emphasized a system native to Japan. But both are strong constitutions in their own right. (SAITO Tetsuo, Member/NK/154/4.July.2002/Politics Subcommittee)

- The Preamble of the current Constitution states, “We reject and revoke all constitutions, laws, ordinances, and rescripts in conflict herewith.” This is a statement of the principles of popular sovereignty and pacifism. For this reason, I do not find it possible to say the present Constitution is linked to or succeeds the Meiji Constitution. (YAMAGUCHI Tomio, Member/JCP/154/4.July.2002/ Politics Subcommittee)
- Japan took the road to war because the liberal aspects of the Meiji Constitution were set aside. I believe that the present Constitution, which firmly espouses pacifist principles, exists on the basis of critical reflection on that history. (KANEKO Tetsuo, Member/SDP/154/4.July.2002/Politics Subcommittee)

<Comments by Informants and Others>

- The emperor as god incarnate provided the core around which the Meiji Constitution was created. From there, it moved toward imperial sovereignty, patriarchal authority and to the building of the Greater East Asian Co-Prosperity Sphere. In contrast, the current Constitution finds its core in the dignity of the individual. From there, it proceeds to develop the principles of popular sovereignty, respect for fundamental human rights, and perpetual peace. (KAKINOHANA Hojun, Speaker/154/22.Apr.2002/Okinawa Hearing)

PART 4

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Part 4 Reference Material

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The Diet Law (Law No. 79 of 1947) (Promulgated January 20, 2000)

Chapter XI-II. Research Commission on the Constitution

Article 102-VI. In order to conduct broad and comprehensive research on the Constitution of Japan, a Research Commission on the Constitution shall be set up in each House.

Article 102-VII. Matters related to the Research Commission on the Constitution, except for the matter provided for in the preceding article, shall be decided by each House.

Regulations of the Research Commission on the Constitution of the House of Representatives

(Objects of setting up the Commission)

Article 1. The Research Commission on the Constitution shall conduct broad and comprehensive research on the Constitution of Japan.

(Written Report)

Article 2. Upon completion of the research mentioned in the preceding article, the Research Commission on the Constitution shall prepare a written report on the process and the result of the research, and the Chairman of the Commission shall submit it to the Speaker.

2. The Research Commission on the Constitution may prepare an interim written report on the process of its research, and the Chairman of the Commission may submit it to the Speaker.

3. The Speaker shall have the written report mentioned in Paragraph 1, and any interim report, printed and distributed to each Member of the House.

(Number of members)

Article 3. The Research Commission on the Constitution shall consist of 50 members.

(Members)

Article 4. Members of the Commission shall be appointed by the House at the beginning of a session, and shall hold their membership until their term of office as Members of the House expires.

2. Membership shall be allocated to political parties and groups in the House in proportion to their numerical strength.

3. If, after members have been appointed in accordance with the provision of the preceding paragraph, there arises a need for redistribution of the membership so allocated by reason of a change in the numerical strength of the political parties and groups, the Speaker may alter the membership with the consent of the Committee on Rules and Administration, notwithstanding the provision of Paragraph 1 above.

4. With respect to members, the provisions of Articles 37, 39 and 40 of the Rules of the House of Representatives shall apply mutatis mutandis.

(Chairman)

Article 5. The Chairman of the Commission shall be elected by its members from among themselves.

2. With respect to the chairman, the provisions of Articles 101 and 102 of the Rules of the House of Representatives shall apply mutatis mutandis.

Article 6. The chairman shall arrange the business of the Commission, maintain order in it, and represent it.

(Directors)

Article 7. The Commission shall have one or more directors who are elected by its members from among themselves.

2. The chairman may hold a meeting of directors to consult on the management of the Commission.

3. With respect to directors, the provision of Paragraph 2, Article 38 of the Rules of the House of Representatives shall apply mutatis mutandis.

(Subcommittees)

Article 8. The Commission may set up subcommittees.

2. With respect to subcommittees, the provision of Article 90 of the Rules of the House of Representatives shall apply mutatis mutandis.

(Meetings)

Article 9. The Commission may hold a meeting regardless of whether the Diet is in or out of session.

Article 10. The chairman shall fix the date and the time for a meeting of the Commission.

(Quorum)

Article 11. No business may be transacted and no decision taken in the Commission unless at least one half of its members are present.

(Commission members' speech)

Article 12. Commission members may freely ask questions and express opinions on the subject under consideration.

(Hearing opinions from Members not on the Commission)

Article 13. With respect to a measure or matter under research, the Commission may request the attendance of any Member not on the Commission to hear his or her opinion, when the Commission deems it necessary or when a Member not on the Commission asks to speak.

(Sending Commission members)

Article 14. When the Research Commission on the Constitution desires to send out Commission members for investigation, the approval of the Speaker must be obtained.

(Presence of Minister(s) of State to give explanation)

Article 15. The Research Commission on the Constitution may request, through the Speaker, when the Commission deems it necessary, a Minister of State, the Chief Justice of the Supreme Court or the President of the Board of Audit to attend its meeting and give an explanation.

(Submission of reports or records)

Article 16. The Commission is authorized to demand through the Speaker that the Cabinet, offices of government and public entities, and others, produce necessary reports or records.

(Open Hearings)

Article 17. The Commission may hold an open hearing, when it deems this necessary for its research.

2. With respect to open hearings, the provisions of Articles 78 and 79 of the Rules of the House of Representatives shall apply *mutatis mutandis*.

(Informants)

Article 18. The Commission may, if necessary for its research, request the attendance of an informant to hear his or her views.

(Maintenance of Order)

Article 19. If a member conducts himself or herself in a disorderly manner at a meeting of the Research Commission on the Constitution, or impairs the dignity of the House, the chairman shall restrain him or her or cause him or her to retract his or her remarks. If the chairman's order is not obeyed, the chairman may forbid the member to speak until the day's Commission meeting is over, or cause him or her to leave the Commission's meeting room.

(Recess and Adjournment)

Article 20. The chairman may declare a recess or adjourn the meeting, if the business of the Commission goes out of control or if a case for discipline occurs.

(Report and Other Measures on a Disciplinary Case)

Article 21. If the chairman considers that a disciplinary case has occurred in a meeting of the Commission, the chairman shall report it to the Speaker for disciplinary action.

2. With respect to a disciplinary case that has occurred in a meeting of the Commission, the provision of Article 235 of the Rules of the House of Representatives shall apply *mutatis mutandis*.

(Opening to the Public, and Admission of Visitors)

Article 22. Meetings of the Research Commission on the Constitution shall be public. However, the Commission may hold closed meetings if it so decides.

2. For the maintenance of order, the chairman may limit the number of visitors to be admitted, or order any of the visitors to leave the meeting room.

(Minutes of Proceedings)

Article 23. The Research Commission on the Constitution shall produce minutes of the proceedings, and keep them in the House after the chairman and the directors have put their names to them.

2. The minutes of a meeting shall bear the names of those present, the titles of the measures or matters submitted to the meeting, the Order of the Day and other important details.

3. The minutes shall be printed and distributed to each Member of the House. However, any remarks which the chairman has ordered to be retracted under the provisions of Article 19 shall be excluded.

(Office for the Research Commission on the Constitution)

Article 24. An Office shall be established in the Research Commission on the Constitution to handle the Commission's business.

2. There shall be one Director General of the Office and other necessary personnel.

3. The Director General of the Office shall administer the business of the Office under the direction of the Chairman of the Commission.

(Detailed Rules)

Article 25. Besides the matters provided for under these Regulations, the Order of the Day and other necessary matters related to the administration of the Commission's business and others shall be provided for by the decision of the Research Commission on the Constitution.

Supplementary Provision

These Regulations shall become effective on the day of enforcement of the Law to Amend Part of the Diet Law (Law No. 118 of 1999).

(For reference)

Report of the Chairman of the Subcommittee on Amendment to the Diet Law (145th Diet, July 6, 1999, House of Representatives Committee on Rules and Administration, NAKAGAWA Hidenao, Subcommittee Chairman)

In my capacity as Chairman of the Subcommittee on Amendment to the Diet Law, I hereby present my report with respect to the matter of the partial amendment of the Diet Law and the matter of the formulation of the Regulations of the Research Commission on the Constitution.

I will first describe the background to the amendment.

On March 2 the secretaries general of the Liberal Democratic Party, Democratic Party of Japan, New Komeito, Liberal Party, and Reformers' Club requested that discussions

be conducted with a view to reaching a conclusion within the current Diet Session to make possible the establishment of a research commission on the Constitution of Japan without authority to submit bills to the House of Representatives. In response to this, over the two months since March 24, five meetings have been held within the Council on the Parliamentary System on the subject of the establishment of the Research Commission on the Constitution, but unanimous agreement has not been reached within the Council.

The chairman reported to that effect to the Speaker, whereupon the Subcommittee on Amendment to the Diet Law was once again requested to conduct very careful deliberations. Since June 8 the subcommittee has convened five times and engaged in careful and intense discussions, and has formulated and agreed upon the draft that you have before you today.

Next I will describe the content of the reform, in order.

First, with respect to the bill to partially amend the Diet Law, the Research Commission on the Constitution will be established in the House of Representatives for the purpose of conducting broad-ranging and comprehensive research relating to the Constitution.

Matters relating to the Commission will be determined by means of decisions taken by the House of Representatives.

The amendment bill will be put into effect on the date of the convening of the next ordinary Diet Session.

Next, the draft Regulations of the Research Commission on the Constitution will provide for the following.

First, upon completion of its research the Commission will prepare a written report on the process and the result of the research, and submit it to the Speaker, and may also submit an interim written report.

Second, the Commission will consist of 50 members, and membership will be allocated to political parties and groups in the House in proportion to the number of their Members.

Third, the Chairman of the Commission will be elected by its members from among themselves, and a number of directors will also be appointed. To discuss the management of the Commission, meetings of directors may be held, and the Commission may also establish subcommittees.

Fourth, the Commission may meet at any time, irrespective of whether or not the Diet is in session.

In addition, the Commission may request the attendance of any Member not on the Commission to hear his or her opinion if the Commission deems it necessary, or if a Member not on the Commission asks to speak, and regulations as to the quorum and other matters will be laid down.

Fifth, meetings of the Commission will be public, but it may hold closed meetings if it so decides.

Other requisite regulations will be laid down with respect to such matters as the relationship with the government, admission of visitors, the keeping of minutes, and the Office, and other detailed rules will be laid down by decisions by the Commission itself.

These draft regulations will be applied as of the day on which the bill to partially amend the Diet Law is put into effect.

That ends my report, and I also report hereby that at a meeting of directors held today on the basis of the course of the discussions, the following three points were agreed upon.

1. Confirmation that the Commission shall not have the authority to submit bills.
2. The Commission shall conduct its research for a period of approximately five years.
3. The Commission Chairman shall appoint a deputy chairman from among the Directors of the largest opposition party.

Explanation of Purport of the Bill to Partially Amend the Diet Law and the Draft Regulations of the House of Representatives Research Commission on the Constitution (145th Diet, July 6, 1999, House of Representatives Committee on Rules and Administration, NAKAGAWA Hidenao, Chairman)

I will now give you an explanation of the purport of the two proposals that have just been placed on the agenda.

I will first describe the background to the amendment.

On March 2 the secretaries general of the Liberal Democratic Party, Democratic Party of Japan, New Komeito, Liberal Party, and Reformers' Club requested that discussions be conducted with a view to reaching a conclusion within the current of the Diet Session to make possible the establishment of a research commission on the Constitution of Japan without authority to submit bills to the House of Representatives. In response to this, over the two months since March 24, five meetings have been held within the Council on the Parliamentary System on the subject of the establishment of

the Research Commission on the Constitution, but unanimous agreement has not been reached within the council.

The chairman reported to that effect to the Speaker, whereupon the Subcommittee on Amendment to the Diet Law was once again requested to conduct very careful deliberations. Since June 8 the subcommittee has convened five times and engaged in careful and intense discussions, and has devised a definite plan.

Next I will describe the content of the reform, in order.

First, with respect to the bill to partially amend the Diet Law, the Research Commission on the Constitution will be established in the House of Representatives for the purpose of conducting broad-ranging and comprehensive research relating to the Constitution.

Matters relating to the Commission will be determined by means of decisions taken by the House of Representatives.

The amendment bill will be put into effect on the date of the convening of the next ordinary Diet Session.

Next, the draft Regulations of the Research Commission on the Constitution will provide for the following.

First, upon completion of its research the Commission will prepare a written report on the process and the result of the research, and submit it to the Speaker, and may also submit an interim written report.

Second, the Commission will consist of 50 members, and membership will be allocated to political parties and groups in the House in proportion to the number of their Members.

Third, the Chairman of the Commission will be elected by its members from among themselves, and a number of directors will also be appointed. To discuss the management of the Commission, meetings of directors may be held, and the Commission may also establish subcommittees.

Fourth, the Commission may meet at any time, irrespective of whether or not the Diet is in session.

In addition, the Commission may request the attendance of any Member not on the Commission to hear his or her opinion if the Commission deems it necessary, or if a Member not on the Commission asks to speak, and regulations as to the quorum and other matters will be laid down.

Fifth, meetings of the Commission will be public, but it may hold closed meetings if it so decides.

Other requisite regulations will be laid down with respect to such matters as the relationship with the government, admission of visitors, the keeping of minutes, and the Office, and other detailed rules will be laid down by decisions by the Commission itself.

These draft regulations will be applied as of the day on which the bill to partially amend the Diet Law is put into effect.

That ends my report.

Within the Committee on Rules and Administration, by majority vote today by the Liberal Democratic Party, Democratic Party of Japan, New Komeito, Reformers' Club, and Liberal Party, the two proposals were compiled as drafts and submitted.

I commend the drafts to all Members for their approval.

Explanation of Motion to Amend in the House of Councillors (145th Diet, July 26, 1999, House of Councillors Committee on Rules and Administration, UENO Kohsei)

On behalf of the Liberal Democratic Party, Democratic Party of Japan and Shin-Ryokufukai, New Komeito, and Liberal Party, I hereby submit a motion to amend the bill to partially amend the Diet Law.

As is set out in the draft before you, the amendment provides for the establishment of a research commission on the Constitution in the House of Councillors for the purpose of conducting broad-ranging and comprehensive research relating to the Constitution, and for all matters relating to the said commission to be determined by means of decisions taken by the House of Councillors.

In addition, with respect to the amendment of the provisions of laws relating to the annual allowances, travel expenses, and other allowances of Diet Members and to the travel expenses and daily allowances of informants and others requested to appear at a meeting in the House, necessary amendments will be made.

That is the purport of the draft amendment.

I commend the proposal to all Members for their approval.

2. Allocation of Commission Directorships to Each Political Party and Group and Changes of Directors

Date of change	No. of Directors
	Appointed
	Name
	Resigned

Jan. 20, 2000	LDP: 5					---	DPJ: 2		NK-RN: 1	LP: 1
	Jan. 20, 2000	Jan. 20, 2000	Jan. 20, 2000	Jan. 20, 2000	Jan. 20, 2000		Jan. 20, 2000	Jan. 20, 2000	Jan. 20, 2000	Jan. 20, 2000
	AICHI Kazuo	SUGIURA Seiken	NAKAGAWA Shoichi	HANASHI Nobuyuki	YASUOKA Okiharu	---	KANO Michihiko	SENGOKU Yoshito	HIRATA Yoneo	NODA Takeshi
										Apr. 5, 2000
Apr. 8, 2000	LDP: 5					---	DPI: 2		NK-RN: 1	JCP: 1
	AICHI Kazuo	SUGIURA Seiken	NAKAGAWA Shoichi	HANASHI Nobuyuki	YASUOKA Okiharu	---	KANO Michihiko	SENGOKU Yoshito	HIRATA Yoneo	Apr. 20, 2000
										SASAKI Rikukai

House of Representatives Dissolved

July 4, 2000	LDP: 4				---	DPJ: 3			NK: 1	LP: 1
	July 5, 2000	July 5, 2000	July 5, 2000	July 5, 2000		July 5, 2000	July 5, 2000	5. July 2000	July 5, 2000	July 5, 2000
	ISHIKAWA Yozo	TAKAICHI Sanae	NAKAGAWA Shoichi	HANASHI Nobuyuki	---	EDANO Yukio				
						Sept. 28, 2000	KANO Michihiko	SENGOKU Yoshito	AKAMATSU Masao	SHIOTA Susumu
						Sept. 28, 2000				
						SHIMA Satoshi				
		Jan. 31, 2001				Feb. 8, 2001			Jan. 31, 2001	Feb. 8, 2001
Jan. 31, 2001	LDP: 5					DPJ: 3			NK: 1	---
	ISHIKAWA Yozo	Feb. 8, 2001			Feb. 8, 2001	Feb. 8, 2001		SENGOKU Yoshito		
					SHINDO Yoshitaka		KANO Michihiko			
					May 7, 2001					
					May 17, 2001					
					TSUSHIMA Yuji			Oct. 11, 2001	SAITO Tetsuo	
								Oct. 11, 2001		
								HOSOKAWA Ritsuo		
	Feb. 7, 2002				Jan. 18, 2002	Feb. 7, 2002	Feb. 7, 2002	Jan. 18, 2002	Feb. 7, 2002	
	Feb. 7, 2002				Feb. 7, 2002	Feb. 7, 2002	Feb. 7, 2002	Feb. 7, 2002	Feb. 7, 2002	
		YASUOKA Okiharu	NAKAGAWA Shoichi	HANASHI Nobuyuki	MOTEGI Toshimitsu	NAKAGAWA Masaharu				
					Mar. 11, 2002					
					Mar. 19, 2002					
					NUKAGA Fukushima		NAKANO Kansei	SHIMA Satoshi	AKAMATSU Masao	---
	Oct. 2, 2002				Oct. 24, 2002	Oct. 24, 2002	Oct. 24, 2002	Oct. 17, 2002		
	Oct. 24, 2002				Oct. 24, 2002	Oct. 24, 2002	Oct. 24, 2002	Oct. 24, 2002		
	SUGIURA Seiken				NISHIDA Mamoru	SENGOKU Yoshito		OIDE Akira		

3. Chairman Nakayama's Speech upon Assuming Office and other Speeches to the Research Commission on the Constitution

(1) Speech upon Assuming the Chairmanship

Chairman NAKAYAMA's speech—147th session (January 20, 2000)

I am pleased to welcome you here today.

It is both an honor and a responsibility for me to assume office as chairman of the Research Commission on the Constitution.

As you are well aware, Research Commissions on the Constitution have been set up in both the House of Representatives and the House of Councillors, under the amended Diet Law, to conduct broad and comprehensive research on the Constitution of Japan.

The Diet debated constitutional revision very briefly under the occupation of the Allied Forces after Japan accepted the Potsdam Declaration, which contained the terms of unconditional surrender, on August 15, 1945 at the end of the last World War.

To be specific, a draft Constitution of Japan was presented to the 90th Imperial Diet session on June 20, 1946 as a Government-sponsored bill to revise the Constitution of the Empire of Japan. In the House of Representatives, the bill was put to interpellations after an explanation on its purport was given in the plenary sitting on June 25. The interpellation session was closed on June 28. On the same day, the bill was referred to a 'Committee on Revision of the Constitution of the Empire of Japan' composed of 72 members appointed by the Speaker. Committee consideration lasted from July 1 to 23. Thereafter, a subcommittee made up of 14 members, including Chairman Hitoshi Ashida, worked on adjusting draft amendments to the bill proposed by political parties and groups in the House, and then the Committee on Revision of the Constitution approved joint amendments on August 21. The amended bill was approved in the plenary sitting on August 24. The bill to revise the Constitution was finalized when the House of Representatives assented in its plenary sitting to the bill sent back by the House of Peers on October 7. Thus, the present Constitution of Japan was promulgated on November 3, 1946. This story about the enactment of the new Constitution is well known.

Over 50 years have passed since that day. During this period, both domestic and international affairs have undergone immensely great changes, to an extent far beyond what could have been imagined at the time of the enactment. On the threshold of a new century, the National Diet is required, as the highest organ of the state power, to conduct debates on the fundamental framework of our State.

It is very important for us to research and study, through discussions in this Research Commission, a future vision of Japan as a new state seen from the viewpoint of the entire nation, while facing up to the changed reality and holding firm to the ideals of

respect for the human rights of individuals and the sovereignty of the people; and to determine not to become a state of aggression. Therefore, I believe that the task entrusted to this Research Commission is of great moment.

I will count on all colleague members of the Commission for valuable advice and cooperation, and pledge to do all in my power to manage the business of this Commission so that it proceeds in a smooth and equitable way, and I look forward to your contributions.

Chairman NAKAYAMA's speech—148th session (July 5, 2000)

On this occasion, I would like to make a short comment.

Upon the recommendation of members of the Research Commission of the Constitution, I again assumed the responsibility of chairman of this Commission prior to the election. This is a great honor for me.

As you are well aware, Research Commissions on the Constitution were set up in both the House of Representatives and the House of Councillors in the 147th session of the Diet in order to conduct broad and comprehensive research on the Constitution of Japan.

In the 147th session, after hearing the basic positions regarding the Constitution of members representing the different political groups, we heard from ten informants concerning the formulation of the Constitution of Japan in order to reach a common understanding of the historical facts. A total of 103 persons from all the parties made statements, issues related to the formulation of the Constitution were discussed, and our research on this theme was completed.

Next, we heard an explanation from an official of the Supreme Court concerning the major postwar judgments of unconstitutionality, a question-and-answer session was held, and the system of judicial review of the constitutionality of legislation in Japan and its operation were clarified.

In the course of these discussions, a total of 151 members stated their opinions and total length of the meetings was over 37 hours. These were essentially preliminary discussions and full-scale research will be conducted by all the members of this Commission from this session onwards.

As in the previous session, I pledge to do all in my power to manage the business of the Commission so that it proceeds in a smooth and equitable way and I count on all colleague members for their advice and cooperation.

(2) Speech regarding the Conduct of Brainstorming Discussions

147th Session, 8th Meeting (April 27, 2000): "Towards Constitution Day"

I would like to make a short comment before we begin our discussion.

As all members are aware, May 3 is the first Constitution Day since the Research Commission on the Constitution was set up in both the House of Representatives and the House of Councillors. Today, in advance of Constitution Day, I think it will be particularly significant to hear the candid opinions of members regarding the Constitution of Japan, which is the basic law of our country.

Since this House of Representatives Research Commission on the Constitution was set up on January 20 at the beginning of this Diet session, we have heard the views of representatives of all the political groups as we embark upon our deliberations and have exchanged opinions with the ten informants invited to these meetings. Through the question-and-answer sessions with the informants at each meeting, although evaluations have differed according to members' different political stances, we are reaching a common understanding of the objective facts about how the Constitution of Japan was formulated.

Fifty-three years have already passed since the formulation and enactment of the Constitution of Japan. During this time, the three basic ideals of the Constitution - respect for individual human rights, sovereignty of the people, and the commitment never again to become an aggressor state - have become widely diffused and taken firm root among the Japanese people. However, it is also true that the situation inside and outside Japan has changed more than could possibly have been imagined when the Constitution was enacted.

Since the end of the Cold War, the world has entered an era of fierce borderless competition and market expansion through free trade. Amid the rapid emergence of an aging society with fewer children and the breaking down of economic borders, the Japanese economy remains in recession. We now have to discuss very seriously basic issues such as how we can achieve the regeneration of Japan, what kind of global peacekeeping role Japan should play as a member of the United Nations, and how it should respond as a nation in Northeast Asia in the event that a guarantee of collective security in this region is formed.

Regarding these issues it is the mission of the Diet, the supreme organ of the national constitution, to conduct broad and comprehensive research on the Constitution of Japan and to promptly report the results of this research to the Japanese people,

As general questions that we should research and investigate, the 10 questions put forward by the research commission on the Constitution set up in the Cabinet in the late 1950s and early 1960s have lost none of their importance. These questions were: (1) What kind of constitution should the Constitution of Japan be? (2) What attitude

should be taken regarding the revision of the current Constitution? (3) What approach should be taken toward the Emperor system? (4) What system of self-defense should Japan have? (5) What approach should be taken toward fundamental human rights? (6) What should be the fundamental and organizational role of politics? (7) How should judicial power be organized and limited? (8) What approach should be taken toward local autonomy? (9) What kind of system should there be to deal with national or international emergencies? (10) What attitude should the Constitution take toward the political parties and elections that form the basis of the political system?

In addition to these questions, there is one other thing that we must not forget. This is that the Constitution belongs to the people.

As chairman of the Research Commission on the Constitution, I have aimed to realize a Commission that is in step with the people. In this Research Commission, as members of the Diet, we have to recognize that, based on the premise of the sovereignty of the people, Article 96 of the Constitution states that if two-thirds of Diet members elected by the people vote for a proposal to amend the Constitution, its acceptance shall depend on the result of a referendum of the people. We members of the Diet therefore have a great responsibility.

I very much hope we will have a fruitful meeting today and would now like to ask you to commence this open discussion.

149th Session, 1st Meeting (August 3, 2000): “Future Proceedings of the Research Commission on the Constitution”

Before we commence our discussion, I would like to make a short comment.

This Research Commission on the Constitution was set up with the convening of the Diet on January 20 this year. Since then, we have conducted research mainly on the formulation of the Constitution of Japan and postwar judgments of unconstitutionality by the Supreme Court, and have now completed our research on how the Constitution was formulated. Please refer to the outline of the research so far that has been distributed to you.

The Commission members newly appointed after the general election will continue with this research and, based on the results we have achieved so far, I hope you will take the discussions to an even deeper level.

As you are aware, since the end of the Cold War, the world has entered an era of fierce borderless competition and market expansion through free trade.

However, the future of the Japanese economy remains unclear, and citizens cannot rid themselves of anxiety about the future.

In particular, with the simultaneous aging of the population and the declining birthrate, it is estimated that Japan's population structure in fifty years' time will be that of a super-aging society in which roughly one third of the population are aged 65 or over. If this trend continues, economic growth will be further slowed down by the resulting decrease of the labor force and decline in the savings rate, the burden on the working generation through taxes and social insurance will increase, basic living services will fall into decline, and local communities will suffer serious adverse effects. This is clearly a very urgent problem that could even lead to the disintegration of Japan as a nation in the 21st century.

With the progress of globalization, Japan has also had to face problems such as the horizontal division of labor with countries in the same region and the protection of domestic corporations. We are under considerable pressure to implement radical economic structural reforms to strengthen industrial competitiveness, create employment and reform the labor market, and review policies regarding SMEs, including support for the establishment and development of creative SMEs.

Apart from this, there are countless other vital issues that require a precise and speedy grasp of the situation and sound political judgment. For instance, we have to consider what kind of global peacekeeping role Japan should play as a member of the United Nations and how it should respond as a nation in Northeast Asia in the event that a guarantee of collective security of this region is formed, what approach it should take to national crisis management, and how it should respond to the issue of the protection of individual privacy in the information society. In addition, we have to consider how to educate people so that human sensibilities are fostered in this information society. We also must deal with the question of bioethics in relation to reproductive and genetic technology, as a result of the amazing pace of progress made in science and technology, respond to global environmental problems, and examine how a society in which men and woman can support each other and participate equally should be formed.

As chairman of this Commission, I strongly hope that you will conduct broad and comprehensive research and discussions on the Constitution from the standpoint of the Japanese people as a whole, bearing in mind the current situation of Japan I have just outlined.

The directors of this Research Commission on the Constitution have agreed that we research the theme "a vision for Japan in the 21st century" from September onwards. Bearing this agreement in mind, I would also like to hear today members' candid opinions on how this Commission should proceed from now on.

154th Session, 3rd Meeting (April 25, 2002): "The Security of Japan"

As we have just heard in the report from our dispatched members, many opinions were stated at the Open Hearing in Okinawa regarding national security and Japan's

emergency response legislation in relation to the three bills submitted to the Diet regarding Japan's response to a armed attacks.

According to the report of the 1964 Cabinet Research Commission on the Constitution, an outline of which was distributed to you at the beginning of this Diet session, the members of that Commission agreed unanimously that it was necessary that measures should be promptly taken in response to a national emergency, including not only wars but also natural disasters and economic chaos. However, while some thought that a basic provision stipulating such measures should be included in the Constitution, others believed that such a provision was not necessary.

Now, almost 40 years after this report of the Cabinet Research Commission on the Constitution was submitted, the world situation has changed considerably. Based on the discussions at the Okinawa Open Hearing and other materials, I hope that we will have a lively discussion today, focusing in particular on Japan's national security.

(3) Comments upon the Closing of the Session

Chairman NAKAYAMA's speech—147th session, 10th Meeting (May 25, 2000)

On this occasion, I would like to make a short comment.

With 24 days to go until the current Diet session closes, our Research Commission on the Constitution has come to hold its 10th meeting. So, I would like to review and report on the course which our research has been following so far.

The Commission was set up on January 20 (2000 throughout) upon the convening of a Diet session. The first meeting was held on the same day to elect its chairman and directors from among Commission members.

On February 17, to start its research activities, this Commission heard opinions from six members representing different political groups in the House.

Since February 24, we have been conducting research by hearing the views of invited informants, and having question-and-answer sessions, to ascertain the details of how the Constitution of Japan was formulated and enacted.

So far ten informants have been invited to our meetings, and in the five Commission meetings in five Commission meetings held on February, March 9, March 23, April 6 and April 20, a total of 64 Commission members put questions to the informants.

The main points of statements presented by the ten informants concern wide-ranging matters as will be seen in the following examples:

From what points of view should the details of formulating the Constitution be evaluated? Is there any indication that the GHQ imposed the Constitution in the course of its formulation and enactment?

Was the enactment of the Constitution of Japan under the occupation of the Allied Forces, among other matters, contrary to the provisions of the Hague Convention clauses on the laws and customs of war on land? Questions were raised about the relationship between the purport of the Ashida amendment and the insertion of a civilian clause by the Far Eastern Commission.

On May 11, our Commission had a members-only brainstorming discussion on the basis of what we had obtained from hearing views from and conducting question-and-answer sessions with ten informants in the preceding five meetings on the details of how the Constitution of Japan came into being. In this discussion 39 members freely expressed their opinions. With this, the Commission concluded its discussions on the formulation of the Constitution.

Through these discussions at our Commission meetings, I trust that members from different political groups in the House have reached a common understanding of the objective facts about the details of how the Constitution was drawn up, setting aside their different evaluations stemming from their different political stances.

On April 27, in advance of Constitution Day on May 3, the first since the Research Commissions on the Constitution were inaugurated in both Houses, members expressed their opinions freely. A total of 34 took the floor to express their free views in the session.

In this session, members made statements covering a wide range of topics. The opinions expressed are, among others:

In what ways should the Commissions proceed in their future deliberation and research? What principles should be adopted in the Constitution of a modern state? What is a reasonable understanding of the relations between democracy and traditionalism? and comments on pioneering values carried by the Constitution of Japan.

And today, we have heard from an official of the Supreme Court an account of major cases of Supreme Court judgments of unconstitutionality in the postwar days, and put questions to him after his exposition. Eight members, including myself, took the floor in the question-and-answer session.

Up to date, the total number of members who spoke in the Commission meetings came to 151, spending over 37 hours in total.

Since the Constitution belongs to the people, I believe that we should continue to conduct broad and comprehensive research on the Constitution, seeking an ideal vision

of Japan for the 21st century and holding firm to the principles of respect for human rights, the sovereignty of the people, and not becoming again an aggressor state.

Last but not least, I offer most sincere gratitude to the directors and observers as well as all members of the Commission for your valuable advice and cooperation, without which this Commission would never have been able to proceed in such an equitable and smooth way as we have witnessed right up to today. Thank you very much.

I declare the meeting adjourned for today.

Chairman NAKAYAMA's speech—150th session, 7th Meeting (December 21, 2000)

On this occasion, I would like to make a short comment.

Today is the final day for the Research Commission to sit this year. So I would like to report on the course which our research has been following so far.

The Commission was set up on January 20 (2000 throughout) upon the convening of the 147th Diet session. The first meeting was held on the same day to elect its chairman and directors from among Commission members.

Then on February 17, to start its research, this Commission heard opinions from six members representing different political groups in the House. From February 24 to April 20, the Commission held five meetings to hear views from ten invited informants and to have question-and-answer sessions on the details of how the Constitution of Japan was formulated and enacted. Then on May 11 we had a members-only brainstorming discussion to conclude the Commission's deliberation on that theme.

Through these discussions, I believe that members from different political groups in the House have reached a common understanding of the objective facts about precisely how the Constitution was formulated, setting aside their different evaluations stemming from their different political stances.

On April 27, in advance of Constitution Day on May 3, the first since the Research Commissions on the Constitution were set up in both Houses, members expressed their opinions freely. On May 25, we heard from an official of the Supreme Court an account of major cases of Supreme Court judgments of unconstitutionality in the postwar days, and put questions to him after his exposition in order to verify, in light of the judgments of unconstitutionality, the course followed by the Constitution since its enactment.

Thereafter, at its meeting on July 5 in the 148th special Diet session convened in the wake of the 42nd general election for the House of Representatives, the Commission's chairman and directors were elected from among Commission members. Then, at a meeting held on August 3 during the 49th extraordinary Diet session, a brainstorming discussion was held to hear opinions freely expressed by Commission members

newly-appointed after the general election. A total of 20 members presented their opinions on how the Commission should proceed in its future business.

Since September 28, or at the outset of the 150th extraordinary Diet session, the Commission has been conducting research on an ideal vision of Japan for the 21st century by hearing views from, and having question-and-answer sessions with, invited informants.

In discussing this theme, the Commission held seven meetings—September 28, October 12, October 26, November 9, November 30, December 7 and today (December 21, 2000)—with 12 invited informants present altogether. A total of 88 members, including myself, took the floor in the question-and-answer sessions.

The main points of statements presented by the 12 informants covered enormously wide-ranging topics, spurring ardent discussions in the question-and-answer sessions:

>> What kinds of change will the world undergo in the 21st century and what will be the course for the states to follow by modifying their roles to cope with such changes?

>> What duties should Japan fulfil for the benefit of the world, and to meet this requirement, what should the Japanese think about and carry out?

>> How should Japan's politics and society be transformed?

>> How will the Constitution become involved in these issues mentioned above, or how should the Constitution be?

Up to date, a total of 260 Commission members took the floor to give their opinions, and 22 invited informants and a Supreme Court official made their statements, with a total of over 75 hours spent on the meetings.

From September 10 to 19, a House delegation was dispatched to European countries, namely Germany, Finland, Switzerland, Italy and France, on a mission to conduct research on the situation surrounding the Constitutions of these countries. A résumé report on the results of this mission was presented to the meeting of this Commission on September 28. The content is carried in a written report on the mission, copies of which were distributed at the Commission meeting of November 9. The report drew attention from, among others, colleges and universities, and mass media.

From the current Diet session, as part of the House's public relations activities, the Commission started publishing newsletters of the Research Commission on the Constitution of the House of Representatives. We have sent them either by fax or e-mail to over 1,000 people and distributed to members of the public who attended our Commission meetings as observers. In this way we are making efforts for easier access to House information.

I believe that, while keeping in mind that the Constitution belongs to the people and holding firm to the principles of respect for human rights, the sovereignty of the people, and not becoming again an aggressor state, we should continue to conduct broad and comprehensive research on the Constitution in the new century, seeking ways in which Japan should cope with various issues coming up in the 21st century; for instance, the role Japan should play in maintaining world peace as a member of the United Nations, how crisis management should be carried out in the state, questions of how to protect individuals' privacy in the information society, the issues of bioethics, ways of coping with the problems of the global environment, and ways of creating a gender-equal society.

Last but not least, I offer most sincere gratitude to the directors and observers as well as all members of the Commission for your valuable advice and cooperation, without which this Commission would never have been able to proceed in such an equitable and smooth way as we have witnessed right up to today. I am very happy to see our Commission close its final session for this century in this manner. Thank you very much.

I declare the meeting adjourned for today.

Chairman NAKAYAMA's speech --- 151st session, 7th Meeting (June 14, 2001)

There are only two weeks left until the 151st Diet session closes. Here, I would like to review and report on the activities of the Research Commission on the Constitution.

During the current Diet session, our main activities were, just as in the previous Diet session, questions and answers with informants under the theme of "A vision of Japan in the 21st century". From February 8 to May 17, we had met five times, heard the opinions of invited informants, and held question-and-answer sessions. So far nine informants have been invited to our meetings, and a total of 71 Commission members, including myself, put questions to the informants.

The main points presented by individual informants were as follows: the role and task of science and technology, globalization and the Nation-State, the progress in identification of the genome and ethical considerations in the application of the life sciences, the advent of an aging society with fewer children and the problem of the declining labor force, the ideal social insurance system, dealing with changes in human society caused by the IT revolution, the concept of a nation and the need for restructuring of its concept, the role of Japan in Northeastern Asia, the relationship of the national government and the local governments, and others. Our Commission conducted serious discussions of wide range on the relationship of all these issues with the Constitution, or an ideal form of the Constitution.

Furthermore, during the current session of the Diet, in order to hear opinions on the Constitution from various levels of the people, one open hearing was held in Sendai City, Miyagi Prefecture, on April 16 and a second one in Kobe City, Hyogo Prefecture,

on June 4, 2001. These two hearings were reported in summary form by Deputy Chairman KANO Michihiko on April 26 and on June 14. Opinions on the Japanese Constitution were heard from 20 speakers including members of the public who responded to an open invitation, and 18 members of the Commission including myself participated in presenting questions and comments. Opinions and comments from the floor were also heard from seven persons during the hearings.

Today, in relation to the Constitution of Japan, we held a brainstorming discussions without setting an agenda. A total of 19 members of the Commission presented their statements.

Under the recognition that the constitution belongs to the people, I think that we still need to have further discussions on a great many themes, among them, the global environment, the public election of the Prime Minister, the maintenance of national security, bioethics in genetic engineering, and cooperation with the United Nations. I would like to consult our directors about these issues in directors' meetings. Whilst we hold firm to the principles of respect for human rights, the sovereignty of the people, and not becoming an aggressor nation, I believe that we should continue to conduct broad and comprehensive research.

Last but not least, I offer my most sincere gratitude to the directors and observers as well as all members of the Commission for your valuable advice and cooperation, thanks to which this Commission has been able to proceed in such an equitable and smooth manner up until today. Thank you very much.

I declare the meeting adjourned for today.

Chairman NAKAYAMA's speech--- 153rd session, 5th Meeting (December 6, 2001)

Today is the final day for the Research Commission on the Constitution to sit this year. So I would like to sum up our proceedings by looking back at what we have achieved this year.

During the 151st Diet session which started in January, we pursued the main theme 'A Vision for Japan in the 21st Century,' a theme carried over from last year, largely in question-and-answer sessions with invited informants. In five meetings from February 8 to May 17, we received opinions from nine informants altogether and conducted question-and-answer sessions: seventy-one questions were put by myself and other members.

Statements presented by the informants included many points in regard to the Constitution, setting in motion a variety of activated discussions with particular focus on the ideal form of the Constitution: What kind of impact and mission does the development of science and technology have? What reforms does education in Japan need? What sort of influence does globalization have on the status of the nation-state? As biotechnology and especially genome research advances, what sort of life ethics

should we establish? What kind of social security and problems will confront us and how shall we cope with them, as the low birthrate and the aging society result in a dwindling workforce? What sort of social response should humanity take in the face of the IT revolution? Should the concept of the nation-state be reconfigured in today's world, and if so, in what form? What role should Japan play in Northeast Asia? What should be the relationship between the central and local governments in the operation of executive power?

On June 14, we had a brainstorming discussion without setting any theme, where nineteen members expressed their opinions regarding the Constitution.

In the same way as last year, we dispatched a Parliamentary delegation from late August through early September to a total of eleven countries to take a closer look at their respective constitutions: Israel, Eastern European countries like Russia and Hungary, and five monarchies such as Holland and Spain.

The delegation's findings were reported to the October 11 meeting of the Commission, and the official report was submitted last month to the Speaker with a copy distributed to all Commission members. The contents of the report included: the formative process of the Russian Constitution and the extent to which it has spread through the people; the strong power of the President and the checks of the Parliament; the actual state of judicial review by constitutional court; the enactment of constitutions in the Eastern European countries following the series of democratic reforms at the end of the Cold War as well as amendment procedures and constitutional characteristics; the status and power of monarchs as well as the constitutional definition and operation of the monarchic system in the monarchies visited, and; introduction and abolition of the popular election of the prime minister.

The features we found in common in each nation concerned were: First, the people need to be given ample information on the themes of discussion concerning the constitution, no matter what the political system is, and it is the people who make the final judgement on what the ideal form should be for each country. Furthermore, confidence in their leaders is essential to such a judgement.

In the extraordinary session of the 153rd Diet which started in September, while continuing further research on 'A Vision of Japan in the 21st Century,' we put emphasis and energy in our research focusing on three perspectives: the United Nations and security, various issues regarding the executive power versus the other two powers, and the guarantee of human rights. We invited six informants, and altogether 50 follow-up questions were asked by the members including myself.

Points presented by the informants were: a statement on constitutional revision from a protectionist standpoint that each generation of the people should determine and conduct the national affairs according to its own ideas; foreign and security issues which call for restructuring based on clear-cut national strategies; reconciliation

between the general and special interests through “deliberative democracy”; the benefits of reexamining the relationship between the parliament and the cabinet from the standpoint of public administration; the actual guarantee of human rights in Japan, required establishment of human security and the right to live in peace; and a proposal for a constitutional court to be set up for effective constitutional review by a judicial power without going through a constitutional revision.

We also took up the issue of popular election of the prime minister initiated by Prime Minister Koizumi, and other pressing issues, both foreign and domestic, in the wake of the September 11 terrorist attack; resulting in lengthy and productive deliberations on domestic and international changes brought about by the current events.

We also held three open hearings to hear opinions on the Constitution from different levels of the people. The first was held on the theme, “The Constitution of Japan” in Sendai City, Miyagi Prefecture on April 16; the second on the theme “A Vision for Japan in the 21st Century” in Kobe City, Hyogo Prefecture, on June 4, and the third on the theme “Japan’s role in the international community” in Nagoya City, Aichi Prefecture, on November 26. Question and answer sessions followed the presentation of opinions from twenty-six speakers including eleven members of the public who responded to an open invitation, joined by 12 persons who responded to an invitation to express their opinions from the floor.

Although there was a certain amount of disruption, I think it is of paramount importance that we Diet members, as representatives of the people, provide occasions where we can directly hear their voices. Getting opinions from members of the people also gives credibility to our research activities.

As a final effort, we held a brainstorming session today where, in reflecting over our endeavors of the past year, we summarized the issues deliberated during the 153rd Diet to conclude the Commission’s activities. A total of twenty-seven members voiced their opinions during the meeting.

In regard to research themes, methods and schedules for the coming year and beyond, directors of the Commission will continue to consult over coordination in their meetings, with reference to what we discussed today. Here, we hold firm to the recognition that the Constitution belongs to the people. Put another way, the principles we must firmly maintain are: respect for human rights, popular sovereignty, and the solemn affirmation that Japan will never revert to being an aggressor country. With these principles in mind, we intend to continue to pursue broad and comprehensive research.

Now, I would like to conclude my speech in the last meeting of this year by offering most sincere gratitude to the deputy chairman, directors, those who took part in meetings, and all Commission members for valuable guidance and cooperation. Without them, we would never have been able to proceed in such an equitable and smooth manner in our operation of the Commission.

I declare the meeting adjourned for today.

Chairman NAKAYAMA's speech --- 154th session, 5th Meeting (July 25, 2002)

We have only one week left until the 154th Diet session closes. Here, I would like to review and report on the activities of the Research Commission on the Constitution.

During the current Diet session, we established four subcommittees in the Commission in order to make an effective and specialized investigation into specific issues regarding the Constitution. They are: Subcommittee on Guarantee of Fundamental Human Rights, Subcommittee on Fundamental and Organizational Role of Politics, Subcommittee on Japan's Role in International Society, and Subcommittee on Local Autonomy.

What we discussed in the subcommittees was briefed today by each subcommittee chairperson. From February 14 to July 11, a total of 20 informants have presented their statements and we put questions to them and made comments at length.

Furthermore, during the current session of the Diet, in order to hear opinions on the Constitution from various levels of the people, we held two open hearings that were the fourth and fifth hearings of the Commission: in Nago City, Okinawa, on April 22, and in Sapporo City, Hokkaido, on June 24.

Both hearings were reported in summary form by Deputy Commission Chairman NAKANO Kansei on April 25 and today. Opinions on the Japanese Constitution were heard from 12 speakers comprised of members of the public who responded to an open invitation, and 16 members of the Commission including myself participated in presenting questions and comments. Opinions and comments from the floor were also heard from seven persons during the hearings.

In the two hearings, some members of the audience made persistent demands to speak, causing disruptions to the order of business from time to time. Such behavior goes against the rules and is not appropriate for a forum of discussion where we have an opportunity to share thoughts on the Constitution with the people, and I find these actions deplorable and reprehensible.

Based in part on the report of the Open Hearing in Okinawa, we held brainstorming discussions on Japan and the Constitution in the 21st Century including the security of Japan in the April 25 Commission meeting. Today, based in part on the report of the Open Hearing in Sapporo and the reports of four subcommittee chairpersons, we held brainstorming discussions on the Constitution of Japan.

For the next session of the Diet and beyond, I think it necessary to continue to conduct detailed investigations into the Constitution through Subcommittees, bearing in mind the principles of respect for human rights, popular sovereignty, and the solemn

affirmation that Japan will never revert to being an aggressor country. The directors of the Commission will continue to consult over research themes and other matters.

In my opinion, it will be very useful for the Commission in its broad and comprehensive research to take up in its discussion the current interests of various national issues in the press and other media while investigating the Constitution.

From the perspective of comparison with other constitutions, discussion based on the findings of the Diet delegations sent overseas by the House of Representatives will provide a more effective investigation.

For example, the issue of legislation in case of national emergency became a focus of debate during the current session of the Diet. In case of national emergency, how can we safeguard the security of the country and the people? What legislative framework do we need for this? In the Commission's discussion of these issues, I think that we may learn a lot from referring to the German Basic Law (Grundgesetz) that sets constitutional stipulations for rescue and relief in times of natural disaster, contingencies for riots, and the defense in the event of military attack by a foreign country.

To be more specific, the stipulations for emergency cases in the Basic Law are as follows: Article 35, paragraph 3, stipulates: "Where a natural disaster or accident endangers a region larger than a provincial state, the Government may, to the extent necessary to effectively deal with such a danger, instruct the provincial state government to place their police forces at the disposal of other provincial states, and may use units of the Federal Border Guard or the Armed Forces to support the police forces." Article 91, paragraph 1, stipulates: "In order to avert any imminent danger to the existence or to the free democratic basic order of the Federation or a provincial state, a provincial state may request the services of the police forces of other states, or of the forces and facilities of other administrative authorities and of the Federal Border Guard." The other stipulation provides a total of 11 articles with detailed procedural definitions, that begins with the sentence "The determination that federal territory is being attacked by armed force or that such an attack is imminent is made by the Bundestag (Federal Assembly) with the consent of the Bundesrat (Federal Senate) (Article 115a, paragraph 1).

In another issue under debate, that of personal information protection, as seen in implementing the Basic Residential Registers Network System, or Juki Net, we can refer to a relevant stipulation such as Article 10, paragraph 1, of the Netherlands constitution, which says, "Everyone shall have the right to respect of his privacy, without prejudice to restrictions laid down by or pursuant to Act of Parliament." Paragraph 3 also makes stipulations for privacy rights: "Rules concerning the rights of persons to be informed about data recorded concerning them and of the use that is made of such data, and to have such data corrected, shall be laid down by legislation." The Finnish Constitution stipulates the right to access information in Article 12,

paragraph 2: "Documents and recordings in the possession of the authorities are public, unless their publication has for compelling reasons been specifically restricted by legislation. Everyone has the right of access to public documents and records."

We can also refer to the following stipulations in regard to far-reaching technological innovations and ethics issues in recent years, as prominently seen in the fields of genetic engineering and organ transplant. The Swiss constitution stipulates in Article 119, paragraph 1: "Persons shall be protected against the abuse of medically assisted procreation and gene technology." In addition, Article 119a, paragraph 1, stipulates: "The Confederation shall legislate on the use of human organs, tissues, and cells. In the said case, it shall pay due consideration in order not to harm human dignity, personality and health." We may proceed with our discussion in part by making references to the above.

Last but not least, I offer my most sincere gratitude to the Subcommittee Chairpersons, directors, and observers as well as all members of the Commission for their valuable advice and cooperation, thanks to which this Commission has been able to proceed in such an equitable and smooth manner up until today.

In concluding my reflections on the Commission's activities, I reiterate my appreciation for all the cooperation extended by all of you during the present session of the Diet. Thank you very much.

I declare the meeting adjourned for today.

(4) Speech on the Explanation by the Supreme Court on Postwar Judgments of Unconstitutionality

147th Session, 10th Meeting (May 25, 2000)

I would like to make a short comment concerning the explanation we are going to hear today from the Supreme Court.

With the enactment of the Constitution of Japan, Japan's court system underwent major reforms. Particularly important were the introduction of the system of judicial review of the constitutionality of legislation and the judgment of administrative cases by judicial courts. These reforms radically enhanced judicial authority but, having been implemented during the chaos of the postwar period and under the U.S. Occupation without sufficient examination from a theoretical standpoint, they were, as Yoshitaka Watanabe wrote in his book *Contemporary Issues in Administrative Litigation*, "the result of transplanting the system of redress in Anglo-American law into the existing soil which was based on Continental law, like sticking bamboo onto wood."

It should be noted that the Supreme Court is the only government organ that has not been changed at all since the Constitution was enacted more than 50 years ago. Of course, the Supreme Court has sufficiently played the role expected of it in the Constitution, but it is currently being subjected to more than a little criticism.

It would be no exaggeration to say that many people today share the view that constitutional hearings of the Supreme Court are not sufficiently positive. It is often pointed out, not only the academic quarters and the media but also in economic circles, that the attitude of the judiciary in Japan in cases concerning legislative discretion and administrative discretion is self-constraining compared to that of the U.S. Supreme Court or the Federal Constitutional Court of Germany.

Now we will hear the explanation from the Supreme Court.

(5) Speech on the Question-and-Answer Session with the Informant

151st Session, 3rd Meeting (March 8, 2001), Informant SON Masayoshi

The increasing utilization of telecommunications technology is leading to rapid and extensive changes on a global scale in a wide range of areas, including individual pursuits, lifestyles, social and economic activities, and administrative practices.

In Finland, disclosure of and the right of access to public information are now subject to provisions in the constitution and, as a result of the use of telecommunications technologies, methods of providing and managing information have been improved.

The comprehensively amended Constitution of Finland came into force in March 2000. Section 12 stipulates as follows: "Documents and recordings in the possession of the authorities are public, unless their publication has for compelling reasons been specifically restricted by an Act. Everyone has the right of access to public documents and recordings." The situation in Finland has been studied by a delegation dispatched in September last year. For further details, please refer to the report distributed to members of this Commission last October.

Now let us proceed to our research today on the theme of a vision for Japan in the 21st century.

4. Reports by Subcommittee Chairpersons on the Progress of Research, with Summaries of Findings (154th Diet, July 25, 2002)

Subcommittee on Guarantee of Fundamental Human Rights (SHIMA Satoshi, Chairperson)

I hereby present my report on the progress of the research conducted by the Subcommittee on Guarantee of Fundamental Human Rights, with a summary of its findings.

The subcommittee has met five times so far, and on each occasion an informant was invited to attend.

The opinions of the informants were heard on the following subjects. On February 14, the first meeting, MUNESUE Toshiyuki, Professor, Faculty of Law, Seijo University, commented on the subject of the guarantee of human rights in the new era; on March 14, the second meeting, ANNEN Junji, Professor, Seikei University, commented on the human rights of foreign nationals; on April 11, the third meeting, SAKAMOTO Masanari, Dean of the Faculty of Law, Hiroshima University, commented on new human rights; on May 23, the fourth meeting, ITO Tetsuo, Director, Japan Policy Institute, commented on the guarantee of fundamental human rights; and on July 4, the fifth meeting, KUSANO Tadayoshi, General Secretary, RENGO (Japanese Trade Union Confederation), commented on fundamental labor rights and employment measures.

Details of the statements of opinion by informants at each meeting can be found in the subcommittee minutes, and I will now give a brief summary.

Professor MUNESUE Toshiyuki expressed the opinion, with respect to the characteristics and limits of the present Constitution, that the Constitution combines the ideals of classical Western liberalism with provisions on social rights characteristic of the 20th century, but does not succeed in integrating the two systematically; that with regard to economic freedoms, judicial precedent and scholarly opinions have tolerated active government regulation, with the result that the original ideal of liberalism has not been realized; that spiritual freedom has not been regarded as a civil right, and the correlation with democracy has been weak; that the guarantee of human rights is an internal one between the state and people only lacking an international dimension; and that the guarantee of human rights in relationships between private persons is inadequate.

As issues to address in respect of the present Constitution, in his view these include the necessity for freedoms provided by the state, or positive freedoms in which the state actively guarantees freedoms; the necessity for a compound human-rights ideal that transcends the conventional categories of human rights; the necessity for linkage between international and domestic guarantees of human rights; and the necessity for

the Constitution to guarantee the three-sided relationship between the state, civil society, and the individual.

Professor ANNEN Junji stated the opinion that both judicial precedent and scholarly opinion hold that foreign nationals enjoy rights under the Constitution, but they are granted only within the scope of the system for the sojourn of foreign nationals, but since foreign nationals do not have the right to enter the country or to stay, it is proper to conclude that they do not possess rights under the Constitution. He was further of the opinion that it is possible to treat foreign nationals equally with Japanese citizens under the law, and since nationality is determined according to the law, even the status of Japanese people is vague in the Constitution; for this reason, foreign nationals should be recognized as having the same rights as Japanese people to the greatest extent possible.

He also stated the view that even if the Constitution were amended to make express provision for the status of foreign nationals, any such provision would inevitably be abstract, and its substance would be determined by a judge. However, if the status were determined by legislation, that determination would be made by the Diet, and it would be preferable to entrust such a determination to elected representatives in the Diet, rather than to judges who have qualified for the bench by passing examinations.

Professor SAKAMOTO Masanari first explained that modern constitutionalism retains the sharp distinction between public law, which governs the public sphere, and private law, which governs the private sphere, and therefore the resolution of issues in the private sphere should be dealt with by private law, and civil liberties in the public sphere, meaning the right to complain of governmental nonfeasance or to claim relief against nuisance from the state, should be regarded as forming the nucleus of human rights. Premised on this perception, he expressed the view that the benefit and protection of the law in such forms as the right to privacy and the right of self-determination, which are known generally as new human rights, can be protected by dealing with them legally based on private rights or private law, and therefore there is little need to claim that they are fundamental human rights.

He indicated points to be borne in mind if new human rights are to be codified in the constitution, including the following. If the state intervenes and seeks constitutional solutions for issues that could be left to private autonomy, that may give rise to ills such as human rights inflation, excessive government, and the statalization of society. For that reason, the benefit and protection of the law should be sought by means of private rights or the workings of private law, and if there are cases in which that kind of legal handling is not possible, the first priority should be to resolve them by enacting laws. For a new human right to be recognized as a constitutional right, a number of conditions must be satisfied, including that the right has a high degree of precedence, its denotation and connotations are clear, and it does not improperly restrict the constitutional freedoms of other parties.

Mr. ITO Tetsuo criticized the generally held view that fundamental human rights are rights that all individuals are born with as a matter of course, constituting natural rights that precede the state, and that the Constitution of Japan is premised on this. He stated the view that rights should be understood as being generated gradually in the context of a community's history, culture, and traditions, in the background to which there exists that community's own unique spirit of the law, and in view of this we must move away from the natural-rights argument. In his opinion, rights can only be guaranteed if a peaceful and orderly state exists, and therefore in interpreting public welfare it is essential that well-defined status is given to state and public benefit, and to morality.

He also expressed his opinion that a fundamental principle of democracy is that the people protect their own country themselves, and therefore the Constitution should include express provision for the duty to defend the country, while for the protection of the family there should also be express provision concerning respect for the family.

Mr. KUSANO Tadayoshi expressed the view that Article 28 of the Constitution guarantees the right to organize, to bargain collectively, and to strike, therefore it is problematic that public employees are legally prohibited from striking, and the government's stance of not addressing this is drawing international criticism.

He further stated the view that Article 27, Paragraph 1, of the Constitution can be interpreted as obligating the government to create a structure that enables the people to have full employment, provide job opportunities for the unemployed, and pay a living allowance to the unemployed, and therefore the government should implement employment measures accordingly.

He stated opinions as to the necessity for legislation to prevent abuses such as gender inequality, sudden death from overwork, sexual harassment, and other workplace issues. He stated his belief as to the necessity to study such matters as new forms of the right to work, such as gender equality and the development of professional skills, and called upon the Commission to give full consideration to the right to work and social rights.

Based upon these opinions expressed by the informants, there were vigorous interpellation sessions and free discussions among the subcommittee members.

As chairperson of the subcommittee, I would sum up these comments as follows. They indicated that the provisions of the Constitution relating to the guarantee of fundamental human rights are abundant relative to other countries, both in qualitative and quantitative terms, and have pioneering significance. On the other hand, the framework of the nation and society is currently undergoing rapid change against the backdrop of remarkable development in such spheres as science and technology and the economy, and of swift globalization. A point that was made very frequently was that the desirable ways in which to guarantee the fundamental human rights of the people

who make up the nation and society should be studied from many angles, not merely from conventional perspectives, and I agree.

For example, there was considerable discussion about matters such as the right to know, environmental rights, and the right to privacy.

As for these fundamental human rights, in the Constitution there are two chapters for human rights and government. From now on we will proceed to give careful and separate study as far as possible to each human-rights provision. There have been discussions to date that fundamental human rights include such rights as environment rights and the right to know. However, we have now reached the stage of making a scrupulous examination of each human-rights provision, and discussing whether or not the provisions really do incorporate those rights.

The feeling that I derived from the discussions among committee members was that we should further deepen the level of discussion of the desirable ways in which to guarantee human rights in the 21st century, and that although the Constitution is an excellent one, we should engage in a step-by-step discussion about it in a manner suited to the times, and we may well have reached the stage of giving close consideration to revising it.

Subcommittee on Fundamental and Organizational Role of Politics (TAKAICHI Sanae, Chairperson)

I hereby present my report on the progress of the research conducted by the Subcommittee on Fundamental and Organizational Role of Politics, with a summary of its findings.

The subcommittee has met five times so far, and on each occasion an informant was invited to attend.

The opinions of the informants were heard on the following subjects. On February 14, the first meeting, TAKAHASHI Kazuyuki, Professor, Faculty of Law, University of Tokyo, commented on the subject of the desirable form of parliamentary cabinet system; on March 14, the second meeting, YAMAGUCHI Jiro, Professor, Graduate School of Law, Hokkaido University, commented on viewpoints for reexamining the mechanism of government; on April 11, the third meeting, OISHI Makoto, Professor, Kyoto University, commented on the desirable forms of bicameral system and electoral system; on May 23, the fourth meeting, MATSUI Shigenori, Professor, Graduate School of Law, Osaka University, commented on the ideal form of the system of judicial review; and on July 4, the fifth meeting, YAGI Hidetsugu, Associate Professor, Takasaki City University of Economics, commented on the mechanism of government under the Meiji Constitution.

Details of the statements of opinion by informants at each meeting can be found in the subcommittee minutes, and I will now give a brief summary.

Professor TAKAHASHI Kazuyuki stated the following opinion. In the making and conduct of policy in an active state such as present-day Japan, political leadership is required within a schema in which the Cabinet governs, and that process is controlled by the Diet. To carry that out, it would be valuable to introduce a national cabinet system which, in effect, the people directly choose through election of a single package composed of both the policy program and the prime minister, who is the main agent of implementing the program.

He pointed out that in introducing this system it would be necessary to study (1) the desirable form of an election system that would make clear the will of the majority, (2) the role of political parties in devising policy programs that receive majority support, and (3) the mental attitude of the people with respect to seeking to express their will clearly through elections and other means with the intention of forming a majority.

He also expressed the view that a constitutional amendment would not be necessary for introducing a national cabinet system, though constitutional conventions, for example requiring the House of Councillors to practice self-restraint in the exercise of its powers, should be established.

Professor YAMAGUCHI Jiro pointed out some of the problems inherent in the operation of Japan's parliamentary cabinet system, namely (1) the unrestrained dominance of the governing parties and the frequent changes of leader, (2) the weakening of the Cabinet accompanying the excessively large growth of the bureaucracy, and (3) the lack of transparency in the relationship between the Cabinet and the ruling parties. In his view Japan should try to emulate the parliamentary cabinet system in Britain by (1) integrating the Cabinet and the ruling party, (2) realizing policy through participation in the administration by the ruling party, and (3) establishing a relationship in which politicians direct the bureaucracy. In doing so it would be essential to create new constitutional conventions, etc. suited to the system and to consider the desirable form of government administration from the viewpoint of popular sovereignty.

He put forward the following proposals for reform with respect to institutions, and then practices. With respect to institutions, (1) supersede the principle whereby each minister of state has charge of a specific share of administrative affairs in the Cabinet, (2) integrate the policy-making process, and (3) strengthen the Diet's function as a check on the executive branch. With respect to practices, (1) have elections in which a political party, leader, and policies can be chosen as a single package, (2) conjoin the ruling parties' decision-making bodies with the Cabinet, (3) operate the ruling parties in such a way that Diet members who belong to those parties shape policy through membership of the Cabinet, and (4) make the ruling parties' selection of their leaders transparent and open.

Professor OISHI Makoto stated his belief that the bicameral system should be maintained, since it is doubtful that the will of a diverse electorate can coalesce under

a unicameral system. Based on this understanding, he stated the view that to ensure that each House performs independent functions, thereby making the bicameral system meaningful, the method of organization of the two houses should be organized on principles that differ as much as possible, giving consideration to ensuring that the interests and opinions of the people are reflected fairly and effectively in the administration.

He further expressed the view that (1) it is important to ensure that the role expected of the House of Councillors, namely acting as a moderating influence on the dynamism of the House of Representatives, be reflected in the election system, and (2) the present powers of the House of Councillors should be revised, the repassage of bills by the lower house by a majority should be recognized, and only the lower house should have the right to designate the prime minister.

Professor MATSUI Shigenori stated his understanding that the provisions of Article 81 of the Constitution confirm the power of judicial review exercised in conjunction with the exercise of judicial powers based on a legal dispute or suit, but that since at present there are very few rulings of unconstitutionality, and it is difficult for the public to petition for judicial review, the power of judicial review is not being exercised properly.

Based on this understanding, he set out a process-based theory of judicial review. This theory holds that the courts have the responsibility to preserve and protect, through rigorous review, the rights that are indispensable to the democratic process, and with respect to rights other than these, laws duly enacted by the Diet, which is composed of the representatives of the entire people, should be respected. If it happens that these harm the interests of the people, this should be corrected through elections. He contended that in order to prompt the courts to take an active stance in exercising their judicial powers in line with the responsibilities referred to above, it is essential to undertake a reform of the system, coupled with consciousness-raising. This would include rectifying the rigidity of the personnel system at the Supreme Court, and by flexible interpretation of matters deemed to be a legal dispute or suit, making it easier to file suits for the confirmation of the unconstitutionality of laws and for their suspension.

Professor YAGI Hidetsugu began by stating his view that the constitutional debate must first be a discussion about the constitution in the sense of meaning the character of the nation, and that we should learn a lesson from the importance that was placed on discussing the character of the nation during the process of formulating and enacting the Meiji Constitution.

He expressed the following opinions with respect to the system established by the Meiji Constitution. (1) With regard to the relationship between the Cabinet and the Emperor there was a lack of clarity in interpretation and application regarding the question of who will play the central role in politics. (2) In the actual practice of government administration the prime minister was central, but he could exercise only weak control.

(3) The Emperor's advisory bodies had separate spheres of influence, and as the elder statesmen responsible for coordinating them died off, a void developed at the center of government. (4) The Emperor was the nominal chief executive, and therefore the system of government was that of a constitutional monarchy.

In his view, the Emperor-as-symbol system in the Constitution of Japan does not simply mean that the British-style concept of the ruler as the visible symbol of unity was adopted, but that it was a continuation of the system of constitutional monarchy under the Meiji Constitution.

Based upon these opinions expressed by the informants, there were interpellation sessions and free discussions among the subcommittee members, and on each occasion there was a lively exchange of views between members and informants. I will now describe the impressions I have gained from five meetings as chairperson.

Today we live in an era in which the public's interest in participating in politics and people's awareness of their rights as taxpayers is high relative to the time when the Constitution was formulated. Also, as a result of the development of the mass media, a large number of people are able to share government-related information instantaneously, and public opinion can create major trends. Given that in our modern society it is necessary to respond swiftly to new issues that arise both domestically and overseas, such as economic conditions and diplomatic problems, I felt keenly the necessity to consider anew, from the perspective of political leadership, the desirable form of the parliamentary cabinet system and of the bicameral system, and the desirable form of the electoral system, which secures people's political rights, and of political parties.

In addition, I felt it was necessary to continue to deepen the discussion with respect to the ideal form of the system of judicial review of constitutionality, while bearing in mind factors such as the tension that characterizes the relationship between democracy and constitutionalism.

The subcommittee also researched the mechanism of government under the Meiji Constitution, touching on issues such as the system of constitutional monarchy, and in future research I intend to deepen the level of discussion of what the fundamental structure of politics in the 21st century should be, including issues such as the ideal form of the Emperor system, taking into account the history and traditions that lie behind the Constitution.

Subcommittee on Japan's Role in International Society (NAKAGAWA Shoichi, Chairperson)

I hereby present my report on the progress of the research conducted by the Subcommittee on Japan's Role in International Society, with a summary of its findings.

The subcommittee has met five times so far, and on each occasion an informant was invited to attend.

At the first meeting, on February 28, Professor MATSUI Yoshiro of Nagoya University stated his opinions on the desirable form of international cooperation, focusing on PKO and PKF.

Professor MATSUI Yoshiro's statement included the opinions that Japan should undertake international cooperation actively on the basis of the principles enshrined in the Constitution, and that spheres in which Japan's active cooperation is both possible and necessary are the implementation of measures to prevent the outbreak of conflicts, peaceful resolution of conflicts, and support for post-conflict social and economic development.

At the second meeting, on March 28, Mr. HATAKEYAMA Noboru of the Japan External Trade Organization (JETRO) made a statement of his opinions on the desirable stance for Japan in an international community centered on free-trade agreements.

Mr. HATAKEYAMA Noboru's statement included the opinions that it is essential for Japan to shift to a multilayered structure in which free-trade agreements complement the WTO, and that Japan should assume international leadership by taking the initiative in negotiating free-trade agreements.

At the third meeting, on May 9, Mr. TERASHIMA Jitsuro, President of the Mitsui Global Strategic Studies Institute, presented an overall view of the desirable position for Japan in the international community.

Mr. TERASHIMA Jitsuro's statement included the opinions that the form of the Japan-U.S. Security Arrangements should be reviewed, and that while maintaining an exclusively defensive capacity, Japan should seek to create a multilateral forum in the East Asian region, based on the principle of preventive diplomacy.

At the fourth meeting, on June 6, Professor TAKUBO Tadae of Kyorin University made a statement of his opinions on the desirable form that Japan's security should take.

Professor TAKUBO Tadae's statement included the opinions that with respect to the form that Japan's security should take, Japan should follow the example of Germany in the way it has responded to changes in the international environment, and should outgrow its former self and become a normal democratic nation. As regards Japan-U.S. security relations, Japan should gradually shift them from being one-sided towards being truly bilateral in character.

At the fifth meeting, on July 11, Associate Professor NAKAMURA Tamio of the University of Tokyo made a statement of his opinions concerning developments with

respect to the European Union constitution and the constitutions of individual countries.

Professor NAKAMURA Tamio's statement included the opinion that factors that may have implications for Japan based on the experience of the European Union in the course of its integration were that, given that today cooperation across national borders has become essential, Japan should study EU mechanisms, and that the process of formation of the European Union, in which a public order is developed by repeated consultation between the member states, is instructive for Japan for shaping the principles of international cooperation.

Based upon these opinions expressed by the informants, there were interpellation sessions and free discussions among the subcommittee members, and on each occasion there was a lively exchange of views between members and informants.

As the subcommittee chairperson I would sum up the statements expressed at meetings as follows. It was pointed out that with respect to the desirable form of Japan's security and international cooperation, Japan should endeavor to translate into reality the spirit of the Constitution, with its espousal of pacifism, and of the United Nations Charter, whose purpose is the maintenance of peace through international cooperation. It was also pointed out frequently that for Japan to take the initiative in dealing with international circumstances, in which change has been proceeding at a remarkable pace, examples being the end of the Cold War and the progress of globalization, it is essential to study ways to enable it to do that not purely through a conventional framework, but from a broader perspective from a variety of angles, also encompassing the possibility of revising the Constitution.

Based on these suggestions I hope to go on deepening the level of our discussions on the desirable position for Japan in the international community.

Details of the meetings can be found from page 97 of the discussion memorandum.

Subcommittee on Local Autonomy (YASUOKA Okiharu, Chairperson)

I hereby present my report on the progress of the research conducted by the Subcommittee on Local Autonomy, with a summary of its findings.

The subcommittee has met five times so far, and on each occasion an informant was invited to attend.

The opinions of the informants were heard on the following subjects. On February 28, the first meeting, IWASAKI Mikiko, Professor, University of Tsukuba, commented on the subject of decentralization reform and the do-shu system and federal system; on March 28, the second meeting, MORITA Akira, Professor, Graduate School of Law and Politics, University of Tokyo, commented on problems of decentralization reform, including the merger of municipalities; on May 9, the third meeting, JINNO Naohiko,

Professor, University of Tokyo, commented on local autonomy and local public finances; on June 6, the fourth meeting, KATAYAMA Yoshihiro, Governor of Tottori Prefecture, commented on various issues involved in achieving decentralization; and on July 11, the fifth meeting, KITAGAWA Masayasu, Governor of Mie Prefecture, commented on action being taken in Mie Prefecture from the standpoint of the citizens.

Details of the statements of opinion by informants at each meeting can be found in the subcommittee minutes, and I will now give a brief summary.

Professor IWASAKI Mikiko indicated that following the recent decentralization reforms, among whose cornerstones was the abolition of the delegation of tasks by the government to agencies, issues to be addressed include the transfer of powers in the tax and fiscal spheres, the broadening of the geographical scope of local governments, and the participation of civil society in local government. She expressed the view that after classifying and examining the configuration of basic local government in certain foreign countries, Japan should aim for the type of system in northern Europe, the scale of which had been expanded after the reorganization of basic local government to give it the capability of providing social services.

After mentioning issues arising in the event of the adoption of the do-shu system of integrating prefectures into states or provinces, or a federal system, she stated her opinion that Japan could achieve decentralization by recognizing the discretion of local governments in policy execution, and establishing a system under which local governments could influence central decisions and that these measures would not require adopting a federal system which necessitates constitutional revision.

Professor MORITA Akira expressed the opinion that reforms by the Committee for the Promotion of Decentralization had achieved results to a certain extent pursuant to the Comprehensive Decentralization Law, for example the abolition of the delegation of tasks by the government to agencies, but because of inadequacies in the fiscal reform, local finances are on the brink of a crisis, and therefore steps such as the transfer of taxation and financial resources to local governments need to be taken.

He also stated the view that it is essential to promote municipal mergers for reasons that include the need to maintain the current level of administrative services, changes in the extent of the geographical areas in which residents conduct their daily lives, population decline, and the aging of society, but that in carrying these out the government should avoid such stances as promoting uniform mergers and attaching too much significance to numerical goals such as a required number of municipalities; an approach finely tuned to the circumstances of each local government is needed.

He pointed out that criticisms include those that central-government-led measures to promote municipal mergers run counter to the principle of local autonomy, and that such mergers destroy local communities. His counterarguments were that the promotion of mergers in the future must be undertaken not solely from the perspective

of the individual municipalities, but also from the perspective of the region and country as a whole, and therefore it will be necessary for the central and prefectural governments to coordinate mergers, always respecting the principle of local autonomy. He was also of the opinion that it will be essential to give very careful study to the desirable forms of municipality and prefecture that will eventually emerge from the merger process.

Professor JINNO Naohiko expressed the opinion that in order to promote decentralization it is essential to transfer taxation and financial resources to local governments and to correct the disparities in fiscal strength between local governments. This is in light of lessons from the past in the form of the Taisho Democracy movement and the Shoup Report, and of the advance of globalization and the parallel advance of localization in recent years in certain other countries, evidenced by events such as the enactment of the European Charter of Local Self-Government.

With respect to issues that Japan must address in the future, he was of the opinion that the recent abolition of the delegation of tasks by the government to agencies under recent decentralization reforms has transferred numerous administrative responsibilities and decision-making powers to the local level, but adequate tax-raising powers have not yet been transferred. To overcome this it will be important to transfer the taxation of personal income and the consumption tax to local governments, thereby shifting from the present centralized dispersion system, in which local authorities have no tax-raising or decision-making powers, to a decentralized dispersion system, in which local authorities do have those powers.

Governor KATAYAMA Yoshihiro stated that, based upon his experience as a governor, he considered the following to be among the principal issues to address in order to achieve decentralization. The uniform provisions of the Local Autonomy Law should be revised in order to ensure, among other things, that the organization of local governments has diversity and localized character. Independent administrative commissions do not function adequately, because they lack expertise and the relevant capabilities. Therefore, in order to introduce democratic principles, consideration should be given to measures such as the popular election of commission members. Local government assemblies characterized by diversity and independence should be lauded, and changes should be made to allow for businessmen and others with close contact with ordinary life to serve as members of assemblies while retaining their own jobs. Local finances should be neutral towards the policy choices of local governments, for example as to whether they place emphasis on policy for developing infrastructure through public works, or give more importance to policy in less tangible spheres, such as human-resource development. To stabilize prefectural government tax revenues, such means should be taken as incorporating tax assessments based on business size into corporate enterprise taxation, or allocating corporate enterprise taxation to the national government, and transferring personal income taxation to local governments.

Governor KITAGAWA Masayasu premised his remarks on the perception that in future it will be important for government administration to adopt the viewpoint of the people who pay taxes, and consider their satisfaction to have first priority. From his own experience he gave examples of how this was being put into practice in Mie Prefecture. Information on the outcome of decision-making is not made public only on request; the prefecture provides information actively of its own accord, including information on the process through which policy is shaped. The prefecture has introduced New Public Management incorporating private-sector corporate management methods, and conducts administration that is based on performance-evaluation, switching from a budget-oriented approach to one oriented towards financial results.

He also expressed the view that Japan should change from the centralization of powers and bureaucratic control—by which he appears to mean that the bureaucracy rules—to decentralization and local autonomy, with the aim of creating a mosaic nation that takes best advantage of the distinctive features of each region, and of pursuing the development of those regions.

Based upon these opinions expressed by the informants, there were interpellation sessions and free discussions among the subcommittee members, and on each occasion there was a lively exchange of views between members and informants. In my capacity as subcommittee chairperson I would sum up the opinions expressed at the meetings as follows.

Informants and members reached a common understanding that in order to further enhance the local autonomy that is institutionally guaranteed in the Constitution, the on-going decentralization reform must be promoted and that a prerequisite for achieving that is the transfer not only of powers, but also of taxation and revenue sources from the central government to local governments.

Numerous other views encompassing the entire mechanism of government were also expressed on such matters as the proper form of municipal mergers, the future of the prefectures, and the need to study the introduction of a do-shu system.

Based upon the points that have been expressed hitherto, and focusing on a vision for Japan in the 21st century, I intend to pursue a more in-depth debate from the perspective of further improving the system of local self-government.

5. Open Hearings: Data and Reports by Members Participating

(1) Data on Open Hearings

		1	2	3	4	5
Location		Sendai City, Miyagi Prefecture	Kobe City, Hyogo Prefecture	Nagoya City, Aichi Prefecture	Nago City, Okinawa Prefecture	Sapporo City, Hokkaido
Venue		Hotel Sendai Plaza	Hotel Okura Kobe	The Westin Nagoya Castle	Bankoku Shinryokan	Hotel New Otani Sapporo
Date		Apr. 16, 2001	June 4, 2001	Nov. 26, 2001	Apr. 22, 2002	June 24, 2002
Application for approval for dispatch of members		Feb. 22, 2001	Apr. 26, 2001	Oct. 25, 2001	Mar. 19, 2002	May 16, 2002
Press announcement		Feb. 23, 2001	Apr. 27, 2001	Oct. 26, 2001	Mar. 19, 2002	May 17, 2002
Government gazette insert		Feb. 23, 2001	May 1, 2001	Oct. 29, 2001	Mar. 22, 2002	May 20, 2002
Deadline for invitation to public	Speakers	Mar. 22, 2001	May 21, 2001	Nov. 12, 2001	Apr. 8, 2002	June 10, 2002
	Visitors	Mar. 22, 2001	May 21, 2001	Nov. 12, 2001	Apr. 8, 2002	June 10, 2002
Selection of Speakers		Mar. 30, 2001	May 24, 2001	Nov. 15, 2001	Apr. 11, 2002	June 13, 2002
Members dispatched	Total no.	10	11	10	10	10
	Composition	LDP 2, DPJ 2, NK 1, LP 1, JCP 1, SDP 1, NCP 1, Club 21 1	LDP 3, DPJ 2, NK 1, LP 1, JCP 1, SDP 1, NCP 1, Club 21 1	NCP 1, LDP 3, DPJ 2, NK 1, LP 1, JCP 1, SDP 1, Club 21 1	LDP 3, DPJ 2, NK 1, LP 1, JCP 1, SDP 1, NCP 1	LDP 3, DPJ 2, NK 1, LP 1, JCP 1, SDP 1, NCP 1
Speakers	Total no.	10	10	6	6	6
	Recommended by political parties and groups	7	8			
	From invitation to public(/No. of applicants)	3/18	2/61	6/57	6/25	6/62
No. of visitors		152	276	173	192	231
Date of report		Apr. 26, 2001	June 14, 2001	Nov. 29, 2001	Apr. 25, 2002	July 15, 2002

(2) Meeting Reports

Sendai Open Hearing (151st Diet, April 26, 2001/Report by KANO Michihiko, Deputy Chairman)

On behalf of the members assigned to participate in the meeting, I am acting for the head of the mission in presenting this report summarizing the proceedings.

The participating members were NAKAYAMA Taro, head of mission and chairman; HANASHI Nobuyuki, director; SENGOKU Yoshito, director; SAITO Tetsuo, director; FUJISHIMA Masayuki, member; HARUNA Naoaki, member; KANEKO Tetsuo, member; KOIKE Yuriko, member; KONDO Motohiko, member; and me, KANO Michihiko, making a total of 10.

There was also participation by local assembly members SUGAWARA Kijuro and KANNO Tetsuo.

The meeting was held on April 16 in a conference room at the Hotel Sendai Plaza in Sendai City. Head of Mission NAKAYAMA began the proceedings with an address in which he explained the purpose of the open hearing and gave a summary of the past discussions of the Commission, introduced the members and speakers, and explained the order of the proceedings.

Statements of opinion were then heard from the following 10 speakers: TEJIMA Norio, Chairman, Sendai Association of Corporate Executives; KANO Fuminaga, Mayor of Kashimadai Town, Miyagi Prefecture; SHIMURA Kensuke, Professor Emeritus, Tohoku University; TANAKA Hidemichi, Professor, Faculty of Arts and Letters, Tohoku University; ODANAKA Toshiki, Professor, School of Law, Senshu University and Professor Emeritus, Tohoku University; KUBOTA Manae, Representative, Women's Net to Support 1946 Constitution; YONETANI Mitsumasa, Associate Professor, Tohoku Fukushi University; HAMADA Takehito, Instructor, Hirosaki Gakuin Seiai High School; ENDO Masanori, Instructor, Senshu University Kitakami Senior High School, and Representative of the Shimin Study Association; and SAITO Takako, Chairwoman, Peace Activity Committee, Miyagi Consumers' Co-operative Society.

The following is a brief summary of the opinions expressed by speakers.

TEJIMA Norio said that conditions in Japan and overseas have changed substantially since the Constitution was formulated, and the Constitution should address them.

KANO Fuminaga said that fostering the development of municipalities firmly rooted in decentralization is what will preserve and nurture the Constitution.

SHIMURA Kensuke said that as regards environmental issues, we should not take a human-centered approach, but also take co-existence with other forms of life into consideration.

TANAKA Hidemichi said that, based on an outlook rooted in Japan's traditional thinking, the Constitution should be revised to enable Japan to devote its energies to world peace.

ODANAKA Toshiki said that the ideological and idealistic structure of the present Constitution gives it a systematic coherence, and the Constitution plays a role in coping with contemporary issues.

KUBOTA Manae said that the ideals of the Constitution should be protected, given that it recognizes the rights of women, and includes the internationally acclaimed Article 9.

YONETANI Mitsumasa said that we should not create a constitution that transcends society; we need to revise the Constitution into something more familiar and accessible.

HAMADA Takehito said that Article 9 is a source of dreams and ideals for teachers who wish to reach out seriously to their students.

ENDO Masanori said that for the people to become the true sovereigns of the nation, the procedure for revising the Constitution should be improved quickly.

SAITO Takako said that what should be done now is not to revise the Constitution, but to abide by it faithfully.

After expressing their opinions, the speakers were asked by each of the members to give their views and other comments on various matters. These included questions concerning the relationship between the Constitution's provision that public officials have the obligation to respect and uphold it, and its provision for procedures for its amendment; Article 9; environmental rights; the public disclosure of information; the popular election of the prime minister; and a constitutional-court system.

After this question session, Mission Head NAKAYAMA asked for comments from the floor, and the following were among the comments made by members of the audience.

The view that the Commission should inform the public more widely of its proceedings, and the view that more opportunities should be provided for direct discussion between Diet members and the public about fundamental national issues.

A stenographic record of the proceedings was made, so would you please refer to that for full details. I request that when that record is transcribed, it be included in the minutes of the Commission for future reference.

That completes my report, but I would like to add that it was thanks to the efforts of everyone involved that the holding of the meeting proceeded very smoothly. I wish to express my most sincere gratitude to them.

Kobe Open Hearing (151st Diet, June 14, 2001/Report by KANO Michihiko, Deputy Chairman)

On behalf of the members assigned to participate in the meeting, I am acting for the head of the mission in presenting this report summarizing the proceedings.

The participating members were NAKAYAMA Taro, head of mission and chairman; NAKAGAWA Shoichi, director; HANASHI Nobuyuki, director; NAKAGAWA Masaharu, director; SAITO Tetsuo, director; SHIOTA Susumu, member; HARUNA Naoaki, member; KANEKO Tetsuo, member; KOIKE Yuriko, member; KONDO Motohiko, member; and me, KANO Michihiko, making a total of 11.

There was also participation by local assembly members OKUTANI Toru, SUNADA Keisuke, ISHII Hajime, AKAMATSU Masao, FUJIKI Yoko, and KITAKAWA Renko.

The meeting was held on June 4 in a conference room at the Hotel Okura Kobe in Kobe City. Head of Mission NAKAYAMA began the proceedings with an address in which he explained the purpose of the open hearing and gave a summary of the past discussions of the Commission, introduce the members and speakers, and explained the order of the proceedings.

Statements of opinion were then heard from the following 10 speakers: KAIHARA Toshitami, Governor of Hyogo Prefecture; SHIBAO Susumu, Mayor of Kawanishi City; SASAYAMA Kazutoshi, Mayor of Kobe City; OHMAE Shigeo, Chairman of the Board of Trustees of Ohmae Gakuin; URABE Noriho, Vice President of Kobe University and Professor, Graduate School of Law, Kobe University; NAKAKITA Ryutaro, lawyer; HASHIMOTO Akio, Chairman of Hyogo Prefecture Medical Association; KOKUBO Masao, Mayor of Hokudan Town, Hyogo Prefecture; TSUKAMOTO Hideki, corporate executive; and NAKATA Narishige, Associate Professor, Osaka Institute of Technology.

The following is a brief summary of the opinions expressed by the speakers.

KAIHARA Toshitami said that in the 21st century, Japan should make an international contribution by providing the "art of peace" for resolving problems in such areas as medical care, welfare, and disaster prevention, and that decentralization should be pursued.

SHIBAO Susumu said that it is important that the Constitution be put into practice in local government administration, and that we should take steps to protect children's human rights and to cooperate with the international community for the attainment of peace and human rights.

SASAYAMA Kazutoshi said that a lesson learned from the Great Hanshin-Awaji Earthquake is the importance of giving adequate powers to mayors of municipalities in times of disaster, and of assisting disaster victims based on the right of livelihood contained in the Constitution.

OHMAE Shigeo said that the good qualities of the Japanese people that are highly regarded worldwide should be looked at again, and the Constitution should be amended in such ways as to make express mention of the fact that Japan is a constitutional monarchy, and also to include provisions concerning obligations.

URABE Noriho said that from the perspective of human security, instead of allocating huge amounts to military preparedness, Japan should play a leadership role worldwide in tackling situations such as large-scale disasters and food and energy problems.

NAKAKITA Ryutaro said that in overcoming the mistakes of the 20th century, Japan should implement policies to give life to its Peace Constitution, including by enacting into law the Kobe-formula nuclear-free policy, and transforming the Japan-U.S. Security Treaty into a friendship treaty.

HASHIMOTO Akio said that the Constitution should include provisions concerning the duties of the state in times of major disaster, should improve the guarantee of the right to livelihood, and should make express provision to guarantee the people's right to health.

KOKUBO Masao said that the Constitution should be revised in line with changes in the times, and should include explicit mention of matters such as that the Emperor is the head of state, that Japan has the right of belligerency in self-defense, and that it can maintain military forces for defensive purposes.

TSUKAMOTO Hideki said that in view of changes in social conditions, Japan should embark upon constitutional revision, dividing the process into the stages: items to be revised immediately, items to be added, and items to be discussed in the future.

NAKATA Narishige said that the Constitution provides the foundation for citizens' actions, and so constitutional revision must not be discussed hastily, and the government should not make light of the Constitution, but should shift reality closer to its ideals.

After expressing their opinions, the speakers were asked by each of the members to give their views and other comments on various matters. These included questions concerning the popular election of the prime minister, the desirable form of local autonomy, the necessity for including explicit provisions for natural disasters in the Constitution of provisions for disasters, the allocation of powers between the national and local governments in the event of natural disasters, the advisability of stipulating that the Emperor is the head of state, the question of public assistance for disaster

victims from the standpoint of the Constitution, and the constitutional suitability of strengthening the Japan-U.S. Security Arrangements.

After this question session, Mission Head NAKAYAMA asked for comments from the floor, and the following were among the comments made by members of the audience: the inadequacies of the legal system for times of natural disaster and the relationship with the Constitution, the enactment of a Constitution that embodies Japan's national history and traditions, and the method of conducting the open hearings.

A stenographic record of the proceedings was made, so would you please refer to that for full details. I request that when that record is transcribed, it be included in the minutes of the Commission for future reference.

That completes my report, but I would like to add that it was thanks to the efforts of everyone involved that the holding of the meeting proceeded very smoothly. I wish to express my most sincere gratitude to them.

Nagoya Open Hearing (153rd Diet, November 29, 2001/Report by KANO Michihiko, Deputy Chairman)

On behalf of the members assigned to participate in the meeting, I am acting for the head of the mission in presenting this report summarizing the proceedings.

The participating members were NAKAYAMA Taro, head of mission and Chairman; HANASHI Nobuyuki, director; HATOYAMA Kunio, member; SHIMA Satoshi, member; SAITO Tetsuo, director; TSUZUKI Yuzuru, member; HARUNA Naoaki, member; KANEKO Tetsuo, member; UDAGAWA Yoshio, member; and me, KANO Michihiko, making a total of 10.

There was also participation by local assembly members KOBAYASHI Kenji, MAKI Yoshio, SEKO Yukiko, and OSHIMA Reiko.

The meeting was held on November 26 in a conference room at the Westin Nagoya Castle in Nagoya City. Head of Mission NAKAYAMA began the proceedings with an address in which he explained the purpose of the open hearing and gave a summary of the past discussions of the Commission, introduced the members and speakers, and explained the order of the proceedings.

Statements of opinion were then heard from the following six speakers: TAGUCHI Fukuji, Professor Emeritus, Nagoya University; NISHI Hideko, housewife; NOHARA Kiyoshi, teacher, Gifu Prefectural High School; KAWABATA Hiroaki, doctoral student, Graduate School of Law, Nagoya University; KOIDO Yasuo, lawyer; and KATO Masanori, university student.

The following is a brief summary of the opinions expressed by the speakers.

TAGUCHI Fukuji said that the Constitution does not envision the making of an international contribution of a military nature. Japan should continue to make contributions of a nonmilitary nature through such channels as the UN High Commissioner for Refugees and UNICEF.

NISHI Hideko said that Japan should play a role in the international community that lives up to the ideals of the Preamble of the Constitution, such as the guarantee of the right to live in peace. When giving economic aid to developing countries it is essential to take care that help reaches the poor strata of society, and that it does not lead to the destruction of traditional lifestyles and the natural environment.

NOHARA Kiyoshi said that, given the data that show that adults are failing to teach rules and manners to the young, there is a problem with the Preamble and Article 9, which leave our national security in the hands of others. The Constitution should make clear mention of right of self-defense that any normal nation possesses, and we should revise the Preamble to give it a dignified style with a clearly Japanese identity.

KAWABATA Hiroaki said that, based on his encounter with terrorist bombings when he worked at the Japanese embassy in Peru, he believes that we should resolve terrorism not with violence but with dialogue.

KOIDO Yasuo said that Japan should consider its role in the international community not in terms of how it is regarded by that community, but in terms of its national interest. Japan's international contributions should not focus on financial assistance, but should also give importance to the international contribution of personnel; for that it is necessary to develop the human resources.

KATO Masanori said that Japan should become a permanent member of the UN Security Council and show leadership in the elimination of nuclear weapons. For that Japan should introduce a system of popular election of the prime minister, through which we could expect to choose a prime minister with strong leadership qualities.

After expressing their opinions, the speakers were asked questions by each of the members on various matters. These included questions concerning the specific methods Japan should adopt to deal with terrorism, the rights and wrongs of making express mention in the Constitution of environmental rights and obligations, the advisability of having the Self-Defense Forces participate in UN policing operations, the role of the United Nations in dealing with the problem of terrorism, the relationship between the Anti-Terrorism Special Measures Law and the Constitution, and the actual state of education concerning the Constitution in classrooms.

After this question session, Mission Head NAKAYAMA asked for comments from the floor, and the following were among the comments made by members of the audience.

The view that the ideals of the Peace Constitution should be realized in concrete ways, and that there should be more women speakers.

The view that children should be taught about the importance of the Constitution.

The view that in light of the circumstances surrounding the formulation of the Constitution, it should be discussed and revised by the Japanese people themselves.

The view that Japan has lost credibility by such behavior as building up military strength despite the provisions of Article 9. We should strive to keep alive the Constitution's peaceful ideals.

The view that the Constitution was enacted through a process of encapsulating worldly wisdom and being considered in the Diet; the perspective of this Peace Constitution should be shown to the world.

A stenographic record of the proceedings was made, so would you please refer to that for full details. I request that when that record is transcribed, it be included in the minutes of the Commission for future reference.

That completes my report, but I would like to add that it was thanks to the efforts of everyone involved that the holding of the meeting proceeded very smoothly. I wish to express my most sincere gratitude to them.

Okinawa Open Hearing (154th Diet, April 25, 2002/Report by NAKANO Kansei, Deputy Chairman)

On behalf of the members assigned to participate in the meeting, I am acting for the head of the mission in presenting this report summarizing the proceedings.

The participating members were NAKAYAMA Taro, head of mission and chairman; HANASHI Nobuyuki, director; KYUMA Fumio, member; SHIMA Satoshi, director; AKAMATSU Masao, director; FUJISHIMA Masayuki, member; HARUNA Naoaki, member; KANEKO Tetsuo, member; INOUE Kiichi, member; and me, NAKANO Kansei, making a total of 10.

There was also participation by local assembly members AKAMINE Seiken and TOMON Mitsuko.

The open hearing was held on the afternoon of April 22 at the Bankoku Shinryokan in Nago City, Okinawa Prefecture, on the subject of Japan and its constitution in the 21st century. Prior to the meeting, on the afternoon of April 21 at the Okinawa Prefectural Office, Governor INAMINE Keiichi of Okinawa Prefecture and prefectural officials presented explanations of matters such as the draft of the Okinawa Development Plan, the problem of U.S. military bases in Okinawa, and the state of the tourism industry in Okinawa, and on the morning of April 22, we made an inspection tour to the Okinawa Peace Memorial Park, the National Okinawa War Dead Cemetery, and the Cornerstone of Peace.

At the open hearing, Head of Mission NAKAYAMA began the proceedings with an address in which he explained the purpose of holding the hearing and gave a summary of the past discussions of the Commission, introduced the members and speakers, and explained the order of the proceedings.

Statements of opinion were then heard from the following six speakers: YAMAUCHI Tokushin, president of a research institute on Japan's peace constitution and local autonomy; ARAKAKI Tsutomu, lawyer; MEGUMI Ryunosuke, president of a business school; KAKINOHANA Hojun, Professor, College of Law, Okinawa International University; INAFUKU Erika, university student; and ASHITOMI Osamu, member of the Okinawa Prefectural Assembly.

The following is a brief summary of the opinions expressed by the speakers.

YAMAUCHI Tokushin said that Article 9 of the Constitution is the life-blood of the Japanese people, and politicians should respect and uphold it. As a model peace-loving nation, Japan should spread the spirit of Article 9 to the world.

ARAKAKI Tsutomu said that a lesson from the Battle of Okinawa is that military force cannot protect the lives of the people, and from the standpoint of the dignity of the individual we should protect Article 9, given that it embodies unarmed pacifism.

MEGUMI Ryunosuke said that the right of belligerency is a natural right of states, and the independence and peace of states cannot be maintained without the backing of military strength. Therefore, Article 9 should be revised.

KAKINOHANA Hojun said that Diet members, teachers, and others should respect and uphold the dignity of the individual espoused by the Constitution, in order to ensure that respect for the dignity of the individual, a fundamental ideal of the Constitution and the Fundamental Law of Education, is spread and adhered to thoroughly.

INAFUKU Erika said that learning is not an obligation but a right, and thus service activities should not be made compulsory. It is important that volunteer activities be supported by the community, and there be a relationship of living in harmony with the community.

ASHITOMI Osamu said that while retaining the ideal of the renunciation of war, the Constitution should make explicit provision for the minimum armed force necessary for Japan to defend itself, and for direct civilian control in those circumstances. Express provision should also be made for the complete separation of legislative and executive powers, and for the realization of local autonomy.

After expressing their opinions, the speakers were asked questions by each of the members on matters such as Japan's system of security, the constitutionality of the Self-Defense Forces and the Japan-U.S. Security Treaty, whether or not provisions

other than Article 9 should be revised, the role of the Self-Defense Forces in times of disaster, the desirable form of the state's protection of the people's security, international contributions in the nonmilitary sphere, the revision of the U.S.-Japan Status of Forces Agreement, problems with the emergency response legislation, and education problems.

After this question session, Mission Head NAKAYAMA asked for comments from the floor, and the following were among the comments made by members of the audience: the importance of the Peace Constitution, the necessity for establishing national sovereignty, the fact that the Constitution has not been observed adequately in Okinawa, and problems with the emergency response legislation.

A stenographic record of the proceedings was made, so would you please refer to that for full details. I request that when that record is transcribed, it be included in the minutes of the Commission for future reference.

That completes my report, but I would like to add that it was thanks to the efforts of everyone involved that the holding of the meeting proceeded very smoothly. I wish to express my most sincere gratitude to them.

Sapporo Open Hearing (154th Diet, July 25, 2002/Report by NAKANO Kansei, Deputy Chairman)

On behalf of the members assigned to participate in the meeting, I am acting for the head of the mission in presenting this report summarizing the proceedings.

The participating members were NAKAYAMA Taro, head of mission and chairman; HANASHI Nobuyuki, director; NAKAGAWA Shoichi, director; NAKAGAWA Masaharu, director; AKAMATSU Masao, director; TAKEYAMA Yuriko, member; HARUNA Naoaki, member; KANEKO Tetsuo, member; INOUE Kiichi, member; and me, NAKANO Kansei, making a total of 10.

There was also participation by local assembly member YAMAUCHI Keiko.

The open hearing was held on the afternoon of June 24 in a conference room at the Hotel New Otani Sapporo in Sapporo City, Hokkaido, on the subject of Japan and its constitution in the 21st century.

Head of Mission NAKAYAMA began the proceedings with an address in which he explained the purpose of holding the hearing and gave a summary of the past discussions of the Commission, introduced the members and speakers, and explained the order of the proceedings.

Statements of opinion were then heard from the following six speakers: INATSU Sadatoshi, Managing Director, Daitoa Shoji Co., Ltd.; ISHIZUKA Osamu, farmer; TANAKA Hiroshi, Chairman, Hokkaido Federation of Bar Associations; SATO Satomi,

university student; YUKI Yoichiro, Professor, Otaru University of Commerce; MASUGI Eiichi, lawyer.

The following is a brief summary of the opinions expressed by the speakers.

INATSU Sadatoshi said that we should enact a new Constitution whose fundamental principles are universal values based on Japan's traditions and culture, and make an active contribution to maintaining the world order at the beginning of the 21st century.

ISHIZUKA Osamu said that Japan should persist with the staunchly pacifist ideals in the Preamble and Article 9 of the Constitution, and become an independent country both politically and economically.

TANAKA Hiroshi said that, rather than revise Article 9 of the Constitution and study the emergency-response legislation, the government should reflect on its past treatment of the Ainu and develop more benign ethnic policies towards them.

SATO Satomi said that to ensure that the guarantee of the equality of the sexes in Article 14 is realized, there is a further need to improve legislation and change attitudes, so as to guarantee women their due rights.

YUKI Yoichiro said that Article 9 of the Constitution is something that Japan can proudly display as a model to the world, and should be maintained, but that there is scope for improving the Constitution with respect to, for example, the introduction of a referendum system, the establishment of a constitutional court, and the introduction of a presidential system.

MASUGI Eiichi said that the ideal of pacifism in the present Constitution should show its worth more than ever in the 21st century. It is essential to reform the judicial system in order to protect the Constitution and human rights.

After expressing their opinions, the speakers were asked questions by each of the members on matters such as internationalization in Hokkaido, Article 9 and the Self-Defense Forces, the form that Japan's international contributions should take, Japan's nonnuclear policy, the reform of the judicial system, the increasing participation in society by women, education reform, and agricultural policy.

After this question session, Mission Head NAKAYAMA asked for comments from the floor, and the following were among the comments made by members of the audience: the significance of Article 9, problems with the emergency-response legislation, and the fear that the holding of open hearings will lead to the revision of the Constitution.

A stenographic record of the proceedings was made, so would you please refer to that for full details. I request that when that record is transcribed, it be included in the minutes of the Commission for future reference.

That completes my report, but I would like to add that it was thanks to the efforts of everyone involved that the holding of the meeting proceeded very smoothly. I wish to express my most sincere gratitude to them.

6. Report on the Overseas Study Missions

Report on the House delegation dispatched to survey the constitutions of several European nations (150th Session of the Diet; September 28, 2000)

NAKAYAMA Taro, Commission Chairman and Leader of Delegation

I will now present a report on behalf of the House delegation dispatched to survey the constitutions of several European nations.

We recently conducted a survey of the state of the constitution in five European nations: Germany, Finland, Switzerland, Italy, and France.

A full official report of the survey is currently being prepared for submission to the Speaker of the House. However, as our delegation was made up of members of this Commission, I will present a brief overview here for your information.

The House delegation was composed of nine people: myself as the leader, Deputy Chairman KANO Michihiko as deputy leader, HANASHI Nobuyuki, ISHIKAWA Yozo, NAKAGAWA Shoichi, SENGOKU Yoshito, AKAMATSU Masao, HARUNA Naoaki, and TSUJIMOTO Kiyomi. We were accompanied by staff from the Commission's Office and the National Diet Library, and by a party of four reporters.

We arrived at our first destination, Karlsruhe in Germany, on the morning of September 11. There, at the Federal Constitutional Court, we received a general explanation of Germany's Constitutional Court system from its president, Prof. Dr. Jutta LIMBACH, and Justice Udo STEINER. The explanation focused on points of interest that we had sent in advance, and it was followed by a question-and-answer session.

Germany's Basic Law has been revised forty-six times since World War II. In addition to a summary of the main revisions and their background, the discussion touched on a wide array of topics, including the question of how neutrality is ensured among the judges of the Constitutional Court, which makes judgments of political importance; the Court's ruling that the deployment of German military forces outside of NATO territory is constitutional; and the actual operation of compulsory military service and alternative service for conscientious objectors.

I was particularly struck by Prof. Dr. LIMBACH's unequivocal statement that majority rule is not the only form of democracy, and that in some cases the judges of the Court are in a better position than legislators to think about the best future for the nation.

On the way from Karlsruhe to Frankfurt, we called at Langen to visit a facility for handicapped children where conscientious objectors perform alternative civilian service, and to hear comments from its leader, Dr. Ingolf REIMER, and three young people. We were very interested to learn that conscientious objectors make up 35 percent of the

430,000 Germans eligible for military service each year, and that this figure is expected to exceed 40 percent within a decade; that the alternative civilian service they perform is a valuable source of labor in the social welfare sector, and that this is a major political issue.

The next day, September 12, we traveled to Berlin. We went directly to the residence of the Japanese Ambassador, where a secretary of the Japanese Embassy in Finland had been invited to give an explanation of the Finnish constitution. A completely revised constitution entered into force in Finland this March, and we studied the background to the revision and the process involved.

We learned that the complete revision was carried out to systematize the constitutional amendments that had been made almost annually since the early 1990s, and that its main focus was strengthening the powers of the national assembly and limiting those of the president. In addition, we received an explanation of various provisions, including those for the right of information access and those concerning states of emergency.

When we asked about compulsory military service and the system for conscientious objection in order to make a comparison with Germany, we learned that there is a system of conscription from the age of eighteen, and that about 8 percent of those eligible conscientiously object to military service.

That afternoon, we visited the Bundestag, where Mr. Alfred HARTENBACH, Bundestag member and chairman of the Legal Affairs Department of the ruling Social Democratic Party (SPD), explained the record of revisions of Germany's Basic Law and how it operates in practice.

Here, too, we asked questions actively, making comparisons with issues of concern in Japan. In addition to the background and outline of the forty-six revisions of the Basic Law and the issue of deploying German military forces outside of NATO territory, the topics of discussion included the separation of church and state, national security, the right of asylum (the State's right to protect a political refugee or other person who has sought refuge in its jurisdiction after being persecuted in another country; e.g., the right to refuse extradition requests), and voting rights for foreign nationals in local elections.

After the meeting, we proceeded that night to Bern. The next day, the 13th, was devoted to explanations of the overview and characteristics of Switzerland's new constitution, which entered into force in January 2000 as the result of a complete revision. The morning session was hosted by Dr. Remo GYSIN of the Federal Assembly National Council and four colleagues, all members of the Constitutional Reform Committee or officials of the parliamentary secretariat. The afternoon session was hosted by Prof. Dr. Luzius MADER, Vice Director, Federal Office of Justice, Federal

Department of Justice and Police, who was involved in drafting the constitutional revisions.

We focused on the Swiss constitution because of its historical background. The old constitution, enacted in 1874, had been amended 140 times—an average of more than once per year—but a complete revision which consolidated these amendments was passed last year and entered into force this January.

In Switzerland, the main points that gave rise to discussion were: (1) the significance and problems of the national referendum system, which is a manifestation of direct democracy; (2) the actual operation of universal conscription for all men until age 42; (3) the fact that the constitution contains detailed provisions concerning bioethics, which have been established from the 21st century viewpoint of ensuring human dignity amid scientific and technological advances.

The following day, September 14, at the residence of the Japanese Ambassador in Rome, we heard comments from Ms. SHIONO Nanami, who resides in Italy. She spoke of (1) the concept of “law” in ancient Rome, and (2) her own views regarding the Japanese Constitution, followed by informal discussion.

(1) Ms. SHIONO stated that, in contrast to the Judaic view of law as a God-given, sacred and inviolable thing to which human beings should adapt, the Romans’ concept of law was that it should be adapted to human beings, i.e., Roman law was what might be called “normal” law. (2) She then emphasized that, in her personal opinion, the Constitution of Japan should be revised, not because it was imposed or to make Japan a “normal country,” but to create a “normal constitution,” and that, to that end, it would be realistic to focus revision efforts on one point, namely, relaxing the strict amendment procedures in Article 96.

The delegation members responded with many questions on topics including (1) the actual system of government of the Roman Empire, and (2) the pros and cons of limiting revision to Article 96, and the discussion that followed was cordial but nonetheless intense.

The following day, the 15th, we visited the Italian Constitutional Court and the First Commission of the Chamber of Deputies (the Lower House). Italy’s current constitution, which came into force in 1948, has been revised ten times to date.

At the Constitutional Court, we received an explanation of the Court’s system and how it operates from its president, Prof. Cesare MIRABELLI, and four colleagues, followed by a question-and-answer session. The discussion, which continued beyond the scheduled time, covered such matters as (1) persons eligible to bring cases before the Court, and the criteria for rulings of unconstitutionality; (2) the problem of ensuring that Constitutional Court judges are political neutral; and (3) national perceptions of the duty to defend the nation.

I found especially noteworthy the comments that the duty to defend the nation is being increasingly viewed as a duty of social and public solidarity rather than as a duty to defend the nation militarily, that this change in national perceptions was prompted in part by the Constitutional Court's recognition of civilian alternatives such as social welfare service, and that the military today has taken on the status of an instrument for peacekeeping and protection of human rights.

We then visited the Hon. Rosa RUSSO JERVOLINO, President of the First Commission of the Chamber of Deputies, and a colleague.

In addition to dealing with security issues under the postwar constitution, the questions posed at this session were of a specific and specialized nature. For example, delegation members asked about the relationship between Italy's constitutionally guaranteed system of local autonomy and the system that empowers the central government to oversee regional governments, and about the issue of partial transfer of State sovereignty, as symbolized by European integration, and especially by monetary union. Questions bearing on the most practical aspects of politics, such as current trends of proposed constitutional amendments, were also raised, and a very animated explanation was received from Ms. JERVOLINO.

On the last day of the mission, Monday, September 18, we visited the National Assembly and the Constitutional Council of France.

France's current constitution, which was enacted in 1958, has been revised thirteen times.

First, at the National Assembly, which we visited in the morning, we met with its Vice President, Ms. Christine LAZERGES, and a Member, Mr. Etienne PINTE. The discussion covered topics including: (1) the process of constitutional revision in France, including the highly topical issue of the national referendum on a constitutional amendment to reduce the president's term, which was about to take place on the 24th; (2) the issue of harmonizing human rights with duties to society and the public good (a fitting topic in France, home of the Declaration of the Rights of Man); (3) the question of what sort of constitutional education should be provided from the perspective of the preceding point. With regard to the system of government, the discussion also covered topics such as (4) the constitutional limits on the legislative powers of the National Assembly, and (5) the dual nature of executive power in the arrangement known as *cohabitation*, in which a president from one party shares power with a prime minister from an opposing party.

A lively discussion then followed, lasting well over the scheduled time, in which we compared the systems of Japan and France on such points as bioethical issues, the actual state of France's statutory 35-hour workweek, and various problems relating to a declining birthrate and an aging population.

During this discussion, Ms. LAZERGES made a comment that I found particularly memorable. In connection with the increasing number of murders committed by teenagers in Japan, I had asked her about the education of youth and the nation's future. She replied that young people cannot be expected to obey the law unless they have some guarantee of hope for the future, and that we politicians, while making sure that troubled young people learn the importance of obeying the law, also have a responsibility to show them a brighter future and to devise social and economic policies to that end.

In the afternoon, our last call was to the French Constitutional Council, where we held an informal discussion with its President, Mr. Yves GUENA, who is France's leading authority on constitutional issues, and two members of the Council, Ms. Simone VEIL and Mr. Jean-Claude COLLIARD. From the explanations and answers to our questions, we learned that the Council's review of constitutionality is limited to prior review of legislation before it is enacted, and that ordinary citizens do not have the right to bring cases before it; that there is a division of jurisdiction with other courts including the Conseil d'Etat (Council of State) and the Cour de Cassation (the French Supreme Court); that features of France's present constitution such as its invocation of the 1789 Declaration of the Rights of Man have a background in French history; and that, after recent major changes, the Constitutional Council now exercises the function of guaranteeing human rights.

Having completed the above very full schedule, the House delegation returned to Japan on September 19.

Since the mission was very brief and our agenda in each country covered a wide variety of issues, I cannot begin to offer anything like a conclusion here. However, if I may say a few words concerning my own personal impressions, I was struck by the fact that Germany's constitution, the Basic Law, has been revised forty-six times, Switzerland's old constitution was revised one hundred and forty times, Italy's current constitution has been revised ten times, and France's thirteen. In all the countries we visited, I believe that we achieved a common understanding, transcending the differences in our standpoints, to the effect that a constitution is not a code immutable for all time but a living thing situated in the real world, and that, moreover, concrete political issues are debated fairly and openly in relation to the articles of the constitution.

As soon as the detailed report of the survey has been submitted to the Speaker of the House, it will be distributed to all the members of this Commission, and I hope that you will find it informative in our future debates.

In closing, I would like to express my sincere appreciation to everyone who cooperated in any way in the survey, together with my heartfelt gratitude that we were able to successfully complete such a full program. Thank you all very much.

This concludes my brief summary of the recent overseas study mission.

Report on the House delegation dispatched to survey the constitutions of Russia, several other European countries, and Israel (153rd Session of the Diet; October 11, 2001)

NAKAYAMA Taro, Commission Chairman and Leader of Delegation

I will now present a report in my capacity as head of the House delegation that was recently dispatched to survey the constitutions of Russia, several other European nations, and Israel.

From August 28 to September 7, we conducted a survey of the state of the constitution in a total of eleven nations: Russia, Hungary, and three other Eastern European nations, for a total of five members of the former Communist bloc; five European monarchies, including the Netherlands and Spain; and Israel.

A full official report of the survey is currently being prepared for submission to the Speaker of the House. However, as our delegation was made up of members of this Commission, I will present a brief oral report of the survey here, to serve as a reference point in our future investigations.

The House delegation was composed of nine people: myself as the leader, Deputy Chairman KANO Michihiko as deputy leader, HANASHI Nobuyuki, YASUOKA Okiharu, SENGOKU Yoshito, SAITO Tetsuo, YAMAGUCHI Tomio, KANEKO Tetsuo, and KONDO Motohiko. We were accompanied by staff from the Commission's Office and the National Diet Library, and by two reporters.

On the morning of August 29, at our first destination, Moscow, we attended three meetings at the State Duma, which corresponds to Japan's House of Representatives. We met first with Mr. Mikhail Mikhaylovich ZADORNOV, a member of the State Duma, and three colleagues; then with Mr. Vladimir Petrovich LUKIN, Deputy Chairman of the State Duma; and then with Mr. Anatoly Ivanovich LUKYANOV, Chairman of the State Structure Committee, which handles issues relating to the constitution. At each of these meetings, our hosts made various comments from the perspective that the Russian Constitution of 1993, which was the result of a complete constitutional revision after the collapse of the Soviet Union in 1991, is a landmark in the constitutional history of the Soviet Union—which includes the “Stalin Constitution” of 1936, the approximately forty revisions that followed, and the enactment of the 1977 Constitution—and that it will create a new Russia.

The topics raised included, first, in our meeting with Mr. ZADORNOV and his colleagues, the degree to which awareness of the new Russian Constitution has spread among the public, and the relationship between the individual and society, as symbolized by the status given to the family in the constitution. In our meeting with Mr. LUKIN, we discussed the relationship between the executive branch and the Duma under the new constitution's strongly president-centered framework and, in particular, the problem of what kind of control the Duma should exercise over the

president's power to appoint ministers. In our meeting with Mr. LUKYANOV, we spoke of the relationship between the family or the individual and society or the community amid the trend to nuclear families, the importance of maintaining traditions in a changing society, and the issue of how the Duma can best serve as a check on the strong powers of Russia's president, whose "superpresidential" powers make him a kind of "fourth branch" over and above the legislative, executive, and judicial branches.

I was particularly struck by the following comments by Mr. LUKYANOV.

He noted that, while constitutions consist of stiff and formal texts, the social environment is in a state of flux, as symbolized by globalization and the development of the Internet, and that there are two ways to keep pace with these changes: either a new constitution can be created whole, as Russia and many Eastern European nations have done, or it can be created incrementally. Whichever method is used, there is a need to create a new constitution attuned to the changing world.

Further, I was struck by his remark that both Russia and Japan are nations that have always cherished tradition. He described Japan as especially unique in that, on the one hand, it has a symbolic Emperor, and, on the other, it has a vigorous popularly elected Diet. He expressed the view that, in light of these national traits, we have taken exactly the right course in establishing the Research Commission on the Constitution and studying a new constitution, investigating the issues steadily and without haste.

In the afternoon, we met first with Mr. Vyacheslav Borisovich EVDOKIMOV, State Secretary and First Deputy of the Ministry of Justice, and six other top government officials, and then with Mr. Boris Aleksandrovich STRASHUN, Deputy Head of the Scientific-Analytical Center of Constitutional Justice, Constitutional Court of the Russian Federation.

The meeting at the Ministry of Justice covered the process that led from the collapse of the Soviet Union in 1991 to the enactment of the new constitution in 1993, together with specialized and practical questions such as the treatment of foreign nationals' voting rights under the new constitution, and the present state of judicial reform in Russia. In the meeting at the Scientific-Analytical Center of Constitutional Justice, we discussed the state of reviews by the Constitutional Court, the system for appointing judges and the problem of politicization, among other matters. It was explained that over 3,000 cases have been filed in the decade since the Constitutional Court was established, and that Russian citizens have submitted as many as 2,000 cases to the European Court of Human Rights. It seemed to me that these figures attest to the growing interest in human rights issues in Russia.

The next day, August 30, we made a brief visit to Budapest. At the residence of the Japanese Ambassador to Hungary, secretaries invited from the Japanese Embassies in four Eastern European countries, Hungary, Poland, the Czech Republic, and Romania,

gave explanations of these nations' constitutions, detailing their characteristics and the process by which they were newly enacted or revised as part of the wave of democratic reforms after the collapse of the Soviet Union. The explanations were followed by question-and-answer sessions.

Here, I will report briefly on the enactment and revision processes and the characteristics of these nations' constitutions. First, with regard to the process that led to the current Hungarian constitution, there was initially no time to draft a new constitution in view of the need to expedite the change of political system; thus, it was decided to amend the old constitution of the Hungarian People's Republic, which had been revised thirty-seven times, and subsequently there was a movement to enact a new constitution. The constitution is characterized by, on the one hand, a provision stipulating that the Parliament is the supreme body of State power and popular representation, and on the other hand, a system of national referendums; in practice, when Hungary joined NATO, the referendum system was utilized and efforts were made to obtain a national consensus.

Next, with regard to the process that led to the current Polish constitution, the approach of revising the old constitution was adopted in the period directly after the change of political system in 1989, because it was difficult to enact a new constitution while President Lech Walesa and the former United Workers' Party government were sharing power. Aspects remaining from the days of the old constitution were then gradually removed by repeated amendments. The rise of the current president, Aleksander Kwasniewski, paved the way for the enactment of a new constitution in 1997, following a national referendum. One characteristic of the new constitution is its reference, in the Preamble, to Poland's Catholic heritage.

With regard to the process of enacting the Czech constitution, the work was initially pursued on the assumption that the federation with Slovakia would be maintained, but it was eventually decided that the two republics would separate. The Czech Republic's constitutional order is characterized by having three components, each in a different legal form. That is, in addition to the Constitution of the Czech Republic, which chiefly lays down the system of government, there are (1) the Charter of Fundamental Rights and Freedoms, which provides for the rights of the people, and (2) the Constitutional Law of the Czech National Council, which is equal in value to the Constitution and stipulates the organization and activities of the State and the rights and freedom of the people.

Lastly, in the enactment process of the Romanian Constitution in 1991, there was a debate over whether to make the post-Ceausescu system a republic or a monarchy. Among its characteristics are political pluralism and an emphasis on protecting the rights of national minorities.

In addition to the above points, what I personally found most noteworthy in the explanations was the fact that many countries have established constitutional courts or

similar institutions as specialized organs to prevent authoritarian rule and to guarantee human rights.

In May of last year, this Commission investigated the major postwar judgments of unconstitutionality in Japan by asking the bureau director in charge of constitutionality cases within the General Secretariat of the Supreme Court to attend as an informant. On behalf of the Commission, I opened the question session by pointing out that there have been cases in which the Supreme Court did not reach a decision on constitutionality for reasons such as the so-called “act of State” doctrine, and I asked why no decision was reached in these cases. Mr. CHIBA, who is director of the Administrative Affairs Bureau, replied as follows: “In its rulings, the Supreme Court judged that acts of State of a highly political nature that have a direct bearing on the foundations of national government lie outside the scope of the Court’s right of review, and that the power to make decisions thereon should be understood to be entrusted to the government and the Diet, which are politically accountable to the people, with whom sovereignty resides, and ultimately to be a matter for political decision by the people.”

It seemed to me that the institutions that were explained to us at the hearing in Budapest offer food for thought when we reflect on where the right of constitutional interpretation in Japan has effectively been located until now, and on related questions including how the role of interpreting the constitution should be divided between the Diet (where the outcome is basically a majority decision) and an independent constitutional court.

After the hearing in Budapest, our delegation continued on to Amsterdam that night. The following day, August 31, at The Hague, we studied the state of the constitution of the Netherlands, together with those of several neighboring countries that have monarchies.

In the morning, we first paid a courtesy call to Mr. F. Korthals ALTES, Chairman of the First Chamber, and discussed topics including the relationship between the upper and lower chambers of the Dutch parliament and the legal status of the Dutch constitution under the German occupation during World War II.

The discussion included an interesting account of how the Dutch constitution effectively lost its force when the Queen and the government went into wartime exile in London, and how all the actions of the government-in-exile therefore had to be examined after the war, since parliamentary controls had not been able to function while the government was in exile. Mr. ALTHES noted the importance of checking the constitutionality of a government’s actions, even if, as in this case, the actions occurred during a wartime emergency and the check was made after the fact.

We then met with Mr. Felix Edurd Robert RHODIUS, minister of the Dutch government and Director of the Cabinet of the Queen, and heard a detailed explanation

of the evolution of the Dutch monarchy, from the fall of Napoleon to the present day. This was followed by an informal discussion of such topics as the Queen's present status and role in the government.

In the afternoon, we visited the Constitutional Affairs and Legislation Department, Ministry of the Interior and Kingdom Relations, and met its director, Dr. Jit A. PETERS. We were given overviews of the three features said to characterize the Dutch constitution—the monarchy, democracy, and decentralization—after which we asked questions on topics including the legislative procedure in Parliament, the Queen's role, sources of independent revenue for the regions, and other decentralization issues.

Then, as we had done in Hungary, we held a hearing at the Japanese Embassy in which staff from the Japanese Embassies in the neighboring countries of Sweden, Denmark, and Belgium (all of which have monarchist systems) explained these nations' constitutions. The explanations covered such matters as the constitutional status of the respective monarchies, including the powers and status of the monarch, and the actual operation of the systems.

I personally was most impressed by what we learned about the history of the Dutch monarchy. After the Napoleonic Wars in the early 1800s, the Netherlands, which until then had been a republic, chose by popular consensus to become a monarchy. Under the resulting constitutional monarchy, the monarch's powers have always been strictly prescribed by the constitution, and at times they have been further restricted at the monarch's own initiative. This adaptability to historical change on the part of the kings and queens themselves, together with their longstanding role as patrons of the fine arts and the performing arts, are among the underlying reasons for the Dutch people's abiding respect and affection for the royal family—sentiments which go beyond mere support for the monarchy as a system. This, we were told, is why the Dutch monarchy has survived while its counterparts in many other countries have been abolished.

I was also particularly impressed by what we heard of the trend toward decentralization in Denmark. As long ago as 1849, provision was made in the Danish constitution for introducing decentralization. Full-scale devolution began in the 1960s, and Denmark today has achieved a high degree of decentralization by world standards. Basically, services that are an integral part of daily life are delegated to local governments: the cities (the basic unit of self-government) handle the major tasks of providing the water supply, gas utilities, kindergartens, elementary schools, etc.; the counties (the broader regional units) are mainly responsible for hospitals, national health insurance, arterial roads, secondary schools, and so on, and the national government is in charge of such areas as the police force, foreign policy, and defense. To support this allocation of duties, a substantial portion of national tax revenues is granted to the regions with no strings attached, to be used as they wish. To cite the actual figures, the breakdown of tax revenue sources is 64:36 between the national and regional levels, whereas the budget is divided in a ratio of 37:63. I found this

information very interesting when viewed in conjunction with the present situation here in Japan, where promoting decentralization is an important task.

On September 1, we traveled from Amsterdam to Jerusalem. Although this was before the September 11 terrorist attacks in the United States, security at the airport and other locations was very strict in the wake of a series of suicide bomb attacks and other incidents. Nevertheless, the actual meetings took place in a very calm and cordial atmosphere.

In Israel, one of the main objectives of our study mission was to learn about the system of popular election of the prime minister that was in use until recently. Accordingly, we met with a total of eight government officials and experts over the course of two days and conducted detailed research on the system, focusing on the process that led to its introduction and then to its abolition.

On the first day, September 2, we met with Mr. Joshua SCHOFFMAN, the Deputy Attorney General; Mr. Meir SHEETRIT, the Minister of Justice; and Messrs. Shlomo SHOHAM and Ophir PINES, M.K., who are, respectively, the legal advisor and the chairman of the Constitution Law and Justice Committee of the Knesset (which corresponds to the Diet in Japan). On the second day, September 3, we met with Foreign Minister Mr. Shimon PERES, and also with two academic experts who favored abolition of popular election of the prime minister, Dr. Arye Z. CARMON, and Prof. Zeev SEGAL of Tel Aviv University. We also had an informal discussion with Mr. Moshe ARENS, Chairman of the Israel-Japan Parliamentary Friendship League.

Speaking for myself, these meetings and discussions brought home to me the realization that, in short, whether to introduce a system of popular election of the prime minister is a question that requires careful study of a wide range of issues pertaining to the system of government, such as the prime minister's relationship with the Diet and with the Imperial system. It is not a step to be taken casually.

We were told almost unanimously by everyone we met that Israel's adoption of popular election of the prime minister, which was meant to bring stability to the government, missed the mark completely and instead allowed small parties to proliferate. We were also told that the main priority now is to reform the electoral system while retaining a parliamentary Cabinet, and, above all, to resolve the problem of too many tiny parties gaining seats in the Knesset, for example, by raising the threshold from 1.5 to 3 percent, or by introducing a system of electoral districts. Our hosts also commented that, while Israel and Japan have different constitutional and electoral systems and a different political, social, and cultural environment, they would advise us to learn from their mistake and approach the question more cautiously.

It was also explained that financial assistance from Jewish supporters overseas contributed greatly to the campaigns that were conducted when the system was adopted and then abolished. When compared with the restrictions on political funds in

Japan, I felt that this pointed to a special characteristic of Israel, that is, the ties among the Jewish community that have existed since Israel's establishment as an independent state.

In our meetings, we were also able to exchange opinions with statesmen such as Mr. SHEETRIT, the Minister of Justice, and Mr. PERES, the Minister of Foreign Affairs, on their views of the nation and their political beliefs. I personally was particularly struck by a comment by Mr. SHEETRIT to the following effect.

When the Oslo Accords came before the Knesset, Mr. SHEETRIT said, he rebelled against the policy of his own party, the Likud, and accepted the Accords in the interests of peace. He has opposed his party in various other ways, he noted, and yet he survives as a politician, for a politician can survive even if he swims against the tide, rather than just clinging to the legacy of the past or going with the tide. In his own case, he concluded, one could say that he has survived because he has always stood with his supporters and with the public.

The following comments by Mr. PERES also made a strong impression on me: Opinion polls are like perfume, nice to smell, but dangerous to swallow. Many people are attracted by them, but they need to be handled with care—you could make yourself sick if you swallowed them. Mr. PERES also commented that he has been in politics for a long time and received more criticism than any other politician, and this has taught him that, even in the television era with its highly developed mass media, it is not your image but your character that counts. He told us that the reason he is still one of his country's most popular politicians, despite having made many mistakes over the years, is not because he is good-looking, nor because he has become a moderate, but because he has worked for the good of the nation, and many of the public understand this position.

The following comments in answer to a question of mine on the outlook for the world situation were also very noteworthy.

Mr. PERES said that he was basically optimistic about the future world outlook, including peace in the Middle East and Asia. If anyone had predicted just after the end of World War II that a new Europe and a new Japan would be born in the near future, he continued, they would have been laughed at, and yet that is what happened. But it happened as the result of economics, not politics. It is sometimes said that the European integration conceived of by Jean Monnet has changed the continent more than Napoleon ever imagined, and this is very true, Mr. PERES said. Further, he noted, wars used to be fought for land and resources, but there is no longer any need to fight over these things. What will become increasingly important in the future is competition to seek new knowledge, as in high-tech industries, and this takes place in an area without limits. The Middle East is still preoccupied with the past, but we should let go of that way of thinking. We cannot change our ages, he said, but we can change our way of thinking.

The next day, September 4, the delegation left Jerusalem for Madrid.

On the 5th, in the morning, we visited the Council of State, an advisory body to the Spanish government which plays a part in the judicial review of legislation, and met with four senior officials including its president, Mr. Iñigo CAVERO LATAILLADE. In the afternoon, we met with Ms. Margarita MARISCAL DE GANTE, President of the Constitutional Commission of the Congress of Deputies, and six of her colleagues from the national assembly.

Mr. CAVERO and his colleagues gave us an overview of the current Spanish constitution, which was enacted in 1978, focusing on the process that led to the adoption of a parliamentary monarchy after the fall of the Franco regime, the degree to which the constitution provides for rights, including new rights, and problems in the system of autonomous communities. The explanation was followed by a question-and-answer session. In the afternoon meeting, we heard the views of Ms. MARISCAL and her colleagues, who represented several political parties, on the process leading to the enactment of the current constitution, followed by a question-and-answer session.

In this meeting, I was particularly struck by a comment from Mr. Jordi JANE I GUASCH, the first secretary of the Constitutional Commission. He stated that the stability of the Spanish constitution is underpinned by the consensus that was eventually reached in talks among many different political parties during the enactment process, and that a basic national law like a constitution must be created, not by one party, but by many parties consulting together to build a consensus in the national assembly as a whole.

Another memorable comment, with regard to the Spanish monarchy, was the explanation that in the process that resulted in the present constitution after the fall of the Franco regime, King Juan Carlos, who had been designated to succeed General Franco, himself became a champion of reform and played a decisive role in democratization, including the liberalization of political parties.

That is, King Juan Carlos has won popular support by, first, demonstrating his commitment to democracy when pro-Franco forces attempted a coup d'état in 1981, and then showing a clear awareness of his position as a constitutional monarch by applying himself steadily to his official duties without intervening in politics when a Socialist government came to power, replacing the center-right. In fact, opinion polls regularly rate the royal family very high in terms of public trust and esteem—higher than the national assembly and other institutions.

After successfully completing the above very full schedule, our delegation returned to Japan on September 7.

Since the mission was very brief and our agenda in each country covered a wide variety of issues, I cannot begin to offer anything like a conclusion here. However, if I may say

a few words about my own personal impressions, it seems to me that in the debate over a nation's constitution, regardless of whether the nation is a republic or a monarchy and whether it has a president, a parliamentary Cabinet, or a popularly elected prime minister, the crucial thing is to make materials for discussion fully available to the public. Even in establishing and abolishing a monarchy, it is the people who choose. In other words, it is ultimately the people who decide the basic vision of the nation. And it is crucial that their decision be founded on public trust and confidence, whether in a monarch as a symbol of authority, or in a political leader such as a president or prime minister, who is a center of authority.

Also, I was reminded that the possibility of an EU constitution has aroused a good deal of controversy in connection with the question of ceding sovereign rights, and the framework of the nation-state itself is very unsettled.

Thinking about these points and comparing Japan with the countries we visited, I felt anew a great regard for our own Imperial family with its history of over a millennium, the popular trust that it enjoys, and the fact that the Emperor so admirably performs his symbolic role without becoming involved in politics.

Also, as this Commission conducts thorough research on a vision for Japan in the 21st century that transcends political affiliations and also takes into account concrete policies to address the various problems presently facing the nation, I am all the more convinced that what we must do is to present a model of Japan as it should be, and thus to gain the public's trust.

As soon as the detailed report of the survey has been submitted to the Speaker of the House, it will be distributed to all the members of this Commission, and I hope that you will find it informative in our future debates.

Together with the five European countries (Germany, Finland, Switzerland, Italy, and France) covered by the Report of the Overseas Mission distributed to members last year, we have now surveyed the state of the constitution in a total of sixteen countries, mainly in Europe but also including Israel. These surveys have brought home to me the fact that, in every country, the ideal form of the constitution is directly linked to the ideal vision of the nation, and it is the subject of national debate.

In closing, I would like to express my sincere appreciation to everyone who cooperated in any way in the survey, together with my heartfelt gratitude that we were able to successfully complete such a full program. Thank you all very much.

This concludes my brief summary of the recent overseas study mission.

7. Meetings of the Research Commission on the Constitution and the Subcommittees

(1) Research Commission on the Constitution

Date	Meeting	Meeting Agenda	Proceedings	Duration
147th Diet Session				
Thurs. Jan. 20, 2000	First Meeting	Internal election of Chairman	NAKAYAMA Taro (LDP) was elected as chairman.	0h05
			Chairman NAKAYAMA made an opening speech.	
		Internal election of Directors	The following members were elected as directors: AICHI Kazuo (LDP) SUGIURA Seiken (LDP) NAKAGAWA Shoichi (LDP) HANASHI Nobuyuki (LDP) YASUOKA Okiharu (LDP) KANO Michihiko (DPJ) SENGOKU Yoshito (DPJ) HIRATA Yoneo (NK-RN) NODA Takeshi (LP)	
Thurs. Feb. 17, 2000	Second Meeting	Matters relating to the Constitution of Japan	Opinions from the following members were heard: HANASHI Nobuyuki (LDP) KANO Michihiko (DPJ) HIRATA Yoneo (NK-RN) NODA Takeshi (LP) SASAKI Rikukai (JCP) ITO Shigeru (SDP)	0h31
		Matters relating to the Constitution of Japan (Details of how the Constitution was formulated)	A decision was made, after discussion, concerning requests for attendance of informants.	
			An announcement that KANO Michihiko (DPJ) had been appointed deputy chairman was made.	

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. Feb. 24, 2000	Third Meeting	Matters relating to the Constitution of Japan (Details of how the Constitution was formulated)	<p>After statements were heard from informants, questions were put to them.</p> <p>Informant: NISHI Osamu, Ph.D., Professor of Constitutional Law at the Faculty of Law, Komazawa University; and Dean of the Division of Law, Graduate School, Komazawa University</p> <p>Members who put questions to him: YASUOKA Okiharu (LDP) AICHI Kazuo (LDP) EDANO Yukio (DPJ) ISHIDA Katsuyuki (NK-RN) ABE Motoo (LP) HIGASHINAKA Mitsuo (JCP) FUKADA Hajime (SDP)</p> <p>Informant: AOYAMA Takenori, Professor of Law at the College of Law, Nihon University</p> <p>Members who put questions to him: AICHI Kazuo (LDP) YASUOKA Okiharu (LDP) SENGOKU Yoshito (DPJ) OTA Akihiro (NK-RN) ABE Motoo (LP) SASAKI Rikukai (JCP) FUKADA Hajime (SDP)</p>	5h03
Thurs. Mar. 9, 2000	Fourth Meeting	Matters relating to the Constitution of Japan (Details of how the Constitution was formulated)	<p>After statements were heard from informants, questions were put to them.</p> <p>Informant: KOSEKI Shoichi, Professor, Faculty of Law, Dokkyo University</p> <p>Members who put questions to him: NAKAGAWA Shoichi (LDP) ISHIGE Eiko (DPJ) KURATA Eiki (NK-RN) NAKAMURA Eiichi (LP) SASAKI Rikukai (JCP) ITO Shigeru (SDP)</p> <p>Informant: MURATA Koji, Assistant Professor, Faculty of Integrated Arts and Sciences, Hiroshima University</p> <p>Members who put questions to him: SUGIURA Seiken (LDP) FUJIMURA Osamu (DPJ) FUKUSHIMA Yutaka (NK-RN) NAKAMURA Eiichi (LP) SASAKI Rikukai (JCP) ITO Shigeru (SDP)</p>	5h41

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. Mar. 23, 2000	Fifth Meeting	Matters relating to the Constitution of Japan (Details of how the Constitution was formulated)	<p>After statements were heard from informants, questions were put to them.</p> <p>Informant: HASEGAWA Masayasu, Emeritus Professor, Nagoya University</p> <p>Members who put questions to him: ISHIBA Shigeru (LDP) NAKANO Kansei (DPJ) HIRATA Yoneo (NK-RN) FUTAMI Nobuaki (LP) HIGASHINAKA Mitsuo (JCP) HOSAKA Nobuto (SDP)</p> <p>Informant: TAKAHASHI Masatoshi, Professor, Faculty of Law, Kagawa University</p> <p>Members who put questions to him: HOZUMI Yoshiyuki (LDP) DOI Ryuichi (DPJ) ISHIDA Katsuyuki (NK-RN) FUTAMI Nobuaki (LP) SASAKI Rikukai (JCP) HOSAKA Nobuto (SDP)</p>	5h52
Thurs. Apr. 6, 2000	Sixth Meeting	Matters relating to the Constitution of Japan (Details of how the Constitution was formulated)	<p>After statements were heard from informants, questions were put to them.</p> <p>Informant: KITAOKA Shinichi, Professor, Faculty of Law, The University of Tokyo</p> <p>Members who put questions to him: FUNADA Hajime (LDP) SHIMA Satoshi (DPJ) KURATA Eiki (NK-RN) ABE Motoo (NCP) SASAKI Rikukai (JCP) ITO Shigeru (SDP)</p> <p>Informant: SHINDO Eiichi, Professor, College of Social Sciences, University of Tsukuba</p> <p>Members who put questions to him: YOKOUCHI Shomei (LDP) YOKOMICHI Takahiro (DPJ) OTA Akihiro (NK-RN) ABE Motoo (NCP) HARUNA Naoaki (JCP) ITO Shigeru (SDP)</p>	5h48

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. Apr. 20, 2000	Seventh Meeting		SASAKI Rikukai (JCP) was appointed as a director.	
		Matters relating to the Constitution of Japan (Details of how the Constitution was formulated)	<p>After statements were heard from informants, questions were put to them.</p> <p>Informant: IOKIBE Makoto, Professor of Political Science (political history/political process in Japan), Graduate School of Law, Kobe University</p> <p>Members who put questions to him: HIRANUMA Takeo (LDP) TARUTOKO Shinji (DPJ) FUKUSHIMA Yutaka (NK-RN) SASAKI Rikukai (JCP) NAKAMURA Eiichi (NCP) FUTAMI Nobuaki (LP) TSUJIMOTO Kiyomi (SDP)</p> <p>Informant: AMAKAWA Akira, Professor of Political Science (postwar history in Japan), International Graduate School of Social Sciences, Yokohama National University</p> <p>Members who put questions to him: MORIYAMA Mayumi (LDP) KANO Michihiko (DPJ) HIRATA Yoneo (NK-RN) HARUNA Naoaki (JCP) NAKAMURA Eiichi (NCP) FUTAMI Nobuaki (LP) TSUJIMOTO Kiyomi (SDP)</p>	
				5h43

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. Apr. 27, 2000	Eighth Meeting	Matters relating to the Constitution of Japan (Details of how the Constitution was formulated)	<p>A brainstorming discussion was held.</p> <p>Members who made comments:</p> <p>MITSUZUKA Hiroshi (LDP) SENGOKU Yoshito (DPJ) KURATA Eiki (NK-RN) HIGASHINAKA Mitsuo (JCP) NAKAMURA Eiichi (NCP) FUTAMI Nobuaki (LP) ITO Shigeru (SDP) OKUDA Mikio (LDP) TAKAICHI Sanae (LDP) YOKOMICHI Takahiro (DPJ) OTA Akihiro (NK-RN) ISHIBA Shigeru (LDP) OKUNO Seisuke (LDP) SHIMA Satoshi (DPJ) ISHIKAWA Yozo (LDP) SATO Megumu (LDP) MATSUZAWA Shigefumi (DPJ) KYUMA Fumio (LDP) HIRANUMA Takeo (LDP) ISHIGE Eiko (DPJ) ISHIDA Katsuyuki (NK-RN) FUKADA Hajime (SDP) FUNADA Hajime (LDP) NAKASONE Yasuhiro (LDP) HOZUMI Yoshiyuki (LDP) ABE Motoo (NCP) NAKANO Kansei (DPJ) MORIYAMA Mayumi (LDP) TASSO Takuya (LP) SASAKI Rikukai (JCP) YOKOUCHI Shomei (LDP) SUGIURA Seiken (LDP) EDANO Yukio (DPJ) AICHI Kazuo (LDP)</p>	3h02

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. May 11, 2000	Ninth Meeting	Matters relating to the Constitution of Japan (Details of how the Constitution was formulated)	<p>A brainstorming discussion was held. Members who made comments:</p> <p>YASUOKA Okiharu (LDP) ISHIGE Eiko (DPJ) HIRATA Yoneo (NK-RN) SASAKI Rikukai (JCP) NAKAMURA Eiichi (NCP) TASSO Takuya (LP) FUKADA Hajime (SDP) HANASHI Nobuyuki (LDP) FUJIMURA Osamu (DPJ) SUGIURA Seiken (LDP) ISHIDA Katsuyuki (NK-RN) ISHIBA Shigeru (LDP) TANAKA Makiko (LDP) TAKAICHI Sanae (LDP) SHIMA Satoshi (DPJ) YANAGISAWA Hakuo (LDP) NAKASONE Yasuhiro (LDP) NAKANO Kansei (DPJ) HOZUMI Yoshiyuki (LDP) YOKOUCHI Shomei (LDP) HARUNA Naoki (JCP) OKUNO Seisuke (LDP) OTA Akihiro (NK-RN) KOIZUMI Junichiro (LDP) HIRANUMA Takeo (LDP) MAEHARA Seiji (DPJ) NAKAGAWA Shoichi (LDP) NISHIDA Takeshi (NCP) ABE Shinzo (LDP) HIGASHINAKA Mitsuo (JCP) FUNADA Hajime (LDP) OKUDA Mikio (LDP) IWAKUNI Tetsundo (DPJ) YAMASAKI Taku (LDP) FUTAMI Nobuaki (LP) ITO Shigeru (SDP) MITSUZUKA Hiroshi (LDP) KANO Michihiko (DPJ) ISHII Hajime (DPJ)</p>	3h27
Thurs. May 25, 2000	Tenth Meeting	Matters relating to the Constitution of Japan (Major postwar judgments of unconstitutionality)	<p>After an explanation was heard from an official of the Supreme Court, the official was asked questions. Members who put questions to him:</p> <p>NAKAYAMA Taro (Chairman) YASUOKA Okiharu (LDP) SENGOKU Yoshito (DPJ) KURATA Eiki (NK-RN) SASAKI Rikukai (JCP) NAKAMURA Eiichi (NCP) ITO Shigeru (SDP) FUTAMI Nobuaki (LP)</p>	2h04

Date	Meeting	Meeting Agenda	Proceedings	Duration
148th Diet Session				
Thurs. July 5, 2000	First Meeting	Internal election of Chairman	NAKAYAMA Taro (LDP) was elected as chairman.	0h05
			Chairman NAKAYAMA made an opening speech.	
		Internal election of Directors	The following members were elected as directors: ISHIKAWA Yozo (LDP) TAKAICHI Sanae (LDP) NAKAGAWA Shoichi (LDP) HANASHI Nobuyuki (LDP) EDANO Yukio (DPJ) KANO Michihiko (DPJ) SENGOKU Yoshito (DPJ) AKAMATSU Masao (NK) SHIOTA Susumu (LP)	
			The chairman appointed KANO Michihiko (DPJ) as deputy chairman.	
			Decisions were reached concerning requests for attendance of informants and dispatch of members when the Diet is not in session.	
149th Diet Session				
Thurs. Aug. 3, 2000	First Meeting	Matters relating to the Constitution of Japan (Future proceedings of the Research Commission on the Constitution)	A brainstorming discussion was held. Members who made comments: NAKAYAMA Taro (Chairman) TAKAICHI Sanae (LDP) KANO Michihiko (DPJ) AKAMATSU Masao (NK) SHIOTA Susumu (LP) HARUNA Naoaki (JCP) HARA Yoko (SDP) KONDO Motohiko (Club 21) NODA Takeshi (NCP) YAMASAKI Taku (LDP) SUGIURA Seiken (LDP) KANEKO Tetsuo (SDP) OKUNO Seisuke (LDP) YAMAGUCHI Tomio (JCP) SHIMA Satoshi (DPJ) YANAGISAWA Hakuo (LDP) ISHIGE Eiko (DPJ) YAMAHANA Ikuo (DPJ) HATOYAMA Kunio (LDP) MORIYAMA Mayumi (LDP) OTA Akihiro (NK)	1h47
			A decision was made, after discussion, on matters relating to requests for attendance of informants when the Diet is not in session.	
Sun. Sept. 10 to Tues. Sept. 19, 2000		(A House delegation was dispatched to European nations to survey the constitutions of those nations.)		

Date	Meeting	Meeting Agenda	Proceedings	Duration
150th Diet Session				
Thurs. Sept. 28, 2000	First Meeting		EDANO Yukio (DPJ) resigned as director, and SHIMA Satoshi (DPJ) was appointed director to replace him.	
		Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	A decision was reached, after discussion, concerning requests for attendance of informants.	
			After statements were heard from informants, questions were put to them. Informant: TANAKA Akihiko, Professor, Graduate School of Interdisciplinary Information Studies, The University of Tokyo Members who put questions to him: KYUMA Fumio (LDP) IGARASHI Fumihiko (DPJ) SAITO Tetsuo (NK) TAKEYAMA Yuriko (LP) HARUNA Naoaki (JCP) ABE Tomoko (SDP) KONDO Motohiko (Club 21) MATSUNAMI Kenshiro (NCP) Informant: ODA Makoto, Author Members who put questions to him: TAKAICHI Sanae (LDP) HOSONO Goshi (DPJ) AKAMATSU Masao (NK) TAKEYAMA Yuriko (LP) YAMAGUCHI Tomio (JCP) HOSAKA Nobuto (SDP) KONDO Motohiko (Club 21) MATSUNAMI Kenshiro (NCP)	
			A brief report by Chairman NAKAYAMA Taro on the findings of the House delegation dispatched to survey the constitutions of European nations was heard.	6h26

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. Oct. 12, 2000	Second Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	<p>After statements were heard from informants, questions were put to them.</p> <p>Informant: SONO Ayako, Writer and Chairperson of the Nippon Foundation</p> <p>Members who put questions to her: HORI Kosuke (LDP) AKAMATSU Masao (NK) KONDO Motohiko (Club 21) MATSUNAMI Kenshiro (NCP)</p> <p>Informant: KONDO Motohiro, Professor, Graduate School of Social and Cultural Studies, Nihon University</p> <p>Members who put questions to him: YANAGISAWA Hakuo (LDP) OTA Akihiro (NK) KONDO Motohiko (Club 21) MATSUNAMI Kenshiro (NCP)</p> <p>Note: Due to the state of disorder of the Diet, the meeting was held without the attendance of members belonging to the DPJ, LP, JCP, and SDP.</p>	4h38
Thurs. Oct. 26, 2000	Third Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	<p>After a statement was heard from an informant, questions were put to him.</p> <p>Informant: ICHIMURA Shin'ichi, Director of the International Centre for the Study of East Asian Development (ICSEAD)</p> <p>Members who put questions to him: HATOYAMA Kunio (LDP) YAMAHANA Ikuo (DPJ) AKAMATSU Masao (NK) SHIOTA Susumu (LP) YAMAGUCHI Tomio (JCP) UEDA Munenori (SDP) KONDO Motohiko (Club 21) MATSUNAMI Kenshiro (NCP)</p>	3h05

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. Nov. 9, 2000	Fourth Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	<p>After statements were heard from informants, questions were put to them.</p> <p>Informant: SASAKI Takeshi, Professor, University of Tokyo</p> <p>Members who put questions to him: SHINDO Yoshitaka (LDP) KANO Michihiko (DPJ) AKAMATSU Masao (NK) TAKEYAMA Yuriko (LP) HARUNA Naoaki (JCP) HIMORI Fumihiko (SDP) KONDO Motohiko (Club 21)</p> <p>Informant: KOBAYASHI Takeshi, LL.D., Professor, Nanzan University</p> <p>Members who put questions to him: MIZUNO Ken'ichi (LDP) MAEHARA Seiji (DPJ) OTA Akihiro (NK) FUJISHIMA Masayuki (LP) YAMGUCHI Tomio (JCP) YOKOMITSU Katsuhiko (SDP) KONDO Motohiko (Club 21) MATSUNAMI Kenshiro (NCP)</p>	6h18
Thurs. Nov. 30, 2000	Fifth Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	<p>After statements were heard from informants, questions were put to them.</p> <p>Informant: ISHIHARA Shintaro, Governor of Tokyo</p> <p>Members who put questions to him: YANAGISAWA Hakuo (LDP) SHIMA Satoshi (DPJ) AKAMATSU Masao (NK) TAKEYAMA Yuriko (LP) YAMAGUCHI Tomio (JCP) ABE Tomoko (SDP) KONDO Motohiko (Club 21) KOIKE Yuriko (NCP)</p> <p>Informant: SAKURAI Yoshiko, Journalist</p> <p>Members who put questions to her: TAKAICHI Sanae (LDP) EDANO Yukio (DPJ) EDA Yasuyuki (NK) FUJISHIMA Masayuki (LP) HARUNA Naoyuki (JCP) YAMAGUCHI Wakako (SDP) KONDO Motohiko (Club 21) KOIKE Yuriko (NCP)</p>	5h24

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. Dec. 7, 2000 (Diet not in session)	Sixth Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	<p>After statements were heard from informants, questions were put to them.</p> <p>Informant: MATSUMOTO Ken'ichi, Commentator and Professor, Reitaku University</p> <p>Members who put questions to him: HIRASAWA Katsuei (LDP) NAKANO Kansei (DPJ) AKAMATSU Masao (NK) TAKEYAMA Yuriko (LP) YAMAGUCHI Tomio (JCP) HIMORI Fumihiko (SDP) UDAGAWA Yoshio (Club 21) KOIKE Yuriko (NCP)</p> <p>Informant: WATANABE Shoichi, Professor, Sophia University</p> <p>Members who put questions to him: TANAKA Makiko (LDP) MAKINO Seishu (DPJ) OTA Akihiro (NK) TASSO Takuya (LP) HARUNA Naoyuki (JCP) TSUJIMOTO Kiyomi (SDP) UDAGAWA Yoshio (Club 21) KOIKE Yuriko (NCP)</p>	6h37
Thurs. Dec. 21, 2000 (Diet not in session)	Seventh Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	<p>After a statement was heard from an informant, questions were put to him.</p> <p>Informant: MURAKAMI Yoichiro, Professor, College of Liberal Arts, International Christian University</p> <p>Members who put questions to him: NAKAYAMA Taro (Chairman) MIZUNO Ken'ichi (LDP) SHIMA Satoshi (DPJ) SAITO Tetsuo (NK) SHIOTA Susumu (LP) HARUNA Naoaki (JCP) HOSAKA Nobuto (SDP) KONDO Motohiko (Club 21) KOIKE Yuriko (NCP)</p>	3h25

Date	Meeting	Meeting Agenda	Proceedings	Duration
151st Diet Session				
Thurs. Feb. 8, 2001	First Session		<p>Four directors were appointed to replace outgoing directors</p> <p>Directors who resigned:</p> <p>SHIMA Satoshi (DPJ)</p> <p>SHIOTA Susumu (LP)</p> <p>Newly appointed directors:</p> <p>SHINDO Yoshitaka (LDP)</p> <p>YASUOKA Okiharu (LDP)</p> <p>NAKAGAWA Masaharu (DPJ)</p> <p>SAITO Tetsuo (NK)</p>	6h18
			A decision was reached, after discussion, concerning requests for attendance of informants.	
		Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	<p>After statements were heard from informants, questions were put to them.</p> <p>Informant:</p> <p>NISHIZAWA Junichi, President, Iwate Prefectural University</p> <p>Members who put questions to him:</p> <p>HANASHI Nobuyuki (LDP)</p> <p>TSUTSUI Nobutaka (DPJ)</p> <p>SAITO Tetsuo (NK)</p> <p>FUJISHIMA Masayuki (LP)</p> <p>SHIOKAWA Tetsuya (JCP)</p> <p>KANEKO Tetsuo (SDP)</p> <p>KOIKE Yuriko (NCP)</p> <p>KONDO Motohiko (Club 21)</p> <p>Informant:</p> <p>TAKAHASHI Susumu, Professor, University of Tokyo</p> <p>Members who put questions to him:</p> <p>SHIMOMURA Hakubun (LDP)</p> <p>EDANO Yukio (DPJ)</p> <p>UEDA Isamu (NK)</p> <p>SHIOTA Susumu (LP)</p> <p>HARUNA Naoaki (JCP)</p> <p>YAMAUCHI Keiko (SDP)</p> <p>KOIKE Yuriko (NCP)</p> <p>KONDO Motohiko (Club 21)</p>	

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. Feb. 22, 2001	Second Meeting		A decision was reached, after discussion, on a motion for approval of dispatch of members.	5h53
		Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	<p>After statements were heard from informants, questions were put to them.</p> <p>Informant: HAYASHIZAKI Yoshihide, Project Director, Genome Exploration Research Group, Genomic Sciences Center, Institute of Physical and Chemical Research (RIKEN)</p> <p>Members who put questions to him: MITSUBAYASHI Takashi (LDP) NAKAGAWA Masaharu (DPJ) SAITO Tetsuo (NK) FUJISHIMA Masayuki (LP) HARUNA Naoaki (JCP) KITAGAWA Renko (SDP) KONDO Motohiko (Club 21)</p> <p>Informant: OGAWA Naohiro, Professor, College of Economics, Nihon University; Deputy Director, Nihon University Population Research Institute (NUPRI)</p> <p>Members who put questions to him: NAKAYAMA Taro (Chairman) ITO Kosuke (LDP) KANO Michihiko (DPJ) UEDA Isamu (NK) SHIOTA Susumu (LP) SEKO Yukiko (JCP) HARA Yoko (SDP) KOIKE Yuriko (NCP) KONDO Motohiko (Club 21)</p>	
Thurs. Mar. 8, 2001	Third Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	<p>After a statement was heard from an informant, questions were put to him.</p> <p>Informant: SON Masayoshi, President and Chief Executive Officer, Softbank Corporation</p> <p>Members who put questions to him: ITO Tatsuya (LDP) HOSONO Goshi (DPJ) KOIKE Yuriko (NCP) FUJISHIMA Masayuki (LP) HARUNA Naoaki (JCP) OSHIMA Reiko (SDP) SAITO Tetsuo (NK) KONDO Motohiko (Club 21)</p>	3h24

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. Mar. 22, 2001	Fourth Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	<p>After statements were heard from informants, questions were put to them.</p> <p>Informant: SAKAMOTO Takao, Professor, Faculty of Law, Gakushuin University</p> <p>Members who put questions to him: YASUOKA Okiharu (LDP) OIDE Akira (DPJ) UEDA Isamu (NK) FUJISHIMA Masayuki (LP) SHIOKAWA Tetsuya (JCP) KANEKO Tetsuo (SDP) KOIKE Yuriko (NCP) KONDO Motohiko (Club 21)</p> <p>Informant: KANG Sanjung, Professor, Institute of Socio-Information and Communication Studies, University of Tokyo</p> <p>Members who put questions to him: NAKATANI Gen (LDP) OISHI Hisako (DPJ) OTA Akihiro (NK) SHIOTA Susumu (LP) YAMAGUCHI Tomio (JCP) SHIGENO Yasumasa (SDP) KOIKE Yuriko (NCP) KONDO Motohiko (Club 21)</p>	6h49
Mon. Apr. 16, 2001		Constitution of Japan	First Open Hearing was held in Sendai City, Miyagi Prefecture.	3h33
Thurs. Apr. 26, 2001	Fifth Meeting	Matters relating to the Constitution of Japan	<p>Report was heard on the investigations concerning the Constitution of Japan from the dispatched members.</p> <p>A decision was reached, after discussion, on a motion for approval of dispatch of members.</p>	0h06

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. May 17, 2001	Sixth Meeting		A director was appointed to replace an outgoing director. Newly appointed director: TSUSHIMA Yuji (LDP)	5h57
		Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	After statements were heard from informants, questions were put to them. Informant: KIMURA Yoko, Member of the Local Finance Council Members who put questions to her: NAKAYAMA Taro (Chairman) NISHIKAWA Kyoko (LDP) KOBAYASHI Mamoru (DPJ) UEDA Isamu (NK) FUJISHIMA Masayuki (LP) HARUNA Naoaki (JCP) ABE Tomoko (SDP) KONDO Motohiko (Club 21) Informant: OHKUMA Yoshikazu, Professor, Graduate School of Law, Kyushu University Members who put questions to him: NISHIKAWA Kyoko (LDP) UBUKATA Yukio (DPJ) OTA Akihiro (NK) SHIOTA Susumu (LP) YAMAGUCHI Tomio (JCP) HIMORI Fumihiko (SDP) KONDO Motohiko (Club 21)	
Mon. June 4, 2001		The Constitution of Japan (A vision for Japan in the 21st century)	Second Open Hearing was held in Kobe City, Hyogo Prefecture.	3h42

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. June 14, 2001	Seventh Meeting	Matters relating to the Constitution of Japan	<p>A report on the investigations concerning the Constitution of Japan was heard from the dispatched members.</p> <p>A brainstorming discussion was held.</p> <p>Members who made comments:</p> <p>HANASHI Nobuyuki (LDP) SENGOKU Yoshito (DPJ) OTA Akihiro (NK) FUJISHIMA Masayuki (LP) HARUNA Naoaki (JCP) TOMON Mitsuko (SDP) MATSUNAMI Kenshiro (NCP) KONDO Motohiko (Club 21) TSUSHIMA Yuji (LDP) NAKAGAWA Masaharu (DPJ) UEDA Isamu (NK) TANIKAWA Kazuo (LDP) TSUTSUI Nobutaka (DPJ) SHIOTA Susumu (LP) OKUNO Seisuke (LDP) YAMAGUCHI Tomio (JCP) NAKAYAM Masaaki (LDP) KANEKO Tetsuo (SDP) HOSONO Goshi (DJP)</p>	2h37
152nd Diet Session No meetings were held.				
Tues. Aug. 28 to Fri. Sept. 7, 2001		(A House delegation was dispatched to European nations, including Russia, and to Israel to survey the constitutions of those nations.)		

Date	Meeting	Meeting Agenda	Proceedings	Duration
153rd Diet Session				
Thurs. Oct. 11, 2001	First Meeting		A director was appointed to replace an outgoing director. Director who resigned: SENGOKU Yoshito (DPJ) Newly appointed director: HOSOKAWA Ritsuo (DPJ)	1h11
		Matters relating to the Constitution of Japan	Chairman NAKAYAMA Taro presented a brief report on the findings of the House delegation dispatched to survey the constitutions of Russia, several other European nations, and Israel; the report was followed by discussion. Members who made comments during discussion: SENGOKU Yoshito (DPJ) SAITO Tetsuo (NK) YAMAGUCHI Tomio (JCP) KANEKO Tetsuo (SDP) HARUNA Naoaki (JCP) ITO Kosuke (LDP) FUJISHIMA Masayuki (LP) HANASHI Nobuyuki (LDP) NAKAYAMA Masaaki (LDP)	
		Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	A decision was reached, after discussion, concerning requests for attendance of informants.	

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. Oct. 25, 2001	Second Meeting		A decision was reached, after discussion, on a motion for approval of dispatch of members.	6h20
		Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	<p>After statements were heard from informants, questions were put to them.</p> <p>Informant: ONUMA Yasuaki, Professor, University of Tokyo</p> <p>Members who put questions to him: NAKAGAWA Shoichi (LDP) NAKAGAWA Masaharu (DPJ) SAITO Tetsuo (NK) TSUZUKI Yuzuru (LP) YAMAGUCHI Tomio (JCP) IMAGAWA Masami (SDP) MATSUNAMI Kenshiro (NCP) KONDO Motohiko (Club 21)</p> <p>Informant: MORIMOTO Satoshi, Professor, Faculty of International Development, Takushoku University</p> <p>Members who put questions to him: ITO Kosuke (LDP) KOBAYASHI Kenji (DPJ) UEDA Isamu (NK) FUJISHIMA Masayuki (LP) HARUNA Naoaki (JCP) KANEKO Tetsuo (SDP) MATSUNAMI Kenshiro (NCP) KONDO Motohiko (Club 21)</p>	

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. Nov. 8, 2001	Third Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	<p>After statements were heard from informants, questions were put to them.</p> <p>Informant: HASEBE Yasuo, Professor, Faculty of Law, University of Tokyo</p> <p>Members who put questions to him: NAKAYAMA Taro (Chairman) YASUOKA Okiharu (LDP) YAMADA Toshimasa (DPJ) SAITO Tetsuo (NK) FUJISHIMA Masayuki (LP) HARUNA Naoaki (JCP) HARA Yoko (SDP) MATSUNAMI Kenshiro (NCP) KONDO Motohiko (Club 21)</p> <p>Informant: MORITA Akira, Professor, Graduate School of Law and Politics, University of Tokyo</p> <p>Members who put questions to him: NAKAYAMA Taro (Chairman) SAKAI Takanori (LDP) TSUTSUI Nobutaka (DPJ) OTA Akihiro (NK) TSUZUKI Yuzuru (LP) SHIOKAWA Tetsuya (JCP) KANEKO Tetsuo (SDP) MATSUNAMI Kenshiro (NCP) KONDO Motohiko (Club 21)</p>	5h55
Mon. Nov. 26, 2001		Japan's role in the international community	Third Open Hearing was held in Nagoya City, Aichi Prefecture.	3h26

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. Nov. 29, 2001	Fourth Meeting	Matters relating to the Constitution of Japan	Report was heard on the investigations concerning the Constitution of Japan from the dispatched members.	6h06
		Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	<p>After statements were heard from informants, questions were put to them.</p> <p>Informant: MUSHAKOJI Kinhide, Director of Chubu Institute for Advanced Studies, Chubu University</p> <p>Members who put questions to him: MORIOKA Masahiro (LDP) HOSOKAWA Ritsuo (DPJ) UEDA Isamu (NK) FUJISHIMA Masayuki (LP) SHIOKAWA Tetsuya (JCP) UEDA Munenori (SDP) MATSUNAMI Kenshiro (NCP) UDAGAWA Yoshio (Club 21)</p> <p>Informant: HATAJIRI Tsuyoshi, Professor of Department of Economics, Josai University</p> <p>Members who put questions to him: IMAMURA Masahiro (LDP) NAKAMURA Tetsuji (DPJ) OTA Akihiro (NK) TSUZUKI Yuzuru (LP) YAMAGUCHI Tomio (JCP) KANEKO Tetsuo (SDP) MATSUNAMI Kenshiro (NCP) UDAGAWA Yoshio (Club 21)</p>	

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. Dec. 6, 2001	Fifth Meeting	Matters relating to the Constitution of Japan (A vision for Japan in the 21st century)	<p>A brainstorming discussion was held. Members who made comments:</p> <p>HATOYAMA Kunio (LDP) SAITO Tetsuo (NK) HOSOKAWA Ritsuo (DPJ) HARUNA Naoaki (JCP) KANEKO Tetsuo (SDP) TSUZUKI Yuzuru (LP) MATSUNAMI Kenshiro (NCP) NAKAYAMA Masaaki (LDP) ITO Kosuke (LDP) YAMADA Toshimasa (DPJ) MORIKOKA Masahiro (LDP) NAKAMURA Tetsuji (DPJ) SUGA Yoshihide (LDP) UEDA Isamu (NK) IMAMURA Masahiro (LDP) AKAMINE Seiken (JCP) NAKASONE Yasuhiro (LDP) SUTO Nobuhiko (DPJ) KONNO Azuma (DPJ) KOBAYASHI Kenji (DPJ) HARA Yoko (SDP) SHIMOMURA Hakubun (LDP) OIDE Akira (DPJ) SHIMA Satoshi (DPJ) FUTADA Koji (LDP) FUJISHIMA Masayuki (LP) NAKAGAWA Masaharu (DPJ)</p>	3h13
154th Diet Session				
Thurs. Feb. 7, 2002	First Meeting		<p>New directors were appointed to replace outgoing directors. Directors who resigned:</p> <p>ISHIKAWA Yozo (LDP) SAITO Tetsuo (NK)</p> <p>Newly appointed directors:</p> <p>TAKAICHI Sanae (LDP) MOTEGI Toshimitsu (LDP) SHIMA Satoshi (DPJ) NAKANO Kansei (DPJ) AKAMATSU Masao (NK)</p>	0h03
			Chairman NAKAYAMA appointed NAKANO Kansei (DPJ) as deputy chairman.	
			<p>It was decided, after discussion, to establish the Subcommittee on Guarantee of Fundamental Human Rights, the Subcommittee on Fundamental and Organizational Role of Politics, the Subcommittee on Japan's Role in International Society, and the Subcommittee on Local Autonomy. In addition, a decision was reached concerning requests for attendance of informants at subcommittee meetings.</p>	

Date	Meeting	Meeting Agenda	Proceedings	Duration
Tues. Mar. 19, 2002	Second Meeting		A director was appointed to replace an outgoing director. Newly appointed director: NUKAGA Fukushima (LDP) A decision was reached, after discussion, on a motion for approval of dispatch of members.	0h01
Mon. Apr. 22, 2002		The Constitution of Japan (Japan and its constitution in the twenty-first century)	Fourth Open Hearing was held in Nago City, Okinawa Prefecture.	3h57
Thurs. Apr. 25, 2002	Third Meeting	Matters relating to the Constitution of Japan	Report was heard on the investigations concerning the Constitution of Japan from dispatched members, and brainstorming discussions were held. Members who made comments during discussion: HANASHI Nobuyuki (LDP) SHIMA Satoshi (DPJ) AKAMATSU Masao (NK) HARUNA Naoaki (JCP) KANEKO Tetsuo (SDP) NAKANO Kansei (DPJ) TAKAICHI Sanae (LDP) MATSUZAWA Shigefumi (DPJ) SUTO Nobuhiko (DPJ) YAMAGUCHI Tomio (JCP) FUJISHIMA Masayuki (LP) KOBAYASHI Kenji (DPJ) NAKAMURA Tetsuji (DPJ) SAITO Tetsuo (NK) NAKAGAWA Masaharu (DPJ) KONNO Azuma (DPJ) BANNO Yutaka (DPJ) TSUCHIYA Shinako (LDP) UEDA Munenori (SDP)	1h47
Thurs. May 16, 2002	Fourth Meeting		A decision was reached, after discussion, on a motion for approval of dispatch of members.	0h01
Mon. June 24, 2002		The Constitution of Japan (Japan and its constitution in the twenty-first century)	Fifth Open Hearing was held in Sapporo City, Hokkaido.	3h51

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. July 25, 2002	Fifth Meeting	Matters relating to the Constitution of Japan	Report was heard on the investigations concerning the Constitution of Japan from the dispatched members.	
			Reports were heard from the Subcommittee chair persons on Guarantee of Fundamental Human Rights, the Subcommittee on Fundamental and Organizational Role of Politics, the Subcommittee on Japan's Role in International Society, and the Subcommittee on Local Autonomy.	
			A brainstorming discussion was held on the matters relating to the Constitution of Japan. Members who made comments: HANASHI Nobuyuki (LDP) YAMADA Toshimasa (DPJ) AKAMATSU Masao (NK) HARUNA Naoaki (JCP) KANEKO Tetsuo (SDP) INOUE Kiichi (NCP) ITO Kosuke (LDP) OIDE Akira (DPJ) KONNO Azuma (DPJ) YAMAGUCHI Tomio (JCP) KITAGAWA Renko (SDP) BANNO Yutaka (DPJ) FUJISHIMA Masayuki (LP) SHIMA Satoshi (DPJ) OKUNO Seisuke (LDP) SUTO Nobuhiko (DPJ) YASUOKA Okiharu (LDP) NAGAI Eiji (DPJ) TANIKAWA Kazuo (LDP) INOUE Kiichi (NCP) SAITO Tetsuo (NK)	2h38
Mon. Sept. 23 to Sat. Oct 5, 2002		(A House delegation was dispatched to the United Kingdom and several Asian nations to survey the constitutions of those nations.)		
155th Diet Session				
Thurs. Oct. 24, 2002	First Meeting		New directors were appointed to replace outgoing directors. Directors who resigned: NUKAGA Fukushima (LDP) NAKANO Kansei (DPJ) Newly appointed directors: SUGIURA Seiken (LDP) NISHIDA Mamoru (LDP) OIDE Akira (DPJ) SENGOKU Yoshito (DPJ)	0h02
			Chairman NAKAYAMA appointed SENGOKU Yoshito (DPJ) as deputy chairman.	

(2) Subcommittees

A. Subcommittee on Guarantee of Fundamental Human Rights

Date	Meeting	Meeting Agenda	Proceedings	Duration
154th Diet Session				
Thurs. Feb. 14, 2002	First Meeting	Matters concerning the guarantee of fundamental human rights	<p>After a statement was heard from an informant, questions were put to him; this was followed by discussion among members.</p> <p>Informant: MUNESUE Toshiyuki, Professor, Faculty of Law, Seijo University</p> <p>Members who put questions to him: MATSUSHIMA Midori (LDP) OIDE Akira (DPJ) OTA Akihiro (NK) TAKEYAMA Yuriko (LP) HARUNA Naoaki (JCP) KANEKO Tetsuo (SDP) INOUE Kiichi (NCP) KONDO Motohiko (LDP) KONNO Azuma (DPJ)</p> <p>Members who made comments during discussion: NAKAYAMA Taro (Chairman) HARUNA Naoaki (JCP) KONNO Azuma (DPJ) KANEKO Tetsuo (SDP) MOTEGI Toshimitsu (LDP) MATSUSHIMA Midori (LDP) KOBAYASHI Kenji (DPJ) OIDE Akira (DPJ) HANASHI Nobuyuki (LDP)</p>	2h59

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. Mar. 14, 2002	Second Meeting	Matters concerning the guarantee of fundamental human rights	<p>After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members.</p> <p>Informant: ANNEN Junji, Professor, Seikei University</p> <p>Members who put questions to him: HANASHI Nobuyuki (LDP) KONNO Azuma (DPJ) OTA Akihiro (NK) TAKEYAMA Yuriko (LP) HARUNA Naoaki (JCP) KANEKO Tetsuo (SDP) NAGASE Jinen (LDP) OIDE Akira (DPJ) KONDO Motohiko (LDP)</p> <p>Members who made comments during discussion: KONNO Azuma (DPJ) HARUNA Naoaki (JCP) KANEKO Tetsuo (SDP) OIDE Akira (DPJ)</p>	2h13
Thurs. Apr. 11, 2002	Third Meeting	Matters concerning the guarantee of fundamental human rights	<p>After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members.</p> <p>Informant: SAKAMOTO Masanari, Dean of the Faculty of Law, Hiroshima University</p> <p>Members who put questions to him: ISHIBA Shigeru (LDP) KOBAYASHI Kenji (DPJ) OTA Akihiro (NK) TAKEYAMA Yuriko (LP) HARUNA Naoaki (JCP) HARA Yoko (SDP) INOUE Kiichi (NCP) TSUCHIYA Shinako (LDP) OIDE Akira (DPJ) HIRAI Takuya (LDP)</p> <p>Members who made comments during discussion: HANASHI Nobuyuki (LDP) TSUCHIYA Shinako (LDP) HARA Yoko (SDP) TAKEYAMA Yuriko (LP) NAKAYAMA Taro (Chairman) KONNO Azuma (DPJ) HARUNA Naoaki (JCP)</p>	2h57

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. May 23, 2002	Fourth Meeting	Matters concerning the guarantee of fundamental human rights	<p>After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members.</p> <p>Informant: ITO Tetsuo, Director, Japan Policy Institute</p> <p>Members who put questions to him: NAGASE Jinen (LDP) KONNO Azuma (DPJ) OTA Akihiro (NK) TAKEYAMA Yuriko (LP) HARUNA Naoaki (JCP) UEDA Munenori (SDP) INOUE Kiichi (NCP) ISHIBA Shigeru (LDP) KOBAYASHI Kenji (DPJ) HANASHI Nobuyuki (LDP)</p> <p>Members who made comments during discussion: NAKANO Kansei (Deputy Chairman) HANASHI Nobuyuki (LDP) KONNO Azuma (DPJ) UEDA Munenori (SDP) HARUNA Naoaki (JCP)</p>	2h56
Thurs. July 4, 2002	Fifth Meeting	Matters concerning the guarantee of fundamental human rights	<p>After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members.</p> <p>Informant: KUSANO Tadayoshi, General Secretary, RENGO or Japanese Trade Union Confederation</p> <p>Members who put questions to him: ISHIBA Shigeru (LDP) KOBAYASHI Kenji (DPJ) OTA Akihiro (NK) TAKEYAMA Yuriko (LP) HARUNA Naoaki (JCP) KANEKO Tetsuo (SDP) INOUE Kiichi (NCP) KONDO Motohiko (LDP) OIDE Akira (DPJ) HIRAI Takuya (LDP)</p> <p>Members who made comments during discussion: TSUCHIYA Shinako (LDP) HARUNA Naoaki (JCP) KANEKO Tetsuo (SDP) NAKAYAMA Taro (Chairman) KONNO Azuma (DPJ)</p>	2h40

B. Subcommittee on Fundamental and Organizational Role of Politics

Date	Meeting	Meeting Agenda	Proceedings	Duration
154th Diet Session				
Thurs. Feb. 14, 2002	First Meeting	Matters concerning the fundamental and organizational role of politics	<p>After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members.</p> <p>Informant: TAKAHASHI Kazuyuki, Professor, Faculty of Law, University of Tokyo</p> <p>Members who put questions to him: OKUNO Seisuke (LDP) MATSUZAWA Shigefumi (DPJ) SAITO Tetsuo (NK) FUJISHIMA Masayuki (LP) YAMAGUCHI Tomio (JCP) KANEKO Tetsuo (SDP) INOUE Kiichi (NCP) TANIGAKI Sadakazu (LDP) SHIMA Satoshi (DPJ) NAKAYAMA Masaaki (LDP)</p> <p>Members who made comments during discussion: NAKAMURA Tetsuji (DPJ) OKUNO Seisuke (LDP) SHIMA Satoshi (DPJ) NAKAYAMA Taro (Chairman) YAMAGUCHI Tomio (JCP) MATSUZAWA Shigefumi (DPJ) SAITO Tetsuo (NK) BANNO Yutaka (DPJ) KANEKO Tetsuo (SDP) NAKANO Kansei (Deputy Chairman)</p>	2h56

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. Mar. 14, 2002	Second Meeting	Matters concerning the fundamental and organizational role of politics	<p>After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members.</p> <p>Informant: YAMAGUCHI Jiro, Professor, Graduate School of Law, Hokkaido University</p> <p>Members who put questions to him: NUKAGA Fukushima (LDP) SHIMA Satoshi (DPI) SAITO Tetsuo (NK) FUJISHIMA Masayuki (LP) YAMAGUCHI Tomio (JCP) KITAGAWA Renko (SDP) INOUE Kiichi (NCP) ITO Kosuke (LDP) BANNO Yutaka (DPJ) OKUNO Seisuke (LDP)</p> <p>Members who made comments during discussion: MATSUZAWA Shigefumi (DPJ) KITAGAWA Renko (SDP) OKUNO Seisuke (LDP) YAMAGUCHI Tomio (JCP) ITO Kosuke (LDP) SAITO Tetsuo (NK) INOUE Kiichi (NCP) KITAGAWA Renko (SDP) NAKAYAMA Taro (Chairman) NAKANO Kansei (Deputy Chairman)</p>	2h58

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. Apr. 11, 2002	Third Meeting	Matters concerning the fundamental and organizational role of politics	<p>After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members.</p> <p>Informant: OISHI Makoto, Professor, Kyoto University</p> <p>Members who put questions to him: OKUNO Seisuke (LDP) MATSUZAWA Shigefumi (DPJ) SAITO Tetsuo (NK) FUJISHIMA Masayuki (LP) YAMAGUCHI Tomio (JCP) KANEKO Tetsuo (SDP) INOUE Kiichi (NCP) NAKAYAMA Masaaki (LDP) BANNO Yutaka (DPJ) ITO Tatsuya (LDP)</p> <p>Members who made comments during discussion: FUJISHIMA Masayuki (LP) NAKAYAMA Taro (Chairman) YAMAGUCHI Tomio (JCP) KANEKO Tetsuo (SDP) NAKANO Kansei (Deputy Chairman) SHIMA Satoshi (DPJ) SAITO Tetsuo (NK)</p>	2h36
Thurs. May 23, 2002	Fourth Meeting	Matters concerning the fundamental and organizational role of politics	<p>After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members.</p> <p>Informant: MATSUI Shigenori, Professor, Graduate School of Law, Osaka University</p> <p>Members who put questions to him: ITO Tatsuya (LDP) SHIMA Satoshi (DPJ) SAITO Tetsuo (NK) FUJISHIMA Masayuki (LP) YAMAGUCHI Tomio (JCP) KANEKO Tetsuo (SDP) INOUE Kiichi (NCP) NUKAGA Fukushima (LDP) BANNO Yutaka (DPJ)</p> <p>Members who made comments during discussion: SHIMA Satoshi (DPJ) NAKAYAMA Masaaki (LDP) OKUNO Seisuke (LDP) SENGOKU Yoshito (DPJ) YAMAGUCHI Tomio (JCP) KANEKO Tetsuo (SDP) FUJISHIMA Masayuki (LP)</p>	2h37

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. July 4, 2002	Fifth Meeting	Matters concerning the fundamental and organizational role of politics	<p>After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members.</p> <p>Informant: YAGI Hidetsugu, Associate Professor, Takasaki City University of Economics</p> <p>Members who put questions to him: OKUNO Seisuke (LDP) BANNO Yutaka (DPJ) SAITO Tetsuo (NK) FUJISHIMA Masayuki (LP) YAMAGUCHI Tomio (JCP) KANEKO Tetsuo (SDP) INOUE Kiichi (NCP) NAKAYAMA Masaaki (LDP) SHIMA Satoshi (DPJ)</p> <p>Member who made comments during discussion: NAKAYAMA Masaaki (LDP)</p>	2h19

C. Subcommittee on Japan's Role in International Society

Date	Meeting	Meeting Agenda	Proceedings	Duration
154th Diet Session				
Thurs. Feb. 28, 2002	First Meeting	Matters concerning Japan's role in international society	<p>After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members.</p> <p>Informant: MATSUI Yoshiro, Professor, Graduate School of Law, Nagoya University</p> <p>Members who put questions to him: KONDO Motohiko (LDP) SUTO Nobuhiko (DPJ) AKAMATSU Masao (NK) FUJISHIMA Masayuki (LP) YAMAGUCHI Tomio (JCP) OSHIMA Reiko (SDP) NISHIKAWA Taiichiro (NCP) HIRAI Takuya (LDP) YAMADA Toshimasa (DPJ) TSUCHIYA Shinako (LDP)</p> <p>Members who made comments during discussion: NAKANO Kansei (Deputy Chairman) YAMAGUCHI Tomio (JCP) HANASHI Nobuyuki (LDP) OSHIMA Reiko (SDP) NAKAYAMA Taro (Chairman) AKAMATSU Masao (NK) YAMADA Toshimasa (DPJ)</p>	2h46

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. Mar. 28, 2002	Second Meeting	Matters concerning Japan's role in international society	<p>After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members.</p> <p>Informant: HATAKEYAMA Noboru, Chairman, Japan External Trade Organization (JETRO)</p> <p>Members who put questions to him: ISHIKAWA Yozo (LDP) NAKAGAWA Masaharu (DPJ) AKAMATSU Masao (NK) TAKEYAMA Yuriko (LP) YAMAGUCHI Tomio (JCP) KANEKO Tetsuo (SDP) NISHIKAWA Taiichiro (NCP) HIRAI Takuya (LDP) YAMADA Toshimasa (DPJ) ITO Shintaro (LDP) NAKAGAWA Shoichi (Chairman of the Subcommittee)</p> <p>Members who made comments during discussion: ITO Shintaro (LDP) SUTO Nobuhiko (DPJ) YAMAGUCHI Tomio (JCP) KANEKO Tetsuo (SDP) NAKAMURA Tetsuji (DPJ) HIRAI Takuya (LDP) YAMADA Toshimasa (DPJ)</p>	2h43

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. May 9, 2002	Third Meeting	Matters concerning Japan's role in international society	<p>After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members.</p> <p>Informant: TERASHIMA Jitsuro, President, Mitsui Global Strategic Studies Institute</p> <p>Members who put questions to him: HIRAI Takuya (LDP) NAKAMURA Tetsuji (DPJ) AKAMATSU Masao (NK) FUJISHIMA Masayuki (LP) YAMAGUCHI Tomio (JCP) ABE Tomoko (SDP) INOUE Kiichi (NCP) ISHIKAWA Yozo (LDP) SUTO Nobuhiko (DPJ) TSUCHIYA Shinako (LDP)</p> <p>Members who made comments during discussion: AKAMATSU Masao (NK) NAKAMURA Tetsuji (DPJ) YAMAGUCHI Tomio (JCP) INOUE Kiichi (NCP) NAKAYAMA Taro (Chairman) NAKAGAWA Masaharu (DPJ)</p>	3h01
Thurs. June 6, 2002	Fourth Meeting	Matters concerning Japan's role in international society	<p>After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members.</p> <p>Informant: TAKUBO Tadae, Professor of the Faculty of General Policy Studies, Kyorin University</p> <p>Members who put questions to him: KOMURA Masahiko (LDP) YAMADA Toshimasa (DPJ) AKAMATSU Masao (NK) FUJISHIMA Masayuki (LP) YAMAGUCHI Tomio (JCP) KANEKO Tetsuo (SDP) INOUE Kiichi (NCP) KONDO Motohiko (LDP) SUTO Nobuhiko (DPJ) HIRAI Takuya (LDP)</p> <p>Members who made comments during discussion: KANEKO Tetsuo (SDP) AKAMATSU Masao (NK) FUJISHIMA Masayuki (LP) NAKAYAMA Taro (Chairman)</p>	2h38

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. July 11, 2002	Fifth Meeting	Matters concerning Japan's role in international society	<p>After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members.</p> <p>Informant: NAKAMURA Tamio, Associate Professor, Institute of Social Science, University of Tokyo</p> <p>Members who put questions to him: KONDO Motohiko (LDP) YAMADA Toshimasa (DPJ) AKAMATSU Masao (NK) FUJISHIMA Masayuki (LP) YAMAGUCHI Tomio (JCP) KANEKO Tetsuo (SDP) INOUE Kiichi (NCP) ISHIKAWA Yozo (LDP) SUTO Nobuhiko (DPJ)</p> <p>Members who made comments during discussion: AKAMATSU Masao (NK) NAKANO Kansei (Deputy Chairman) NAKAYAMA Taro (Chairman)</p>	2h27

D. Subcommittee on Local Autonomy

Date	Meeting	Meeting Agenda	Proceedings	Duration
154th Diet Session				
Thurs. Feb. 28, 2002	First Meeting	Matters concerning local autonomy	<p>After a statement was heard from an informant, questions were put to her; this was followed by discussion among the members.</p> <p>Informant: IWASAKI Mikiko, Professor, University of Tsukuba</p> <p>Members who put questions to her: HANASHI Nobuyuki (LDP) NAKAMURA Tetsuji (DPJ) EDA Yasuyuki (NK) TAKEYAMA Yuriko (LP) HARUNA Naoaki (JCP) HIMORI Fumihiko (SDP) KOIKE Yuriko (NCP) HIRAI Takuya (LDP) TSUTSUI Nobutaka (DPJ) WATANABE Hiromichi (LDP)</p> <p>Members who made comments during discussion: HARUNA Naoaki (JCP) NAKAYAMA Taro (Chairman) MORIKOKA Masahiro (LDP) NAGAI Eiji (DPJ) HANASHI Nobuyuki (LDP) NAKAGAWA Masaharu (DPJ) NAKANO Kansei (Deputy Chairman)</p>	2h50

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. Mar. 28, 2002	Second Meeting	Matters concerning local autonomy	<p>After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members.</p> <p>Informant: MORITA Akira, Professor, Graduate School of Law and Politics, University of Tokyo</p> <p>Members who put questions to him: ITO Kosuke (LDP) NAKAGAWA Masaharu (DPJ) EDA Yasuyuki (NK) FUJISHIMA Masayuki (LP) HARUNA Naoaki (JCP) YOKOMITSU Katsuhiko (SDP) WATANABE Hiromichi (LDP) NAKAMURA Tetsuji (DPJ) MORIKOKA Masahiro (LDP)</p> <p>Members who made comments during discussion: ITO Kosuke (LDP) NAKAMURA Tetsuji (DPJ) HARUNA Naoaki (JCP) NAKAGAWA Masaharu (DPJ) NAGAI Eiji (DPJ) HIRAI Takuya (LDP) YOKOMITSU Katsuhiko (SDP)</p>	2h40
Thurs. May 9, 2002	Third Meeting	Matters concerning local autonomy	<p>After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members.</p> <p>Informant: JINNO Naohiko, Professor, University of Tokyo</p> <p>Members who put questions to him: ITO Kosuke (LDP) NAGAI Eiji (DPJ) EDA Yasuyuki (NK) TAKEYAMA Yuriko (LP) HARUNA Naoaki (JCP) KANEKO Tetsuo (SDP) INOUE Kiichi (NCP) MORIOKA Masahiro (LDP) TSUTSUI Nobutaka (DPJ) HIRAI Takuya (LDP)</p> <p>Members who made comments during discussion: KANEKO Tetsuo (SDP) HARUNA Naoaki (JCP) NAGAI Eiji (DPJ)</p>	2h42

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. June 6, 2002	Fourth Meeting	Matters concerning local autonomy	<p>After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members.</p> <p>Informant: KATAYAMA Yoshihiro, Governor of Tottori Prefecture</p> <p>Members who put questions to him: ITO Kosuke (LDP) NAKAGAWA Masaharu (DPJ) EDA Yasuyuki (NK) TAKEYAMA Yuriko (LP) HARUNA Naoaki (JCP) KANEKO Tetsuo (SDP) NISHIKAWA Taiichiro (NCP) MORIOKA Masahiro (LDP) NAGAI Eiji (DPJ) WATANABE Hiromichi (LDP)</p> <p>Members who made comments during discussion: NISHIKAWA Taiichiro (NCP) NAKANO Kansei (Deputy Chairman) KONNO Azuma (DPJ) ITO Kosuke (LDP) HIRAI Takuya (LDP) HARUNA Naoaki (JCP) KANEKO Tetsuo (SDP) TAKEYAMA Yuriko (LP)</p>	2h56

Date	Meeting	Meeting Agenda	Proceedings	Duration
Thurs. July 11, 2002	Fifth Meeting	Matters concerning local autonomy	<p>After a statement was heard from an informant, questions were put to him; this was followed by discussion among the members.</p> <p>Informant: KITAGAWA Masayasu, Governor of Mie Prefecture</p> <p>Members who put questions to him: WATANABE Hiromichi (LDP) YAMADA Toshimasa (DPJ) EDA Yasuyuki (NK) TAKEYAMA Yuriko (LP) HARUNA Naoaki (JCP) KANEKO Tetsuo (SDP) INOUE Kiichi (NCP) ITO Kosuke (LDP) NAKAMURA Tetsuji (DPJ) YASUOKA Okiharu (Chairman of the Subcommittee)</p> <p>Members who made comments during discussion: ITO Kosuke (LDP) MORIOKA Masahiro (LDP) NAKANO Kansei (Deputy Chairman) NAKAGAWA Masaharu (DPJ) NAGAI Eiji (DPJ) YASUOKA Okiharu (Chairman of the Subcommittee) HARUNA Naoaki (JCP)</p>	2h39

(3) Total Duration of Meetings

Research Commission on the Constitution	133h 22min
Open Hearings	18h 29min
Subcommittee on Guarantee of Fundamental Human Rights	13h 45min
Subcommittee on Fundamental and Organizational Role of Politics	13h 26min
Subcommittee on Japan's Role in International Society	13h 35min
Subcommittee on Local Autonomy	13h 47min

Grand Total: 206h 24min

8. Opinions Received in the Commission's Public Forum

(1) Total Opinions Received: 1,813 (as of October 24, 2002)

(2) Opinions by Age Group

Teens	20's	30's	40's	50's	60's	70's	80's	90's	D/K
11	43	27	27	29	141	70	22	5	1,438

(3) Opinions by Medium: From February 2000 to October 2002 (Monthly)

	FAX	Postcard	Letter	E-Mail	Total
February 2000	12	8	23	0	43
March	21	32	51	1	105
April	9	4	10	15	38
May	12	13	21	18	64
June	3	6	6	7	22
July	5	2	7	1	15
August	3	2	12	11	28
September	6	62	4	3	75
October	3	147	3	3	156
November	5	84	12	16	117
December	3	91	10	12	116
January 2001	5	81	8	4	98
February	3	62	5	4	74
March	4	81	13	7	105
April	8	35	10	3	56
May	9	43	5	6	63
June	10	17	13	2	42
July	1	10	9	3	23
August	6	11	10	4	31
September	4	7	7	0	18
October	10	178	6	3	197
November	5	45	7	5	62
December	4	9	3	2	18
January 2002	4	8	4	0	16
February	3	12	0	1	16
March	3	4	2	3	12
April	24	20	44	1	89
May	6	7	30	3	46
June	4	3	5	2	14
July	6	3	15	2	26
August	4	1	4	1	10
September	3	1	4	0	8
October	3	2	4	1	10
Total	211	1,091	367	144	1,813

(4) Opinions by Subject (Pro: in favor of revision; Con: against revision)¹

	Pro	Con		Pro	Con
Preamble	28	6	Ch. 6: Judiciary	7	0
Ch.1: The Emperor	69	5	Ch.7: Finance	10	0
Ch.2: Renunciation of War	91	1,137	Ch.8: Local Self-Government	9	0
Ch.3: Rights and Duties of the People	43	8	Ch.9: Amendments	9	2
Ch. 4: The Diet	31	0	Ch.10: Supreme Law	7	1
Ch.5: The Cabinet	27	4	Other	84	1,082

(5) Opinions by Position²

Revise the Constitution (Pro)	Maintain the Constitution as is (Con)
244	1,183

Notes:

1. One communication counts as more than one opinion if the person expresses views on discrete subjects in one communication. For example, one communication counts as two opinions if the person is against revising Article 9 but in favor of having provisions for new human rights.
2. One communication counts as only one opinion even though the person expresses one view for or against revision on more than one subject. For example, one communication counts as one if a letter expresses support for constitutional revision in favor of provisions for new human rights and popular election of the prime minister.
3. Totals in (4) may not add up to those in (5), because of 1. and 2. above.
4. Figures may not add up to the total received in (1), because of unclassifiable and incomprehensible opinions, in addition to as explained in 1. to 3. above.

9. Numbers of Visitors to the Commission's Website

		Visitors	
		Japanese Website	English Website
2000	March	2,718 (88)	- (-)
	April	3,853 (128)	- (-)
	May	8,332 (269)	- (-)
	June	4,172 (139)	- (-)
	July	4,047 (131)	344 (11)
	August	3,321 (107)	393 (13)
	September	3,192 (106)	337 (11)
	October	4,056 (131)	443 (14)
	November	4,955 (165)	577 (19)
	December	4,562 (147)	228 (7)
	Total	43,208 (141)	2,322 (13)
2001	January	3,826 (123)	181 (6)
	February	4,297 (153)	286 (10)
	March	3,651 (118)	265 (9)
	April	3,367 (112)	274 (9)
	May	5,957 (192)	331 (11)
	June	5,190 (173)	315 (11)
	July	3,482 (112)	256 (8)
	August	3,101 (100)	263 (8)
	September	2,721 (91)	250 (8)
	October	3,833 (124)	376 (12)
	November	4,103 (137)	424 (14)
	December	3,097 (100)	321 (10)
	Total	46,625 (128)	3,542 (10)
2002	January	4,240 (137)	392 (13)
	February	4,326 (155)	429 (15)
	March	4,478 (144)	421 (14)
	April	5,365 (179)	547 (18)
	May	5,294 (171)	412 (13)
	June	4,795 (160)	373 (12)
	July	5,607 (181)	449 (14)
	August	3,161 (102)	515 (17)
	September	3,316 (111)	489 (16)
	Total	40,582 (191)	4,027 (19)
Total		130,415	9,891

Note: Counted from March 2000 to September 2002.

Numbers in parenthesis indicate the average number of visitors per day.

10. Documents Distributed at the Commission Meetings

(1) Summaries of Statement by Informants

A. Research Commission on the Constitution

NISHI Osamu, Professor of Law & Dean of Graduate School, Komazawa University
An Informant's View on the Formulating Process of the Constitution of Japan

AOYAMA Takenori, Professor of Law, Nihon University
Issues Relating to the Formulation of the Constitution of Japan

KOSEKI Shoichi, Professor of Law, Dokkyo University
Understanding the Formulating Process of the 1947 Constitution of Japan: Approaches to an "Imposed" Constitution

MURATA Koji, Assistant Professor of Integrated Arts and Sciences, Hiroshima University
The Political Process of Formulating the 1947 Constitution of Japan

HASEGAWA Masayasu, Emeritus Professor, Nagoya University
Constitutions: A Brief History

TAKAHASHI Masatoshi, Professor of Law, Kagawa University
The Historical Circumstances Surrounding the Formulation of the 1947 Constitution of Japan and a Jurisprudential Analysis of the Constitution

KITAOKA Shinichi, Professor of Law, University of Tokyo
The Constitution of Japan in Historical Context

SHINDO Eiichi, Professor of Social Science, University of Tsukuba
The Formulation of the 1947 Constitution of Japan and Its Global Significance: The Implications of the Constitution

IOKIBE Makoto, Professor of Political Science, Kobe University
The Formulation of the Constitution of Japan and Its Aftermath

AMAKAWA Akira, Professor of Social Sciences, Yokohama National University
"Local Self-Government" in Chapter VIII of the Constitution: Its Drafting Process and the Political Atmosphere of the Day

TANAKA Akihiko, Professor of Interdisciplinary Information Studies, University of Tokyo
A Vision for Japan in the 21st Century

SONO Ayako, Writer & Chairperson of the Nippon Foundation
A Vision for Japan in the 21st Century

KONDO Motohiro, Professor of Social and Cultural Studies, Nihon University
The Search for a Self-Portrait of Japan and the Japanese in the Postwar Public Debate

ICHIMURA Shin'ichi, Director, International Centre for the Study of East Asian Development (ICSEAD)

A Vision for Japan in the 21st Century: Japan and Its Constitutional Issues in the World of the 21st Century

SASAKI Takeshi, Professor, University of Tokyo

A Vision for Japan in the 21st Century: Drawn from Japan's Political Outlook

KOBAYASHI Takeshi, Professor, Nanzan University

A Vision for Japan in the 21st Century That This Commission Should Consider

SAKURAI Yoshiko, Journalist

A Vision for Japan in the 21st Century

MATSUMOTO Ken'ichi, Commentator & Professor, Reitaku University

A People's Constitution and A "Third Opening" of Japan to the World

WATANABE Shoichi, Professor, Sophia University

A Vision for Japan in the 21st Century

MURAKAMI Yoichiro, Professor of Liberal Arts, International Christian University

Japanese Society in the 21st Century: From the Viewpoint of the History of Science and Technology

NISHIZAWA Junichi, President, Iwate Prefectural University

A Vision for Japan in the 21st Century

TAKAHASHI Susumu, Professor, University of Tokyo

Globalization and the Nation-State

HAYASHIZAKI Yoshihide, Project Director, Institute of Physical and Chemical Research (RIKEN)

A Vision for Japan in the 21st Century: International Competitiveness and Technological Clout

OGAWA Naohiro, Professor of Economics & Deputy Director, Nihon University Population Research Institute (NUPRI)

Ultra-Long-Term Projections for Japan from the Perspective of Population Composition

SON Masayoshi, President & CEO, Softbank Corporation

A Vision for Japan in the 21st Century and the Constitution

SAKAMOTO Takao, Professor of Law, Gakushuin University

A Vision for Japan in the 21st Century: How the State Should Be Viewed

KANG Sanjung, Professor of Socio-Information and Communication Studies,
University of Tokyo

A Vision for Japan in the 21st Century: Toward Creating a “Common House” in
Northeast Asia

KIMURA Yoko, Member of the Local Finance Council

A Vision for Japan in the 21st Century: Ageing Society, Social Security, and the
Decentralization of Government

OHKUMA Yoshikazu, Professor of Law, Kyushu University

A Vision for Japan in the 21st Century: Central-Local Government Relationship

ONUMA Yasuyuki, Professor, University of Tokyo

(On Amending the Constitution)

MORIMOTO Satoshi, Professor of International Development, Takushoku University

A Vision for Japan in the 21st Century

HASEBE Yasuo, Professor of Law, University of Tokyo

(On Popular Election of the Prime Minister)

MORITA Akira, Professor of Law and Politics, University of Tokyo

Issues Concerning Government Organization: the Cabinet

MUSHAKOJI Kinhide, Director, Chubu Institute for Advanced Studies, Chubu
University

Issues Pertaining to Human Rights Protection in Japan and Possible Solutions to
Those Issues

HATAJIRI Tsuyoshi, Professor of Economics, Josai University

Establishing a Constitutional Court as Possible Option

B. Subcommittee on Guarantee of Fundamental Human Rights

MUNESUE Toshiyuki, Professor of Law, Seijo University

The Guarantee of Human Rights for a New Era

ANNEN Junji, Professor, Seikei University

Human Rights Guaranteed for Foreign Nationals

SAKAMOTO Masanari, Dean of Law, Hiroshima University

New Human Rights

ITO Tetuo, Director, Japan Policy Institute

The Guarantee of Fundamental Human Rights

KUSANO Tadayoshi, General Secretary, Japanese Trade Union Confederation (RENGO)

Fundamental Labor Rights and Measures Concerned with Employment

C. Subcommittee on Fundamental and Organizational Role of Politics

YAMAGUCHI Jiro, Professor, Hokkaido University

Reevaluating the mechanism of Government: The Parliamentary Cabinet System

OISHI Makoto, Professor, Kyoto University

The Bicameral System and Election Systems

MATSUI Shigenori, Professor, Graduate School of Law, Osaka University

On Judicial Review

YAGI Hidetsugu, Associate Professor, Takasaki City University of Economics

The Structure of Government under the Meiji Constitution

D. Subcommittee on Japan's Role in International Society

MATSUI Yoshiro, Professor of Law, Nagoya University

Japan's Role in International Society: Approach to International Cooperation

Centering on United Nations Peacekeeping Operations and Peacekeeping Forces

HATAKEYAMA Noboru, Chairman, Japan External Trade Organization (JETRO)

Japan's Role in International Society: Free Trade Agreements

TAKUBO Tadae, Professor of General Policy Studies, Kyorin University

Japan's Role in International Society

NAKAMURA Tamio, Associate Professor of Social Science, University of Tokyo

Issues Surrounding the Enactment of an EU Constitution and Its Relationship with Constitutions of Member States

E. Subcommittee on Local Autonomy

IWASAKI Mikiko, Professor, University of Tsukuba

(On Local Autonomy)

MORITA Akira, Professor, Graduate School of Law and Politics, University of Tokyo

Issues Concerning Decentralization Reforms

JINNO Naohiko, Professor, University of Tokyo

Local Autonomy and Local Public Finance

KATAYAMA Yoshihiro, Governor of Tottori Prefecture

Issues Pertaining to the Realization of Local Autonomy

(2) Summaries of Statement by Open Hearing Speakers

TEJIMA Norio, Chairman, Sendai Association of Corporate Executives
Summary of Statement

SHIMURA Kensuke, Professor Emeritus, Tohoku University
On Environmental Issues

TANAKA Hidemichi, Professor of Arts and Letters, Tohoku University
We Want an Outward-looking, not Inward-looking, Constitution

ODANAKA Toshiki, Professor of Law, Senshu University & Professor Emeritus,
Tohoku University
Summary of Statement

ENDO Masanori, Instructor, Senshu University Kitakami Senior High School &
Representative of the Shimin Study Association
Japan's Sovereign in the 21st Century

NAKATA Narishige, Associate Professor, Osaka Institute of Technology
Summary of Statement: The Constitution of Japan (A Vision for Japan in the 21st
Century)

NISHI Hideko, Housewife
Japan's Role in International Society

KOIDO Yasuo, Lawyer
Japan's Role in International Society

YAMAUCHI Tokushin, President, Research Institute on Japan's Peace Constitution
and Local Autonomy
(Summary of Statement)

KAKINOHANA Hojun, Professor of Law, Okinawa International University
The Japanese Constitution in the 21st Century

INATSU Sadatoshi, Managing Director, Daitoa Shoji Co.
Japan and Its Constitution in the 21st Century

(3) Reports of Overseas Delegations to Selected Countries

Survey Mission by the House Delegation on Constitutions of European Nations

Survey Mission by the House Delegation on Constitutions of Russia, Several Other European Nations, and Israel

(4) Document Submitted by the National Diet Library

Composition and Authority of Constitutional Courts in Selected Countries

(5) Document Submitted by the General Secretariat of the Supreme Court

Exhibit 1: Major Constitutional Cases in Chronological Order

Exhibit 2: Supreme Court Judgments of Unconstitutionality

Exhibit 3: Outline of the Constitutional-Court System in Japan and Selected Countries

Exhibit 4: Trends in Number of Civil Cases and Average Period for Disposition (District Courts [First Instance])

Exhibit 5: Trends in Number of Criminal Cases and Average Period for Disposition (District Courts [First Instance])

Exhibit 6: Trends in Number of Cases Required More Than Three Years for Disposition Due to Complexity of Case: Civil Cases in First Instance

Exhibit 7: Trends in Number of Cases Required More Than Three Years for Disposition Due to Complexity of Case: Criminal Cases in First Instance

Exhibit 8: Trends in Number of Judges

Exhibit 9: Trends in Number of Cases Taken by Supreme Court

(6) Documents Prepared by the Office for Research Commission on the Constitution

A. Digests of Proceedings

Volume 1: 147th Session (No. 1 to No. 5)

Volume 2: 147th Session (No. 6 to No. 10)

Volume 3: 148th, 149th, and 150th Sessions (No. 1 to No. 3)

Volume 4: 150th Session (No. 4 to No. 7)

Volume 5: 151st Session (No. 1 to No. 3)

Volume 6: 151st Session (No. 4 to No. 7)

Volume 7: Reports of Overseas Delegations

Volume 8: Index of Speakers and Reference Materials

B. Documents Prepared by the Office for Research Commission on the Constitution

No.1: Outline of Drafts Proposed during the Formulation Process of the 1947 Constitution of Japan

No.2: Summary of the Subcommittee's Report on the Formulation of the Constitution

No.3: Summary of the Statements by Informants on the Formulation of the Constitution

No.4: Glossary of Terms: Constitutional Cases

No.5: Reference Materials for Overseas Delegation: Constitutions & Other Documents

Appendix 1 to No. 5: Constitutions of Germany, Switzerland, Italy, and France

Appendix 2 to No. 5: The Constitution of Finland (Provisional Translation)

No.6: Reference Materials for Overseas Delegation: Constitutions & Other Documents

Appendix to No. 6: Constitutions of Eleven Countries

No. 7: Reference Materials on Constitutions of Monarchies and East European Countries

Appendix to No. 7: Constitutions of Monarchies and East European Countries

No. 8: Summary of Views on Revision of the Constitution at the Cabinet Research Commission on the Constitution

No. 9: United Nations Peacekeeping Operations

No. 10: Outline for Review of Statements by Members and Informants at Subcommittee Meetings

C. Document Prepared by Informant (HATAKEYAMA Noboru)

On Free Trade Agreements

D. References for Research Commission Members

Collected Documents on the Background to the Formulation of the 1947 Constitution of Japan

Collected Laws & Regulations Relating to the Constitution of Japan and the Diet

Collected Laws & Regulations for the Subcommittee on Guarantee of Fundamental Human Rights

Collected Laws & Regulations for the Subcommittee on Fundamental and Organizational Role of Politics

Collected Laws & Regulations for the Subcommittee on Japan's Role in International Society

Collected Laws and Regulations for the Subcommittee on Local Autonomy

E. Booklets Prepared for Open Hearings

"The Research Commission on the Constitution of the House of Representatives" (April 2001 version)

"The Research Commission on the Constitution of the House of Representatives" (June 2001 version)

"The Research Commission on the Constitution of the House of Representatives" (November 2001 version)

The Research Commission on the Constitution of the House of Representatives" (April 2002 version)

"The Research Commission on the Constitution of the House of Representatives" (June 2002 version)

Appendix The Constitution of Japan

Appendix

The Constitution of Japan is not included in the Japanese-language [interim report](#), but is included here for reader convenience.

The Constitution of Japan

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 all 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 that sovereign power resides with the people and do firmly establish this Constitution. Government is a sacred trust of the people, the 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. This is a universal principle of mankind upon which this Constitution is founded. We reject and revoke all constitutions, laws, ordinances, and rescripts in conflict herewith.

We, the Japanese people, desire peace for all time and are deeply conscious of the high ideals controlling human relationship, and we have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world. We desire to occupy an honored place in an international society striving for the preservation of peace, and the banishment of tyranny and slavery, oppression and intolerance for all time from the earth. We recognize that all peoples of the world have the right to live in peace, free from fear and want.

We believe that no nation is responsible to itself alone, but that laws of political morality are universal; and that obedience to such laws is incumbent upon all nations who would sustain their own sovereignty and justify their sovereign relationship with other nations.

We, the Japanese people, pledge our national honor to accomplish these high ideals and purposes with all our resources.

Chapter I. The Emperor

Article 1.

The Emperor shall be the symbol of the State and of the unity of the People, deriving his position from the will of the people with whom resides sovereign power.

Article 2.

The Imperial Throne shall be dynastic and succeeded to in accordance with the Imperial House Law passed by the Diet.

Article 3.

The advice and approval of the Cabinet shall be required for all acts of the Emperor in matters of state, and the Cabinet shall be responsible therefor.

Article 4.

The Emperor shall perform only such acts in matters of state as are provided for in this Constitution and he shall not have powers related to government.

The Emperor may delegate the performance of his acts in matters of state as may be provided by law.

Article 5.

When, in accordance with the Imperial House Law, a Regency is established, the Regent shall perform his acts in matters of state in the Emperor's name. In this case, paragraph one of the preceding article will be applicable.

Article 6.

The Emperor shall appoint the Prime Minister as designated by the Diet.

The Emperor shall appoint the Chief Judge of the Supreme Court as designated by the Cabinet.

Article 7.

The Emperor, with the advice and approval of the Cabinet, shall perform the following acts in matters of state on behalf of the people:

Promulgation of amendments of the constitution, laws, cabinet orders and treaties.

Convocation of the Diet.

Dissolution of the House of Representatives.

Proclamation of general election of members of the Diet.

Attestation of the appointment and dismissal of Ministers of State and other officials as provided for by law, and of full powers and credentials of Ambassadors and Ministers.

Attestation of general and special amnesty, commutation of punishment, reprieve, and restoration of rights.

Awarding of honors.

Attestation of instruments of ratification and other diplomatic documents as provided for by law.

Receiving foreign ambassadors and ministers.

Performance of ceremonial functions.

Article 8.

No property can be given to, or received by, the Imperial House, nor can any gifts be made therefrom, without the authorization of the Diet.

Chapter II. Renunciation of War

Article 9.

Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes.

In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized.

Chapter III. Rights and Duties of the People

Article 10.

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

Article 11.

The people shall not be prevented from enjoying any of the fundamental human rights.

These fundamental human rights guaranteed to the people by this Constitution shall be conferred upon the people of this and future generations as eternal and inviolate rights.

Article 12.

The freedoms and rights guaranteed to the people by this Constitution shall be maintained by the constant endeavor of the people, who shall refrain from any abuse of these freedoms and rights and shall always be responsible for utilizing them for the public welfare.

Article 13.

All of the people shall be respected as individuals. Their right to life, liberty, and the pursuit of happiness shall, to the extent that it does not interfere with the public welfare, be the supreme consideration in legislation and in other governmental affairs.

Article 14.

All of the people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin.

Peers and peerage shall not be recognized.

No privilege shall accompany any award of honor, decoration or any distinction, nor shall any such award be valid beyond the lifetime of the individual who now holds or hereafter may receive it.

Article 15.

The people 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 group thereof.

Universal adult suffrage is guaranteed with regard to the election of public officials.

In all elections, secrecy of the ballot shall not be violated. A voter shall not be answerable, publicly or privately, for the choice he has made.

Article 16.

Every person shall have the right of peaceful petition for the redress of damage, for the removal of public officials, for the enactment, repeal or amendment of laws, ordinances or regulations and for other matters; nor shall any person be in any way discriminated against for sponsoring such a petition.

Article 17.

Every person may sue for redress as provided by law from the State or a public entity, in case he has suffered damage through illegal act of any public official.

Article 18.

No person shall be held in bondage of any kind. Involuntary servitude, except as punishment for crime, is prohibited.

Article 19.

Freedom of thought and conscience shall not be violated.

Article 20.

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

No person shall be compelled to take part in any religious act, celebration, rite or practice.

The State and its organs shall refrain from religious education or any other religious activity.

Article 21.

Freedom of assembly and association as well as speech, press and all other forms of expression are guaranteed.

No censorship shall be maintained, nor shall the secrecy of any means of communication be violated.

Article 22.

Every person shall have freedom to choose and change his residence and to choose his occupation to the extent that it does not interfere with the public welfare.

Freedom of all persons to move to a foreign country and to divest themselves of their nationality shall be inviolate.

Article 23.

Academic freedom is guaranteed.

Article 24.

Marriage shall be based only on the mutual consent of both sexes and it shall be maintained through mutual cooperation with the equal rights of husband and wife as a basis.

With regard to choice of spouse, property rights, inheritance, choice of domicile, divorce and other matters pertaining to marriage and the family, laws shall be enacted from the standpoint of individual dignity and the essential equality of the sexes.

Article 25.

All people shall have the right to maintain the minimum standards of wholesome and cultured living.

In all spheres of life, the State shall use its endeavors for the promotion and extension of social welfare and security, and of public health.

Article 26.

All people shall have the right to receive an equal education correspondent to their ability, as provided by law.

All people shall be obligated to have all boys and girls under their protection receive ordinary education as provided for by law. Such compulsory education shall be free.

Article 27.

All people shall have the right and the obligation to work.

Standards for wages, hours, rest and other working conditions shall be fixed by law.

Children shall not be exploited.

Article 28.

The right of workers to organize and to bargain and act collectively is guaranteed.

Article 29.

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

Private property may be taken for public use upon just compensation therefor.

Article 30.

The people shall be liable to taxation as provided by law.

Article 31.

No person shall be deprived of life or liberty, nor shall any other criminal penalty be imposed, except according to procedure established by law.

Article 32.

No person shall be denied the right of access to the courts.

Article 33.

No person shall be apprehended except upon warrant issued by a competent judicial officer which specifies the offense with which the person is charged, unless he is apprehended, the offense being committed.

Article 34.

No person shall be arrested or detained without being at once informed of the charges against him or without the immediate privilege of counsel; nor shall he be detained without adequate cause; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel.

Article 35.

The right of all persons to be secure in their homes, papers and effects against entries, searches and seizures shall not be impaired except upon warrant issued for adequate cause and particularly describing the place to be searched and things to be seized, or except as provided by Article 33.

Each search or seizure shall be made upon separate warrant issued by a competent judicial officer.

Article 36.

The infliction of torture by any public officer and cruel punishments are absolutely forbidden.

Article 37.

In all criminal cases the accused shall enjoy the right to a speedy and public trial by an impartial tribunal.

He shall be permitted full opportunity to examine all witnesses, and he shall have the right of compulsory process for obtaining witnesses on his behalf at public expense.

At all times the accused shall have the assistance of competent counsel who shall, if the accused is unable to secure the same by his own efforts, be assigned to his use by the

State.

Article 38.

No person shall be compelled to testify against himself.

Confession made under compulsion, torture or threat, or after prolonged arrest or detention shall not be admitted in evidence.

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

Article 39.

No person shall be held criminally liable for an act which was lawful at the time it was committed, or of which he has been acquitted, nor shall he be placed in double jeopardy.

Article 40.

Any person, in case he is acquitted after he has been arrested or detained, may sue the State for redress as provided by law.

Chapter IV. The Diet

Article 41.

The Diet shall be the highest organ of state power, and shall be the sole law-making organ of the State.

Article 42.

The Diet shall consist of two Houses, namely the House of Representatives and the House of Councillors.

Article 43.

Both Houses shall consist of elected members, representative of all the people.

The number of the members of each House shall be fixed by law.

Article 44.

The qualifications of members of both Houses and their electors shall be fixed by law. However, there shall be no discrimination because of race, creed, sex, social status, family origin, education, property or income.

Article 45.

The term of office of members of the House of Representatives shall be four years. However, the term shall be terminated before the full term is up in case the House of Representatives is dissolved.

Article 46.

The term of office of members of the House of Councillors shall be six years, and election for half the members shall take place every three years.

Article 47.

Electoral districts, method of voting and other matters pertaining to the method of election of members of both Houses shall be fixed by law.

Article 48.

No person shall be permitted to be a member of both Houses simultaneously.

Article 49.

Members of both Houses shall receive appropriate annual payment from the national treasury in accordance with law.

Article 50.

Except in cases provided by law, members of both Houses shall be exempt from apprehension while the Diet is in session, and any members apprehended before the opening of the session shall be freed during the term of the session upon demand of the House.

Article 51.

Members of both Houses shall not be held liable outside the House for speeches, debates or votes cast inside the House.

Article 52.

An ordinary session of the Diet shall be convoked once per year.

Article 53.

The Cabinet may determine to convoke extraordinary sessions of the Diet. When a

quarter or more of the total members of either House makes the demand, the Cabinet must determine on such convocation.

Article 54.

When the House of Representatives is dissolved, there must be a general election of members of the House of Representatives within forty (40) days from the date of dissolution, and the Diet must be convoked within thirty (30) days from the date of the election.

When the House of Representatives is dissolved, the House of Councillors is closed at the same time. However, the Cabinet may in time of national emergency convoke the House of Councillors in emergency session.

Measures taken at such session as mentioned in the proviso of the preceding paragraph shall be provisional and shall become null and void unless agreed to by the House of Representatives within a period of ten (10) days after the opening of the next session of the Diet.

Article 55.

Each House shall judge disputes related to qualifications of its members. However, in order to deny a seat to any member, it is necessary to pass a resolution by a majority of two-thirds or more of the members present.

Article 56.

Business cannot be transacted in either House unless one-third or more of total membership is present.

All matters shall be decided, in each House, by a majority of those present, except as elsewhere provided in the Constitution, and in case of a tie, the presiding officer shall decide the issue.

Article 57.

Deliberation in each House shall be public. However, a secret meeting may be held where a majority of two-thirds or more of those members present passes a resolution therefor.

Each House shall keep a record of proceedings. This record shall be published and given general circulation, excepting such parts of proceedings of secret session as may be deemed to require secrecy.

Upon demand of one-fifth or more of the members present, votes of members on any

matter shall be recorded in the minutes.

Article 58.

Each House shall select its own president and other officials.

Each House shall establish its rules pertaining to meetings, proceedings and internal discipline, and may punish members for disorderly conduct. However, in order to expel a member, a majority of two-thirds or more of those members present must pass a resolution thereon.

Article 59.

A bill becomes a law on passage by both Houses, except as otherwise provided by the Constitution.

A bill which is passed by the House of Representatives, and upon which the House of Councillors makes a decision different from that of the House of Representatives, becomes a law when passed a second time by the House of Representatives by a majority of two-thirds or more of the members present.

The provision of the preceding paragraph does not preclude the House of Representatives from calling for the meeting of a joint committee of both Houses, provided for by law.

Failure by the House of Councillors to take final action within sixty (60) days after receipt of a bill passed by the House of Representatives, time in recess excepted, may be determined by the House of Representatives to constitute a rejection of the said bill by the House of Councillors.

Article 60.

The budget must first be submitted to the House of Representatives.

Upon consideration of the budget, when the House of Councillors makes a decision different from that of the House of Representatives, and when no agreement can be reached even through a joint committee of both Houses, provided for by law, or in the case of failure by the House of Councillors to take final action within thirty (30) days, the period of recess excluded, after the receipt of the budget passed by the House of Representatives, the decision of the House of Representatives shall be the decision of the Diet.

Article 61.

The second paragraph of the preceding article applies also to the Diet approval required

for the conclusion of treaties.

Article 62.

Each House may conduct investigations in relation to government, and may demand the presence and testimony of witnesses, and the production of records.

Article 63.

The Prime Minister and other Ministers of State may, at any time, appear in either House for the purpose of speaking on bills, regardless of whether they are members of the House or not. They must appear when their presence is required in order to give answers or explanations.

Article 64.

The Diet shall set up an impeachment court from among the members of both Houses for the purpose of trying those judges against whom removal proceedings have been instituted.

Matters relating to impeachment shall be provided by law.

Chapter V. The Cabinet

Article 65.

Executive power shall be vested in the Cabinet.

Article 66.

The Cabinet shall consist of the Prime Minister, who shall be its head, and other Ministers of State, as provided for by law.

The Prime Minister and other Ministers of State must be civilians.

The Cabinet, in the exercise of executive power, shall be collectively responsible to the Diet.

Article 67.

The Prime Minister shall be designated from among the members of the Diet by a resolution of the Diet. This designation shall precede all other business.

If the House of Representatives and the House of Councillors disagree and if no agreement can be reached even through a joint committee of both Houses, provided for

by law, or the House of Councillors fails to make designation within ten (10) days, exclusive of the period of recess, after the House of Representatives has made designation, the decision of the House of Representatives shall be the decision of the Diet.

Article 68.

The Prime Minister shall appoint the Ministers of State. However, a majority of their number must be chosen from among the members of the Diet.

The Prime Minister may remove the Ministers of State as he chooses.

Article 69.

If the House of Representatives passes a non-confidence resolution, or rejects a confidence resolution, the Cabinet shall resign en masse, unless the House of Representatives is dissolved within ten (10) days.

Article 70.

When there is a vacancy in the post of Prime Minister, or upon the first convocation of the Diet after a general election of members of the House of Representatives, the Cabinet shall resign en masse.

Article 71. In the cases mentioned in the two preceding articles, the Cabinet shall continue its functions until the time when a new Prime Minister is appointed.

Article 72.

The Prime Minister, representing the Cabinet, submits bills, reports on general national affairs and foreign relations to the Diet and exercises control and supervision over various administrative branches.

Article 73.

The Cabinet, in addition to other general administrative functions, shall perform the following functions:

Administer the law faithfully; conduct affairs of state.

Manage foreign affairs.

Conclude treaties. However, it shall obtain prior or, depending on circumstances, subsequent approval of the Diet.

Administer the civil service, in accordance with standards established by law.

Prepare the budget, and present it to the Diet.

Enact cabinet orders in order to execute the provisions of this Constitution and of the law. However, it cannot include penal provisions in such cabinet orders unless authorized by such law.

Decide on general amnesty, special amnesty, commutation of punishment, reprieve, and restoration of rights.

Article 74.

All laws and cabinet orders shall be signed by the competent Minister of State and countersigned by the Prime Minister.

Article 75.

The Ministers of State, during their tenure of office, shall not be subject to legal action without the consent of the Prime Minister. However, the right to take that action is not impaired hereby.

Chapter VI. Judiciary

Article 76.

The whole judicial power is vested in a Supreme Court and in such inferior courts as are established by law.

No extraordinary tribunal shall be established, nor shall any organ or agency of the Executive 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.

Article 77.

The Supreme Court is vested with the rule-making power under which it determines the rules of procedure and of practice, and of matters relating to attorneys, the internal discipline of the courts and the administration of judicial affairs.

Public procurators shall be subject to the rule-making power of the Supreme Court.

The Supreme Court may delegate the power to make rules for inferior courts to such courts.

Article 78.

Judges shall not be removed except by public impeachment unless judicially declared mentally or physically incompetent to perform official duties. No disciplinary action against judges shall be administered by any executive organ or agency.

Article 79.

The Supreme Court shall consist of a Chief Judge and such number of judges as may be determined by law; all such judges excepting the Chief Judge shall be appointed by the Cabinet.

The appointment of the judges of the Supreme Court shall be reviewed by the people at the first general election of members of the House of Representatives following their appointment, and shall be reviewed again at the first general election of members of the House of Representatives after a lapse of ten (10) years, and in the same manner thereafter.

In cases mentioned in the foregoing paragraph, when the majority of the voters favors the dismissal of a judge, he shall be dismissed.

Matters pertaining to review shall be prescribed by law.

The judges of the Supreme Court shall be retired upon the attainment of the age as fixed by law.

All such judges shall receive, at regular stated intervals, adequate compensation which shall not be decreased during their terms of office.

Article 80.

The judges of the inferior courts shall be appointed by the Cabinet from a list of persons nominated by the Supreme Court. All such judges shall hold office for a term of ten (10) years with privilege of reappointment, provided that they shall be retired upon the attainment of the age as fixed by law.

The judges of the inferior courts shall receive, at regular stated intervals, adequate compensation which shall not be decreased during their terms of office.

Article 81.

The Supreme Court is the court of last resort with power to determine the constitutionality of any law, order, regulation or official act.

Article 82.

Trials shall be conducted and judgment declared publicly.

Where a court unanimously determines publicity to be dangerous to public order or

morals, a trial may be conducted privately, but trials of political offenses, offenses involving the press or cases wherein the rights of people as guaranteed in Chapter III of this Constitution are in question shall always be conducted publicly.

Chapter VII. Finance

Article 83.

The power to administer national finances shall be exercised as the Diet shall determine.

Article 84.

No new taxes shall be imposed or existing ones modified except by law or under such conditions as law may prescribe.

Article 85.

No money shall be expended, nor shall the State obligate itself, except as authorized by the Diet.

Article 86.

The Cabinet shall prepare and submit to the Diet for its consideration and decision a budget for each fiscal year.

Article 87.

In order to provide for unforeseen deficiencies in the budget, a reserve fund may be authorized by the Diet to be expended upon the responsibility of the Cabinet.

The Cabinet must get subsequent approval of the Diet for all payments from the reserve fund.

Article 88.

All property of the Imperial Household shall belong to the State. All expenses of the Imperial Household shall be appropriated by the Diet in the budget.

Article 89.

No public money or other property shall be expended or appropriated for the use, benefit or maintenance of any religious institution or association, or for any charitable,

educational or benevolent enterprises not under the control of public authority.

Article 90.

Final accounts of the expenditures and revenues of the State shall be audited annually by a Board of Audit and submitted by the Cabinet to the Diet, together with the statement of audit, during the fiscal year immediately following the period covered. The organization and competency of the Board of Audit shall be determined by law.

Article 91.

At regular intervals and at least annually the Cabinet shall report to the Diet and the people on the state of national finances.

Chapter VIII. Local Self-Government

Article 92.

Regulations concerning organization and operations of local public entities shall be fixed by law in accordance with the principle of local autonomy.

Article 93.

The local public entities shall establish assemblies as their deliberative organs, in accordance with law.

The chief executive officers of all local public entities, the members of their assemblies, and such other local officials as may be determined by law shall be elected by direct popular vote within their several communities.

Article 94.

Local public entities shall have the right to manage their property, affairs and administration and to enact their own regulations within law.

Article 95.

A special law, applicable only to one local public entity, cannot be enacted by the Diet without the consent of the majority of the voters of the local public entity concerned, obtained in accordance with law.

Chapter IX. Amendments

Article 96.

Amendments to this Constitution shall be initiated by the Diet, through a concurring vote of two-thirds or more of all the members of each House and shall thereupon be submitted to the people for ratification, which shall require the affirmative vote of a majority of all votes cast thereon, at a special referendum or at such election as the Diet shall specify.

Amendments when so ratified shall immediately be promulgated by the Emperor in the name of the people, as an integral part of this Constitution.

Chapter X. Supreme Law

Article 97.

The fundamental human rights by this Constitution guaranteed to the people of Japan are fruits of the age-old struggle of man to be free; they have survived the many exacting tests for durability and are conferred upon this and future generations in trust, to be held for all time inviolate.

Article 98.

This Constitution shall be the supreme law of the nation and no law, ordinance, imperial rescript or other act of government, or part thereof, contrary to the provisions hereof, shall have legal force or validity.

The treaties concluded by Japan and established laws of nations shall be faithfully observed.

Article 99.

The Emperor or the Regent as well as Ministers of State, members of the Diet, judges, and all other public officials have the obligation to respect and uphold this Constitution.

Chapter XI. Supplementary Provisions

Article 100.

This Constitution shall be enforced as from the day when the period of six months will

have elapsed counting from the day of its promulgation.

The enactment of laws necessary for the enforcement of this Constitution, the election of members of the House of Councillors and the procedure for the convocation of the Diet and other preparatory procedures necessary for the enforcement of this Constitution may be executed before the day prescribed in the preceding paragraph.

Article 101.

If the House of Councillors is not constituted before the effective date of this Constitution, the House of Representatives shall function as the Diet until such time as the House of Councillors shall be constituted.

Article 102.

The term of office for half the members of the House of Councillors serving in the first term under this Constitution shall be three years. Members falling under this category shall be determined in accordance with law.

Article 103.

The Ministers of State, members of the House of Representatives and judges in office on the effective date of this Constitution, and all other public officials who occupy positions corresponding to such positions as are recognized by this Constitution shall not forfeit their positions automatically on account of the enforcement of this Constitution unless otherwise specified by law. When, however, successors are elected or appointed under the provisions of this Constitution, they shall forfeit their positions as a matter of course.