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Early Japanese Law and Administration.

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PART I.*

[The following material does not pretend to any completeness or authority. It consists merely of notes which I made for my own use some years ago while preparing a book, since published, on the cultural history of Japan. Those notes were in an abbreviated form, and I have now slightly expanded them in the hope that they may be of some use to students. But, I must repeat, they were made for a specific and limited purpose and they will not satisfy anybody who wishes to acquire specialized knowledge. Those who desire full and exact information are referred to the texts of the codes and commentaries, e. g. such works as *Ryō no Gige*, *Ruiju Sandaikyaku*, *Kōtai-shiki*, *Engi-shiki*, etc., which are to be found in collections like *Kokushi Taikēi*. The books of Mr. Wada (和田英松) such as *Kwanshoku Yōkai* will be found helpful, and for a general survey of the development of legislation in Japan *Hōseishi no Kenkyū* by Professor Miura is probably the best.]

I. SOURCES.

There are scattered references to law in the *Kojiki* and the *Nihon-shoki*, but there is nothing systematic until after the development of regular intercourse with China. China was under the Sui and T'ang dynasties probably at the height of her legislative career, and in the seventh century in particular there was great activity in the revision and compilation of codes of various kinds. The legislation of that period was divided into four classes, called in Japanese *ryō* 令, *ritsu* 律, *kyaku* 格 and *shiki* 式. Exact definition of these is a matter of some difficulty, but in a general way it may be said that they were originally regarded as follows:—

1. RYŌ: An administrative code, dealing with the functions of departments of state and the duties of officials. It is

* Part II, consisting of an account of the provincial administration, taxation, land tenure and the other matters dealt with Chapters 2 to 10 of the Yōrō Code, will be printed in the next volume of the Society's Transactions together with Part III which consists of general observations on the whole Code.

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have not been so well preserved as the *ryō*, but fairly full fragments are extant and have been collected, e. g. in *Zokuzoku Gunsho Ruiju*. Volume VI.

C. KYAKU. These have come down to us in *Ruiju Sandai Kyaku*, a collection of *kyaku* for three eras, viz.

1. KŌNIN KYAKU, (Kōnin X = 819), comprising the *kyaku* (and *shiki*, V. infra) issued after the Taihō code of 701. Fragments only. 10 vols.
2. JŌGWAN KYAKU, (Jōgwan X = 868), comprising the *kyaku* (and *shiki*) issued after 819. These *kyaku* were enforced from 868, while the corresponding *shiki* were enforced from 871, 12 vols.
3. ENGI KYAKU, containing *kyaku* issued up to Engi VII (= 907), 12 vols. The complete work usually known as the *Engishiki*, containing the corresponding *Shiki*, was not issued until 967, after the Engi period. It was much more voluminous than the *Kyaku*, and there were interruptions owing to the death of some of the compilers.

As to the contents of these *Kyaku*, complete separate collections no longer exist, and the *Ruiju Sandai Kyaku* is an incomplete version, based on fragmentary sources.

D. SHIKI. As mentioned above, there were collections of *Shiki* in the eras of Kōnin, Jōgwan and Engi. But the *Engi-shiki*, unlike the *Engi-kyaku*, contained the legislation of the two preceding periods, and consists of 50 volumes. In other words, while the *Engi-kyaku* did not supersede the two previous collections the *Engi-shiki* superseded the separate *shiki* of Kōnin and Jōgwan, since it was an amalgamation of all of them. The *Engi-shiki* has been preserved with little loss.

II. THE SCOPE OF THE YŌRŌ CODE (RYŌ)

The following is a list of the chapter headings of the Yōrō code, as given in the *Ryō no Gige* :—

VOLUME I.

1. Official ranks 官位令
2. Official appointments 職員令
3. Official appointments in the women's quarters 後宮

4. Official appointments in the Household of the Crown Prince
5. Official appointments in the Households of Imperial Princes

VOLUME II.

6. Religion 神祇令 (Functions of Dept. of Religion)
7. Monks & nuns 僧尼令 (Rules for behaviour of)
8. Households 戸令 (Constitution of, tax assessments etc.)

VOLUME III.

9. Rice fields 田令 (Grants of, classification etc.)
10. Labour tax 賦役令 (Amounts, penalties, exemptions)
11. Education 學令 (Curriculum, training, appointments)

VOLUME IV.

12. Appointments, Promotions 選叙令 (of officials)
13. Succession 繼嗣令
14. Discipline (of officials) 考課令
15. Emoluments (of officials) 祿令

VOLUME V.

16. Palace Guards 宮衛令
17. Military Forces 軍防令

VOLUME VI.

18. Ceremonial 儀制令
19. Dress 衣服令
20. Construction & Repairs 營繕令

VOLUME VII.

21. Forms 公式令 (of public documents and official correspondence)

VOLUME VIII.

22. Storehouses 倉庫令 (Care of Government property in)
23. Stables and pasture (Care of Government horses and oxen)
厩牧令
24. Medicine 醫疾令

VOLUME IX.

25. Holidays and leave 假寧令 (of officials)
26. Funerals and mourning 喪葬令
27. Barriers and markets 關市令
28. Arrest of fugitives 捕亡令

VOLUME X.

29. Punishments 獄令
30. Miscellaneous 雜令

This code of ten ^{volumes} chapters may be regarded as containing the fundamental statutory legislation of Japan. But, though in some respects it is very detailed, in others it is only a statement of general principles ;

and experience showed that it required considerable expansion and modification for its practical working. It was followed therefore by a voluminous literature of commentaries, interpretations and working rules, embodied in the *kyaku* and *shiki* referred to above, and in ordinances (符宣) issued by the Chancellor. This kind of legislation continued throughout the middle ages, and though it was finally superseded by feudal laws and customs in most parts of Japan, its principles were never entirely abandoned and indeed the Yōrō code may be said to have enjoyed a certain revival as feudal regime began to collapse.

It is beyond the scope of these notes to give a summary, still less a translation, of the Yōrō code, and there will be found below only a brief account of the contents of most of its 30 separate laws which it comprises. The section which follows immediately includes, however, a fairly exact translation of a great part of the text of the 5 laws included in Volume I of *Ryō no Gige*, because these laws taken together give a pretty complete picture of the political organization of Japan in the ninth century.

III. ADMINISTRATIVE SYSTEM.

This system was first laid down in the Taihō code in 702. The following account is based on the Yōrō code as set forth in *Ryō no Gige* in S33, by which time it had been modified in points of detail but remained in principle unchanged. It was the theoretical basis of government until the nineteenth century. There were frequent and drastic changes in actual methods, but the framework erected in 702 was never demolished. It was neglected or superseded at different times, but it remained standing. Students of Japanese history will not need reminding that, even when military dictators had usurped the imperial power, they paid formal respect to the ancient hierarchy, and were content, even proud, to hold quite modest offices in the imperial government.

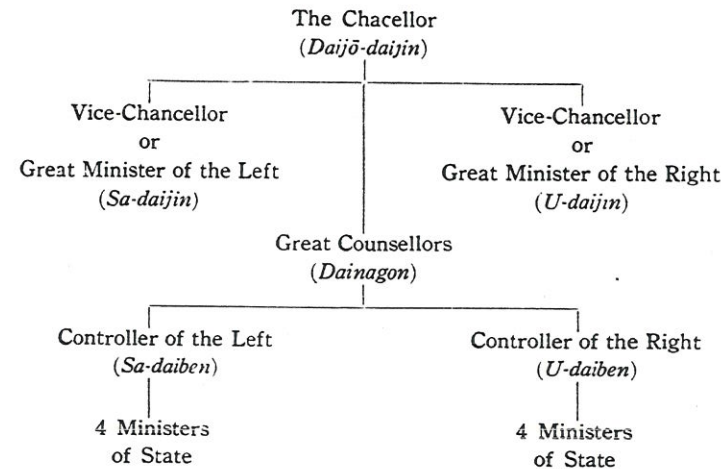
Court ranks and official titles dating from the 8th and 9th centuries persist throughout Japanese history, though in most cases purely honorary and ornamental. Consequently some knowledge of them is essential for a study of any period. Thus, for instance, as late as the end of the Tokugawa period, Bakufu officials bore such titles as Controller of the Bureau of Weaving (*Oribe no Shō*), although this particular office had been abolished nearly 1,000 years before, the title only surviving as a mark of honour.

Turning now to a description of the system of government, it should be premised that all administration centred about the imperial family

and the court. From the capital, where the court resides, flows all authority and honour; to the capital flows all wealth. This is the theory of the State, though of course it breaks down in practice as vested interests grow in the provinces.

The central government consisted of two main divisions—the department of Religion and the Department of Administration. The Department of Religion took precedence over the Department of Administration.

The supreme administrative organ was the Council of State (*Daijō-kwan*, pron. *Dajōkwan*) under the presidency of the Chancellor (*Dajō-daijin*). This council was modelled on the Tang system but somewhat simplified. Its composition can best be shown by a diagram, as follows:—



This table does not show certain minor officers (such as *Shōnagon* and, later, *Chunagon*) who formed part of the Council of State. The order of precedence was not always as shown, for a great Counsellor might be of greater importance than the Ministers of Left or Right. It represents, however, the normal constitution of the Council, which was an administrative body directing and supervising all other government organs whether executive or judicial, except the Department of Religion.

The work of the Chancellor, the Vice-Chancellors and the great Counsellors was mainly advisory, and they were in direct touch with the Sovereign. The actual business of the Council was transacted by the Minor Counsellors (*Shōnagon*) and the Controllers, who had under them respectively a Counsellors' office and Controllers' offices with a

fairly numerous executive and secretarial staff. The Counsellors' office dealt with routine matters, kept the official seals and tokens, and was responsible for the communication of Imperial commands, rescripts etc. to their destinations. The minor counsellors were therefore trusted officials, usually of the 5th rank, and they often doubled their office with that of Chamberlain or Gentleman-in-waiting (*Jiju*). The Controllers' offices were the medium by which the Council of State reviewed and controlled the work of the ministries. Each Controller supervised four of the eight ministries and transmitted to the Ministers orders and documents from the Council of State.

Each Ministry of State was directed by a Minister, and had under its control a number of bureaux (*ryō*) or offices (*tsukasa*).

Subordinate to the central administration were the provincial governments, each with its hierarchy of officials under a Provincial Governor. The provinces were divided into districts under District Governors, and the Districts subdivided into groups of households.

The following detailed account of the separate organs of the administration is an abridged translation, or rather a paraphrase of the relevant portions of *Ryō no Gige*. The passages enclosed [] and those headed "Note:" are merely explanations which I have added for the convenience of readers. They are not part of the original text, though as a rule they are based on the *Gige* or *Shuge* commentaries.

A. THE CENTRAL ADMINISTRATION.

I. THE DEPARTMENT OF RELIGION (*JINGI-KWAN* 神祇官)

1. Minister (*Haku* 伯) responsible for the proper performance of [Shinto] religious ceremonies and keeping registers of all [Shinto] priests and corporations of attendants of shrines [the corporations known as *kamube* or *kambe* 神戶]. He thus had charge of all the traditional religious ceremonies connected with the accession and enthronement of the Sovereign, the festivals of First Fruits, Harvest, etc.; the placating of Spirits; oracles and divination [by priestesses and by means of the tortoise].

1. Vice-Minister (*Tayu* 大副)

1. Junior Vice-Minister (*Sho* 少副)

1. Secretary (*Taijō* 大祐) in charge of office discipline and correspondence.

1. Assistant Secretary (*Shōjō* 少祐)

1. Recorder (*Taishi* 大史) in charge of archives, clerical work etc.
1. Assistant Recorder (*Shōshi* 少史)
- 30 Members of the Religious Corporations (*Kamube* or *Kamutomo* 神部 [These were members of the Imbe or Nakatomi clans and their posts were as a rule hereditary.]
- 20 Members of the Diviners' Corporations (*Urabe* 卜部)
- 30 Servants
- 2 Watchmen

Note: The important posts in this department were as a rule hereditary in such families as the Nakatomi and the Imbe. The *Haku* was at first a member of one of these clans, but later the office became hereditary in the Shirakawa family, who were of princely origin through a son of the Emperor Hanayama.

II. THE COUNCIL OF STATE

(*DAIJŌ-KWAN* 太政官)

The Chancellor (*Daijō-daijin* 太政大臣) also pronounced *Daijō-daijin* shall be a leader and pattern, setting an example to the Four Seas [i. e. to all people, including the barbarians]. He must order the State and deliberate upon the Way [the Confucian principles of Virtue in a ruler]. He must harmonize Yin and Yang. If there is no suitable person, there shall be no appointment made.

Note. In practice, especially soon after the promulgation of the Taihō code, the post often remained unfilled. The title of *Daijō-daijin* was often bestowed posthumously upon high officers of State, and the office tended to lose its importance as the custom of appointing Regents grew.

The Minister of the Left (*Sa-Daijin* 左大臣) shall supervise all State business. [He is in effect the Prime Minister, responsible for the execution of policy and the proper discharge of the functions of the whole administrative body, since the Chancellor himself is the Supreme Counsellor, and personally transacts no official business. The *Sadaijin* was sometimes styled *Ichi no Kami* — 第一, which is equivalent to Prime Minister.]

The Minister of the Right (*U-daijin* 右大臣) is the counterpart of the Minister of the Left [but ranks after him].

The Great Counsellors (*Dainagon* 大納言) shall be four in number. They are to take part in deliberations upon all matters, to tender advice to the Sovereign and to convey his pronouncements. [In commentaries they are described as the "mouth-

piece" of the Sovereign, but they were supposed not merely to transmit his words but to ensure that he spoke wise words and refrained from speaking unwise ones. They therefore sifted the Imperial utterances as well as examining memorials which were addressed to the Throne.]

The Minor Counsellors (*Shōnagon* 小納言) Three in number, shall deal with minor matters concerning memorials and edicts, shall have charge of seals and tokens and the despatch of official correspondence. [The *Shōnagon* were trusted officials, generally of the 5th rank, and were at the same time Chamberlains. They kept the great Imperial Seal and the seal of the Council of State, and being responsible for the despatch of official communications to the provincial governments they also had custody of the seals and tokens by which the commands of the Sovereign or the orders of the Government were authenticated and transmitted by post-horse to their destinations. The staff of their office was as follows:—]

2. Secretaries (*Dai-geki* 大外記) to scrutinize the drafts of Imperial pronouncements and to draft memorials from the Council of State. [These were responsible permanent officials of the 7th (later the 6th) rank, men skilled in composition and calligraphy. Their posts soon became hereditary in such families of Confucian scholars as the Kiyowara and Nakahara.]

2 Junior Secretaries (*Shō-geki* 少外記)

10 Scribes (*Shishō* 史生) to copy documents and keep them in order. The Controller of the Left (*Sadaiben* 左大辨) controls the four Ministries of State, *Nakatsukasa*, *Shikibu*, *Jibu* and *Minbu* [*v. infra*].

The Controller of the Right (*U-daiben* 右大辨) controls the four Ministries of State, *Hyōbu*, *Gyōbu*, *Ōkura*, *Kunai* [*v. infra*].

Note. The offices of the Controllers were the channel through which the Council of State reviewed and directed the work of the Ministries. Each Controller transmitted to the four Ministers under him orders and documents from the Council of State.

Each controller's office had a staff of

1 Vice-Controller (*Chuben* 中辨)

1 Junior Controller (*Shōben* 少辨)

2 Recorders (*Taishi* 大史), who were officers of the same kind as the *Geki* or Secretaries of the Council of State, their posts generally being hereditary in certain families.

2 Junior Recorders (*Shōshi* 少史)

10 Scribes (*Shishō* 史生)

2 Office keepers (*Kwanshō* 官掌)

80 Servants (*Shibu* 使部)

[These were young men selected from families of men of the 8th rank for service in government departments. Those of better family were taken into the Guards or became Palace Attendants.]

III. THE EIGHT MINISTRIES OF STATE (八省)

1. THE MINISTRY OF CENTRAL AFFAIRS

(*Nakatsukasa-shō* 中務省)

[This title might perhaps be better rendered by some words like Mediate Office, since the ministry was the intermediary between the Sovereign and the administrative offices.]

1 Minister (*Kami* 卿) who is in constant attendance upon the Sovereign (as head of the Chamberlains) and advises him on matters of ceremonial and precedent. He scrutinizes the drafts of Imperial rescripts and edicts and transmits memorials to the Throne after examining them. He supervises the compilation of official chronicles; the keeping of lists of Court Ladies [from Princesses down to ladies of the 5th rank] and palace women [such as the *naishi*, *miko*, nurses etc.] and the records of their services, promotions and ranks; the registers of population, land-tax [*so*] and labour-tax [*chō*] of all provinces; the registers of monks and nuns.

Note. The minister of the *Nakatsukasa* was at first usually and later always a Prince of the Blood (親王). His was the most important of the eight ministries.

1 Vice-Minister (*Taiu* pron. *taiyu* 大輔)

1 Assistant Vice-Minister (*Shōyu* 少輔)

1 Secretary (*Daijō* 大丞) whose principal function is to enquire into the conduct of court officials, so as to decide promotions etc.

2 Under-Secretaries (*Shōjō* 少丞)

1 Recorder (*Dairoku* 大録) and 3 Junior Recorders (*Shōroku* 少録)

20 Scribes (*Shishō* 史生)

8 Chamberlains (*Jiju* 侍從) who are to be in constant attendance, to maintain discipline at court, "to pick up what is left, to supply what is lacking."

90 Palace Attendants (*Udoneri* 内舍人) who are to wear swords and keep guard within the Palace, and to act as escort before

and behind the Imperial carriage.

2 Senior Private Secretaries (*Dai-Naiki* 大内記) who are to draft documents for the Imperial signature and to keep all Palace Records [e.g. of the daily doings of the Court].

2 Middle Private Secretaries (*Chu-Naiki*)

2 Junior Private Secretaries (*Shō-Naiki*)

Note. These officers are styled *naiki* to differentiate them from the public secretaries of the Council of State or *geki*; *nai* 内 referring to the personal affairs of the Sovereign, the interior of the Palace; *ge* 外 referring to matters outside.

2 Senior Inspectors (*Ken-motsu* 監物) to oversee receipts and issues by the Palace storehouses; to receive and return the keys [which were kept by a woman official in the Palace].

2 Middle (中) and 4 Junior (少) Inspectors

4 Scribes belonging to the Storehouses

2 Masters of the Bells (*Shuryō* 主鈴), having charge of the issue and receipt of bells, seals, tallies and mail boxes. [They were, in fact, the despatching officers for communications to the provinces by the order of the Central Government. The bells were tokens entitling officials on duty to the use of post horses; the seals and tallies were for the authentication of despatches.]

2 Junior Masters of the Bells

2 Keepers of the Keys (*Tenyaku* 典鑰) responsible [with the Inspectors] for the receipt and issue of keys.

2 Junior Keepers of the Keys

2 Office Keepers (省掌) to introduce suitors, supervise the servants and in general to be responsible for the upkeep of the office and its staff.

70 Servants 18 Watchmen

The Bureaux and offices under the Nakatsuka Shō are as follows

- (1) The office of the Empress's Household (*Chugushiki* 中宮職) [This office managed the affairs of the Empress, and also of the Emperor's mother and grandmother, and of those consorts of Emperors who were given Imperial titles such as 中宮 or 皇太后 to distinguish them from the Empress proper, whose style was 皇后. Offices concerned with the personal affairs of the Imperial family were often called *shiki*, as contrasted with *ryō* 寮 and *tsukasa* 司 which were departments of ministries dealing with public affairs.]

1 Master of the Household (*Daibu* 大夫) to receive and issue commands [i. e. to act on behalf of the Empress in the management of her affairs].

1 Assistant Master (*Suke* 亮)

1 Senior Secretary (*Daijō* or *Daijin* 大進)

2 Junior Secretaries (*Shōjō* 少進)

1 Senior Clerk (*Daizoku* or *Dai-sakwan* 大屬)

2 Senior Clerks (*Shōzoku* 少屬)

400 Attendants (*Toneri* 舍人)

30 Servants (*Shibu* 使部)

3 Watchmen

(2) & (3) Attendants' Bureaux *Ōdoneri-ryō* (大舍人寮)
Two Bureaux, Left and Right.

Each composed of:—

1 Director (*Kami* 頭) to keep a roster of the attendants and allocate their duties.

1 Assistant-Director (*Suke* 助)

1 Secretary (*Daijō* 大允)

1 Junior Secretary (*Shōjō* 少允)

1 Senior Clerk (*Daizoku* or *Sakwan*)

1 Junior Clerk (*Shōzoku*)

400 Attendants (*Ōdoneri*)

30 Servants (*Shibu* 使部) 3 Watchmen

Note. The *Ōdoneri* (大舍人) were young men of good character and appearance chosen from the families of men of the 6th, 7th and 8th ranks for service in the Palace. They were a kind of upper servant or page, waiting upon the great people at Court, carrying messages and acting as escorts. They are to be distinguished from the *Udoneri* 内舍人, whose parents were men of the 4th and 5th rank, and who were in personal attendance upon the Sovereign and other inhabitants of the Inner (内) Imperial apartments.

(4) Bureau of Books and Drawings (*Dzusho-ryō* 圖書寮)

1 Director (*Kami* 頭) in charge of the custody of books, documents, maps and drawings; the collection and arrangement of national chronicles; the copying, revision, mounting, binding and repairs of sacred [Buddhist] writings and drawings and scriptures required for religious ceremonies at Court [e. g. copies of the Sutras recited at regular or special services].

1 Assistant Director (*Suke* 助)

- 1 Senior Secretary (*Daijō* 大允)
- 1 Junior Secretary (*Shōjō* 少允)
- 1 Senior Clerk (*Daizoku* or *Dai-sakwan* 大尉)
- 1 Junior Clerk (*Shōzoku*)
- 28 Copyists
- 4 Binders
- 4 Paper makers
- 18 Brush makers
- 4 Ink makers
- 20 Servants
- 2 Watchmen

Paper Guild (紙師). [This was one of the ancient guilds or corporations of skilled workers, originally serfs or at least "un-free" people, attached to the Imperial family or one of the great clans, but now belonging to Government departments].

(5) Bureau of Palace Storehouse (*Kura-ryō* 内藏寮). [This office was in charge of the storehouses containing personal property and furnishings of the Sovereign and his household. It must be distinguished from the *ōkura-shō* or Ministry of the Great Storehouse, i. e. the National Treasury. The use of the character 内 shows that it had to do with "inner" affairs, that is affairs in the inner part of the Palace. Cf. the distinction between *Udoneri* 内舍人 and *ōdoneri* 大舍人].

- 1 Director (*Kami* 頭) to keep custody of gold, silver, jewels, precious utensils, brocades, rugs, hangings etc.; tribute from the barbarians; the clothing etc. issued to courtiers and officials by way of emolument or gift; and other miscellaneous property.
- 1 Assistant Director
- 1 Secretary
- 1 Senior Clerk
- 1 Junior Clerk
- 2 Senior Masters of the Keys (主鑰)
- 2 Junior Masters of the Keys
- 30 Store attendants (*Kurabe* 藏部)
- 2 Valuers (*Kachō* 價長)
- 2 Bootmakers (典履) in charge of the making or repair of boots and saddlery
- 15 *Kudara-no-tabē* [i. e. Master-workmen, members of a guild of needle-workers anciently of Korean origin—from *Kudara Paikche*.]
- 28 Servants and 2 watchmen

Kudara Guild

(6) The Bureau of the Wardrobe (*Nuidono-ryō* 縫殿寮)

- 1 Director (*Kami* 頭) in charge of the lists of princess, ladies-in-waiting and women servants; recommendations based upon the reports of their conduct; and the cutting and sewing of robes and accessories.
- 1 Assistant Director (*Suke* 助) 1 Secretary
- 1 Senior Clerk 1 Junior Clerk
- 20 Servants 2 Watchmen

(7) The Bureau of Divination (*Onyōryō* or *Ommyōryō* 陰陽寮). [Onyō is the science of Yin and Yang, those two principles of nature which by their interaction produce and control events. Observation of Yin or Yang is according to Chinese theory an essential part of Government; and this bureau was accordingly of great importance].

- 1 Director (*Kami* 頭) in charge of astrology, calendar-making and the study of the appearances of clouds and wind. He reports under sealed cover any unusual phenomenon [Astrology here means the study of the sun, moon, planets and stars for portents. Clouds and winds were observed as omens.]
 - 1 Assistant Director (*Suke* 助) 1 Secretary (*Jō* 允)
 - 1 Senior Clerk 1 Junior Clerk
 - 6 Masters of Divination (*Onyōshi*, *Ommyōshi* 陰陽師)
 - 6 Doctors of Divination (*Onyō-Hakase*) in charge of students
 - 10 Students of Divination (陰陽生)
 - 1 Doctor of Calendar-making (曆) to construct calendars and to teach the students of calendar-making.
 - 10 Students of Calendar-making 曆生
 - 1 Doctor of Astrology (*Temmon Hakase* 天文博士) to examine the heavens for portents and to report under seal. Also to instruct students.
 - 10 Students of Astrology
 - 1 Doctor of Chronology (*Rōkoku* 漏刻 *Hakase*) to supervise the recording of time and to have charge of the time-keepers
 - 20 Timekeepers (*Shushinchō* or *Tokimori* 守辰寸) to watch the clocks [water-clocks] and strike the hours on gongs or drums.
 - 20 Servants 2 Watchmen
- Note.* The important posts in this office soon became hereditary in certain families, such as Abe and Kamo.

(8) The office of Painting (*E-takumi no Tsukasa* 書工司)
 1 Director (*Kami* 正) in charge of the execution of drawings and paintings and the materials used therefore, [which are on his requisition issued from the Imperial Storehouse or from the National Treasury].

1 Assistant director (*Suke* 佑)
 1 Clerk (*Reishi* 令史)
 4 Master Painters (*E-shi* 畫師)
 60 Artists (*Ekakibe* 畫部) [members of the official Painters Guild].
 16 Servants 1 Watchman

(9) The Office of Medicine (*Uchino Kusuri no Tsukasa* 內藥司)
 1 Director (*Kami* 正) in charge of the supply of drugs and perfumes for the Palace and the compounding of medicines.

1 Assistant Director (*Suke* 佑) 1 Clerk (*Reishi* 令史)
 4 Physicians-in-waiting (*Ji-i* 侍醫)
 10 Apothecaries (*Yakushi* 藥生) to compound medicine
 10 Servants 1 Watchman

(10) Office of Palace Discipline (*Nairai no Tsukasa* 內禮司)
 1 Director (*Kami* 正) to be responsible for the behaviour of persons within the Palace and to admonish offenders [for breaches of etiquette or other improper conduct].

1 Assistant Director (*Suke* 佑), 1 Clerk (*Reishi* 令史)
 6 Censors (*Shurai* 主禮) to watch and report upon the behaviour of persons within the Palace.
 6 Servants 1 Watchman

2. THE MINISTRY OF CEREMONIAL (*Shikibu-shō* 式部省)

1 Minister (*Kami* or *Kyō* 卿) to keep registers of officials, central and provincial; to review their services and recommend promotions, transfer, appointments and dismissals; to supervise their behaviour at Court and to regulate their precedence at Court ceremonies; to keep a record of their Court ranks (位) and to recommend rewards for merit [such as elevation in rank or grade, grants of land or sustenance-fiefs or other emoluments or gifts]; to deal with the appointments and reception at Court of provincial officers [朝集使 delegates sent periodically to the capital by the provincial governments]; to have charge of education and examinations for government service.

1 Vice-Minister (*Daijō* 大輔) 1 Junior Vice-Minister (*Shōjō* 少輔)

2 Senior Secretaries (*Daijō* 大丞) 2 Junior Secretaries (*Shōjō* 小丞)
 1 Senior Recorder (*Daijū* 大錄) 3 Junior Recorders (*Shōjū* 少錄)
 20 Scribes 2 Office keepers
 80 Servants 5 Watchmen

Note. The title of this Ministry needs some explanation. It has been translated as Ministry of Ceremonial because this is the usual rendering in English, but the word "ceremonial" is a little misleading. *Shiki*, as has been explained above, indicates the forms or procedure by which effect is given to *ryō*, or laws. But as a great deal of the business of Government consisted of the correct performance of prescribed rites and ceremonies, perhaps Ministry of Ceremonial is not far out. This Ministry, though small, was important because it was so closely concerned with Palace affairs and the discipline of officials at Court. Its Minister was usually an Imperial Prince and its Vice-Ministers and Senior Secretaries were Confucian scholars of high rank, whose offices soon became hereditary in the families of Ōe, Sugawara etc. Under this Ministry were two Bureaux, those of Education and Court Ranks, as follows:

(1) The Universities Bureau *Daigaku-Ryō* 大學寮
 1 Director (*Kami* 頭) responsible for the examination of students and the celebration of the festivals in honour of Confucius and his disciples.
 1 Assistant Director 1 Senior Secretary 1 Junior Secretary
 1 Senior Clerk 1 Junior Clerk
 1 Doctor (*Hakushi*, *Hakase* 博士) to lecture upon the Chinese classics and examine the students.
 2 Assistant Professors (*Shōjō* 助教)
 400 Students (*Shō* 學生)
 2 Doctors of Reading (*On-Hakase* 音博士) to teach the students to read and pronounce Chinese.
 2 Doctors of Writing (*Sho-Hakase* 書博士) to teach the students to write Chinese.
 2 Doctors of Arithmetic (*San-Hakase* 算博士) to teach the students to calculate.
 30 Students of Arithmetic
 20 Servants 2 Watchmen
Note. This Bureau was in fact the State University. There were in addition private colleges founded on behalf of their

clans by powerful families, such as the *Shōgaku-in* (奨學院) of the Minamoto and the *Kwangaku-in* (勸學院) of the Fujiwara.

(2) The Bureau of Court Ranks (*San-i* or *Sanni* 散位 *Ryō*).

1 Director (*Kami*) [Styled also Toneno *Kami*] to keep a register of Court ranks and arrange for the reception at Court of the provincial delegates.

1 Assistant Director 1 Secretary 1 Senior Clerk
1 Junior Clerk 6 Scribes 20 Servants
2 Watchmen

Note. This Bureau dealt with the Court ranks of Civil and military officials as distinct from their official ranks and grades. The term 散位 was used to distinguish a court rank which was not dependent upon the official standing of its holder, and 散官 was used to describe the holder of a court rank who had no special office. It should be remembered that each official post carried with it a minimum court rank, laid down in that section of the *Ryō* which deals with these matters, i. e. the 官位令. Thus the Minister of the Nakatsukasa-Shō held *ex officio* the Upper Fourth Rank, the remaining seven Ministers held the Lower Fourth Rank, the President of the University held the lower Fifth Rank, and so on.

3. THE MINISTRY OF CIVIL ADMINISTRATION

(*Jibushō* 治部省)

[This Ministry dealt with ceremonial in its broader aspects, not as it affected officials alone. Since it was largely concerned with matters of ritual, genealogies and religious observances, its title seems misleading; but these matters were among the principal functions of government and the name of the department may therefore suitably be rendered as above, thus translating the word *Ji* (治 *osamura*, to administer). Its functions would be more exactly described by some title like "Ministry of Rites", and indeed its Chinese counterpart under the T'ang dynasty was so styled, viz. 禮部. "Department of Rites"; and in Japan it was thus named for a few years before 758, when the designation *Jibushō* was resumed.

In the Chinese conception of government, Rites and Music played an important part, because they were regarded as instruments for guiding conduct into desirable channels. Most

appropriately therefore the Department of Civil Administration was composed of 2 Bureaus, dealing respectively with Ritual and Music, and 2 Offices superintending respectively Funerals and Tombs.]

1 Minister (*Kami* 卿) to regulate family names [i. e. to scrutinize genealogies], succession [of persons holding the 5th rank and upward], marriages [of the same persons], auspicious omens [in their relation to funeral ceremonies etc.], funeral rites, posthumous awards [of rank or gifts] national mourning, and the reception of foreign envoys.

1 Vice-Minister (大輔) 1 Assistant Vice-Minister (少輔)
2 Senior Secretaries 2 Junior Secretaries
1 Senior Recorder 3 Junior Recorders
10 Scribes

4 Senior Examiners (*Ō-Tokibe* 大解部) to investigate disputes as to genealogy and succession.

6 Junior Examiners (小解部)
2 Office Keepers 60 Servants 4 Watchmen

Under this Ministry are 2 Bureaus and 2 offices as follows.

(1) The Bureau of Music (*Uta-ryō* 雅樂寮)

[Music here includes dancing. The Music and Dancing in question are those proper for solemn occasions, as opposed to popular songs and mimes.]

1 Director (*Kami*) in charge of civil and military music and dancing; other music; lists of male or female singers; their selection and training.

1 Assistant Director 1 Secretary 1 Junior Secretary
1 Clerk 1 Junior Clerk
4 Professors of Singing (歌師)

30 Singers (men)

100 Singers (women)

4 Professors of Dancing

100 Students of Dancing

2 Professors of the Flute

6 Students of the Flute

8 Flute Makers

12 Professors of Chinese Music (T'ang mode)

60 Students

4 Professors of Korean Music, (Kōrai mode)

20 Students

- 4 Professors of Korean Music, (Kudara mode)
 20 Students
 4 Professors of Korean Music, (Silla mode)
 20 Students
 1 Professor of *Gigaku* [Chinese music from the Kingdom of Wu in S. China] whose pupils are to form a guild of Musicians (樂戶)
 1 Professor of the Drum [Chinese drum from Wu, suspended at the waist] whose pupils are to form a drummers' guild.
 20 Servants 2 Watchmen
 Musicians' Guilds [i. e. *Gigaku*, Drummers etc.]

(2) Bureau of Buddhism and Aliens (*Genba-ryō* 玄蕃寮)
 [This seemingly curious collocation arises from the fact that the Buddhist religion was introduced to Japan by foreigners, chiefly Koreans. Consequently the first important and numerous aliens, other than official envoys, whom the government had to deal with were priests and nuns.]

- 1 Director in charge of the registers of monks and nuns and Buddhist temples; arrangements for (Buddhist) religious services (供齋); the reception, entertainment etc. of foreign guests; the allocation of official lodgings to "barbarians" ["barbarians" here means "foreigners" according to the Chinese practice of regarding aliens as barbarous] in the Capital.

- 1 Assistant Director 1 Senior Secretary
 1 Junior Secretary 1 Senior Clerk
 1 Junior Clerk 4 Scribes
 20 Servants 2 Watchmen

(3) Office of Imperial Mausolea (*Shoryō no Tsukasa* or *Misasagi no Tsukasa* 諸陵司)

- 1 Director to be responsible for worship at the tombs (of members of the Imperial family), burials, funeral services; registers of mausolea and the guilds of grave-wardens (陵戶).

- 1 Assistant Director 1 Clerk
 10 Servants 1 Watchman

10 Clay workers (土部) [These were members of the ancient guild (*Hashibe* or *Hanishibe*) which used to make clay figures to be deposited in or by the tombs. They constructed the mounds and performed the interment.]

(4) Office of Funeral Rites (*Sōgi no Tsukasa* 喪儀司).

- 1 Director in charge of funeral ceremonies and the supply of the

necessary equipment.

- 1 Assistant Director 1 Clerk
 6 Servants 1 Watchman

4. THE MINISTRY OF POPULAR AFFAIRS

(*Minbu-shō* 民部省)

[This Ministry is in some English works described as the Department of the Interior, but this is not an entirely satisfactory rendering of its title. Its chief business, as its name indicates, was to supervise the people, that is to say those subjects of the Emperor who were neither officials nor nobles, but plain producers. It was chiefly in their capacity as tax-payers that the *Minbushō* was concerned with the people, and its two branches were the Statistical Bureau and the Revenue Bureau. Its functions should be contrasted with those of the *Jibushō*, which dealt almost exclusively with the affairs of officials and persons of rank.]

- 1 Minister to be responsible for the registers of population; the labour tax; family obligations [i. e. exemptions from labour tax in deserving cases, such as that of a son the sole support of aged parents, etc.]; rewards for meritorious conduct [i. e. exemptions from tax]; servants and slaves [who being unfree and propertyless were untaxable]; bridges and roads, harbours, fences, bays, lakes, mountains, rivers, woods, and swamps etc.; rice lands in all provinces. [The Ministry kept plans and records of these topographical features; because the information was needed as a check upon tax returns and the transport of produce paid as tax. It was not directly responsible for the upkeep of roads, bridges etc.]

- 1 Vice-Minister 1 Assistant Vice-Minister
 2 Secretaries 2 Junior Secretaries
 1 Recorder 3 Junior Recorders
 10 Scribes 2 Office keepers
 60 Servants 4 Watchmen

The *Minbushō* controls two Bureaux as follows.

(1) The Bureau of Statistics (*Kazue-ryō* 主計寮)

- 1 Director to keep account of the produce-tax (*chō* 調) and miscellaneous taxes [i. e. all imposts other than the land tax (*so* 租)] to estimate and balance revenue and expenditure.

[He is, in other words, the officer responsible for budget estimates and for the assessment of tax from the various provinces in the light of their capacity and the need of the local and national treasuries.]

1 Assistant Director 1 Secretary 1 Assistant Secretary
1 Senior Clerk 1 Junior Clerk
2 Accountants (算師)
60 Servants 4 Watchmen

(2) The Tax Bureau (*Chikara-ryō* 主税寮)

[This name arises from a common use of the word *chikara*, 'strength', to denote labour or the fruit thereof exacted by the State from the people. Goods furnished as tax in lieu of forced labour were sometimes called *chikara-shiro* 'strength-substitute'].

1 Director in charge of issue from and receipts by granaries (Government storehouses for rice and other grains); all land-tax (田租); the proportion taken by Government of the yield of allotment-land.

1 Assistant Director
1 Secretary 1 Assistant Secretary
1 Senior Clerk 1 Junior Clerk
2 Accountants
4 Scribes
20 Servants 2 Watchmen

Note. This bureau was responsible for the receipt, custody and issue of the actual grain delivered as tax, and also for its hulling, milling, etc.

5. THE MINISTRY OF WAR (*Hyōbu-shō* 兵部省)

1 Minister in charge of registers of military officers both metropolitan and provincial; records of their services; transfers and promotions; records of their court ranks; registers of *hyōshi* (兵士, equivalent to non-commissioned officers); court assemblies (朝集 annual assemblies at the capital of official delegates despatched by the Provincial Governors to report on affairs in their provinces and to recommend promotions reward etc. of civil and military officers serving under them); rewards and emoluments; the allocation of troops; arms and equipment for war service and ceremonial; fortifications; beacons.

1 Vice-Minister 1 Assistant Vice-Minister
1 Secretary 2 Assistant Secretaries
1 Recorder 2 Junior Recorders
10 Scribes 2 Office Keepers
60 Servants 4 Watchmen

Under the *Hyōbu-shō* are 5 offices (*Tsukasa*) as follows:

(1) The Remount Office (*Hyōbano Tsukasa* 兵馬司).

1 Director in charge of feeding and training horses for military use; post stations; public and private horses and oxen [because privately-owned animals could be requisitioned for official use].
1 Assistant Director
1 Clerk 1 Junior Clerk
6 Servants 1 Watchman

(2) The Arsenal Office (*Tsuwamono-Tsukuri no Tsukasa* 造兵司).

1 Director in charge of the manufacture of arms and equipment and the registers of artisans' guilds.
1 Assistant Director 1 Clerk
1 Junior Clerk
20 Artisans [Such as smiths, founders, moulders etc.]
12 Servants 1 Watchman
Miscellaneous artisans' guilds.

(3) The Military Music Office (*Tsudzumi-fue no Tsukasa* or *Ku-sui no Tsukasa* 鼓吹司).

1 Director in charge of the supply of instruments and instruction in playing drum and flute.
1 Assistant Director
1 Clerk 1 Junior Clerk
18 Servants 1 Watchman
Drum and flute guilds.

(4) The Ship Control Office (*Fune no Tsukasa* 主船司).

1 Director in charge of public and private vessels and their equipment.
1 Assistant Director
1 Clerk 6 Servants 1 Watchman
Shipworkers' guild.

(5) The Falconry Office (*Takatsukasa*)

1 Director in charge of the supply and training of hawks and dogs.

- 1 Assistant Director
 1 Clerk 6 Servants 1 Watchman
 Falconers' guild.

6. THE MINISTRY OF JUSTICE (*Gyōbu-shō* 刑部省)

- 1 Minister to be responsible for the investigation and judgment of offences; registers of free and unfree people [i. e. of the civil status of suitors and defendants]; imprisonment; claims for debt.
- 1 Vice-Minister 1 Assistant Vice-Minister
 2 Secretaries 2 Junior Secretaries
 1 Senior Recorder 2 Junior Recorders
 10 Scribes
 2 Senior Judges (*Dai-Hanji* 大判事)
 4 Junior Judges (中判事)
 4 Minor Judges (小判事)
 2 Senior Clerks to make copies and extracts of judgments
 2 Junior Clerks
 10 Senior Examiners (*Tokibe* 解部) to make preliminary investigation of suits.
 20 Junior Examiners
 30 Minor Examiners
 2 Office Keepers 80 Servants 6 Watchmen

The Ministry of Justice controls 2 Offices (*Tsukasa*) as follows:

(1) The office of Fines (*Agamono-Tsukasa* 贓贖司).

- 1 Director in charge of matters concerning the confiscation and disposal of property [belonging to persons convicted of offences for which the punishment included confiscation of private property]; fines and ransoms; abandoned property [e. g. goods or lands left by absconders or other offenders].
- 1 Assistant Director
 1 Senior Clerk 1 Junior Clerk
 10 Servants 1 Watchman.

(2) The office of Prisons (*Shugoku-shi* 囚獄司)

- 1 Director in charge of the incarceration of criminals, their labour, rewards and punishments, etc.
 1 Assistant Director
 1 Clerk 1 Junior Clerk
 40 *Mononobe* to have custody of prisoners and to execute punish-

ments [The 物部 *Mononobe* were originally the members of the ancient Corporation of Men-at-Arms.]
 20 *Mononobe* servants (物部丁), armed guards

7. THE MINISTRY OF THE TREASURY (*Ōkura-shō* 大藏省)

- 1 Minister, in charge of the receipt and issue of tax-goods (*chō* 調) from the provinces [usually textiles], coins, gold, silver, jewels, copper, iron, bones, horns and leather, furs and feathers, lacquer, hangings and curtains; weights and measures; the assessment of prices for sale and purchase; miscellaneous tribute goods.
- 1 Vice-Minister 1 Assistant Vice-Minister
 1 Secretary 2 Junior Secretaries
 1 Recorder 2 Junior Recorders
 6 Scribes
 2 Senior Masters of the Keys (大主鑰)
 2 Junior Masters of the Keys (小主鑰)
 60 Warehouse men (*Kurabe* 藏部)
 4 Valuers (*Kachō* 價長)
 2 Boot makers (典履) to make boots, saddlery etc. and to supervise the Kudara Handworkers' guild (*Kudara no tabe*).
 10 Members of the Kudara Handworkers' guild [Members of this guild worked also in the Palace Storehouse Bureau, *q. v.* under 1. Nakatsukasa (5)].
- 1 Master Leather worker (典革) in charge of the dyeing and working of leather and the supervision of the guild workers.
 6 Workers of the guild of leather-workers and dyers 狛部
 2 Office Keepers 60 Servants
 4 Watchmen 6 Messengers
 Kudara Guild Leather Guild (狛)
 Under the *Ōkura-shō* are 5 offices (*Tsukasa*), as follows:
- (1) The Mint Office (*Imono no Tsukasa* 典鑄司).
- 1 Director in charge of the casting, founding etc. of gold, silver, copper, iron, glass [beads] or jewels; the registers of members of artisans' guilds.
- 1 Assistant Director 1 Clerk 1 Junior Clerk
 10 Artisans, various
 10 Servants 1 Watchman
 Artisans' guilds, various (雑戸工)

- (2) The Housekeeping Office (*Kanimori no Tsukasa* 掃部司)
 1 Director in charge of the supply and maintenance of palace furnishings, such as mats, blinds, etc., and the cleaning and arrangement of the apartments.
 1 Assistant 1 Clerk
 10 Housekeepers 6 Servants
 20 Messengers
- (3) The Lacquer Office (*Nuribe no Tsukasa* 漆部司)
 1 Director 1 Assistant Director
 20 Lacquerers (*Nuribe*)
 6 Servants 1 Watchman
- (4) The Needle work Office (*Nuibe no Tsukasa* 縫部司)
 1 Director in charge of the cutting and sewing of garments [chiefly uniforms for court attendants]
 1 Assistant Director 1 Clerk
 4 Needle workers
 6 Servants 1 Watchman
 Guild of Sewing Women
- (5) The Weaving Office (*Oribe no Tsukasa* 織部司)
 1 Director in charge of the weaving of patterned stuffs and dyeing.
 1 Assistant Director 1 Clerk
 4 Designers (*Chūmonshi* or *Ayano shi* 挑文師) to supervise the weaving of patterns in brocades etc.
 8 Apprentice Designers
 6 Servants 1 Watchman
 Dyers' Guild

S. MINISTRY OF THE IMPERIAL HOUSEHOLD (*Kunaishō* 宮内省)

- 1 Minister in charge of receipts and issues [by the bureaux and offices under him; tax goods (調) from all provinces and miscellaneous tax-goods; tax-rice; official lands (官田), crown rice lands situated in the Home Provinces—the Imperial estates]; reports and orders regarding Imperial food-produce [i. e. the administration of Crown lands producing food-stuffs for the Palace]; delicacies from all quarters [i. e. tribute other than the pre-scribed taxes, and gifts of special foods from different localities]:
 1 Vice-Minister 1 Assistant Vice-Minister

- | | |
|-------------|-------------------------|
| 1 Secretary | 2 Assistant Secretaries |
| 1 Recorder | 2 Junior Recorders |
| 10 Scribes | 2 Office Keepers |
| 60 Servants | 4 Watchmen |

The *Kunaishō* controls 18 bureaux and offices as follows:

- (1) The Palace Table Office (*Daizenshiki* 大膳職)
 1 Master (*Daibu* 大夫) in charge of produce furnished as tax (調 [This refers to articles such as fish, fruit etc. furnished by those localities which could not supply textiles, the usual form of *chō* 調]; the preparation and serving of food for the Palace table. [This Bureau was chiefly concerned with the provision of meals for the Palace officials, and of state banquets. The office responsible for the table of the Emperor himself was the *Naizen-shi* 内膳司, *q. v. infra* (7).
 1 Assistant Master
 1 Secretary 1 Junior Secretary
 1 Clerk 1 Junior Clerk
 2 Physicians responsible for the compounding of sauces, condiments etc.
 2 Confectioners
 160 Cooks (膳部)
 30 Servants 2 Watchmen 80 Messengers
 Various guilds of Purveyors [such as cormorant keepers, fishermen, hunters, who provided fish, game etc. for the Palace Table.]
- (2) The Woodworkers' Bureau (*Mokuryō* or *Kodakumi no Ryō* 木工寮)
 1 Director in charge of wooden construction and the getting of timber.
 1 Assistant Director
 1 Secretary 2 Junior Secretaries
 1 Clerk 1 Junior Clerk
 20 Craftsmen (工部)
 20 Servants 2 Watchmen
 Messengers
- (3) The Palace Kitchen Bureau (*Ōi-ryō* 大炊寮)
 [This Bureau was chiefly concerned with the cooking of rice and other grains, for the meals of Palace officials, or for supply to other offices, not only for State banquets but also for

religious festivals and ceremonies.]

1 Director in charge of rice and other grains from the provinces, and their distribution; the supply of food to the various departments.

1 Assistant Director 1 Secretary

1 Clerk 1 Junior Clerk

60 Cooks (大炊部)

20 Servants 2 Watchmen
Workmen

(4) The Intendance Bureau (*Tonomo-ryō* 主殿寮)

1 Director responsible for the supply of carriages and palanquins, sun-shades, fans etc., blinds, curtains; the cleaning and lighting of Palace apartments and gardens; the furnishing of fire-wood, charcoal etc.

1 Assistant Director 1 Secretary

1 Clerk 1 Junior Clerk

30 Intendants (*Tonomori no miyakko* 殿部)

20 Servants 2 Watchmen

80 Workmen

(5) The Bureau of Medicine (*Tenyaku-ryō* or *Kusuri-ryō* 典藥寮)

1 Director, in charge of the supply of medicines; the treatment of illnesses [of persons holding the 5th court rank and above]; herb-gardens.

1 Assistant Director.

1 Secretary

1 Clerk 1 Junior Clerk

10 Physicians-in-attendance (侍醫)

1 Professor of Medicine

40 Students of Medicine

5 Masters of Acupuncture (針師)

1 Professor of Acupuncture

20 Students of Acupuncture

2 Masters of Massage (按摩) to treat wounds and fractures

1 Professor of Massage

10 Students of Massage

2 Exorcists (*Jugonshi* 咒禁師)

1 Professor of Exorcism

6 Students of Exorcism

2 Herbalists (藥園師)

6 Student Herbalists

20 Servants 2 Watchmen

Medicine guild [Cow's] Milk guild

Note. The directorship and other important posts in this Bureau were hereditary. The Exorcists recited magic formulæ to drive out disease, making use of suggestion. This kind of treatment may still be seen in Korea.

(6) The Imperial Family Office (*Ōkindachi no Tsukasa* 正新司)

1 Director to keep a register of members of the Imperial family [from the 2nd to the 4th generation, counting the sovereigns as the first generation.]

1 Assistant Director

1 Clerk 1 Junior Clerk

10 Servants 1 Watchman

(7) The Imperial Table Office (*Naizenshi* 内膳司)

2 Stewards (*Buzen* 奉膳) responsible for the supervision of His Majesty's table, the testing and service of his food.

6 Butlers 典膳 to prepare the dishes to be served at His Majesty's table and to see to their proper heating or cooking.

40 Cooks

10 Servants 1 Watchman

20 Workers.

Note. This office was peculiar in that it was directed not by a *Kami* but by two stewards, members of families which had traditionally held the post, doubtless from a time long before the administrative codes were drafted.

(8) The Imperial Wine Office (*Sake no Tsukasa* 造酒司)

1 Director in charge of the making and tasting of *saké*, vinegar, etc.

1 Assistant Director

1 Clerk

60 Brewers (*Sakabe* 酒部)

12 Servants 1 Watchman

Brewers' Guild (酒戸)

(9) The Smiths' Office (*Kanuchi no Tsukasa* 鍛冶司)

1 Director in charge of the making of articles of copper and iron; register of smiths guild

1 Assistant Director

1 Clerk 1 Junior Clerk

20 Smiths (鍛冶部)

16 Servants 1 Watchman
Smiths' Guild

(10) The Public Serfs' Office (*Yakko no Tsukasa* 官奴司)

1 Director in charge of registers of male and female public slaves,
and [their] allotment lands.

1 Assistant Director

1 Clerk

10 Servants 1 Watchman

(11) The Ponds and Gardens Office (*Sonoike no Tsukasa* 園池司)

1 Director in charge of gardens and ponds and the growing of
vegetables, fruit etc.

1 Assistant 1 Clerk 6 Servants 1 Watchman

Gardeners' Guild

(12) The Clayworkers' Office (*Tsuchitakumi no Tsukasa* 土工司)

1 Director in charge of making bricks and tiles, lime, etc.

1 Assistant 1 Clerk

20 Clayworkers (泥部)

10 Servants 1 Watchman

Clayworkers' Guild (泥戸)

(13) The Palace Women's Office (*Uneme no Tsukasa* 采女司)

[The *Uneme* were girls of good appearance and respectable family—such as daughters of district governors—who were chosen for service in the Palace. Originally they were hand-maids of the Sovereign, but by the time of the Taihō Codes they were for the most part attendants or minor female officers, serving under the various Palace Ladies holding posts at Court. There were 12 Offices (*Tsukasa*) of Palace Ladies, managing the affairs of the Imperial consorts. These *Tsukasa* corresponded approximately to the *Tsukasa* of the Imperial Household, including, for instance, an office of Medicine, an Intendance office and so on, and the *Uneme* were the officials of the lowest grade in these offices.]

1 Director in charge of the discipline of palace women

1 Assistant Director

1 Clerk

6 Supervisors 采女部

12 Servants 1 Watchman

(14) The Water Office (*Moitori-Tsukasa* or *Mondo no Tsukasa*
主水司)

1 Director in charge of water supply and ice-chambers

1 Assistant Director

1 Clerk

40 Water-men (*Moitori-be* 水部)

10 Servants 1 Watchman 20 Workmen

The Water Guild

(15) The Oil Office (*Abura no Tsukasa* 主油司)

1 Director in charge of the supply of oils and fats from the provinces

1 Assistant Director 1 Secretary

6 Servants 1 Watchman

(16) The Inner House Keeping Office (*Uchi no Kanimori Tsukasa*
内掃部司)

1 Director responsible for the supply and upkeep of mats, blinds
and other furnishings

1 Assistant Director 1 Clerk

30 Housekeepers (*Kanimori* 掃部)

10 Servants 1 Watchman

40 Workmen

Note. The Housekeeping office under the Treasury (v. supra) dealt with the furnishing, cleaning and upkeep of all Palace buildings and offices, whereas this *Tsukasa*, as the Prefix 内 shows, was chiefly concerned with the halls and apartments used by the sovereign. Both, however, had to do with such matters as the supply of blinds, curtains etc. and the preparation of rooms for ceremonies, so that their functions overlapped and they were later amalgamated into one Bureau, the *Kamon-ryō* 掃部寮, under the *Kunaishō*.

(17) The Office of Vessels (*Hakosuemono-Tsukasa* 篋陶司)

1 Director in charge of receptacles (of wood or pottery, for food
and drink).

1 Assistant 1 Clerk

6 Servants 1 Watchman

(18) The Palace Dyeing Office (*Uchi no Somemono-Tsukasa*
内染司)

1 Director in charge of dyeing articles for the Sovereign's use.

1 Assistant Director

2 Master Dyers

6 Servants

1 Watchman

In addition to the Council of State and the Eight Ministries there were certain organs which, though not strictly speaking forming part of the central government, supplemented it, and should therefore be mentioned here. They were (1) The Board of Censors and (2) The Guard Headquarters:

(1) The Board of Censors *Danjō-tai* 彈正臺

- 1 President (*In* 尹) to have charge of the purification of manners and customs; to investigate and report upon wrongful conduct, at the Capital and in the provinces.
- 1 Vice-President (弼)
- 1 Chief Censor (*Daichu* 大忠) and 2 Deputy Censors (*Shōchu* 少忠) to patrol and inspect both within and without the Palace, to correct and reprehend wrongful conduct.
- 1 Clerk (*Dai-sakwan* 大疏) 2 Junior Clerks (少疏)
- 10 Inspectors (巡察彈正) to patrol and inspect [like the Censors]
- 6 Scribes 20 Servants 2 Watchmen

Note. This department constituted a kind of *Police de Mœurs*. Its President was of high rank, at first following immediately after, and later preceding all Ministers of State other than the *Nakatsukasa no Kami*. He was often an Imperial Prince. The Board of Censors, however, soon ceased to function actively, its prerogatives being usurped by the Police Commissioners (*Kebiishi*, *q. v. infra*).

(2) The Guard Headquarters *E-fu* 衛府

[The organization laid down in the *Ryō* 令 does not include some of the Guards units which were traditional and, so to speak, extralegal. The system of Bodyguards and Palace Guards underwent frequent changes. The following is a summary of the relevant positions of the *Ryō no Gige*.]

A. The Gate Guards' Headquarters (*Emon-fu* 衛門府)

- 1 Commander (督 *Kami*), 9 Officers
- 200 Gate Keepers (*Kadobe* 門部)
- 40 Men at Arms (*Mononobe* 物部)

The Guards (*Eshi* or *Eji* 衛士)

These guarded all the great gates, examined persons going in and coming out, and were responsible for watches and patrols.

B. The Palace Guards' Headquarters 左衛士府 —Right
右衛士府

and Left, each composed of

1 Commander (督 *Kami*)

9 Officers

The Guard (衛士 *Eshi*)

These guards patrolled within the palace enclosure, guarded the smaller gates and posterns and the treasure houses; acted as guard of honour; and escorted the carriages of the Sovereign and high officers of State. [They were amalgamated with the Gate Guards in *Kōnin* II.]

C. The Military Guard Headquarters (兵衛府 Right and Left, each composed of

1 Commander

5 Officers

400 Guards (*Hyōe* 兵衛)

These functions were similar to those of the *Eshi*

Note. The arrangement which came into force later, with the establishment of the Imperial Bodyguard (*Kon-e* or *Konoe* 近衛) was roughly as follows:

- 1). Right and Left Bodyguard, or *Konoe*, having custody of the *Dairi*, the innermost portion of the Palace enclosure.
- 2). Right and Left Guards *Hyōe*, having custody of the second zone gate.
- 3). Right and Left Guard (*Emon*) having custody of the outer zone and the outer gates of the Palace enclosure.

D. The Imperial Stables Bureaux, Right and Left [The Masters of the Horse, styled *Sama* and *Uma no Kami* (左馬頭 右馬頭) ranked rather high—in the upper grade of the junior 5th rank, and above all provincial officers, including governors.

Note.

Strictly speaking this completes the list of the central administrative organs; but since in the conception of the ruling class the whole country served the interest of the capital and the Court, all metropolitan institutions may be regarded as forming part of the central government. The Administrative Code therefore deals with not only with all Palace bureaux but also with municipal organs at the capital, before it proceeds to treat of provincial governments. It should be remembered that the capital was thought of rather as the home of the Imperial Family and the Court than as a convenient centre for administering the affairs

of the whole country. Explicit and implicit in all the codes is the idea that the function of the provinces is to supply wealth to the small aristocratic circle inhabiting the capital. In the Code, the gloss given to the character ("capital") is *Misato*, "August home", that is the Imperial City. Consequently the municipal officers of the capital were considered as of high importance. They were as follows:

The Left City Office (*Sakyōshiki* 左京職)

The Right City Office (*Ukyōshiki* 右京職)

each having the following staff:—

- 1 Commissioner (*Daibu* 大夫) in charge of registers of houses and population; the care of the people [i. e. of the free people with family names]; lands and dwellings; labour and taxes; the distribution between free and unfree people; suits; trade; markets and warehouses; weights and treasures; roads and bridges; guards; police and other equipment; registers of monks and nuns. [This post, which resembled that of the modern Prefect of a capital city, carried with it at first the higher grade of the senior Fifth Rank, and its holder therefore ranked with the senior Vice-Minister (*Nakatsukasa no Tayu*). It was raised (Kōnin 12) to the Junior Fourth Rank, and was held in the earlier stages of their career by many high officers of state, as for instance by the Fujiwara Regent Michinaga.]

1 Assistant Secretary 2 Junior Secretaries

1 Clerk 2 Junior Clerks

12 Ward Officers (*Bōrei* 坊令). [These were in charge of subdivisions of the city.]

Servants, Watchmen, etc.

In each division of the capital was an official market, administered by a market office (*Ichi no Tsukasa* 東市司 and 西市司), staffed as follows:

- 1 Director in charge of money; exchange; the quality of goods; the correctness of weights and measures; prices; and the prevention of wrong doing

1 Assistant 1 Secretary

5 Valuers 20 Guards

Servants etc.

Explanatory Notes.

Nomenclature. At first sight the titles of the various offices and officers set forth above are somewhat confusing, but upon examination

they will be found, with a few exceptions, to be quite regular.

Central Government offices were divided into the categories which have been set forth above, namely*.

I. The Department of Religion.

II. The Department of Administration comprising,

1. Ministries, controlling the various Bureaux and offices styled *Shiki*, *Ryō* and *Tsukasa*.
2. Specialized organs such as the Board of Censors and Headquarters of the Guards.

Official posts were divided into four main categories (四部官).

1. Principals 長官
2. Assistants 次官
3. Secretaries 判官
4. Clerks 主典

Each department, whether a Ministry or an Office or a Bureau had one Principal, in complete charge; one or more Assistants who helped the Principal to carry out his duties and deputized for him when required; one or more Secretaries, who had charge of the office work, scrutinized papers and supervised the staff; one or more clerks who performed the office business, drafting documents and keeping archives. Below these were scribes, office attendants, messengers, watchmen and, in certain cases, specialists such as accountants, craftsmen etc.

With a few exceptions, the styles of the officers of these four classes were as follows:

Principals	<i>Kami</i>
Assistants	<i>Suke</i>
Secretaries	<i>Jō</i>
Clerks	<i>Sakwan</i>

but, of course, their rank varied with the importance of their office. Thus a Minister of State, being the Principal officer of a Ministry, was styled *Kami*, and at the same time the Director of a small Bureau, being the Principal officer of that Bureau, was styled *Kami*. The distinction in rank was, however, made clear by the characters used to stand for the words *Kami* etc. Thus, to mention the most usual variants:

* In addition to these there were more or less independent departments controlling the affairs of the Empress and the Court Ladies: the Hier Apparent; and the Princes of the Blood. These were respectively the *Gogu* 後宮, or Imperial Bedchamber; the *東宮* or Crown Prince's Household; and the Households of the various Imperial Princes, consisting of staff of Stewards 家令 and Tutors 文學. Through these departments were strictly speaking not government organs. They sometimes, especially in seasons of Court intrigue, had political importance.

KAMI,	Minister, in a Ministry (<i>shō</i> 省).....	卿
..	Master, of a Household office (<i>Shiki</i> 職).....	大夫
	Director, of a Bureau (<i>Ryō</i> 寮).....	頭
	Director, of an Office (<i>Tsukasa</i> 司).....	正
	President, of the Board of Censors (<i>Danjō-tai</i>)..	尹
	General, of a Guards (<i>Efu</i> 衛府).....	督
	Governor, of a Province (<i>Kuni</i> 國).....	守
SUKE,	Vice-Minister	輔
	Deputy-Master, of a Household office	亮
	Assistant Director of a Bureau	助
	Vice-President, Board of Censors	弼
	Colonel, of a Guard Regiment	佐
	Vice-Governor, of a Province	介
The Codes do not provide for an Assistant Director of a <i>Tsukasa</i> .		
JŌ,	Secretary, of a Ministry	丞
	, of a Household office	進
	, of a Bureau	允
	, of an office	佑
	, of the Board of Censors	忠
	Captain, of a Guard Regiment	尉
	Secretary, of a Province	椽
SAKWAN,	Recorder, of a Ministry	錄
	Clerk, of a Bureau	屬
	Clerk, of an office	令史
	Clerk, of the Board of Censors	疏
	Lieutenant, of the Guards	志
	Clerk, of a Province	目

With regard to the reading of these titles, it is evident that there was considerable variation in practice. The *Kana* glosses to the *Ryō no Gige* usually give pure Japanese readings, such as

Naka no Matsuigoto no Ōi suke for

中務 大輔

and *Naka no Matsuigoto no Sunai suke* for

中務 少輔

but it is obvious that such long appellations were not generally used in practice. In the instances just cited the common appellations were *Nakatsukasa no Tayu* and *Nakatsukasa no Shō* respectively, and though it was correct to use the terms *Kami*, *Suke*, etc. it was permissible and often convenient to use the Sinitic-Japanese readings of the characters appropriate to each office. Thus 大夫 might be read *Kami*, but

it was also read *daibu*, to distinguish it from *taifu* (= *tayu*) which was a reading of 大輔; and similarly 大進 = *taishin* or *daijin* as well as *jō*, 令吏 = *reishi* as well as *sakwan* and so on.

All these various readings are extremely bewildering to the student, but they must be mastered, for without some knowledge of this terminology it is almost impossible to read intelligently any of the historical chronicles and romances, or for that matter any mediaeval Japanese documents. Such classical works as the great Anthologies, the *Genji Monogatari* and the *Makura no Sōshi* constantly refer to persons by their official titles, whether honorary or otherwise.

COURT RANKS. The question of Court Ranks does not appear to have much bearing upon the study of methods of government, but Court Rank was in fact the basis of the administrative hierarchy. This is an important point, which must be borne in mind when the development of many Japanese institutions is being examined. It will be found that it explains many apparent anomalies in mediaeval Japanese history, and even in modern times.

The earliest Japanese records, and the earliest Chinese notices of Japan, testify to a strong hierarchical sentiment, and it is remarkable that one of the first official acts of the Taikwa reformers was to establish a system of Court Ranks. That this system was altered and enlarged several times during the ensuing centuries only shows what importance was attached to the question of rank. The system finally laid down in the Taihō Code has persisted with very little change until the present day. It is given in the first chapter of the Code, doubtless because in the mind of the legislators this social hierarchy was the foundation of the state.

The Taihō system provides for

4 grades for Imperial Princes only

30 grades for Princes and Subjects.

The grades for Imperial Princes were styled 品 *hon* and were respectively 一品, 二品, 三品, 四品

An Imperial Prince who did not bear one of these ranks was styled *Muhon-Shinnō* (無品親王)

The remaining grades were

Senior 1st Rank, 正一位

Junior 1st " 從一位

Senior 2nd " 正二位

Junior 2nd " 從二位

Senior 3rd " 正三位

Junior 3rd " 從三位

Senior 4th	"	, upper grade	正四位上階
Senior 4th	"	, lower grade	正四位下階
Junior 4th	"	, upper grade	從四位上階
Junior 4th	"	, lower grade	從四位下階

and so on down to the Junior 8th Rank, lower grade, which gives 26 divisions, to which must be added the lowest rank of all, the Shoi 初位 or Initial Rank, divided into 4 grades

大初位	上階	Small Initial Rank, upper
	下階	lower
少初位	上階	Great Initial Rank, Upper
		lower

This gives 30 grades, as stated above. Of these grades, the first three were sparingly conferred and highly prized. Indeed the Senior First Rank (正一位) was rarely awarded except posthumously; and there was a considerable gap in prestige between the Lower Third Rank and the Upper Fourth. Further the holders of the fifth rank and higher were looked upon as a class apart from holders of the sixth rank and lower.

The relation between court rank (位) and official posts (官) was close, and the codes prescribe that official rank shall correspond to court rank—官位相當. The Commentary says "There are noble ranks and humble ranks. There are high offices and low offices. If the rank is high, the office shall be great. If the grade is mean the post shall be low. In other words, offices were given to their holders because of their rank. If for some reason, it was necessary to promote a man from a lower office to a higher, then his rank must first be raised. It was improbable than an administrative system based upon rank and not upon merit could long survive, and the Taihō system did, in fact, very soon collapse.

The following list gives in tabular form an abstract of the above mentioned first chapter of the Code, entitled 官位令, the Law of Offices and Ranks :

Rank	Corresponding Office
Princes, 1st rank 一品	Daijō-Daijin
(親王) 2nd rank 二品	Sa-Daijin, U-Daijin
3rd & 4th ranks 三品 四品	Dainagon and Ministers of State
Other Princes and Subjects	
Senior First	_____
Junior First	Daijō-Daijin

Senior Second	.....	Sa-Daijin
Junior Second	.....	U-Daijin
Senior Third	.....	Dainagon
Junior Third	.....	Chunagon [later]
Senior Fourth, Upper	.....	Minister of Nakatsukasa.
Lower	.....	The 7 other Ministers of State.
Junior Fourth, Upper	.....	President of <i>Danjōtai</i> ; Con- trollers (<i>Daiben</i>) of Left and Right.
Junior Fourth, Lower	.....	Minister of Dept. of Religion ; Controllers of Households of Empress and Crown Prince.
Senior Fifth, Upper	.....	Vice-Controllers (<i>Chuben</i>); Vice-Ministers of Nakatsukasa; 2 City Commissioners (左右京 大夫); Director of Palace Table office (大膳大夫); Commander of Gate guards and Palace guards.
Lower	.....	Junior Controllers (<i>Shōben</i>); Vice-Ministers of 7 Ministries ; Vice-President, <i>Danjō-tai</i> .
Junior Fifth, Upper	.....	Directors of certain bureaux, Commanders of Military guard
Lower	.....	Vice-Minister of Dep't. of Reli- gion; Chamberlains; Minor Controllers; Directors of cer- tain Bureaux ;

This concludes the list of high officials in the first 5 ranks, who may be looked upon as the flower of Kyoto Society. Following them at an interval comes a numerous group of minor officials, constituted approximately as shown below :

Senior Sixth Rank, Upper	.....	Senior Private Secretaries (大 内記) in the <i>Nakatsukasa</i> ; Directors of various offices (<i>Tsukasa</i>); the Senior Record- ers (大史) of the Controllers' offices.
Senior Sixth Rank, Lower	.....	Senior Secretaries (大丞) of Ministers of State; Assistant

	Directors of various Bureaux ; Directors of various offices (<i>Tsukasa</i>) ; Physicians-in-wait- ing ; Doctors at the University.
Junior Sixth Rank, Upper	Assistant Directors of certain Bureaux ; Directors of certain offices ; Under-secretaries (少 丞) of Ministers of State.
Lower	Senior Secretaries (大進) of Household offices (<i>shiki</i>) ; Di- rectors of minor offices (<i>Tsuka- sa</i>).
Senior Seventh Rank, Upper ...	Senior Recorders (大録) of Ministries of State ; Junior Sec- retary (少進) of Household offices.
Lower ...	Senior Secretaries (大允) of Bureaux ; Professors of divina- tion and Astrology.
Junior Seventh Rank, Upper ...	Junior Secretaries (少允) of certain Bureaux ; Professors of Reading, Writing and Arith- metic ; Doctors of Calendar- making and Astrology ; Mas- ters of Divination.
Lower ...	Assistant Directors of certain offices (<i>Tsukasa</i>) Physicians ; Doctors of Chronology ;
Senior Eighth Rank, Upper	Assistant Directors of certain offices (<i>Tsukasa</i>) ; Exorcists ; Herbalists ;
Lower	Assistant Directors of certain offices (<i>Tsukasa</i>) ; Senior clerks of certain Bureaux ;
Junior Eighth Rank, Upper	Junior and Senior clerks of cer- tain Bureaux ;
Lower	Junior and Senior clerks of cer- tain Bureaux.
Initial Rank (4th Grades)	All remaining Junior clerks of Bureaux, and Junior and Senior clerks of offices.

A scrutiny of these lists brings out several interesting points, which may be briefly stated here.

- 1) The Nakatsukasa is senior to all other Ministries and its officers rank higher than officers performing the same functions in other ministries.
- 2) The Controllers of the Empress' and Crown Prince's Household are of relatively high rank, as are all officers serving in Household offices (*shiki* 職).
- 3) The City Commissioners hold relatively high rank.
- 4) A Bureau (*Ryō*) is of much greater importance than an office (*Tsukasa*).
- 5) Learned men take a relatively low place. The Senior Professor at the University (i.e. the *Hakase* who lectured on the Chinese classics) comes at the foot of the Senior Sixth Rank, while the other *Hakase* are in the lower Seventh Rank, among secretaries and junior secretaries, i.e. third grade officials.
- 6) The Commanders of the Palace Guards take a high place.
- 7) In general the Ministries and their departments which directly serve the interests of the Sovereign and the court are the most important and the most numerous staffed.

Though, as a general rule, official rank was in accordance with court rank (官位相當), there were some exceptions. When these occurred it was thought necessary in public documents to point out or explain the disparity. The correct forms are laid down in the Codes. If an official holds a post higher than that to which his court rank would normally entitle him, he prefixes to his official title the character 行, as follows :

從六位上守左京大夫, (where 守 indicates that the appointment of a man of the Junior Sixth Rank to the post of metropolitan commissioner is special. Similar, where the court rank is higher than the official rank, the character 行 must be prefixed, as follows :

從五位上行大内記, where 行 indicates that the appointment of a Secretary holding rank as high as the Senior Fifth is unusual. The point is of no great importance, but it shows what careful attention was paid to questions of rank.

A further distinction among ranks is of special interest because it is still observed in the modern Japanese system of official appointments. The Taihō Code lays it down that appointments to official posts and awards of court rank shall be :

- 1) By the Sovereign direct, 勅 CHOKU
- 2) By the Sovereign, at the instance of a Minister 奏 SŌ

3) By a Minister, 判 HAN

Ranks of the Fifth class and upwards are conferred by the Sovereign 勅授

Ranks of the Sixth, Seventh and Eighth class are conferred after recommendation by a Minister 奏授 other ranks are 判授

Similarly the appointments to official posts are

Chokunin 勅任 From *Dajō-Daijin* down to President of *Daijōtai*

Sōnin 奏任 All other officials, except

Hanin 判任 Palace attendants (*toneri*), scribes, servants etc. This official grading was what determined emoluments etc., but the everyday classification was a division into classes of persons who had the right of access to certain inner apartments of the Palace and those who have not that right. These were styled respectively

1) *Denjōbito* 殿上人. Persons of the 5th rank and upwards were qualified to be named *denjōbito*, but the number appointed was limited to about one hundred. Nomination as *Denjōbito* was therefore much sought after, because of the honour which it conferred and also of the opportunities for advancement and wealth.

2) *Jige* 地下 were those who had not the above mentioned privilege. Also sometimes called *Shimobito*.

Other common classifications which may be conveniently mentioned here were :

Kugyō 公卿 This name, which was later pronounced *Kuge* and used as a general appellation for Court Nobles, means strictly speaking the three great ministers (三公) and the Nine Lesser Ministers (九卿) of the Chinese system. In Japan it was used to signify the Chancellor and other members of the Council of State, and persons holding the third rank or higher. An elegant style for these great men was 月卿, "Moon Nobles", borrowed from the Chinese. *Kantachibe* or *Kantachime* 上臺部 was used rather loosely for persons of the third rank and upwards.

The Household Administrations.

It will have been observed that one of the Ministries of State, namely the *Kunaishō*, was concerned with the affairs of the Emperors' Household (the word Household here being used not to represent the private apartments of His Majesty, but the Palace as a whole). The Household of the Empress (*Chugu shiki*), the principal department of the Senior Ministry of State.

In addition to these, there were two very important offices con-

cerned with the affairs of the Imperial Family, namely :—

- 1) The Office of the Imperial Bedchamber
- 2) The Office of the Crown Prince's Household

These, and particularly the first, though they were not strictly speaking Government Offices, often had a great deal to say in matters of administration because they were favourably situated for Court intrigue. They therefore require at least a brief description.

- 1) The Office of the Imperial Bedchamber (後宮職). It is perhaps incorrect to describe this as an office, or *Shiki*, since it had no director. The 後宮 or Rear Palace was the name for a group of buildings in which lived the Imperial Consorts and Concubines and the Palace ladies and waiting-women. These apartments were, of course, jealously guarded and in principle very few male officials had access to them. "Imperial Bedchamber" is not a very satisfactory rendering of *Gogu*, and perhaps "Women's Quarters" would be better. It is to be noticed that the *Gogu* was practically self-contained and was managed by a staff of female officials. It thus bore no resemblance to the Turkish or Chinese *harem*, controlled by eunuchs. The following is an abridged list of the inhabitants and officials of the *Gogu*, as laid down in the *Taihō* Code :

Imperial Consorts (other than the Empress)

- viz. 2 *KISAKI* 妃 (Hi), ladies of the Imperial family
 3 *FUJIN* 夫人 ladies of the 3rd rank and upward
 4 *HIN* 嬪 ladies of the 5th rank and upward

These ladies themselves took no part in managing the *Gogu*, but they had under them a numerous staff of female officials in 12 separate offices or *tsukasa*. The most important of these was the *Naishi no Tsukasa* 内侍司, a name well known to students of Japanese history. This office alone had 2 directors (*Kami*), 4 assistants (*Suke*), and 100 attendants. Women for service in their offices were furnished by the clans (*uji*), one from each. In addition other women, such as the female relatives of local functionaries (district governors, etc.) were admitted, if of suitable age and appearance.

- 2) The Office of the Crown Prince's Household (東宮職). Its principal official was a Guardian (傅) whose duty was "lead the Crown Prince in virtuous paths". He was assisted by two tutors. Other functionaries looked after his kitchens, his stables, his furniture, etc.

Early Japanese Law and Administration

By G. B. SANSOM

PART II.*

[What follows is a continuation of the material on this subject which was printed in Volume IX (Second Series) of these Transactions (1932). I had hoped to finish this survey of the contents of the Yorō code in the present volume, but have been unfortunately unable to give more than an account of Chapters VI, VII and VIII. I will endeavour to conclude the work in the volume for 1935.

I should like to repeat that this material does not pretend to any completeness or authority, consisting as it does merely of some expanded notes, designed to give a general idea of the nature of the Code. I give below fairly full versions of the texts of the law governing the Department of Religion, the law concerning Monks and Nuns and the law of Households. These however should not be taken as complete and exact translations, though I hope they do not contain any serious blunders.

I first used the Kokushi Taikei text, but have since consulted the 定本 *Ryō no Shuge Shakugi* of Messrs. Miura and Takigawa (published by Naigai Shoseki Co., Tokyo, 1932). Two other works by Takigawa are also very helpful: *Ritsuryō no Kenkyū* and *Nihon Shakwai Shi*. Mr. J. B. Snellen has kindly drawn my attention to a very useful work called *Taihōryō Shinkai* by Kubomi (published by Kōbundō, Tokyo, 1916). It gives the *Gige* text, with simple explanations and notes, which much facilitate a first study of the Code.

I do not deal in these notes with two important problems concerning the code, but ought at least to mention them. The first is the question of their origin. To what extent are they based on Chinese codes, to what extent are they adapted to meet Japanese requirements? The second is the question of their enforcement. To what extent were the codes in practice actually operative? The existence of a written code is

* Attention is called to a list of corrigenda in Part I. given at the end of the material printed here.

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not sufficient evidence to show that its provisions were observed all over the country, or that all or most of its provisions were at any time observed in any one place.]

B. THE PROVINCIAL ADMINISTRATION

The whole country was divided into provinces (*Kuni* 國) each under a provincial governor (*Kami* 守), but two territories were reserved for special treatment. There were the provinces of Tsu and Chikuzen:

I. The Government of Tsu (攝津職) was administered by a Governor (*Kami* 大夫) who usually held the upper grade of the 4th rank, which was rather higher than the rank of a Vice-Minister of a Department of State.

The special treatment of this province was due to its position on the coast. It contained the harbours corresponding to the modern Hyōgo, Ōsaka and Sakai, and therefore all passengers and cargo arriving by sea must pass through it on the way to the capital, whether Naniwa, Nara or Kyoto. Its governor consequently had to deal with special problems, such as the reception and despatch of special envoys, and of course the defence of the capital against attack by sea.

The official staff of the province, and their duties, were as follows:

1 Governor (大夫) in charge of shrines; classification and registrations of households; care of the people; encouragement of agriculture; supervision of the guilds (部); morals [孝義, i.e. rewards and punishments in respect of filial piety, etc.]; lands and buildings; good and base [良賤, i.e. the distinction between free and unfree people]; suits at law; markets; weights and measures; storerooms; taxation; forced labour; soldiers; weapons; roads, bridges, ferries, barriers; official messengers; posts; post-horses; the inspection of boats and gear; and the registration of Buddhist monasteries and nunneries, monks and nuns.

1 Deputy Governor 亮.

1 Secretary.

2 Assistant Secretaries.

1 Senior clerk.

2 Junior clerks.

Scribes, servants, watchmen.

II. The Government of Chikuzen (大宰府 *Dazaifu*). An area roughly corresponding to the province of Chikuzen was placed on a special footing, under the control of an official of higher rank than

the ordinary provincial Governor. This arrangement dated from the reign of Kōtoku (645-55). It arose from the special importance of that part of Kyushu bordering upon the coast line which includes the harbour of Hakata. It was here that from ancient days travellers from Korea and China had landed and here that pirates frequently attempted to land, just as later, the Mongols attempted to invade Japan. Here also there had in the past been chieftains apt to rebel against the imperial authority, and it was important that the central government should be so represented in this part of Japan as to impress the local clans with its prestige, and to receive with due ceremony envoys from abroad. The early title of the Governor was *Tsukushi Dazai*, *Tsukushi* being the ancient name for this part of Kyushu; and *Dazai* 大宰 an ancient Chinese title standing for something like Governor-General or perhaps Viceroy. *Dazai-fu* is the name given to administrative headquarters of this official. His jurisdiction extended in a general way over the whole of the Western Circuit (*Saikaidō*), but the *Yōrō* code specifies only the province of Chikuzen. The staff of the *Dazai-fu* was as follows:

1 Chief Priest (神主 *Kamu-tsukasa*) responsible for ritual and worship. [Note that this office, though held by an official of much lower rank than the Governor-General, takes precedence of the administrative part of the *Dazaifu*, just as the Department of Religion takes precedence of the Council of State in the central government.]

1 Governor-General (*Sochi* 帥) in charge of shrines, registers of population, etc. [His functions are the same as those of the Governor of Tsu, q.v. above, with the difference that specific mention is made of the following:—]

Beacons, stockades, and the reception of foreign guests.

Note. The post of *Dazai fu no Sochi* was often held by an Imperial Prince. It carried with it the lower third rank, so that its holder took precedence of the Ministers of Departments of State and followed just after the State Councillors (*Chunagon*). It was usually a sinecure, the duties being performed by a Deputy Governor General and his staff. The Deputy was known by the title of *Gon no Sochi* 權帥.

1 Deputy Governor General (*Daini* 大貳)

Note. This officer was strictly speaking an assistant to the *Sochi*, who deputized as Governor General when no appointment had been made or when no *Gon no Sochi* had been appointed. But in early Japanese literature all these titles seem to be used

somewhat loosely. There were occasions when a powerful official was sent to Kyushu as a form of exile and was given the post of *Gon no Sochi*, though he exercised no functions. The best known instance is of course that of Sugawara Michizane. When a *Gon no Sochi* was functioning there was as a rule no *Daini*, and vice versa. The post of *Daini* carried with it the 5th (later the 4th) rank.

- 2 Vice Governors (*Shōni* 少貳). This office became hereditary in the Muto family, and in time the title developed into a family name, which recurs throughout the history of feudal times.
- 2 Inspectors (*Daigen* 大監). These were high police officers, responsible for the order and safety of the province. They were usually recruited from local gentry.
- 2 Assistant Inspectors (*Shōgen* 少監).
- 1 Magistrate and 2 Assistants.
- 2 Secretaries, 2 Assistant Secretaries, Clerks and Scribes.
- 1 Engineer (大工) and 2 Assistants (小工) responsible for defensive works, buildings, boats, etc.
- 1 Professor of Chinese Classics.
- 1 Professor of Divination (*Omyōshi*)
- 2 Doctors of Medicine.
- 1 Accountant
- 1 Captain of Militia
- 1 Adjutant of Militia

Note. There were responsible for the equipment and training of *Sakimori* 防人, conscripted men drawn from various provinces who did a three year term of service at posts in the Western Circuit.

- 1 Shipmaster in charge of repairs to vessels.
- 1 Chief Cook (who prepared delicacies to be sent to the Court as presents).

Note. It will be seen that *Dazaifu* was a semi-autonomous territory, largely self-contained, and a replica of the home provinces on a small scale.

III. The remaining provinces. The provinces were divided according to their size and importance into great, large, upper, middle and lower (大上中下)

The administrative officers of a great Province were

- 1 Governor (*Kami* 守) in charge of
 - shrines
 - households
 - registration

- care of the people
- encouragement of agriculture
- control of the guilds of workers
- public morals
- land and buildings
- "good" and "base" i.e. free and unfree people
- suits at law
- taxation
- storehouses (for grain and other taxes in kind)
- forced labour
- military service
- arms
- military music
- posts and post-houses
- beacons and sentinels
- forts and barriers
- Government horses and cattle
- registration of Buddhist temples, monks and nuns.

In the provinces of Echigo, Dewa and Mutsu the Governors must also see to the provisioning and pay of the officials and soldiers, punitive expeditions and the maintenance of frontier guards.

In Iki, Tsushima, Hyuga, Satsuma, and Ōsumi, they are responsible for defence against attack [by sea as well as by land] and for the going and coming of foreign visitors.

- 1 Vice-Governor (*Suke* 介)
- 1 Senior Magistrate (*Taijō* 大掾)
- 1 Junior Magistrate (*Shojō* 小掾)

[These officials combined the functions of judge and chief of police. They had "to keep order in the province, to examine documents and to enquire into conduct."]

- 1 Senior Secretary (*Sakwan* 目)
- 1 Junior Secretary (*少目*)
- 3 Clerks (*史生*)

The staffs of the smaller provinces were slightly less numerous.

Note. The provincial government as a whole was styled *Kokushi* or *Kuni no Tsukasa* 國司. The Governor was often called *zuryō* or *zurō*, colloquial forms representing 受領. Each province had one Professor of Chinese Classics and one Doctor of Medicine, and students were attached to each—in a Great province 50 official students of Chinese, in an Upper province 40, and so on.

C. THE DISTRICT ADMINISTRATION.

[Each province was divided into smaller districts called *gun* or *kori* (郡). The *gun* were classified as great, upper, middle and lower, according to their population. Their staff was as follows:]

Great Districts (大郡)

1 District Governor (*Tairyō* 大領) whose function is to take care of the people and to keep watch over the district. [He was concerned with local affairs, and was generally a man of influence from the local small gentry.]

1 Assistant Governor (少領)

3 Administrative officers (*Shusei* 主政)

[whose functions were both executive and judicial.]

3 Secretaries (*Shuchō* 主帳).

Other districts had a less numerous staff. Some idea of the duties of officers of the central and local administrations can be gained by studying their functions as laid down above in the light of the section below, which gives an outline of the laws regarding taxation and other matters with which they were concerned.

D. THE LAWS

This section contains an account of the remaining chapters of the Code, viz. Chapters VI to XXX (for list of contents see Part I, in vol. IX, p. 71).

Chapter VI. The Law Concerning Religion.

Jingiryō 神祇令

[It should be observed that, just as in the administrative system the place of honour is given to the Department of Religion, which takes precedence over all other organs, so in the laws the first place is taken by the Law of Religion.

This law comprises 20 articles, of which the gist is as follows:—]

Article 1. The worship of the gods of heaven and earth should be performed by officials, in according with the prescribed forms, (as follows).

[The gods of heaven 天神 and the gods of earth 地祇. There appears to be no agreement as to this classification. Motoori's explanation was that the heavenly deities were those who dwelt in heaven or descended from heaven to Japan, while the earthly deities are those who were born in Japan. Thus

Amaterasu, Izanami and Izanagi, are 天神 while Ō-kuninushi is 地祇. The distinction so far as concerns terminology is Chinese, and is to be found, e.g., in the Chou rites 周禮, where it is laid down that the Grand Master of Ceremonies must see to the performance of rites for 神, 鬼 and 祇.]

Articles 2-9 give a list of the prescribed observances, viz:

Toshigo no matsuri	in early spring (2nd month). Prayers for freedom from calamity throughout the year—a prayer for harvest.
新年祭	
Hana-shidzume	at the end of the 3rd month. Prayers for freedom from sickness.
鎮花祭	
Kamu miso no matsuri	in the middle of the 4th month. Offerings of summer garments at Ise Shrine.
神衣祭	
Saikusa no matsuri	the festival of the Isa-kawa shrine in Yamato.
三枝祭	
Ōmi no matsuri	on the 4th day of the 4th month. The festival of the food goddess of Hirose. At the same time the festival of Tatsuta, for the same goddess.
大忌祭	
Kaze no Kami no	on the 4th day of the 4th month. To the god and goddess of the wind, at Tatsuta. Prayers for protection of the crops from storm.
Matsuri	
風神祭	
Tsukinami no Matsuri	on the 11th day of the 6th month. The "monthly service" of thanksgiving; but in fact celebrated once in summer, once in winter.
月次祭	
Michiae no Matsuri	on the last day of the 6th month. Celebrated at the cross roads outside the capital, praying the gods of the cross roads to keep out evil spirits.
道饗祭	
Hoshidzume no Matsuri	following the above. To keep away fire from the Palace.
鎮火祭	
Ōmi no Matsuri	} in summer (7th month 4th day) Repetition of spring festivals of same name.
Kaze no Kami no	
Matsuri	
Kamu Miso no Matsuri	} in autumn. Repetition of summer festivals of same name.
Tsukinami " "	
Michiae no Matsuri	} in winter. Repetition of summer tes-
Hoshidzume no	

- Matsuri tivals of same name.
- Kamunie no Matsuri .. in the ninth and tenth months of Ise.
(Kanname-sai) The "divine tasting" of wine and food made from rice of the new crop. A Ceremony in the palace, 11th day of 10th month.
- 神嘗祭 Aimube no Matsuri ... in the 11th month. The Emperor partakes together with the gods of wine and food made from rice of the new crop. "Together-tasting".
- 相嘗祭 Ō nie no Matsuri in the 11th month. The festival here intended is what is now known as the Nii-name, or "New Rice Tasting." It was an extension of the joint partaking to those gods who did not share in the "Together-Tasting". The name Daijō-e was later confined to the special form of Niiname celebrated as part of the enthronement ceremonies.
- 大嘗祭 Tora no hi no Tama-.. on the day before the Ōnie. Praying Shidzume no Matsuri "for a peaceful year for the Emperor. [In the above list, only the names are from the text of the Code. The description is added for convenience. For a fuller description of these festivals, see Aston's Shinto, p. 268 et seq : Art. 9 concludes by stating that the ritual, utensils, offerings, etc. for the above festivals are laid down in "separate forms" 別式; these separate *shiki* were such as are preserved in the celebrated *Engi-shiki* (forms of the Engi period), translations from which are to be found in these Transactions, e.g. by Sir E. Satow, vols. VII and IX.]
- Article 10. Upon the accession of an Emperor, all the gods shall be worshipped. There shall be partial abstinence for one month, complete abstinence for three days.
[Partial abstinence is *ara-imi*. Complete abstinence is *ma-imi*. This took place in the 11th month, for reasons connected with the great food festival (*Daijō-e*), which must be celebrated upon an emperor's accession. See "The Japanese Enthronement Ceremonies", by Dr. D. C. Holtom, Tokyo, 1928, for a most valuable and interesting account.]
- The offerings shall be made ready within the three months (preceding the *Daijō-e* ceremonies). * [寅日鎮魂祭]

[Offerings here stands for *Mitegura*, the various objects traditionally presented to the respective shrines.]

Article 11. During partial abstinence (*ara-imi*) all government offices shall carry on their work as usual. But [officials] shall not pay visits of condolence upon a death, or call upon the sick, or eat flesh. Nor shall death sentences be pronounced or criminal cases be judged. No music shall be played, and no unclean or inauspicious tasks be performed.

During complete abstinence (*ma-imi*) no duties may be performed except those to do with the ceremonial observances. All other work shall be suspended.

Article 12. When there is one month's abstinence the festival is a great festival, when there is three days', a middle festival; when there is one day, a small festival.

Article 13. On the accession day, the Nakatomi shall read the divine ritual, the Imbe shall present the divine tokens, namely the mirror and the sword.

Article 14. The great food festival (*Daijō-e*) shall be celebrated once in each reign by provincial officers. Other festivals shall be celebrated annually by officials of the Department (of Religion).

[This appears to mean that when the *Daijō-e* was celebrated in connection with the enthronement ceremonies, special officers were appointed in each province to carry on observances which were a counterpart of those at the capital. But the ordinary *Daijō-e* was to be celebrated, together with other festivals, by the usual officials.]

Article 15. On the occasions of festivals, the proper authority (i. e. the Dept. of Religion) shall inform the Government (i. e. the Chancellor's Office) of the date from which abstinence begins, and the Government shall notify the other officers.

Article 16. All offerings at festivals shall be examined by the chief official of the department concerned, who shall personally ensure that they are of the proper quality and kind. He must not permit ill assorted or unclean articles.

["Unclean" here includes ritual uncleanness.]

Article 17. When offerings are made at shrines on occasions other than the regular ceremonies, diviners of the 5th rank and upwards shall be employed for this service; except that at all ceremonies at the Ise shrines such officials shall be employed.

[Diviners 食. I take this to mean members of the corporation of Urabe, among whose duties was the disposal of

offerings. The staff of the Department of Religion included 20 of these officials, and there were branches in the remoter provinces.]

Article 18. On the last day of the 6th and 12th months, on the occasion of the Great Purification, the Nakatomi shall offer the *nusa* of purification, and recite their liturgy. Then the hundred officials and their families, male and female, shall assemble in place of purification, and after the Nakatomi have recited the liturgy the Urabe shall perform the cleansing.

[This is the *Ō-harai* 大祓, or ceremony by which the people are cleansed of the sins and impurities of the past six months. The *nusa* (of hemp) are expiatory offerings. The golden sword was held before the Emperor as a symbol of vanquishing disaster. He then breathed upon it and it was taken away. In this ritual, it should be understood, prayers are not addressed to the gods, but the Mikado himself declares the people to be cleansed and absolved. The actual words of the liturgy were read by Nakatomi on his behalf. The *nusa* are "offered" (*tatematsuru*, here written 上) in the sense that the Nakatomi take them, and having symbolically put them into the Emperor's hands, then proceed with the ceremony themselves.

The Eastern and Western Corporations of Scribes, (*fubitobe*) were the descendants or successors of the scholars Achiki and Wani, settled in Yamato and Kawachi respectively. Their prefatory liturgy was Chinese, consisting of an invocation to Chinese divinities, differing thus from the *Norito* recited by the Nakatomi which contains the words "Therefore He (the Emperor) is graciously pleased to cleanse" etc.

The cleansing performed by the Urabe consisted in waving *nusa* before the assemblage; and the offerings, having absorbed the sins of the people, were thrown away with a special ceremony.]

Article 19. When the Great Purification is performed, the provinces shall furnish from each District (邦) 1 sword, 1 skin (? deer-skin), 1 spade, and miscellaneous offerings. Each household shall provide one strand of flax, and the district governor one horse.

["District governor" is here put for *Kuni no miyatsuko* 國造, but it is not clear in what sense the term is used. The 國造 were the local chieftains, who were usually appointed to be district governors, and probably the titles were interchange-

able. Some authorities think that it means those local chieftains who were wardens of local shrines.]

Article 20. The taxes levied upon the corporations of shrine serfs, whether miscellaneous taxes or land tax, shall all be devoted to the construction of shrines or to the provision of furnishing and offerings. The tax proper (i. e. land tax) shall be treated as rice for the reserve inspected by the local authorities and reported to the office concerned.

['Shrine serfs' is here put for *Kanube* 神部, the workers, chiefly agricultural, attached to the lands belonging to shrines. The taxes called 調 and 庸 were taxes in kind or in labour. The tax proper 正税 was the tax on land, calculated and payable in terms of rice as a proportion of the crop per unit of area. In the present case the tax was ear-marked for the purpose named, and therefore was treated in the same way as rice stored in the reserve granaries, i. e. it could not be lent or borrowed.]

Chapter VII. THE LAW CONCERNING MONKS AND NUNS

[The T'ang codes (令) 僧尼令 did not contain a chapter on this subject, but the *Kyaku* of the Chêng-kwan era (A. D. 627-649) included the *Dōsō* (道僧) *Kyaku*, which were issued in 636 and, as the name shows, dealt not only with Buddhist monks but also with priests of other religions, viz. Taoists.

There is evidence to show that these T'ang *Kyaku* formed the basis of the Japanese *ryō* dealing with monks and nuns; but it is not clear to what extent the latter contained new material especially adapted to conditions in Japan. Article 27, for instance, seems to have been inspired by actual conditions; and several other articles are evidently framed so as to fit the social and administrative system then prescribed.]

This law comprises 27 articles of which the gist is as follows:—

1. Monks and nuns who are guilty of any of the following offences shall be punished by the civil authorities in accordance with the law:—

By false reading of omens predicting disasters or making treasonable statements and leading astray the people.

Studying military treatises.

Committing murder and robbery.

Falsely pretending to have attained holiness [i. e., according to the commentaries, to have passed through the four stages

四果 and become an Arhat].

2. Monks and nuns who practise fortune-telling, or pretend to cure illness by exorcism or magic shall be expelled from holy orders: but this shall not apply to the cure of sickness by the recitation of spells (mantra) in accordance with Buddhism.

3. Monks and nuns voluntarily reverting to lay status shall inform their superiors who shall make the necessary record, and report to the proper authority. Failure to report shall be punished by hard labour.

Note. See article 14 below.

4. Monks or nuns who bribe officials with church property; or form disorderly gatherings; or insult the heads of the church; or slander their elders and superiors, shall be punished by hard labour. But this shall not apply to assemblies where matters are reasonably and properly discussed.

5. Monks or nuns who, not residing in a monastery or temple, set up [unauthorized] religious establishments and preach to congregations of the people,

or falsely expound good and evil,

or assault their elders and superiors,

shall be expelled from holy orders. Officials of provinces and districts who being aware of such conduct do not prohibit it shall be punished in accordance with law.

Persons desiring to beg for food must make an application supported by the joint seals of their superiors through the provincial or district offices. The authorities grant permission after satisfying themselves that true ascetic practice is intended. In the capital application shall be considered by the Genba-ryō [q. v. Pt. I. p 86]. Begging must be done before noon, by presenting the mendicant's bowl, and nothing but food must be asked for.

[This interesting article is designed to prevent the abuse of ecclesiastical privilege for private ends. The first clause is against preaching heresy and quarreling with teachers of the orthodox sects. The second is to ensure that only genuine "mendicants" shall beg for food, in accordance with Buddhist tradition.]

6. A monk may take from his home as a disciple a young boy who is a close relative, but he must be returned to his home on reaching the age of seventeen.

A nun may take a female who is willing [irrespective of her age].

7. Monks and nuns may not drink wine or eat flesh or consume

the five pungent things [五辛 i. e. garlic, scallions, onions of different kind, ginger] under penalty of thirty days hard labour. If they are needed as medicines they shall be supplied by the superiors for a limited period.

Those guilty of disorderly conduct through drunkenness or of brawling shall be expelled from holy orders.

8. Monks and nuns who in respect of disputes as to their private affairs instead of going through the proper official channel present direct memorials to the government or who importune the households of officials with improper petitions shall be punished by hard labour for fifty days and if the offence is repeated for one hundred days.

[*Note.* For "private affairs" some commentaries give "temple affairs".

The "proper channel" would be from the monk to his superior in the monastery, then to the head officials of the sect, then to the Gembarō, then to the competent minister (in this case Jibushō 治部省) and so to the Council of State if necessary.]

This shall not apply to the *bona fide* statement of a case where through an unfair decision of the ecclesiastical or civil authorities justice has been denied or delayed.

9. Monks and nuns shall not perform music or play games of chance under penalty of one hundred days hard labour. But this does not include the harp 琴 or the game of *go* 碁.

10. Monks and nuns may wear robes of brown, green, black, yellow, earth-colour etc., but they may not wear other colours nor may they wear robes of figured or embroidered stuffs.

Each offence shall be punished by ten days' hard labour. Wearing lay garments shall be punished by one hundred days' hard labour.

Note. The permitted colours are apparently:

木 欄, a yellowish red

青 碧, green

皂, black

黄, yellow

壤 色, earth-colour

but the commentaries are not very illuminating in explaining what the shades are. The general intention seems to be to forbid extravagance in colour and pattern.

11. A monk may not allow a female to stay in his dwelling place.

A nun may not allow a male to stay in her dwelling place. If a stay of one night or more is made, the offender [i. e. the monk or nun] shall be punished by ten days' hard labour. For five days' or more, thirty days' hard labour. For ten days or more, one hundred days' hard labour. If the superiors of the monastery or nunnery are aware of the offence and permit it, they shall be punishable in the same way as the offender.

[Note. A visit during the day time is permitted.]

12. A monk may not enter a nunnery and a nun may not enter a monastery, except to be received by a superior or for a visit on account of death or sickness or for the purpose of religious ceremony or observance or instruction.

13. When monks or nuns for the purpose of religious meditation wish to purify their minds by solitude and fasting in a mountain retreat they shall make application through the proper channels with the approval of their Superiors. The local authorities must be kept informed of their movements.

14. When making an appointment to superior office [僧綱, the superior ranks exercising control over a monastic establishment, namely, in ascending order 律師, 僧都 and 僧上] it is essential to select a man of virtuous conduct who has a good influence upon his followers, is respected by both clergy and laity, and is competent to manage ecclesiastical affairs.

The followers who wish to appoint him shall notify the proper civil authority under joint seal.

Sycophants who wrongfully conspire and incite the appointment of a person without virtue shall be punished by one hundred days hard labour.

A person once appointed cannot be removed, unless he has committed a punishable offence or is by reason of old age or sickness unable to perform his duties.

15. Monks and nuns who have committed offences punishable by hard labour shall be employed on pious tasks, keeping shrines and chapels in order, sweeping and cleaning and similar work, and must carry out a fixed programme.

[“ Pious tasks ” 修營功德 means such work as copying sutras, ornamenting images etc.]

16. Monks and nuns who by fraudulent devices transfer their names to others shall be expelled from holy orders and punished according to law (i. e. 法 *ritsu*). The other party to the fraud shall be punished in the same degree.

[The offence contemplated by this article was the making over by a monk or nun to a lay person of the official certificate or license, called 公驗 *kuken* which was issued to a person entering religion or, more specifically, upon ordination at one of the authorized *kaidan*. Such transfers were obviously illicit, since an unqualified person obtained ecclesiastical privileges while the offending monk or nun either took a bribe or for improper reasons masqueraded in a lay character.]

17. Monks and nuns bringing private suits before the civil authorities must appear temporarily in their lay capacity.

[This means that they must state their lay names and domicile, as well as their religious appellation and the institution to which they belong. As members of a religious order they cannot acquire private property beyond the minimum necessary for their own use; but they can, it seems, be confirmed in rights which they possessed before entering the order. The commentaries give as an example suits for confirmation of rights of ownership in serfs or servants. Vide the next Article.]

18. Monks and nuns may not accumulate for themselves land, buildings and other forms of wealth nor may they buy and sell for profit or lend at interest.

[The commentaries explain that ‘accumulate’ 蓄 here means the acquisition of property not necessary for personal consumption or use. Thus a monk might acquire necessary clothing, utensils, etc., and he might have one or two servants and a horse to ride. Similarly he might exchange goods or lend goods or money so long as he did not make a profit out of the transaction. Property acquired in contravention of this article was confiscated by the church. Property acquired before entering holy orders could be distributed at the discretion of the owner.]

19. Monks and nuns meeting on the road a person of the third rank or higher must conceal themselves. Meeting a person of the fifth rank or over they must halt their horse, salute and pass on; or, if on foot, conceal themselves.

[Some fine points of interpretation arise out of this article, on which different rulings are given by different commentaries —e.g. if a monk meets a person of rank at a place where he cannot conceal himself, or if one is on foot and the other mounted, what should be done?]

20. The deaths of monks and nuns must be reported periodically to the provincial authorities, who must furnish an annual return to the central government.

[It was the duty of the Genbaryō to keep a register of monks and for this purpose it was necessary that they should be informed of all deaths or reversion to lay status.]

V. Part I of this paper, in volume IX, p. 86.]

21. Offences by monks and nuns shall be punished in equivalence with the punishments laid down by *kyaku* and *ritsu*.

Those committing offences punishable (under *kyaku* and *ritsu*) by a term of imprisonment shall be expelled from holy orders. An allowance of one year shall be made on account of a certificate of ordination (*Kuken*, v. supra, art. 16).

[In the case of grave offences punishable by death or long term of imprisonment or exile, the civil courts dealt with the offender upon his reversion to lay status; but to compensate for expulsion from holy orders the penalty was reduced, so that a monk guilty of an offence punishable in the case of a layman by four years imprisonment would lose his "license" (*kuken*) and serve only three years. There was, of course, an objection on religious grounds to taking the life of or inflicting corporal punishment upon a monk or nun in Buddhist orders.]

Other offences [punishable by beating] shall be punished by ten days hard labour in lieu of each ten strokes up to one hundred strokes.

Offences committed by monks and nuns which are not punishable [under *ritsu* and *kyaku*] by beating or expulsion shall be judged in accordance with the teaching of Buddhism and punishment awarded by their ecclesiastical superiors. Persons thus expelled or otherwise punished shall not be able to lay complaint against their superiors or the members of their monastery or nunnery.

[This clause applies to offences against monastic discipline and other offences which are not punishable under the penal codes or for which punishments are not prescribed in this Law—e.g. killing animals, not observing fasts, indecent dress, etc.]

22. A person who sets up as a monk or nun or who, having been expelled from holy orders, wears religious robes shall be punished in accordance with law (*ritsu*).

[This article is aimed at lay persons who by fraudulent means attempt to obtain immunities or to deceive the public, e.g. by stealing the "license" of a dead monk and in his character

begging for subscriptions or evading taxation.]

Superiors or colleagues [i.e. members of the same institution] who are privy to such conduct shall be expelled from holy orders.

Persons who, not being colleagues of such a person but being aware of the circumstances, give him lodging shall be punished by one hundred days hard labour for one night's lodging or over.

A monk or nun who knowingly harbours a vagrant or a fugitive shall equally be punished by one hundred days hard labour for one night's lodging or more.

If the offence [of the person harboured] is grave, then the provisions of the *ritsu* shall be taken into account in punishing [the person who harbours him].

[There is some doubt as to the intention of this last clause, but it appears to mean that, if the person harboured has been guilty of a grave offence like treason then the person harbouring him may be punished as an accessory and not merely for the offence of harbouring.]

23. Monks, nuns and others who send lay persons to exhort people from house to house with prayers or images shall be punished by one hundred days hard labour, and the lay persons shall be dealt with according to law.

[The offence contemplated by this article is the fraudulent collection of offerings, subscriptions, gifts etc. from laymen.]

24. When private or public slaves or servants have entered religion and subsequently have reverted to the laity either as punishment for an offence or voluntarily, they shall be restored to their former masters and resume their original status.

25. Monks or nuns who have been three times punished by hard labour for one hundred days shall for the third period be sent to monasteries or nunneries in the "outer" provinces, but not the home provinces.

26. On the occasion of religious festivals (*saie* 齋會) offerings may not be made of slaves, horses, oxen, or weapons, nor may these be accepted by monks and nuns.

27. Monks and nuns shall not mutilate themselves or take their own lives.

['Mutilate' here is 焚身. The article appears to refer to a practice of self-mutilation by burning or cutting which mendicant monks adopted in order to impress the populace. The *Shoku Nihongi* contains (under the date Yōrō I, 4th month) an edict dealing with offences by monks in which this practice

is mentioned: "forming bands, cutting and burning hands and arms, preaching false doctrine from house to house, begging by threats" etc.]

Chapter VIII. THE LAW OF HOUSEHOLDS 戸令

[This law contains forty-five articles, of which the substance is given below.]

1. A village 里 is composed of fifty households, and over each village shall be placed a headman 里長.

In mountainous, remote and sparsely populated regions the number may be fixed according to convenience.

2. From 16 to 20 villages shall form a great district (大郡)
 12 ,, 15 ,, ,, ,, an upper district (上郡)
 8 ,, 11 ,, ,, ,, a middle district (中郡)
 4 ,, 7 ,, ,, ,, lower district (下郡)
 2 ,, 3 ,, ,, ,, small district (小郡)

3. In the capital there shall be a Headman to each *Bō* and a Warden to each group of four *Bō*. 坊

4. The Wardens shall be men of the senior eighth rank or lower. They must be intelligent, reliable men, properly fitted for their duties.

Headmen of villages and *bō* must be chosen from the *hakutei* 白丁 class and must be strong, determined men of good character.

[The *hakutei* were the lowest class of freemen, without rank, if we except the *zōshiki* who were not fully emancipated members of peasants' and artisan's guilds.]

5. The head of a household 戸 shall be the person who is head of the family 家 [which constitutes the household].

[This means that the person who legally succeeds to the leadership of a family shall ipso facto be the legal head of the household as a taxpaying unit, responsible for the taxes of its members. Thus, on the death of a father who is head of a family his eldest son by his wife succeeds to the headship of the family, even though a minor; and becomes the head of the household although it may include adult uncles.]

Households should be divided into

Taxable Households 課戸

Exempt Households 不課戸

according as they comprise taxable or exempt members.

Each member of a household was styled "a mouth" 口; a taxable member being called 課口

The exempt categories, as stated in the *Ryō no gige*, were:

- (1) Members of the Imperial Family
- (2) Persons of the 8th rank and upwards
- (3) Males of 16 years and under
- (4) Certain persons "covered" by their relationship, 蔭子
- (5) Old people
- (6) Deformed and crippled people
- (7) Diseased people
- (8) All female members of a household
- (9) Servants and slaves

[The tax in question being a labour tax could not in principle be levied upon those who were precluded from labour by rank, sex or infirmity or who, being slaves, had no property rights.]

6. The following classification of members of a household must be used:

Males and females up to the age of 3	黄 (infants)
" " " from 3 to 16	少 (children)
" " " from 16 to 20	中 (youths and girls)
Males of 21 and upwards	丁 (able-bodied)
" " 61	老 (elders)
" " 66	耆 (aged men)

[This classification is, of course, in accordance with capacity to work.]

7. This clause classifies infirm people according to the degree of incapacitation. Thus, persons who have lost the sight of one eye, or who are deaf in both ears, or who have lost two fingers of one hand, etc. are classed as 殘疾, partly incapacitated. Others, such as dwarfs, hunchbacks, etc. are classed as 廢疾 unfit; and others, such as epileptics, those who have lost two limbs, as 篤疾 infirm.

8. Old men (i.e. those over 60) and partly incapacitated men are classed as 次丁, i.e. one grade below an able-bodied adult.

9. Households shall be formed into groups of five families, under the headship of one person who is responsible for the good conduct of the group. Members of the group must keep one another informed of the arrival and departure of guests from distant places and of their own journeys.

[The object of this article is to prevent taxable persons from absconding.]

10. When a household absconds, the group shall be responsible

for its pursuit.

If it cannot be brought back, it must be retained on the register for three years, during which period the group and the relatives of the absconders in the village are to be responsible for the cultivation of its allotment and for the payment of its tax [in kind and in labour]. After three years its allotment returns to the State.

When a member of a household absconds the household is responsible for his tax for six years, after which he may be removed from the register and his allotment reverts to the State.

11. Persons of eighty years of age and persons classified as infirm (v. Art. 6) may be allotted one servant. Persons of ninety, two servants; persons of a hundred, five servants. These servants are to be if possible descendants of the aged and infirm person.

[Persons who were thus occupied in attending the aged and infirm being counted as servants would be exempted from tax.]

12. Where there is no child a relative in the fourth degree or closer may be adopted, provided that there is the proper difference between ascendant and descendant. The necessary changes in the registers shall without delay be made through the appropriate offices.

[What is above described as "the proper" differences between ascendant and descendant is expressed in the original text by *shōmoku*, 昭穆 a term derived from the Book of Rites which is used to refer to the relative positions of graves in a family mausoleum. Since the parent is an "ancestor" the adopted person must be one who, by difference of age, can suitably pay respect to the parent during his life time and perform the rites after his death. The commentaries agree that since the earliest permitted age for the marriage of a male is fifteen, there must be a difference of at least fifteen years in age between male parent and adopted child—e.g. a man of forty can adopt a son of twenty-five years of age.]

13. When a member of a household desires to leave it and form another household, this shall not be permitted in the case of a male who has not reached the age of sixteen (i.e. is not a 中男 v. art 5) or of a widow, wife or concubine.

[Where expedient, exceptions to this rule were allowed, provided the person concerned, even though a minor or a female, was competent to manage the affairs of a household.]

14. Guarantees must be exacted in respect of all persons newly

joining a household.

[This means guarantees against absconding, failure to pay tax, etc. The guarantors would be the members of the household and the group of five households. v. Art 9, supra.]

A person shall not be permitted to join a household until enquiries have been made as to his origin and it has been found that he has not absconded or been guilty of fraud.

[Rules are laid down for determining the province of origin in cases of doubt.]

15. A household may in certain circumstances be permitted to remove from a congested area to one where there is room. For a removal within the province, the provincial authorities' sanction is required. For a removal to another province, the central government's sanction is required.

[The object of this article is to allow for transfers of households from localities where, as population increases, there is not sufficient cultivable land for allotment.]

16. Persons who have returned after being captured or cast ashore in foreign territory and persons who become naturalized shall be provided with food and clothing in the district where they are found, and the facts shall be notified in detail to the authorities by post messenger (i.e. an official messenger using the government's posting stations and horses).

Naturalized persons shall be put on the register and settled in a good district; returned persons shall be put on their original register or, if they have no register, handed over to near relatives. They shall be provided with food until they reach their destination.

["Foreign territory" 外蕃 probably included the then un-subjugated parts of Japan as well as the Asiatic mainland and outlying islands. The case envisaged is that of, for instance, shipwrecked fishermen.]

17. Vagrants whose registration has lapsed and servants and slaves who have become freemen 良民 or who have been released as a result of a suit against a freeman shall be put on the register of the place where they are residing. But in certain conditions they may if they wish be restored to the register of their original domicile.

[The registration of a vagrant lapsed after six years—vide Article 9.

From the commentaries on this and other articles it is clear that the authorities encouraged the transfer of households and population to the frontier provinces, but did not willingly

sanction transfers from the frontier provinces to the home provinces, which tended to be congested.]

18. The tax registers 計帳 must be compiled annually. Before the 30th day of the 6th month each year the metropolitan and provincial offices must demand returns from the head of each household, giving the year, the name of the household and a list of its members. The registers must be transmitted under joint seal to the Chancellor's office 大政官 by the 30th of the 8th month. Where all members of a household are absent their last year's register must be copied, with an explanation of the absence.

[Absence of all members of a household might be due to their transfer to some other place for government work or to their having absconded less than six years before.]

19. The household registers 戸籍 must be compiled every six years, starting from the beginning of the 11th month and following the prescribed forms (*shiki* 式). There shall be one volume (i.e. a separate roll) for each village, and three copies of each volume, all marked with the name of the province, district, village, and the year. The work shall be completed by the last day of the 5th month. Two copies shall be sent to the Chancellor's Office and one copy retained in the province.

Extra copies must be made of registers of households of special classes and sent to the appropriate government offices.

[The special classes here mentioned are the *ryoko* 陵戸 and the *zakko* 雜戸. The former were serfs who were attached to imperial mausolea and the land appertaining to them; the latter were the various guilds of industrial workers who, though not slaves, could not escape from their guilds and were thus analogous to the *corporati* of the later Roman empire.

The "appropriate government office" would be the office concerned with the supply of a given commodity produced by the guild. Thus, members of the Paper Guild 紙戸 were under the Bureaus of Books and Drawings in the Nakatsukasa-shō. Vide Part 1, Central Administration, in these Transactions, vol. IX, p. 80, and *passim*.]

The household registers must be scrutinized for errors, omissions and fraudulent returns, by both the provincial and central government offices.

20. The household and tax registers must contain particulars of the age and capacity of the members of a household, viz. whether able-

bodied, old, infirm, whether liable or exempt in respect of labour tax, whether entitled to servants, etc. etc. [v. Articles 5, 6 and 11 supra], and the provincial authorities must satisfy themselves by personal inspection that these particulars are correctly stated.

21. The registers on completion are to be sent to the Chancellor's office in the care of the Tax Envoy of the province concerned, except that when [by reason of flood, drought, etc.] no tax is being remitted to the capital they may be sent by the first opportunity.

["Tax Envoy" is here used to translate *chōshi* 調使, the officer who was sent annually from each province in charge of the register of tax of the province for the year in question. It appears from this article that the household registers were entrusted to the officials carrying the tax registers. But seeing that the tax register 計帳 had to be transmitted by the end of the 8th month, and the household register 戸籍 had to be completed by the end of the 5th month, it cannot always have been convenient to use the Tax Envoy 調使; and it is evident that there was no uniform practice, for the *Shuge* commentaries state that, if convenient, other envoys might be used, for example the *Chōshushi* 朝集使, who were officials sent, one from each province, to report on the provincial administration once a year at an assembly in the capital. The point seems trivial, but it has some bearing upon late economic history, for soon the provincial governments under various pretences delayed or avoided the despatch of envoys, with the object of concealing their own defalcations. This was one of the steps by which the provinces gradually wrested wealth and authority from the capital. [Fo: a short account and references v. the article *Yodo no tsukai* 四度使 in the *Kokushi Daijiten*.]

22. Household registers must be kept for five periods (of six years). [Registers more than thirty years old may be cancelled; but it is specially laid down in the *Gige* edition that registers of the year 庚午 when the palace was at Ōtsu in Ōmi must not be superseded. The commentaries state that this refers to the reign of the emperor Ingyō when surnames 姓 were decided after an ordeal by boiling water. v. Aston's *Nihongi*, under the date 415 A.D. But this is surely wrong? In the *Shoku Nihongi* the "laws promulgated from Ōtsu in Ōmi" are the laws of the emperor Tenchi, the so-called Ōmi-ryō, which are not extant. It seems clear that what is here referred to is

the preparation of registers under Tenchi, recorded in the *Nihongi* under the date 670 A. D., which corresponds to 庚午 of the cycle.

No doubt these registers confirmed the names and titles which had been perpetuated since the ordeal of 415 A. D.]

23. In the sharing of inheritance [upon the decease of the head of a house] all property must be added together, namely servants, slaves, land, houses and other property, and shared out as follows:

The mother (being wife of the householder)2 shares
 The step-mother2 shares
 Children of the wife2 shares
 Children of concubines1 share

[It is not clear whether "children" here means only sons. From the text and the commentaries together it would appear that daughters and concubines receive only a half share.]

A wife's property brought with her from her own family is not subject to sharing.

If the brother of the heir are dead, their shares go to their sons—i.e. the sons of a child by the wife receive 2 shares, the sons of a child by a concubine receive 1 share, divided up equally.

[Some difficult points (e.g. the shares of married daughters; the rights of testamentary disposition, etc.) are also dealt with, but are too detailed for discussion here. The most important points which emerge from the article are (1) that the heir to the headship of the household does not succeed to all its property, and (2) that woman may own property and that, though after marriage she owns such property jointly with her husband, upon his death her property is not merged with his for distribution but remains her own. Note also that in certain cases a woman might succeed to the headship of a house (v. Article 13, supra).

It should be noted that though the law allows only one wife 妻, the status of concubines 妾 is legal, and certain rights are assured to them.]

24. Males may marry at the age of fifteen, females at the age of thirteen.

25. A woman before marriage must obtain the consent of her family, viz. paternal grandfather and grandmother, father and mother, uncles and aunts, cousins, etc.

[It seems that the consent of such relatives as uncles, aunts, cousins, etc. need only be sought if they are members of the

same household. A member of the family took charge of the arrangements, obtained the consent of those concerned and negotiated with the family of the intended husband. He is described in the commentaries as *Konshu* 婚主 "marriage master", or sponsor. Though the codes do not specifically say so, it is evident that the consent of members of the husband's family to his marriage also had to be obtained, and also that he must appoint a *konshu*. This is the early form of the system of "go-betweens" which still prevails in Japan. It is evident that a similar practice was envisaged by the T'ang codes.]

26. When a marriage contract has been made it may be annulled if without proper reason the marriage does not take place within three months

or if one of the parties disappears and does not return within one month

or if one of the parties is detained in a foreign country and does not return for one year

or if one of the parties is convicted of a crime 徒罪 (i.e. not a minor offence).

["Detained in a foreign country" is here used to represent the term *botsuraku* 没落外蕃, as used in Article 16. The cases contemplated are those of persons captured or detained by force, or by illness, or voluntarily remaining in foreign territory. One commentary holds that, where a man is sent abroad on an official mission, the year must be calculated from the date on which he was due to return. This proviso throws an interesting light on the dangers of missions to China, Korea, etc. in those days.]

Even after a marriage has been completed, the wife may be permitted to marry again

if the husband is detained abroad for five years when there is issue of the marriage or for three years when there is no issue

or if the husband has absconded and does not return for three years when there is issue or for two years when there is no issue.

27. If illicit intercourse has taken place before marriage, the marriage shall be dissolved, even though the illicit conduct has been condoned (by the relatives whose consent to marriage is necessary).

[By "illicit intercourse" is here meant not only secret intercourse before marriage but intercourse after a marriage which

has not been approved by the relatives.

In this article the word "marriage" is represented by 娶爲妻妾, which means the formation of a recognized union, not only with a wife but also with concubines.]

28. The seven grounds for divorce (七出之狀) of a wife by her husband are

(1) If she is childless

[Most commentaries agree that this means without a male child.]

(2) If she commits adultery

(3) If she disobeys her parents-in-law

(4) If she talks too much

(5) If she steals

(6) If she is jealous

[This of course refers to jealousy actively manifested in conduct. The commentaries explain that the jealousy in question is that aroused by the presence of concubines in the household.]

(7) If she has a bad disease

[It seems from the commentaries that that leprosy is meant here.]

In all cases the husband must write a notice of divorce which must be signed jointly by the parents and near relatives. Those who cannot write must make their mark (i. e. finger print).

[The commentaries state that the signature of grandparents, parents and near relatives on both sides is necessary. Since the woman's name would be removed from her husband's household register and restored probably to that of her parents, formal notification from both sides would be required.

This clause alone cannot therefore be interpreted as meaning that the *consent* of the wife's family is necessary before divorce. See Article 29 below.]

Even when there are grounds for divorce a wife shall not be sent away in any one of the following three cases :

(1) if she has maintained (the household) during the period of mourning for her parents in law during which time the husband could not work.

or (2) if since marriage the household has risen in status

or (3) if there is nobody to receive her (i. e. if there is no member of her family or other sponsor of the marriage to whom she can return.

But these exceptions shall not apply if she has been guilty of a grave offence against piety or of adultery or has a bad disease.

[The first two exceptions are based on the principle that if the wife has loyally shared the misfortune of her husband minor faults such as garrulity, jealousy, etc. ought to be forgiven. The third is based on the practical consideration that if relatives or other parties responsible in the first instance for her marriage are dead or absent or otherwise not in a position to receive her, there is no register to which she can return.

"A grave offence against piety" is here used to render 義絶 q. v. in Article 31 infra.]

29. Before a wife is divorced, the consent of the grandparents and parents [of the husband] must be obtained. If there are no grandparents and parents, the husband can act at his own discretion.

[This article is not consistent with Art. 28, which mentions near relatives as well as parents. The commentaries give conflicting views. Probably consent could not be withheld if the grounds for divorce were established; and the formal consent of near relatives, i. e. relatives in the third degree or closer, was necessary, as was their signature, only if the parents or grandparents were not living.

All commentaries agree that the consent here required is that of the husband's relatives; while the written notice must be signed by relatives on both sides.]

When a wife is divorced property which can be distinguished as brought with her upon marriage must be returned to her. The child of a slave belonging to her must also be returned.

30. Marriage or divorce without the consent of the competent persons is not valid; but if without good reason they do not intervene within three months of learning of the marriage or divorce they lose their right to object.

[This article seems to conflict with Article 27, and indeed it is not easy to reconcile with Articles 28 and 29. The commentaries do not furnish any satisfactory solution. Professor Miura suggests that it envisages cases where the prior consent of the sponsors (*Konshu*) has been obtained but not that of all the other relatives who must be notified.]

31. The following shall be deemed to have committed a grave offence against piety, entailing a rupture of relations (*gizetsu* 義絶)

One who strikes a parent or a paternal grandparent of a wife

One who kills a maternal grandparent of a wife, or her uncle, aunt, brother or sister

Parents, grandparents, etc. of a husband and wife when one kills another

A wife who strikes or abuses one of her husband's parents or grandparents; or who kills a husband's maternal grandparent, uncle, aunt, brother or sister; or who attempts to inflict harm upon her husband.

Even if these offences are pardoned a rupture must ensue.

[It will be observed that where one of these grave offences against piety has been committed there is no option. The offender must be expelled from the family. Therefore a wife who (e.g.) strikes her mother-in-law is automatically divorced.]

32. Persons who by reason of being without wife or husband or without children or by reason of age or infirmity are unable to support themselves must be taken charge of by their near relatives. If there are no near relatives they must be maintained by the village or *bō*. (坊, v. art. 3).

Persons found ill by the roadside if they are incapable of looking after themselves must be handed over by the District Governor in whose territory they are found to the village to be cared for. They shall be given medical treatment and enquiry shall be made as to their origin, and notification sent to the jurisdiction to which they belong. Upon recovery they shall be sent back.

33. The Governor of a province shall once a year make a tour of his territory, when he shall take note of local customs; enquire after the health of persons of 100 years of age; examine the cases of persons detained in prison, and put right any injustices; carefully inspect the work of administration and law; deal with the complaints of the people; ~~warmly encourage the five teachings~~ and promote agriculture.

[The five teachings 五教 are the five rules of pious duty, viz. the duty of a father,—justice; of a mother,—affection; of an elder brother,—friendship; of a younger brother,—respect; of a child,—obedience.]

If he learns of the existence in a district of persons of great learning or of especially good character (e.g. models of filial piety, loyalty, integrity, generosity, etc.) he shall recommend them for reward.

If there are persons of evil or disorderly conduct he shall examine and correct them.

The Governor must carefully examine the conditions in each district, and judge the merit of the district officials by the state of the fields, the number of criminal cases, etc. He must report on their suitability to the Central Government, but in cases of urgency he should dismiss an offending district officer forthwith.

34. Provincial and District Governors when on tours of inspection shall not be met or seen off by the people, or impede their work, or exact contributions or otherwise harass them.

35. Tomb serfs and public serfs, servants, public and private slaves may marry only in their own category.

[For convenience in studying this and the subsequent articles dealing with the status of free persons and slaves, I give here a brief outline of the social divisions of the early Heian period:—

The population was divided into two main classes, the *ryōmin* 良民, or free people and the *semmin* 賤民 or base people, i.e. the unfree class. The free people were divided into those with rank and those without rank. The rankless class consisted of two groups, the *hakutei* 白丁 and the *zōshiki* 雜色. The *hakutei* were small cultivators, the *zōshiki* were artisans.

The *zōshiki*, while assimilated to free people, were in practice serfs, members of various agricultural and industrial guilds to which they were hereditarily bound and which they could not leave without special emancipation. They were thus an intermediate class between free and base, but they, unlike the members of the slave classes, could intermarry with free people and, especially if they were skilled in certain important arts, were well treated and could rise in the social scale. It is supposed that most of the *zōshiki* engaged in handicrafts were naturalized Koreans or Chinese or their descendants. The various guilds were under the control of one or other of the Ministries of State, e.g., the Kudara Handworkers' Guild, 百濟手部 which was a guild of needleworkers originating from Koreans of Kudara (Paikche), and was under the jurisdiction of the Bureau of Palace Storehouses in the Nakatsukasa (v. in Part I of this paper, p. 80). The *zōshiki* comprised the *tomobe* 品部 and the *zakko* 雜戶, the former owing either to the importance of their work or to hereditary privileges being superior in status to the latter.

The *semmin* 賤民 or 'base' people comprised the five classes of unfree people specified in the present Article (35), viz.,

- (1) Tomb serfs (陵戸 *ryōko* who were wardens of imperial mausolea, charged with the duty of maintaining the tombs and the land attached thereto. They were not numerous, and they gradually lost their importance, although in the Yoro code they are always mentioned first among the unfree classes.
- (2) Official serfs (官戸 *Kwanko*) were unfree people under the control of the Yakko no Tsukasa 官奴司 in the Imperial Household Department. They lived in their own houses, and were chiefly engaged in cultivating crown lands. They had their own allotment lands and were therefore freer than the true slaves, public and private. They present, as pointed out above (Article 18), an analogy to the *corporati*. It appears that this class was composed in part of free persons who, as punishment for criminal offences, were deprived of their hereditary civil rights. (v. Article 38 below) (See also Mr. S. Ninomiya's paper on the Eta in Vol. X (1933) of these Transactions for an interesting account of the later development of *tomobe* and *zakko*.)
- (3) Servants (Kenin 家人) were indentured domestic workers. They had a certain measure of freedom. (v. Art. 40 below)
- (4) Public slaves (Kunuhi 公奴婢). Slaves working for the Government, usually unskilled manual workers or farm labourers. They had no rights but were protected by law against injury, etc., as being valuable property.
- (5) Private slaves (Shinuhi 私奴婢). Slaves working for individuals. Their position was in other respects like that of other slaves.

Of these five *shiki* 色 or categories, the private slaves were the most numerous. As the Heian era progressed the distinction between the other categories tended to disappear and many members of the unfree classes gained by emancipation technical freedom.

This Article (35) provides that a member of one of these five categories may marry only a member of the same category. Thus a public slave may marry only a public slave, a servant only a servant. But in practice the rule was apparently not always enforced, since some commentaries state that *kwanko* and *kenin* are regarded as one category for the purpose of

this Article, as also are public and private slaves. It is probable that the law was interpreted and enforced differently at different times and places.

36. Separate registers shall be prepared in duplicate each year in the first month of public serfs 官戸 and of slaves, by categories and according to the department to which they belong. One copy shall be sent to the Council of State (大政官), the other retained in the department. Skilled workers shall be marked according to their occupations.

37. When free persons 良人 or servants 家人 have by fraud or force been made unfree 賤 or treated as slaves, children subsequently born to them shall if they are freed as the result of a suit at law follow the status of free persons or servants respectively.

38. Public slaves who are 66 years of age or who are unfit for work [v. Article 6 supra] and persons who by confiscation of rights become unfree shall become official serfs 官戸, [v. note to Article 35].

["Confiscation of rights" is here used to render 配没. The punishment for certain grave offences included deprivation of civil rights. The persons guilty of rebellion or treason were, with their families, deprived of hereditary rank and offices; and this Article states into which category of unprivileged persons they are to enter. See also below Article 43, which provides that the children of slaves by their owners shall have no civil rights.]

Persons reaching the age of 76 shall be released and become freemen

39. When servants or slaves are released and made free persons or servants, the necessary entries in the registers shall be made, by notification through the office concerned.

40. The children of servants (家人) shall continue as servants, and be employed at the discretion of their master; but he may not employ all of them on his own business or sell them.

[The class of servants styled *kenin* 家人 were allowed their own dwellings, and the commentaries explain that if, for example, a master had 10 servants he must allow 2 or 3 of them to work for the others, at domestic duties or the supply of food. In these respects servants differed from slaves who could be bought and sold and employed at their owner's discretion.]

41. Slaves captured and carried off by foreign enemies shall if they escape and return of their own accord be freed. But if they are not carried off by force [e.g. fishermen who are blown ashore] or

if they abscond into enemy territory they shall on return revert to their masters.

42. When a slave is married to a free person, children born of the marriage shall, if the marriage was contracted without knowledge [that one party was a slave] follow the status of the free party. The parties shall be separated.

Where [one of the parties] has absconded and a child is born, it shall follow the status of the unfree party.

[The commentaries do not agree on the meaning of this second clause; but it seems that absconding was taken as showing that the parties were aware that one was a slave.]

43. When a male slave or a servant has intercourse with his owner or with a person within the 5th degree of kinship to his owner, any child born shall suffer confiscation of rights.

[A child of which one parent is a slave must as a general rule belong to the slave category. Therefore a wife, daughter, etc. of a free person, on giving birth to a child by a slave in the household cannot treat the child as a member of her family entitled to such hereditary rights as would belong to a child of free parents. But it is obvious that this law could not be universally enforced, since the opportunities for evasion and concealment were great.]

44. Slaves from foreign territory who come to this country of their own accord shall all be emancipated and given the status of freemen 良

[“Foreign territory” is a paraphrase of the term 化外 *Kegwai* which means “outside the reforming influence”. It denotes here peoples or territory not subjugated by Japan, and therefore includes not only foreign countries like Korea but also parts of Japan not yet brought under the rule of the Emperor —e.g. Ainu territory.

These slaves were not granted their freedom if their owner came to Japan, whether with them, before them, or after them.]

When persons from beyond the frontiers have already been assigned to an unfree class, their relatives subsequently arriving, if within the second degree of kinship, may be made free (良) on payment of a ransom.

45. When owing to flood, drought or pests there threatens to be a failure of the harvest, the provincial or district authorities shall, if there is a shortage of supplies and relief should be given, upon ex-

amination of the facts, act upon their own discretion and report to the Council of State.

[Relief here means the provision of supplies. Other sections of the code allow for remission of taxes in case of famine, etc.]

CORRIGENDA

The following errors should be corrected in Part I of this paper, Transactions Vol. IX, (2nd Series), 1932:—

Page 73, lines 5 and 10 from bottom, for ‘great’ read ‘Great’.

98, line 11 from bottom, for ‘positions’ read ‘portions’.

100, line 4 from top, insert 京.

101, footnote, line 2, read ‘Empress’ and ‘Heir Apparent and the’

line 5, read ‘organs, they’

line 6, read ‘especially’.

107, line 16 from bottom, for 行 read 行.

line 11 from bottom, insert 行.

line 12 from bottom, for ‘similar’ read ‘similarly’.

108, line 9, for *hanin* read *hannin*.