CRIMINAL STATUTES

I

(*Translation*)

MINISTRY OF JUSTICE
JAPAN

CONTENTS

THE PENAL CODE

(Law No. 45 of 1907, as amended by Law No. 77 of 1921, Law No. 61 of 1941, Law No. 124 of 1947, Law No. 195 of 1953, Law No. 57 of 1954, Law No. 107 of 1958, Law No. 83 of 1960, Law No. 124 of 1964 and Law No. 61 of 1968)

BOOK I. GENERAL PROVISIONS

Chapter I. Scope of Application

Article 1. (*Domestic Crimes*) This Code shall apply to any person who commits a crime within Japan.

2. It shall also apply to any person who commits a crime on board a Japanese vessel or air craft outside Japan.

Article 2. (*Crimes Outside Japan*) This Code shall apply to any person who commits one of the following crimes outside Japan:

(1) Deleted.

(2) The crimes provided for in Articles 77 to 79;

(3) The crimes provided for in Articles 81, 82, 87 and 88;

(4) The crimes provided for in Article 148 as well as attempts thereof;

(5) The crimes provided for in Articles 154, 155, 157 and 158;

(6) The crimes provided for in Articles 162 and 163;

(7) The crimes provided for in Articles 164 to 166 as well as attempts of crimes provided for in paragraph 2 of Article 164, paragraph 2 of Article 165, and paragraph 2 of Article 166.

Article 3. (*Crimes by Japanese Outside Japan*) This Code shall apply to a Japanese who commits one of the following crimes outside Japan:

(1) The crimes provided for in Article 108 and paragraph 1 of Article 109, and crimes which shall be dealt with in the same way as in the case of committing the crime provided for in

Article 108 and paragraph 1 of Article 109, as well as attempts of the above-mentioned crimes;

(2) The crime provided for in Article 119;

(3) The crimes provided for in Articles 159 to 161;

(4) The crimes provided for in Article 167 and an attempt of the crime provided for in paragraph 2 of that Article;

(5) The crimes provided for in Articles 176 to 179, 181 and 184;

(6) The crimes provided for in Articles 199 and 200 and attempts thereof;

(7) The crimes provided for in Articles 204 and 205;

(8) The crimes provided for in Articles 214 to 216;

(9) The crimes provided for in Article 218 and the crime of killing or injuring a person as a result of the commission of those crimes;

(10) The crimes provided for in Articles 220 and 221;

(11) The crimes provided for in Articles 224 to 228;

(12) The crimes provided for in Article 230;

(13) The crimes provided for in Articles 235 to 236, 238 to 241 and 243;

(14) The crimes provided for in Articles 246 to 250;

(15) The crime provided for in Article 253;

(16) The crime provided for in paragraph 2 of Article 256.

Article 4. (*Crimes by Public Officer Outside Japan*) This Code shall apply to a public officer of Japan who commits one of the following crimes outside Japan:

(1) The crime provided for in Article 101 as well as an attempt thereof;

(2) The crime provided for in Article 156;

(3) The crimes provided for in Article 193, paragraph 2 of Article 195 and Articles 197 to 197–4, and the crime of killing or injuring a person through the commission of the crime provided for in paragraph 2 of Article 195.

Article 5. (*Effect of Foreign Judgment*) Even when an irrevocable decision has been rendered in a foreign country against a person's criminal act, it shall not preclude a further imposition of punishment in Japan in regard to the same act; provided that when the criminal has already served either in whole or in part the punishment pronounced abroad, execution of punishment shall be reduced or excused.

Article 6. (*Change of Punishment*) When a punishment is changed by law after the commission of a crime, the lesser punishment shall be applied.

Article 7. (*Public Officer; Public Office*) The term "public officer" as used in this Code means a government official, a local government official, or member of an assembly or committee, or other employee engaged in the performance of public duties in accordance with laws or ordinances.

2. The term "public office" means an office where public officers perform their duties.

Article 8. (*Application of General Provisions*) The general provisions of this Code shall also apply to crimes for which punishments are provided for by other laws or ordinances, except as otherwise provided for in such laws or ordinances.

Chapter II. Punishments

Article 9. (*Categories of Punishments*) Principal punishments are classified as death, imprisonment at forced labor, imprisonment without forced labor, fine, penal detention, and minor fine, and confiscation is a supplemental punishment.

Article 10. (*Gravity of Punishments*) The order of gravity of principal punishments shall be according to the order in which they are mentioned in the preceding Article; provided that imprisonment without forced labor for life is heavier than imprison-

ment at forced labor for a limited term, and imprisonment without forced labor for a limited term is heavier than imprisonment at forced labor for a limited term when the maximum term prescribed for the former exceeds the term twice as long as that prescribed for the latter.

2. Within the same category of punishments, the punishment prescribed with a higher maximum term or amount is the heavier; and when the maximum terms or amounts are equal, the punishment prescribed with higher minimum term or amount is the heavier.

3. Between two or more death penalties or punishments of the same category which have equal maximum and minimum terms or amounts, the order of gravity shall be determined according to the circumstances of the crimes.

Article 11. (*Death Penalty*) The death penalty shall be executed by hanging at a prison.

2. A person who has been condemned to death shall be confined in prison until the punishment is executed.

Article 12. (*Imprisonment at Forced Labor*) Imprisonment at forced labor shall be either for life or for a limited term, and a limited term of imprisonment at forced labor shall be not less than one month nor more than 15 years.

2. Imprisonment at forced labor shall consist of confinement in prison and forced labor.

Article 13. (*Imprisonment without Forced Labor*) Imprisonment without forced labor shall be either for life or for a limited term, and a limited term of imprisonment shall be not less than one month nor more than 15 years.

2. Imprisonment without forced labor shall consist of confinement in prison.

Article 14. (*Limit of Aggravation and Reduction*) In case imprisonment at or without forced labor for a limited term shall be aggravated, the term may be extended to 20 years, and in case it shall be reduced, the term may be decreased to less than one month.

Article 15. (*Fine*) A fine shall be not less than 20 yen; provided that in case it shall be reduced, the amount may be decreased to less than 20 yen.

Article 16. (*Penal Detention*) A penal dettention shall be for one day or more and less than 30 days, and it shall consist of confinement in a penal detention house.

Article 17. (*Minor Fine*) A minor fine shall be 10 sen or more and less than 20 yen.

Article 18. (*Detention at Work-house for Non-Payment of Fine*) A person unable to pay his fine in full shall be detained in a work-house for a term of not less than one day nor more than two years.

2. A person unable to pay his minor fine in full shall be detained in a work-house for a term of not less than one day nor more than 30 days.

3. When fines are jointly imposed or when a fine and a minor fine are jointly imposed, the term of detention for non-payment of the fines may not exceed three years. When mionr fines are jointly imposed, the term of detention for non-payment of such fines may not exceed 60 days.

4. When rendering a sentence of fine or minor fine the court shall simultaneously determine and pronounce a term of detention at work-house to be imposed as the substitute for the fine in the case of the failure of full payment thereof.

5. Except with the consent of the person sentenced, detention for the non-payment of a fine may not be executed within 30 days from the time at which the decision has become final, and detention

for the non-payment of a minor fine may not be executed within 10 days from the time at which the decision has become final.

6. When a person sentenced to a fine or a minor fine has paid only a part of it, his detention for non-payment shall be reduced by a period of days which bears the same ratio to the total period of detention for non-payment originally imposed as the amount of fine or minor fine actually paid bears to the total fine or minor fine originally imposed.

7. When a part of a fine or minor fine has been paid during the period of execution of detention for non-payment, the remaining number of days shall be reduced according to the ratio specified in the preceding paragraph.

8. No sum of money shall be paid which is less than the value equivalent to one day of detention for non-payment.

Article 19. (*Confiscation*) The following things may be confiscated:

(1) A thing which is a constituent element of a criminal act;

(2) A thing which has been used or was intended to be used in the commission of a criminal act;

(3) A thing produced by or acquired by means of a criminal act or a thing acquired as reward for a criminal act;

(4) A thing received in exchange for a thing mentioned in the preceding item.

2. A thing may be confiscated only if it does not belong to a person other than the criminal, provided that when a person other than the crimnal, after the commission of a crime, acquires the thing knowing its character, it may be confiscated even though it belongs to a person other than the criminal.

Article 19–2. (*Collection of Equivalent Value*) When the whole or a part of a thing mentioned in item (3) and item (4) of paragraph 1 of the preceding Article cannot be confiscated, a sum of money equivalent thereto may be collected.

Article 20. (*Crimes to which Confiscations are Inapplicable*) There may no confiscation in connection with crimes punishable only by penal detention or a minor fine, except where specifically so provided; provided that the same shall not apply to the confiscation of the thing mentioned in item (1) of paragraph 1 of Article 19.

Article 21. (*Inclusion of Period of Pre-Judgment Detention in* Penalty) The number of days of pre-judgment detention may be calculated wholly or in part in an imposed punishment.

Chapter III. Computation of Period of Time

Article 22. (*Computation of Period of Time*) When a period of time is fixed in terms of months or years it is to be computed in accordance with the calendar.

Article 23. (*Computation of Term of Sentence*) The term of sentence shall run as from the day when such sentence becomes finally binding.

2. The days not spent in actual confinement shall not be computed in the term of punishment, even if such days come after the sentence becomes finally binding.

Article 24. (*First Day; Last Day*) The first day of execution of sentence shall be computed as a full day regardless of the hours involved. The same shall apply to the first day of a period of limitation.

2. Final release from a penal institution shall take place on the day after the completion of the term of sentence.

Chapter IV. Suspension of Execution of Sentence

Article 25. (*Requirements for Suspension of Execution of Sentence*) When any one of the following persons has been sentenced to imprisonment at or without forced labor for not more than three

years or a fine of not more than 5,000 yen, the execution of the sentence may, according to the circumstances, be suspended for a period of not less than one year nor more than five years as from the day when the sentence becomes finally binding.

(1) A person not previously sentenced to imprisonment without forced labor or a heavier punishment;

(2) A person who, although previously sentenced to imprisonment without forced labor or a heavier punishment, has not again been sentenced to imprisonment without forced labor or a heavier punishment within five years from the day when the execution of the former punishment was completed or remitted.

2. When a person, who has been sentenced to imprisonment without forced labor or a heavier punishment and has been granted the suspension of execution of the sentence, is sentenced to imprisonment at or without forced labor for not more than one year and there are extenuating circumstances especially favorable to him, the provisions of the preceding paragraph shall apply; provided that the same shall not apply to a person who has been placed under protective supervision in accordance with the provisions of paragraph 1 of Article 25–2 and has committed a crime again within the period of such supervision.

Article 25–2. (*Protective Supervision*) In the case stated in paragraph 1 of the preceding Article, the subject person may be placed under protective supervision during the period of suspension of execution of sentence; and in the case stated in paragraph 2 of the preceding Article, the subject person shall be placed under protective supervision during the period of suspension.

2. The person undr protective supervision may be provisionally dischaged from the protective supervision by a disposition of the administrative authorities.

3. When the person under protective supervision is provisionally discharged from the protective supervision, he shall, for the purpose of the provisions of the proviso to paragraph 2 of the

preceding Article and of item (2) of Article 26–2, be deemed not to have been placed under protective supervision until the provisional discharge is revoked.

Article 26. (*Mandatory Revocation of Suspension of Execution of Sentence*) The pronouncement of suspension of execution of sentnce shall be revoked in the following cases:

(1) When the person who was granted suspension of execution of sentence commits a crime again within the period of such suspension and is sentenced to imprisonment without forced labor or a heavier punishment without being granted suspension of execution of such sentence;

(2) When the person who was granted suspension of execution of sentnce for a crime is sentenced to imprisonmnt without forced labor or a heavier punishment for another crime committed before such grant and is not granted suspension of execution of such sentence;

(3) When it is discovered that the person who was granted suspension of execution of sentence for a crime had been sentnced to imprisonment without forced labor or a heavier punishment for another crime before such grant except in cases where he does not fall under item (2) of paragraph 1 of Article 25 or item (3) of Article 26–2.

Article 26–2. (*Discretionary Revocation of Suspension of Execution of Sentence*) The pronouncement of suspension of execution of sentence may be revoked in the following cases:

(1) When a further crime has been committed within the period of suspension of execution of sentence and a fine has been imposed for the crime;

(2) When the person placed under protective supervision in accordance with the provisions of paragraph 1 of Article 25–2 fails to observe any of the conditions imposed upon him and there are circumstances seriously unfavorable to him;

(3) When it is discovered that, before a person was granted suspension of execution of sentence for the crime concerned, he had been sentenced to imprisonment or a heavier punishment for another crime and granted suspension of execution of such sentence.

Article 26-3. (*Revocation of Concurrent Suspensions of Executions of Sentences*) When the suspension of execution of sentence to imprisonment without forced labor or a graver punishment has been revoked in accordance with the preceding two paragraphs, the suspension of execution of another sentence to imprisonment without forced labor or a heavier punishment shall also be revoked with respect to one and the same person.

Article 27. (*Effect of Elapsing of Period of Suspension*) When a period of suspension elapses without the revocation of the pronouncement of suspension of execution of sentence, the sentence loses its effect.

Chapter V. Parole

Article 28. (*Requirements for Parole*) When a person sentenced to imprisonment at or without forced labor evinces genuine reformation he may be paroled by an action of the administrative authorities after he has served one-third of the sentence for limited term or 10 years of a life sentence.

Article 29. (*Revocation of Parole*) A parole may be revoked in the following cases:

(1) When the parolee commits a further crime while he is on parole and is sentenced to a fine or heavier punishment;

(2) When a fine or graver punishment is imposed for another crime committed prior to the parole;

(3) When punishment is to be executed with respect to another crime for which a fine or heavier punishment was imposed prior to the parole;

(4) When a parolee fails to observe any of the conditions which he must observe while he is on parole.

2. When a parole is revoked, the number of days during which the parolee has been on parole shall not be computed in the term of sentence.

Article 30. (*Provisional Release in Cases of Penal Detention or Detention for Non-Payment of Fine*) A person in penal detention may be provisionally released by an action of the administrative authorities whenever circumstances warrant.

2. The same shall apply in the case of a person detained for non-payment of a fine or minor fine.

Chapter VI. Limitation and the Extinction of Punishments

Article 31. (*Effect of Limitation*) Statutory limitation exempts a person who has been sentenced from the execution of the punishment.

Article 32. (*Period of Limitation*) Statutory limitation matures when punishment has not been executed within any of the following periods after a sentence became final:

(1) 30 years for a death penalty;

(2) 20 years for imprisonment at or without forced labor for life;

(3) 15 years for a limited term of imprisonment at or without forced labor which is 10 years or more, 10 years for a term of three years or more, and five years for a term of less than three years;

(4) Three years for fines;

(5) One year for penal detention, minor fine and confiscation.

Article 33. (*Suspension of Limitation*) Statutory limitation shall be tolled while the execution of sentence is suspended or stayed in accordance with law or ordinance.

Article 34. (*Nullification of Statutory Limitation*) The portion of the statutory limitation which has run shall be nullified when the offender is arrested for the purpose of execution of sentence.

2. The portion of the statutory limitation which has run against the execution of a fine, minor fine or confiscation shall be nullified when action is taken toward such execution.

Article 34-2. (*Extinction of Punishment*) When ten years have elapsed since a person served out his sentence of imprisonment without forced labor or a heavier punishment or he was excused from the execution of such punishment without receiving another sentence to a fine or graver punishment, the sentence shall lose its effect. The same shall apply when five years have elapsed sinc the execution of a sentence to a fine or a lighter punishment which a person received was completed or he was excused from such execution, without his receiving another sentence to a fine or a heavier punishment.

2. In case a person was pronounced to be guilty of a crime but granted remission of the punishment and has not been sentenced to a fine or heavier punishment for another crime during two years since such pronouncement became finally binding, such pronouncement of his guiltiness shall lose its effect.

Chapter VII. Failure to Constitute a Crime and Reduction or Remission of Punishment

Article 35. (*Justifiable Acts*) An act done in accordance with laws or ordinances or in the pursuit of lawful business is not punishable.

Article 36. (*Selfdefense*) An act unavoidably done to protect the rights of oneself or any other person against imminent and unjust infringement is not punishable.

2. Punishment for an act exceeding the limits of justifiable defense may be reduced or remitted in the light of the circumstances.

Article 37. (*Averting Imminent Danger*) An act unavoidably done to avert a present danger to the life, person, liberty, or property of oneself or any other person is not punishable only when the harm produced by such act does not exceed the harm which was sought to be averted. However, the punishment for an act causing excessive harm may be reduced or remitted in the light of the circumstances.

2. The provisions of the preceding paragraph do not apply to a person who has a special professional or occupational duty.

Article 38. (*Intent; Negligence*) An act done without criminal intent is not punishable; provided that the same shall not apply in cases where otherwise specially provided by law.

2. When a person who commits a crime is not, at the time of its commission, aware of the fact that he is committing a crime graver than the one he thinks he commits, he shall not be dealt with in accordance with the graver crime he actually commits.

3. An ignorance of the law cannot be deemed to constitute a lack of intention to commit a crime; provided that punishment may be reduced in the light of the circumstances.

Article 39. (*Insanity; Weak-Mindedness*) An act of an insane person is not punishable.

2. Punishment shall be reduced for acts of weak-minded persons.

Article 40. (*Deaf-Mutes*) An act of a deaf-mute is not punishable or punishment therefor shall be reduced.

Article 41. (*Infants*) An act of a person under 14 years of age is not punishable.

Article 42. (*Surrender*) Punishment of a person who has committed a crime and surrendered himself to authorities concerned before he is identified as a criminal may be reduced.

2. The same shall apply in the case of a pesson who, after having committed a crime which can be prosecuted only upon complaint, surrenders himself to a person who has a right to make the complaint.

Chapter VIII. Attempts

Article 43. (*Attempts; Crimes Interrupted by Actors*) The punishment of a person who commences but fails to complete the commission of a crime may be reduced; provided that if he voluntarily interrupts the commission of the crime, the punishment shall be reduced or remitted.

Article 44. (*Attempts Punishable*) Attempts are punishable only when specifically so provided in each article concerned.

Chapter IX. Accumulative Crimes

Artivle 45. (*Accumulative Crimes*) Two or more crimes committed by a person for which no finally-binding court decision has yet been rendered shall constitute accumulative crimes. When a finally-binding court decision imposing imprisonment without forced labor or a heavier punishment is rendered for a crime, only that crime and other crimes committed before such decision becomes finally-binding shall constitute accumulative crimes.

Article 46. (*Accumulative Crimes and Absorption of Punishment*) When a death sentence is to be rendered for one of the accumulative crimes no other punishment may be imposed except confiscation.

2. When a sentence of imprisonment at or without forced labor for life is to be rendered for one of the accumulative crimes no other punishment may be imposed except fine, minor fine and confiscation.

Article 47. (*Accumulative Crimes and Augmentation of Punishment*) When the accumulative crimes include two or more crimes punishable by imprisonment at or without forced labor for limited terms,

the maximum term of punishment to be jointly imposed for the accumulative crimes shall be the maximum term prescribed for the gravest crime increased by one-half, but may not exceed the total of the maximum terms of the punishments prescribed for such crimes.

Article 48. (*Accumulative Crimes and Cumulative Imposition of Punishments*) A fine and another punishment shall be imposed cumulatively, except in the case provided in paragraph 1 of Article 46.

2. Two or more fines shall be imposed together so as not to exceed the total sum of the fines which are prescribed for the several crimes.

Article 49. (*Accumulative Crimes and an Additional Confiscation*) Even though confiscation is not prescribed for the gravest of the accumulative crimes, it may be imposed in addition to the principal punishment, when it is prescribed for any of such crimes.

2. Two or more confiscations shall be imposed together.

Article 50. (*Unadjudicated Crimes in Accumulative Crimes*) When one or more of the accumulative crimes have been adjudicated and one or more have not, a decision shall be rendered as to the crime or crimes not yet adjudicated.

Article 51. (*Execution of Several Sentences Regarding Accumulative Crimes*) When two or more decisions have been rendered in regard to accumulative crimes, the punishments shall be executed cumulatively; provided that when the death penalty is to be executed, no other punishment except confiscation shall be executed, and when imprisonment at or without forced labor for life is to be executed, no other punishment except fines, minor fines and confiscation shall be executed, and when two or more sentences of imprisonment at or without forced labor for limited terms are to be executed, the camulative term shall not exceed the maximum

term of imprisonment prescribed for the gravest of the crimes covered by the sentences increased by one-half.

Article 52. (*Accumulative Crimes and General Amnesty*) When a person who has been sentenced for accumulative crimes is granted pardon under general amnesty for any of the crimes, punishment shall be redetermined for the other crimes for which amnesty is not granted.

Article 53. (*Cumulative Imposition of Penal Detention or Minor Fine with other Punishments*) Penal detention or minor fine shall be imposed cumulatively with other punishments; provided that the same shall not apply in the cases provided in Article 46.

2. Two or more penal detentions or minor fines shall be imposed cumulatively.

Article 54. (*Imaginative Concurrence of Crimes; Connected Crimes*) When a single act constitutes two or more separate crimes, or when an act which constitutes a means of commission of a crime or its resultant act constitutes another separate crime, the heaviest punishment of those prescribed for such crimes shall be imposed.

2. The provision of paragraph 2 of Article 49 shall apply in the cases provided in the preceding paragraph.

Article 55. Deleted.

Chapter X. Repeated Conviction

Article 56. (*Second Crime*) When a person who has been sentenced to imprisonment at forced labor, commits a crime again within five years from the day on which the execution of the former sentence was completed or remitted, and is to be sentenced to imprisonment at forced labor for a limited term, this crime constitutes a second crime.

2. The same shall apply when a person who has been sentenced to death for a crime of the same nature as one punishable by imprisonment at forced labor, commits a crime again within the period provided in the preceding paragraph which shall run from the day when the death sentence was remitted or from the day when the execution was completed or remittted after the death sentence was commutetd to imprisonment at forced labor, and he is to be sentenced to imprisonment at forced labor for a limited term.

3. When a person has been sentenced for accumulative crimes in which any crime punishable by imprisonment at forced labor is included, he shall be deemed to have been sentenced to imprisonment at forced labor in the application of provisions relating to a second crime even though such crime is not the gravest.

Article 57. (*Punishment for Second Crime*) The maximum term of punishment for a second crime shall be twice the maximum term of imprisonment at forced labor provided for such crime.

Article 58. Deleted.

Article 59. (*Third or Further Conviction*) The provisions concerning a second crime shall be likewise applicable to a person who is convicted for the third or further time.

Chapter XI. Complicity

Article 60. (*Co-principals*) Two or more persons who act jointly in the commission of a crime are all principals.

Article 61. (*Instigators*) A person who through his instigation causes another to commit a crime shall be dealt with as principal.

2. The same shall apply to a person who instigates an instigator.

Article 62. (*Accessories*) A person who assists a principal is an accessory.

2. A person who instigates an accessory shall be dealt with as an accessory.

Article 63. (*Punishment for Accessories*) The punishment of an accessory shall be a statutory reduction of the punishment of the principal.

Article 64. (*Instigation and Accessory in Minor Crimes*) An instigator or accessory shall not be punished for a crime subject only to penal detention or minor fine except as otherwise specially provided.

Article 65. (*Complicity and Status*) When a person collaborates in a criminal act in which constitution of crime depends upon the status of the criminal that person is an accomplice even though lacking such status.

2. When the gravity of a punishment varies depending upon whether a criminal has a certain status or not, a normal punishment shall be imposed on a person who lacks such status.

Chapter XII. Reduction According to Extenuating Circumstances

Article 66. (*Reduction According to Extenuating Circumstances*) Punishment may be reduced in the light of extenuating circumstances.

Article 67. (*Statutory Augmentation or Reduction and Reduction according to Extenuating Cricumstances*) Even if punishment is augmented or reduced in accordance with a statute, reduction according to extenuating circumstances may be made.

Chapter XIII. Rules for Augmentation and Reduction

Article 68. (*Method of Statutory Reduction*) When there are one or more statutory grounds for reduction of punishment, the following rules shall apply:

(1) When a death penalty is to be reduced, it shall be reduced to imprisonment at or without forced labor either for life or for not less than 10 years;

(2) When imprisonment at or without forced labor for life is to be reduced, it shall be reduced to a limited term of imprisonment at or without forced labor for not less than seven years;

(3) When a limited term of imprisonment at or without forced labor is to be reduced, the term of punishment shall be reduced by one-half;

(4) When a fine is to be reduced, its amount shall be reduced by one-half;

(5) When a penal detention is to be reduced, its maximum term shall be reduced by one-half;

(6) When a minor fine is to be reduced, its maximum amount shall be reduced by one-half.

Article 69. (*Various Punishments and Statutory Reduction*) When a statutory reduction of a punishment is to be made in a case where two or more types of punishments are provided by the applicable provision the type of punishment to be imposed shall first be determined and then a reduction made.

Article 70. (*Disregard of Small Amounts*) When a period less than one day remains as a result of reduction of imprisonment at or without forced labor, or penal detention, such period shall be disregarded.

2. The same shall apply when a fraction of one sen remains as a result of a reduction of a fine or minor fine.

Article 71. (*Method of Reduction according to Extenuating Circumstances*) The rules provided in Article 68 and those of the preceding Article shall also be followed when a reduction is to be made in the light of extenuating circumstances.

Article 72. (*Order of Augmentation* and *Reduction*) When a punishment is to be augmented and reduced on the same occasion, the

following order shall apply:

(1) An augmentation for a second crime;

(2) A statutory reduction;

(3) An augmentation for accumulative crimes;

(4) A reduction according to extenuating circumstances.

BOOK II. CRIMES

Chapter I. Deleted

Articles 73, 74, 75 and 76. Deleted.

Chapter II. Crimes Concerning Insurrection

Article 77. (*Insurrection*) A person who creates a disorder for the purpose of overthrowing the government, usurping the territorial sovereignty of the State, or otherwise subverting the national constitution, commits the crime of insurrection and shall be sentenced according to the following distinctions:

(1) A ringleader shall be punished with death or imprisonment without forced labor for life;

(2) A person who participates in a plot or directs a mob shall be punished with imprisonment without forced labor for life or not less than three years; a person who performs other functions shall be punished with imprisonment without forced labor for not less than one year nor more than 10 years;

(3) A person who merely responds to the agitation and follows the lead of another or otherwise merely joins in the disorder shall be punished with imprisonment without forced labor for not more than three years.

2. An attempt of the crime provided in the preceding paragraph shall be punished; provided that the same shall not apply to a person mentioned in item (3) of the same paragraph.

Article 78. (*Preparations and Plots*) A person who prepares for or plots an insurrection shall be punished with imprisonment without forced labor for not less than one year nor more than 10 years.

Article 79. (*Assistance*) A person who renders assistance in the commission of any of the crimes mentioned in the preceding two Articles by the provision of arms, funds or supplies, or by any other act, shall be punished with imprisonment without forced labor for not more than seven years.

Article 80. (*Surrender*) The punishment of a person who, after committing any of the crimes mentioned in the preceding two Articles, surrenders himself to authorities concerned before the disorder is created, shall be remitted.

Chapter III. Crimes Concerning Foreign Aggression

Article 81. (*Inducement of Foreign Aggression*) A person who in conspiracy with a foreign state causes the use of armed force against Japan shall be punished with death.

Article 82. (*Assistance to Enemy*) A person who, when a foreign state uses armed force against Japan, sides with such state by engaging in the military service of such state, or otherwise affording military advantage to such state, shall be punished with death or with imprisonment at forced labor for life or not less than two years.

Articles 83, 84, 85 and 86. Deleted.

Articls 87. (*Attempts*) Attempts of any of the crimes provided in Articles 81 and 82 shall be punished.

Article 88. (*Preparations and Plots*) A person who prepares for or plots any of the crimes mentioned in Articles 81 and 82 shall be

punished with imprisonment at forced labor for not less than one year nor more than 10 years.

Article 89. Deleted.

Chapter IV. Crimes Concerning Foreign Relations

Articles 90 and 91. Deleted.

Article 92. (*Damage or Destruction of Foreign Flag, etc.*) A person who, for the purpose of insulting a foreign state, damages, destroys, removes or defiles the national flag or other national emblem of such state shall be punished with imprisonment at forced labor for not more than two years or a fine of not more than 200 yen; provided that the crime shall be dealt with only on the request of the government of such state.

Article 93. (*Preparations and Plots for Private War*) A person who prepares or plots to wage war privately upon a foreign state shall be punished with imprisonment without forced labor for not less than three months nor more than five years; provided that the punishment of a person who surrenders himself to authorities concerned shall be remitted.

Article 94. (*Violations of Neutrality Ordinances*) A person who violates an ordinance relating to neutrality in a war between foreign states shall be punished with imprisonment without forced labor for not more than three years or a fine of not more than 1,000 yen.

Chapter V. Crimes of Obstruction of the Performance of Official Duties

Article 95. (*Obstructing or Compelling Performance of Official Duty*) A person who uses violence or intimidation against a public officer engaged in the performance of his duties shall be punished with

imprisonment at or without forced labor for not more than three years.

2. The same shall apply to a person who uses violence or intimidation against a public officer in order to cause him to perform or refrain from performing an official act or in order to bring about his resignation.

Article 96. (*Destruction of Seals*) A person who damages or destroys or by any other means renders null and viod a seal or symbol of attachment which has been affixed by a public officer shall be punished with imprisonment at forced labor for not more than two years or a fine of not more than 300 yen.

Article 96–2. (*Improper Evasion of Execution*) A person who for the purpose of avoiding the enforcement of compulsory process conceals, damages or ficticiously transfers to another his property or ficticiously incurs a debt shall be punished with imprisonment at forced labor for not more than two years or a fine of not more than 1,000 yen.

Article 96–3. (*Damage to Auctions and Collusive Acts*) A person who by means of a trick or threat commits an act injurious to the fairness of a public auction or a tender of a bid, shall be punished with imprisonment at forced labor for not more than two years or a fine of not more than 5,000 yen.

2. The same shall apply to persons who collude for the purpose of preventing a fair determination of price or for acquiring an illicit gain.

Chapter VI. Crimes of Escape

Article 97. (*Ordinary Escape*) When a convicted or unconvicted prisoner escapes, imprisonment at forced labor for not more than one year shall be imposed.

Article 98. (*Aggravated Escape*) When a convicted or unconvicted prisoner or person held under a warrant of arrest or production escapes either by damaging or destroying a place of detention or restraining devices, by the use of violence or intimidation, or by plotting with one or more persons, imprisonment at forced labor for not less than three months nor more than five years shall be imposed.

Article 99. (*Liberation*) A person who takes away from the authorities another person detained in conformity with a law or ordinance shall be punished with imprisonment at forced labor for not less than three months nor more than five years.

Article 100. (*Assistance in Escape*) A person who, for the purpose of causing the escape of a person detained in conformity with a law or ordinance, furnishes him with a tool or instrument or performs any other act which would facilitate his escape, shall be punished with imprisonment at forced labor for not more than three years.

2. A person who uses violence or intimidation for the purpose stated in the preceding paragraph shall be punished with imprisonment at forced labor for not less than three months nor more than five years.

Article 101. (*Crime of Letting a Detained Person to Escape*) When a person guarding or escorting another person detained in accordance with a law or ordinance lets the prisoner to escape, imprisonment at forced labor for not less than one year nor more than 10 years shall be imposed.

Article 102. (*Attempts*) Attempts of the crimes provided in this Chapter shall be punished.

Chapter VII. Crimes of Harboring Criminals and Suppressing Evidence

Article 103. (*Harboring a Criminal*) A person who harbors another who either has committed a crime punishable with a fine or graver

punishment or has escaped during detention, or who enables him to escape by other acts of obstructing his finding or arrest, shall be punished with imprisonment at forced labor for not more than two years or a fine of not more than 200 yen.

Article 104. (*Suppression of Evidence*) A person who suppresses, forges or alters evidence in a criminal case against another or who uses forged or altered evidence, shall be punished with imprisonment at forced labor for not more than two years or a fine of not more than 200 yen.

Article 105. (*Crimes of Relatives*) When a crime provided in this Chapter is committed for the benefit of the criminal or fugitive by a relative of the criminal or fugitive, punishment may be remitted.

Article 105–2. (*Intimidation of a Witness*) A person who, without due cause, in connection with his own or another's criminal case, forcibly demands an interview with, or intimidates by words or gestures, any person deemed to have knowledge necessary for trial or investigation of such criminal case, or any relative of such a person, shall be punished with imprisonment at forced labor for not more than one year or with a fine of not more than 200 yen.

Chapter VIII. Crimes of Riot

Article 106. (*Riot*) Persons who assemble in crowds and use violence or intimidation thereby commit the crime of riot and shall be dealt with according to the following distinctions:

(1) A ringleader shall be punished with imprisonment at or without forced labor for not less than one year nor more than 10 years;

(2) A person who directs others or takes the lead in stirring up others shall be punished with imprisonment at or without forced labor for not less than six months nor more than seven years;

(3) A person who merely follows the lead of another shall be punished with a fine of not more than 50 yen.

Article 107. (*Failure to Disperse*) When a crowd assembles for the purpose of using violence or intimidation and fails to disperse even after being ordered three or more times to disperse by a competent public officer, a ringleader shall be punished with imprisonment at or without forced labor for not more than three years and others with a fine of not more than 50 yen.

Chapter IX. Crimes of Arson and Fire Caused by Negligence

Article 108. (*Arson of Inhabited Structure*) A person who sets fire to and burns a building, railroad train, electric car, vessel or mine actually serving as a human habitation or in which persons are actually present shall be punished with death or imprisonment at forced labor for life or for not less than five years.

Article 109. (*Arson of Uninhabited Structure*) A person who sets fire to and burns a building, vessel, or mine not actually serving as a human habitation or in which persons are not actually present shall be punished with imprisonment at forced labor for a limited term of not less than two years.

2. When an object mentioned in the preceding paragraph belongs to the offender, imprisonment at forced labor for not less than six months nor more than seven years shall be imposed but if no danger to the public results, the act shall not be punished.

Article 110. (*Setting Fire to Objects other than Structures*) A person who sets fire to and burns anything not specified in the preceding two Articles and thereby endangers the public safety shall be punished with imprisonment at forced labor for not less than one year nor more than 10 years.

2. When a thing mentioned in the preceding paragraph belongs to the offender, imprisonments at forced labor for not more than one year or a fine of not more than 100 yen shall be imposed.

Article 111. (*Spread of Fire to Structures*) When, as a result of the commission of the crime provided in paragraph 2 of Article 109 or paragraph 2 of the preceding Article, a fire speads to and burns anything specified in Article 108 or paragaph 1 of Article 109, imprisonment at forced labor for not less than three months nor more than 10 years shall be imposed.

2. When, as a result of the commission of the crime provided in paragraph 2 of the preceding Article, a fire spreads to and burns anything specified in paragraph 1 of that Article, imprisonment at forced labor for nor more than three years shall be imposed.

Article 112. (*Attempts*) Attempts of the crimes provided in Article 108 and paragraph 1 of Article 109 shall be punished.

Article 113. (*Preparations*) A person who makes preparations for the purpose of committing a crime provided in Article 108 or paragraph 1 of Article 109, shall be punished with imprisonment at forced labor for not more than two years; provided that in the light of the circumstances the punishment may be remitted.

Article 114. (*Obstruction to Fire Fighting*) A person who, at the time of a fire, obstructs fire-fighting by concealing, damaging or destroying a fire-fighting equipment or in any other way shall be punished with imprisonment at forced labor for not less than one year nor more than 10 years.

Article 115. (*Offender's Property*) Even though the thing provided for in paragraph 1 of Article 109 or paragraph 1 of Article 110 belongs to the offender, he shall be dealt with as a person who burns a property belonging to another person, if the burned thing has been subjected to an attachment, encumbered, leased or insured.

Article 116. (*Negligent Burning*) A person who causes a fire through negligence and thereby burns a thing which is specified in Article 108 or a thing which is specified in Article 109 and

belongs to another shall be punished with a fine of not more than 1,000 yen.

2. The same shall apply to a person who causes a fire through negligence and thereby burns any of his own property specified in Article 109 or anything specified in Article 110 and thereby endangers the public safety.

Article 117. (*Destruction by Explosives*) A person who causes an explosion of gunpowder, a steam-bolier, or other potentially explosive object and thereby damages or destroys a thing mentioned in Article 108 or a thing mentioned in Article 109 which belongs to another shall be dealt with in the same way as in the case of committing arson. The same shall also apply to a person who damages or destroys a thing mentioned in Article 109 which belongs to him or a thing mentioned in Article 110 and thereby endangers the public safety.

2. When an act provided in the preceding paragraph is caused by negligence, it shall be dealt with in the same way as in the case of fire caused by negligence.

Article 117-2. (*Negligent Conduct of Business and Gross Negigence*) When an act mentioned in Article 116 or in paragraph 1 of the preceding Article is committed as a result of a failure to exercise necessary care in the operation of business or through gross negligence, imprisonment without forced labor for not more than three years or a fine of not more than 3,000 yen shall be imposed.

Article 118. (*Leakage of Gas, etc.*) A person who causes gas, electricity, or steam to leak or flow out or to be cut off and thereby endangers the life, person, or property of another shall be punished with imprisonment at forced labor for not more than three years or a fine of not more than 100 yen.

2. A person who causes gas, electricity, or steam to leak or flow out or to be cut off and thereby kills or injures another shall be

dealt with with the punishments prescribed for the crimes of bodily injury if they be the graver.

Chapter X. Crimes Concerning Floods and Water Utilization

Article 119. (*Damage to Structures by Inundation*) A person who causes a flood and thereby damages by inundation a building, railroad train, electric car, or mine actually serving as a human habitation or in which persons are actually present shall be punished with death or imprisonment at forced labor for life or for not less than three years.

Article 120. (*Damage to other Things by Inundation*) A person who causes a flood and damages by inundation a thing other than one mentioned in the preceding Article, and thereby endangers the public safty shall be punished with imprisonment at forced labor for not less than one year nor more than 10 years.

2. When the thing damaged by inundation belongs to the offender, the provision of the preceding paragraph shall apply only when such thing has been under attachment, encumbered, leased or insured.

Article 121. (*Obstructing Flood Control*) A person who, at the time of a flood, conceals, damages or destroys an equipment for flood control or by any other means hinders flood control shall be punished with imprisonment at forced labor for not less than one year nor more than 10 years.

Article 122. (*Damage by Inundation Caused by Negligence*) A person who through negligence causes a flood and either damages by inundation a thing mentioned in Article 119, or damages by inundation a thing mentioned in Article 120 and thereby endangers the public safety, shall be punished with a fine of not more than 300 yen.

Article 123. (*Obstructing Water Utilization*) A person who breaks a dike, destroys or damages a water-gate or commits any other

act which is likely to obstruct water utilization or to cause a flood shall be punished with imprisonment at without forced labor for not more than two years or a fine of not more than 200 yen.

Chapter XI. Crimes of Obstructing Traffic

Article 124. (*Obstructing Traffic*) A person who obstructs traffic by damaging, destroying or blocking a road, a water-way or a bridge shall be punished with imprisonment at forced labor for not more than two years or a fine of not more than 200 yen.

2. A person who commits the crime provided in the preceding paragraph, and thereby kills or injures another shall be dealt with with the punishments prescribed for the crimes of bodily injury if they be the graver.

Article 125. (*Endangering Traffic*) A person who damages or destroys a railroad or a railroad signal or sign, or who, by any other means, endangers the movement of a railroad train or an electric car, shall be punished with imprisonment at forced labor for a limited term of not less than two years.

2. The same shall apply to a person who damages or destroys a lighthouse or buoy or who by any other means endangers the movement of vessels.

Article 126. (*Overturning of Trains, etc.*) A person who overturns or destroys a railroad train or an electric car in which persons are present shall be punished with imprisonment at forced labor for life or for not less than three years.

2. The same shall apply to a person who capsizes or destroys a vessel in which persons are present.

3. A person who, by the commission of a crime provided in the preceding two paragraphs, causes the death of another shall be punished with death or with imprisonment at forced labor for life.

Article 127. (*Aggravation of Crime of Endangering Traffic because of Results*) A person who commits the crime provided in Article

125 and thereby overturns or destroys a railroad train or an electric car or capsizes or destroys a vessel shall be dealt with in the same way as provided for in the preceding Article.

Article 128. (*Attempts*) Attempts of the crimes provided in paragraph 1 of Article 124 and Article 125 and paragraph 1 and 2 of Article 126 shall be punished.

Article 129. (*Endangering Traffic through Negligence*) A person who, through negligence, endangers the movement of a railroad train, an electric car or a vessel, or who overturns, damages or destroys a railroad train or electric car or capsizes, damages or destroys a vessel shall be punished with a fine of not more than 500 yen.

2. When a person on his professional or occupational duties concerning the traffic commits the crime provided in the preceding paragraph, imprisonment without forced labor for not more than three years or a fine of not more than 1,000 yen shall be imposed.

Chapter XII. Crimes of Intrusion Upon Habitation

Article 130. (*Intrusion upon Habitation*) A person who, without good reason, intrudes upon a human habitation or upon the premises, structure or vessel guarded by another, or who refuses to leave such a place upon demand shall be punished with imprisonment at forced labor for not more than three years or a fine of not more than 50 yen.

Article 131. Deleted.

Article 132. (*Attempts*) Attempts of the crimes provided for in Article 130 shall be punished.

Chapter XIII. Crimes of Secrecy Violation

Article 133. (*Opening Sealed Correspondence*) A person who, without good reason, opens a sealed correspondence shall be punished

with imprisonment at forced labor for not more than one year or a fine of not more than 200 yen.

Article 134. (*Disclosure of Secrets*) When a doctor, pharmacist, druggist, midwife, lawyer, defence counsel, notary, or any other person formerly engaged in such profession without good reason discloses another person's secret which has come to his knowledge in the course of the conduct of his profession, imprisonment at forced labor for not more than six months or a fine of not more than 100 yen shall be imposed.

2. The same shall apply in the case where a person who is or was engaged in the religious or spiritual profession discloses without good reason another person's secret which has come to his knowledge in the course of such professional activities.

Article 135. (*Complaint*) The crimes provided in this Chapter shall be prosecuted only upon complaint.

Chapter XIV. Crimes Relating to Smoking Opium

Article 136. (*Importation, etc. of Smoking Opium*) A person who imports, manufactures, or sells smoking opium or possesses it for the purpose of sale shall be punished with imprisonment at forced labor for not less than six months nor more than seven years.

Article 137. (*Importation, etc. of Opium Smoking Implement*) A person who imports, manufactures, or sells an implement for smoking opium, or possesses it for the purpose of sale shall be punished with imprisonment at forced labor for not less than three months nor more than five years.

Article 138. (*Aggravation by Reason of Official Duty*) When a customs official imports or permits the importation of smoking opium or an implement for smoking opium, imprisonment at forced labor for not less than one year nor more than 10 years shall be imposed.

Article 139. (*Smoking and Provision of Chamber*) A person who smokes opium shall be punished with imprisonment at forced labor

for not more than three years.

2. A person who for profit provides a chamber for smoking opium shall be punished with imprisonment at forced labor for not less than six months nor more than seven years.

Article 140. (*Possession of Smoking Opium and Opium Smoking Implement*) A person possessing smoking opium or an implement for smoking opium shall be punished with imprisonment at forced labor for not more than one year.

Article 141. (*Attempts*) Attempts of the crimes provided in this Chapter shall be punished.

Chapter XV. Crimes Relating to Drinking Water

Article 142. (*Pollution of Pure Water*) A person who pollutes pure water which is intended for human drinking purposes and thereby renders such water unfit for use shall be punished with imprisonment at forced labor for not more than six months or a fine of not more than 50 yen.

Article 143. (*Pollution of Water Supply System*) A person who pollutes pure water which is supplied to the public for drinking purposes by a watermain, or who pollutes the source of such water and thereby renders such water unfit for use, shall be punished with imprisonment at forced labor for not less than six months nor more than seven years.

Article 144. (*Addition of Poisonous Material to Pure Water*) A person who adds poisonous material or any other substance injurious to human health to pure water which is intended for human drinking purposes shall be punished with imprisonment at forced labor for not more than three years.

Aticle 145. (*Aggravation by Result*) A person who commits a crime provided in the preceding three Articles and thereby kills or in-

jures another shall be dealt with with the punishments provided for the crimes of bodily injury if they be graver.

Article 146. (*Addition of Poisonous Material to Watermain*) A person who adds poisonous material or other substance injurious to human health to pure water or to its source which is intended for human drinking purposes and which is supplied to the public by a watermain, shall be punished with imprisonment at forced labor for a limited term of not less than two years. If the death of another is thereby occasioned, the offender shall be punished with death or imprisonment at forced labor for life or for not less than five years.

Article 147. (*Damage or Destruction of Watermain*) A person who damages, destroys, or obstructs a watermain supplying pure water for public drinking purposes, shall be punished with imprisonment at forced labor for not less than one year nor more than 10 years.

Chapter XVI. Crimes of Counterfeiting Currency

Article 148. (*Counterfeiting and Uttering Currency*) A person who counterfeits or alters a current coin, paper money, or bank-note for the purpose of uttering shall be punished with imprisonment at forced labor for life or for not less than three years.

2. The same shall apply to a person who utters a counterfeit or altered coin, paper money, or bank-note or who delivers or imports the same for the purpose of uttering.

Article 149. (*Counterfeiting and Uttering Foreign Currency*) A person who counterfeits or alters a foreign coin, paper money or bank-note which is current in this country for the purpose of uttering it shall be punished with imprisonment at forced labor for a limited term of not less than two years.

2. The same shall apply to a person who utters a counterfeit or altered foreign coin, paper money, or bank-note, or who delivers or imports the same for the purpose of uttering.

Article 150. (*Acquisition of Counterfeit Currency*) A person who acquires a counterfeit or altered coin, paper money, or bank-note for the purpose of uttering, shall be punished with imprisonment at forced labor for not more than three years.

Article 151. (*Attempts*) Attempts of the crimes provided in the preceding three Articles shall be punished.

Article 152. (*Uttering Counterfeit Currency Knowingly after its Acquisition*) A person who, after he has acquired a coin, paper money, or bank-note, utters or passes it to another for the purpose of uttering, knowing that the same is counterfeit or altered, shall be punished with a fine or minor fine of not more than three times the face value thereof nor less than one yen.

Article 153. (*Preparations*) A person who prepares implements or materials for the purpose of counterfeiting or altering coins, paper money, or bank-notes shall be punished with imprisonment at forced labor for not less than three months nor more than five years.

Chapter XVII. Crimes of Documentary Forgery

Article 154. (*Forgery of Imperial or State Documents*) A person who, for the purpose of uttering, forges an Imperial rescript or other document through the use of the Imperial Seal, the Great Seal of State, or the Imperial Sign Manual, or forges an Imperial rescript or other document through the use of a counterfeit Imperial Seal, Great Seal of State, or Imperial Sign Manual, shall be punished with imprisonment at forced labor for life or for not less than three years.

2. The same shall apply to every person who alters an Imperial rescript or other document bearing the Imperial Seal, the Great Seal of State or the Imperial Sign Manual.

Article 155. (*Forgery of an Official Document*) A person who, for the purpose of uttering, forges through the use of the seal or signature of a public office or public officer, a document or drawing which should be prepared by a public office or public officer, or forges, through the counterfeiting of the seal or the forgery of the signature of such public office or public officer, a document or drawing which should be prepared by a public office or a public officer, shall be punished with imprisonment at forced labor for not less than one year nor more than 10 years.

2. The same shall apply to a person who alters a document or drawing bearing the seal or signature of a public office or a public officer.

3. Except for cases provided in the preceding two paragraphs, a person who forges a document or drawing which should be prepared by a public office or a public officer or who alters a document or drawing which has been made by a public office or a public officer shall be punished with imprisonment at forced labor for not more than three years or a fine of not more than 300 yen.

Article 156. (*Drafting of False Official Document*) A public officer, prepares a false document or drawing or alters a document or drawing, for the purpose of uttering it, shall be dealt with in the same way as provided in the preceding two Articles, depending on the existence or non-existence of a seal or signature.

Article 157. (*Untrue Entry in Officially Authenticated Instrument, etc.*) A person who makes a fales statement to a public officer and thereby causes an untrue entry to be made in the original of an officially authenticated instrument which pertains to a right or duty shall be punished with imprisonment at forced labor for not more than five years, or a fine of not more than 1,000 yen.

2. A person who makes a false statement to a public officer and thereby causes an untrue entry to be made in a license, a permit or a passport, shall be punished with imprisonment at forced labor for not more than one year or a fine of not more than 300 yen.

3. Attempts of the crimes provided in the preceding two paragraphs shall be punished.

Article 158. (*Uttering of False Official Document*) A person who utters a document or drawing mentioned in the preceding four Articles shall be punished with the same penalty as a person who forges or alters such document or drawing, makes a false document or drawing, or causes an untrue entry to be made therein as the case may be.

2. An attempt of the crime provided in the preceding paragraph shall be punished.

Article 159. (*Forgery of Private Document*) A person who, for the purpose of uttering and through the use of the seal or signature of another forges a document or drawing which pertains to a right, duty, or a certification of a fact, or through the use of a counterfeit seal or a forged signature of another, forges a document or dawing relating to a right, duty or a certification of a fact, shall be punished with imprisonment at forced labor for not less than three months nor more than five years.

2. The same shall apply to a person who alters a document or drawing which bears the seal or signature of another and pertains to a right, duty, or to a certification of a fact.

3. Except for the cases provided in the preceding two paragraphs, a person who forges or alters a document or drawing which pertains to a right, duty or to a certification of a fact shall be punished with imprisonment at forced labor for not more than one year or a fine of not more than 100 yen.

Article 160. (*Drafting of False Private Document*) When a doctor makes a false entry in a medical certificate, an autopsy report or a death certificate to be submitted to a public office, imprisonment without forced labor for not more than three years or a fine of not more than 500 yen shall be imposed.

Article 161. (*Uttering Forged Private Document*) A person who utters a document or drawing mentioned in the preceding two

Articles shall be punished with the same penalty as a person who forges or alters a document or drawing or makes a false entry therein as the case may be.

2. Attempts of the crime provided in the preceding paragraph shall be punished.

Chapter XVIII. Crimes of Counterfeiting Securities

Article 162. (*Counterfeiting Securities; False Entries*) A person who, for the purpose of uttering, counterfeits or alters a public bond, a certificate of liability of a public office, a stock-certificate of a company or other valuable securities shall be punished with imprisonment at forced labor for not less than three months nor more than 10 years.

2. The same shall apply to a person who, for the purpose of uttering, makes a false entry in valuable securities.

Article 163. (*Uttering Forged Securities*) A person who utters counterfeit or altered valuable securities or valuable securities in which a false entry has been made, or who, for the purpose of uttering, delivers such securities to another or imports the same, shall be punished with imprisonment at forced labor for not less than three months nor more than 10 years.

2. Attempts of the crimes provided in the preceding paragraph shall be punished.

Chapter XIX. Crimes of Counterfeiting Seals

Article 164. (*Counterfeiting or Wrongful Use of Imperial Seal*) A person who, for the purpose of uttering, counterfeits the Imperial Seal, the Great Seal of State, or the Imperial Sign Manual, shall be punished with imprisonment at forced labor for a limited term of not less than two years.

2. The same shall apply to a person who wrongfully uses the Imperial Seal, the Great Seal of State, or the Imperial Sign Manual, or who uses a counterfeit Imperial Seal, Great Seal of State, or Imperial Sign Manual.

Article 165. (*Counterfeiting or Wrongful Use of Official Seal*) A person who for the purpose of uttering, counterfeits the seal or forges the signature of a public office or a public officer shall be punished with imprisonment at forced labor for not less than three months nor more than five years.

2. The same shall apply to a person who wrongfully uses the seal or signature of a public office or a public officer, or who uses a counterfeit seal or forged signature of a public office or a public officer.

Article 166. (*Counterfeiting or Wrongful Use of Official Mark*) A person who, for the purpose of uttering, counterfeits the mark of a public office shall be punished with imprisonment at forced labor for not more than three years.

2. The same shall apply to a person who wrongfully uses the mark of a public office or who uses a counterfeit mark of a public office.

Article 167. (*Counterfeiting or Wrongful Use of Private Seal*) A person who, for the purpose of uttering, counterfeits the seal or forges the signature of another shall be punished with imprisonment at forced labor for not more than three years.

2. The same shall apply to a person who wrongfully uses the seal or signature of another or who uses a counterfeit seal or forged signature.

Article 168. (*Attempts*) Attempts of the crimes provided in paragraph 2 of Article 164, paragraph 2 of Article 165, paragraph 2 of Article 166, and paragraph 2 of the preceding Article shall be punished.

Chapter XX. Crimes of Perjury

Article 169. (*Perjury*) When a witness who has been sworn in accordance with law, gives false testimony, imprisonment at forced labor for not less than three months nor more than 10 years shall be imposed.

Article 170. (*Confession*) When a person who has committed the crime provided in the preceding Article confesses before a decision becomes finally binding or before a disciplinary measure is taken in the case in which he testified, punishment may be reduced or remitted.

Article 171. (*Fraudulent Expert Opinion or Interpretation*) When an expert witness or interpreter who has been sworn in accordance with law gives a false expert opinion or makes a false interpretation punishment shall be imposed in the same way as provided for in the preceding two Articles.

Chapter XXI. Crimes of False Accusation

Article 172. (*False Accusation*) A person who lodges a false denunciation for the purpose of having a criminal or disciplinary sanction imposed upon another shall be punished in the same way as provided for in Article 169.

Article 173. (*Confessions*) When a person who has committed the crime provided in the preceding Article confesses before a judgement becomes finally binding or before a disciplinary measure is taken in the case in which he has lodged such a false denunciation, punishment may be reduced or remitted.

Chapter XXII. Crimes of Indecency, Rape and Bigamy

Article 174. (*Public Indecency*) A person who publicly commits an indecent act shall be punished with imprisonment at forced labor for not more than six months, or a fine of not more than 500 yen, or with penal detention or a minor fine.

Article 175. (*Distribution of Obscene Literature, etc.*) A person who distributes or sells a obscene writing, picture, or other object or who publicly displays the same, shall be punished with imprisonment at forced labor for not more than two years or a fine of not

more than 5,000 yen or a minor fine. The same shall apply to a person who possesses the same for the purpose of sale.

Article 176. (*Indecency through Compulsion*) A person who, through violence or intimidation, commits an indecent act upon a male or female person of not less than 13 years of age shall be punished with imprisonment at forced labor for not less than six months nor more than seven years. The same shall apply to a person who commits an indecent act upon a male or female person under 13 years of age.

Article 177. (*Rape*) A person who, through violence or intimidation, has sexual intercourse with a female person of not less than 13 years of age commits the crime of rape and shall be punished with imprisonment at forced labor for a limited term of not less than two years. The same shall apply to a person who has sexual intercourse with a female person under 13 years of age.

Article 178. (*Constructive Compulsory Indecency and Rape*) A person who commits an indecent act upon or has sexual intercourse with another by taking advantage of loss of consciousness or inability to resist, or by causing a loss of consciousness or inability to resist, shall be punished in the same way as provided for in the preceding two Articles.

Article 179. (*Attempts*) Attempts of the crimes provided in the preceding three Articles shall be punished.

Article 180. (*Complaint*) The crimes provided in the preceding four Articles shall be prosecuted only on complaint.

2. The provisions of the preceding paragraph shall not apply when the crimes mentioned in the preceding four Articles are committed jointly by two or more persons who are on the scene of the action.

Article 181. (*Death or Injury Resulting from Rape*) A person who commits a crime provided in Articles 176 to 179 and thereby kills

or injures another shall be punished with imprisonment at forced labor for life or for not less than three years.

Article 182. (*Inducement to Illicit Intercourse*) When a person, for the purpose of gain, induces a female person not having a promiscuous habit to engage in sexual intercourse, imprisonment at forced labor for not more than three years or a fine of not more than 500 yen shall be imposed.

Article 183. Deleted.

Article 184. (*Bigamy*) When a married person enters into another marriage, imprisonment at forced labor for not more than two years shall be imposed. The same shall apply to the other party who enters into the bigamous marriage.

Chapter XXIII. Crimes Concerning Gambling and Lotteries

Article 185. (*Gambling*) A person who gambles or bets under circumstances where property is to be won or lost by chance shall be punished with a fine of not more than 1,000 yen or a minor fine; provided that the same shall not apply to a person who bets a thing which is provided for momentary entertainment.

Article 186. (*Habitual Gambling*; *Opening a Gambling Place*) A person who gambles or bets as a habitual practice shall be punished with imprisonment at forced labor for not more than three years.

2. A person who opens a place of gambling or organizes a group of habitual gamblers for the purpose of profit, shall be punished with imprisonment at forced labor for not less than three months nor more than five years.

Article 187. (*Lotteries*) A person who puts a lottery ticket on sale shall be punished with imprisonment at forced labor for not more than two years or a fine of not more than 3,000 yen.

2. A person who acts as an intermediary in the sale of a lottery ticket shall be punished with imprisonment at forced labor for not more than one year or a fine of not more than 2,000 yen.

3. Except for the cases provided in the preceding two paragraphs, a person who delivers or receives a lottery ticket shall be punished with a fine of not more than 300 yen or a minor fine.

Chapter XXIV. Crimes Concerning Places of Worship and Graves

Article 188. (*Profaning Place of Worship; Interference with Religious Service*) A person who publicly profanes a Shinto shrine, a Buddhist temple, a cemetery or any other place of worship shall be punished with imprisonment at or without forced labor for not more than six months or a fine of not more than 50 yen.

2. A person who disturbs preaching, worship, or funeral rites shall be punished with imprisonment at or without forced labor for not more than one year or a fine of not more than 100 yen.

Article 189. (*Excavation of Grave*) A person who excavates a grave shall be punished with imprisonment at forced labor for not more than two years.

Article 190. (*Abandonment of Corpse, etc.*) A person who damages, destroys, abandons or unlawfully takes possession of a corpse, the ashes or a lock of hair of a dead person, or a thing placed in a coffin shall be punished with imprisonment at forced labor for not more than three years.

Article 191. (*Excavation of Grave and Damage of Corpse*) A person who commits the crime provided in Article 189 and damages, destroys, abandons, or unlawfully takes possession of a corpse, the ashes or a lock of hair of a dead person, or a thing placed in a coffin shall be punished with imprisonment at forced labor for not less than three months nor more than five years.

Article 192. (*Secret Burial of Person Who Died Unnatural Death*) A person who, without a post-mortem examination, inters a person having died an unnatural death shall be punished with a fine of not more than 50 yen or a minor fine.

Chapter XXV. Crimes of Official Corruption

Article 193. (*Abuse of Authority by Public Officer*) When a public officer abuses his authority and causes a person to perform an act which he has no obligation to perform, or obstructs a person from exercising a right which he is entitled to exercise, imprisonment at or without forced labor for not more than two years shall be imposed.

Article 194. (*Abuse of Authority by Special Public Officer*) When a person performing or assisting in judicial, prosecutive or police functions abuses his authority and arrests or detains another, imprisonment at or without forced labor for not less than six months nor more than 10 years shall be imposed.

Article 195. (*Violence and Cruelty by Special Public Officials*) When a person performing or assisting in judicial, prosecutive, or police functions, in the performance of his duties, commits an act of violence or cruelty upon the defendant in a criminal action or another person, imprisonment at or without forced labor for not more than seven years shall be imposed.

2. The same shall apply when a person who is guarding or escorting another person detained in accordance with law or ordinance commits an act of violence or cruelty upon him.

Article 196. (*Aggravation by Result*) A person who commits a crime provided in the preceding two Articles and thereby kills or injures another shall be dealt with with the punishments prescribed for the crimes of bodily injury if they be graver.

Article 197. (*Acceptance of Bribe; Its Advance Acceptance*) A public officer or an arbitrator who receives, demands or contracts

to receive a bribe in connection with his duties shall be punished with imprisonment at forced labor for not more than three years; and when he agrees, at the same time, to do an act in response to an entreaty, he shall be punished with imprisonment at forced labor for not more than five years.

2. When a person who is to become a public officer or an arbitrator receives, demands or promises to receive a bribe, agreeing, in response to an entreaty, to do an act relating to the duties which he is to assume, imprisonment at forced labor for not more than three years shall be imposed upon his becoming such public officer or arbitrator.

Article 197–2. (*Bribe to Third Person*) When a public officer or arbitrator, agreeing, in response to an entreaty, to do an act in connection with his duties, causes a bribe to be offered to a third person or demands or promises it to be offered to such person, imprisonment at forced labor for not more than three years shall be imposed.

Article 197–3 (*Bribery for Dishonest Act; Subsequent Bribery*) When a public officer or arbitrator commits a crime provided in the preceding two Articles and consequently does an illegal act or fails to perform his duties, imprisonment at forced labor for a limited term of not less than one year shall be imposed.

2. The same shall apply when a public officer or arbitrator receives, demands or agrees to receive a bribe or causes or demands such bribe to be offered to a third person or agrees to such offer in connection with his having performed improperly or failed properly to perform his duties.

3. When an ex-public officer or ex-arbitrator receives, demands or agrees to receive a bribe in connection with the fact that he performed improperly or failed properly to perform his duties while in office in response to an entreaty, he shall be punished with imprisonment at forced labor for not more than three years.

Article 197–4. (*Receiving Bribe for Exertion of Influence*) A public officer who receives, demands or agrees to receive a bribe in com-

pensation for the influence which he exerted or is to exert, in response to an entreaty, upon another public officer so as to cause him improperly to perform or fail properly to perform his duties, shall be punished with imprisonment at forced labor for not more than three years.

Article 197–5. (*Confiscation of Bribe and Collection of Monetary Equivalent*) A bribe received by an offender or by a third person having knowledge of its character shall be confiscated. If a confiscation of the whole or a portion of the bribe is impossible, its monetary equivalent shall be collected.

Article 198. (*Giving a Bribe*) A person who gives, offers or promises to give a bribe provided in Articles 197 to 197–3 shall be punished with imprisonment at forced labor for not more than three years or a fine of not more than 5,000 yen.

2. A person who gives, offers or promises to give a bribe provided in Article 197–4 shall be punished with imprisonment at forced labor for not more than two years or with a fine of not more than 3,000 yen.

Chapter XXVI. Crimes of Homicide

Article 199. (*Homicide*) A person who kills another shall be punished with death or imprisonment at forced labor for life or for not less than three years.

Article 200. (*Killing an Ascendant*) A person who kills his or her own or his or her spouse's lineal ascendant shall be punished with death or imprisonment at forced labor for life.

Article 201. (*Preparation*) A person who makes preparations for the purpose of committing a crime provided in the preceding two Articles shall be punished with imprisonment at forced labor for not more than two years; provided that punishment may be remitted in the light of the circumstances.

Article 202. (*Participation in Suicide*) A person who through his instigation or assistance causes another to commit suicide or kills another at his request or with his consent shall be punished with imprisonment at or without forced labor for not less than six months nor more than seven years.

Article 203. (*Attempts*) Attempts of the crimes provided in Article 199, Article 200 and the preceding Article shall be punished.

Chapter XXVII. Crimes of Bodily Injury

Article 204. (*Bodily Injury*) A person who inflicts a bodily injury upon another shall be punished with imprisonment at forced labor for not more than 10 years or a fine of not more than 500 yen or a minor fine.

Article 205. (*Causing Death Through Bodily Injury*) A person who inflicts a bodily injury upon another and thereby causes his death shall be punished with imprisonment at forced labor for a limited term of not less than two years.

2. When the crime referred to in the preceding paragraph is committed against a lineal ascendant of the offender or of his or her spouse, imprisonment at forced labor for life or for not less than three years shall be imposed.

Article 206. (*Encouraging Bodily Injury*) A person who at the scene of a crime referred to in the preceding two Articles encourages the offender in the commission of the crime shall, even though he himself does not inflict a bodily injury on anyone, be punished with imprisonment at forced labor for not more than one year or a fine of not more than 50 yen or a minor fine.

Article 207. (*Bodily Injury Inflicted by Several Persons*) When two or more persons use violence and thereby injure another, and it is impossible to determine the relative gravity of their acts in relation to the injury or if it is impossible to know which person

has caused the injury, they shall be deat with as co-principals, even though they do not act jointly.

Article 208. (*Violence*) When a person uses violence against another without injuring him, imprisonment at forced labor for not more than two years or a fine of not more than 500 yen, penal detention or a minor fine shall be imposed upon him.

Article 208–2. (*Unlawful Assembly with Dangerous Weapons*) When two or more persons assemble for the purpose of jointly killing, or inflicting bodily injury upon, another person, or damaging his property, any member of this assembly who has prepared dangerous weapons or knows that dangerous weapons have been prepared, shall be punished with imprisonment at forced labor for not more than two years or with a fine of not more than 500 yen.

2. In the case of the preceding paragraph, a person who, having prepared dangerous weapons or knowing that dangerous weapons have been prepared, causes any other persons to assemble, shall be punished with imprisonment at forced labor for not more than three years.

Chapter XXVIII. Crimes of Bodily Injury through Negligence

Article 209. (*Bodily Injury through Negligence*) A person who inflicts a bodily injury upon another through negligence shall be punished with a fine of not more than 500 yen or a minor fine.

2. The crime provided in the preceding paragraph shall be prosecuted only upon complaint.

Article 210. (*Death through Negligence*) A person who causes the death of another through negligence shall be punished with a fine of not more than 1,000 yen.

Article 211. (*Death or Bodily Injury through Negligence in the Conduct of Occupation*) A person who fails to use such care

as is required in the conduct of his profession or occupation and thereby kills or injures another shall be punished with imprisonment at or without forced labor for not more than five years or a fine of not more than 1,000 yen. The same shall apply to a person who by gross negligence kills or injures another.

Chapter XXIX. Crimes of Abortion

Article 212. (*Abortion*) When a pregnant woman causes her own miscarriage by the use of drugs or any other means, imprisonment at forced labor for not more than one year shall be imposed.

Article 213. (*Abortion with Consent*) A person who, at the request of a woman or with her consent, causes her miscarriage, shall be punished with imprisonment at forced labor for not more than two years. If the death or injury of the woman is thereby occasioned, he shall be punished with imprisonment at forced labor for not less than three months nor more than five years.

Article 214. (*Abortion through Professional Conduct*) When a doctor, midwife, pharmacist, or druggist who, at the request of a woman or with her consent, effects her miscarriage, imprisonment at forced labor for not less than three months nor more than five years shall be imposed, and if the woman is thereby killed or injured, imprisonment at forced labor for not less than six months nor more than seven years shall be imposed.

Article 215. (*Abortion without Consent*) A person who, not on the request of a woman or without her consent, causes her miscarriage shall be punished with imprisonment at forced labor for not less than six months nor more than seven years.

2. An attempt of the crime provided for in the preceding paragraph shall be punished.

Article 216. (*Death or Injury through Abortion without Consent*) A person who commits the crime provided for in the preceding

Article and thereby kills or injures a woman shall be dealt with with the punishments provided for for the crimes of bodily injury if they be graver.

Chapter XXX. Crimes of Abandonment

Article 217. (*Abandonment*) A person who abandons another who is in need of help by reason of senility, immaturity, deformity, or illness shall be punished with imprisonment at forced labor for not more than one year.

Article 218. (*Aggravated Abandonment*) When a person abandons an aged person, child, or deformed or sick person for whose protection he is responsible or when he fails to give such person the protection necessary for his existence, imprisonment at forced labor for not less than three months nor more than five years shall be imposed.

2. When the crime is committed against one of the offender's or his or her spouse's lineal ascendants, imprisonment at forced labor for not less than six months nor more than seven years shall be imposed.

Article 219. (*Death through Abandonment*) A person who commits a crime provided in the preceding two Articles and thereby kills or injures another shall be dealt with with the punishments provided for for the crimes of bodily injury if they be graver.

Chapter XXXI. Crimes of Arrest or Confinement

Article 220. (*Arrest and Imprisonment*) A person who unlawfully arrests or confines another shall be punished with imprisonment at forced labor for not less than three months nor more than five years.

2. When the crime is committed against one of the offender's or his or her spouse's lineal ascendants, imprisonments at forced labor for not less than six months nor more than seven years shall be imposed.

Article 221. (*Death or Bodily Injury Resulting from Unlawful Arrest or False Imprisonment*) A person who commits a crime provided in the preceding Article and thereby kills or injures another person shall be dealt with with the punishments provided for for the crimes of bodily injury if they be graver.

Chapter XXXII. Crimes of Intimidation

Article 222. (*Intimidation*) A person who intimidates another through the threat to his life, person, liberty, reputations, or property, shall be punished with imprisonment at forced labor for not more than two years or a fine of not more than 500 yen.

2. The same shall apply to a person who intimidates another through the threat to his relative's life, person, liberty, reputation or property.

Article 223. (*Compulsion*) A person who by intimidating another through the threat to his life, person, liberty, reputation, or property or by the use of violence causes such person to perform an act which he is not bound to perform or hinders him in the exercising of a right to which he is entitled, shall be punished with imprisonment at forced labor for not more than three years.

2. The same shall apply to a person who, by intimidating another person through the threat to the life, person, liberty, reputation, or property of a relative of such person, causes such person to perform an act which he is not bound to perform or hinders him in the exercising of a right to which he is entitled.

3. Attempts of the crimes provided in the preceding two paragraphs shall be punished.

Chapter XXXIII. Crimes of Kidnapping by Force or Enticement

Article 224. (*Kidnapping or abduction*) A person who kidnaps a minor by force, threat, fraud or enticement shall be punished with imprisonment at forced labor for not less than three months nor more than five years.

Article 225. (*Kidnapping or Abduction for Profit*) A person who kidnaps another by force, threat, fraud or enticement for the purpose of profit, immorality, or marriage shall be punished with imprisonment at forced labor for not less than one year nor more than 10 years.

Article 225-2. (*Kidnapping or Abduction for Ransom*) A person who kidnaps or abducts another for the purpose of making his or her near relative or any other person who is concerned about the safety of the kidnapped or abducted person surrender any property, trading on his concern shall be punished with imprisonment at forced labor for life or for not less than three years.

2. The same shall apply in cases where a person who has kidnapped or abducted another makes his or her near relative or any other person who is concerned about the safety of the kidnapped or abducted person surrender any property, or demands it, trading on his concern.

Article 226. (*Kidnapping or Abduction for Transportation to Foreign Country; Traffic in Persons*) A person who kidnaps another by force, threat, fraud or enticement for the purpose of transporting the same person out of Japan shall be punished with imprisonment at forced labor for limited term of not less than two years.

2. The same shall apply to a person who buys or sells another for the purpose of transporting the same person out of Japan, and to a person who transports out of Japan another who has been kidnapped or sold.

Article 227. (*Assistance in Kidnapping or Abduction; Receiving Kidnapped or Abducted Person*) A person who, for the purpose of assisting another who has committed a crime provided for in Article 224, 225 or the preceding Article, receives, confines, or conceals a person who has been kidnapped, abducted or sold, shall be punished with imprisonment at forced labor for not less than three months nor more than five years.

2. A person who, for the purpose of assisting another who has

committed a crime provided for in paragraph 1 of Article 225–2, receives, confines or conceals a person who has been kidnapped or abducted shall be punished with imprisonment at forced labor for not less than one year nor more than ten years.

3. A person who for profit or for an immoral purpose receives a person who has been kidnapped, abducted or sold shall be punished with imprisonment at forced labor for not less than six months nor more than seven years.

4. A person who, for the purpose specified in paragraph 1 of Article 225–2, receives a person who has been kidnapped or abducted shall be punished with imprisonment at forced labor for a limited term of not less than 2 years. The same shall apply in cases where a person who has received a person who has been kidnapped or abducted makes his or her near relative or any other person who is concerned about the safety of the kidnapped or abducted person surrender any property or demands it, trading on his concern.

Article 228. (*Attempts*) Attempts to commit the crimes provided for in Articles 224, 225, paragraph 1 of Article 225–2, Article 226 and paragraphs 1 to 3 and former part of paragraph 4 of the preceding Article shall be punished.

Article 228–2. (*Reduction of Punishment in Case of Release of a Kidnapped or abducted person*) In case a person who has committed the crime provided for in Article 225–2 or paragraph 2 or 4 of Article 227 releases the kidnapped or abducted person to a safe place before the institution of public action, punishment shall be reduced.

Article 228–3. (*Preparation for Kidnapping or Abduction for Ransom; Surrender*) A person who, for the purpose of committing the crime provided for in paragraph 1 of Article 225–2, makes preparations shall be punished with imprisonment at forced labor for not more than two years; provided that in case he surrenders

himself before he commences the commission of the crime, the punishment shall be reduced or remitted.

Article 229. (*Complaint*) The crimes provided for in Article 224 and 225, the crimes provided for in paragraph 1 of Article 227 which are committed for the purpose of assisting in the commission of any of the above crimes, the crime provided for in paragraph 3 of Article 227 and the attempts of these crimes shall be prosecuted only upon complaint unless committed for gain; provided that when the person who has been kidnapped, abducted or sold has married the offender, complaint shall have no effect unless there is a finally binding decision of the court declaring the marriage void or annulling it.

Chapter XXXIV. Crimes Against Reputation

Article 230. (*Defamation*) A person who defames another by publicly alleging facts shall, regardless of whether such facts are true or false, be punished with imprisonment at or without forced labor for not more than three years or a fine of not more than 1,000 yen.

2. A person who defames a dead person shall not be punished unless such defamation is based on a falsehood.

Article 230-2. (*Proof of Fact*) When the act provided for in paragraph 1 of the preceding Article is found to relate to matters of public interest and to have been done solely for the benefit of the public and, upon inquiry into the truth or falsity of the alleged facts, the truth is proved, punishments shall not be imposed.

2. For the purpose of the provision of the preceding paragraph, matters concerning the criminal act of a person for which a prosecution has not yet been instituted shall be deemed to be matters of public interest.

3. When the act provided for in paragraph 1 of the preceding Article is done with regard to matters concerning a public official

or a candidate for elective public office, and, upon inquiry into the truth or falsity of the alleged facts, the truth is proved, punishment shall not be imposed.

Article 231. (*Insult*) A person who publicly insults another person shall be punished with penal detention or a minor fine even if he commits such act without alleging facts.

Article 232. (*Complaint*) The crimes provided for in this Chapter shall be prosecuted only upon complaint.

2. When the person who may make a complaint is the Emperor, Empress, Grand Empress Dowager, Empress Dowager or the Imperial Heir, the Prime Minister shall make it in his or her behalf, and when such person is a sovereign or president of a foreign country, a representative of the country concerned shall make it on his or her behalf.

Chapter XXXV. Crimes against Credit and Business

Article 233. (*Damage to Credit; Obstruction of Business*) A person who injures the credit of another or obstructs his business by spreading false rumor or by the use of fraudulent means shall be punished with imprisonment at forced labor for not more than three years or a fine of not more than 1,000 yen.

Article 234 (*Forcible Obstruction of Business*) A person who obstructs the business of another by force shall be dealt with in the same way as provided in the preceding Article.

Chapter XXXVI. Crimes of Larceny and Robbery

Article 235. (*Larceny*) A person who steals the property of another commits the crime of larceny and shall be punished with imprisonment at forced labor for more than 10 years.

Article 235-2. (*Wrongfully Taking Possession of Immovable Property*) A person who wrongfully takes possession of immovable propetry of another shall be punished with imprisonment at forced labor for not more than 10 years.

Article 236. (*Robbery*) A person who deprives another of the property through violence or intimidation thereby commits the crime of robbery and shall be punished with imprisonment at forced labor for a limited term of not less than five years.

2. The same shall apply to a person who obtains or causes another to obtain an illegal economic advantage by the methods provided in the preceding paragraph.

Article 237. (*Preparations for Robbery*) A person who, for the purpose of committing robbery, makes preparation therefor, shall be punished with imprisonment at forced labor for not more than two years.

Article 238. (*Constructive Robbery*) When a thief uses violence or intimidation in order to prevent the recovery of stolen property, to escape arrest, or to obliterate the traces, he shall be dealt with as a robber.

Article 239. (*Robbery through Causing Unconsciousness*) A person who steals another's property by causing him to lose consciousness shall be dealt with as a robber.

Article 240. (*Death or Wounding through Robbery*) When a robber injures a person, imprisonment at forced labor for life or for not less than seven years shall be imposed, and when death is occasioned, death or imprisonment at forced labor for life shall be imposed.

Article 241. (*Rape in the Course of Robbery; Death Resulting therefrom*) When a robber rapes a woman, imprisonment at forced labor for life or not less than seven years shall be imposed, and

when her death is occasioned thereby, death or imprisonment at forced labor for life shall be imposed.

Article 242. (*One's own Property*) In regard to the crimes of this Chapter, even one's own property shall be deemed to be that of another person when it is in the possession of such other person or it is guarded by such other person in compliance with an order issued by a public office.

Article 243. (*Attempts*) Attempts of the crimes provided in Articles 235 to 236 and 238 to 241 shall be punished.

Article 244. (*Larceny committed against Relatives*) A person who commits the crime provided for in Article 235 or Article 235–2 or an attempt thereof against his lineal blood relative, spouse, or relative living in the same household shall be exempted from punishment, and when he commits such crime against a relative other than the above, prosecution shall take place only upon complaint.

2. The provisions of the preceding paragraph shall not apply to accomplices who are not relatives.

Article 245. (*Electricity*) For the purpose of the provisions for the crimes in this Chapter, electricity shall be deemed to be property.

Chapter XXXVII. Crimes of Fraud and Extortion

Article 246. (*Fraud*) A person who defrauds another of property shall be punished with imprisonment at forced labor for not more than 10 years.

2. The same shall apply to a person who has illegally obtained or causes another to obtain illegally an economic advantage by the methods provided in the preceding paragraph.

Article 247. (*Breach of Trust*) When a person who administers the affairs of another performs, for the purpose of promoting his own

interest or that of a third person or inflicting damage on such other person commits an act in violation of his duties and causes damage to any property of such person, imprisonment at forced labor for not more than five years or a fine of not more than 1,000 yen shall be imposed.

Article 248. (*Constructive Fraud*) A person who, by taking advantage of the lack of knowledge or experience of a minor or the weak-mindedness of another, obtains a surrender of such a person's property or illegally obtains or causes a third person to obtain illegally any economic benefit shall be punished with imprisonment at forced labor for not more than 10 years.

Article 249. (*Extortion*) A person who, by intimidation, causes another to surrender property shall be punished with imprisonment at forced labor for not more than 10 years.

2. The same shall apply to a person who by the methods specified in the preceding paragraph illegally obtains or causes a third person to obtain any economic benefit.

Article 250. (*Attempts*) Attempts of the crimes provided in this Chapter shall be punished.

Article 251. (*Provisions Applicable Mutatis Mutandis*) The provisions of Articles 242, 244 and 245 shall apply mutatis mutandis to the crimes provided in this Chapter.

Chapter XXXVIII. Crimes of Embezzlement

Article 252. (*Embezzlement*) A person who wrongfully appropriates a thing in his custody which belongs to another, shall be punished with imprisonment at forced labor for not more than five years.

2. The same shall apply to a person who wrongfully appropriates even a thing which belongs to himself when he has been ordered by a public office to hold the thing in custody.

Article 253. (*Embezzlement in the Conduct of Business*) A person who wrongfully appropriates another's property which has come into his possession in the course of his business shall be punished with imprisonment at forced labor for not more than 10 years.

Article 254. (*Conversion of Lost Articles*) A person who converts a lost property of another or drifting or any other property which belongs to another person and is in no one's custody, shall be punished with imprisonment at forced labor for not more than one year or a fine of not more than 100 yen or a minor fine.

Article 255. (*Provisions Applicable Mutatis Mutandis*) The provisions of Article 244 shall apply mutatis mutandis to the crimes provided in this Chapter.

Chapter XXXIX. Crimes Concerning Property Obtained through Crime

Article 256. (*Acceptance, Purchase, Etc. of Ill-gotten Goods*) A person who receives a pproperty obtained through a crime against property shall be punished with imprisonment at forced labor for not more than three years.

2. A person who transports, receives for deposit, purchases or acts as broker for, a property obtained through crime against property shall be punished with imprisonment at forced labor for not more than 10 years and a fine of not more than 1,000 yen.

Article 257. (*Crime between Relatives*) A person who commits the crime provided in the preceding Article shall receive a remission of punishment if the crime is perpetrated between lineal blood relatives, between spouses, or between relatives living together and their spouses.

2. The provisions of the preceding paragraph shall not apply to accomplices who are not relatives.

Chapter XL. Crimes of Destruction and Concealment

Article 258. (*Destruction of Public Documents*) A person who destroys or mutilates a document in use by a public office shall be punished with imprisonment at forced labor for not less than three months nor more than seven years.

Article 259. (*Destruction of Private Documents*) A person who destroys or mutilates a document of another which relates to a right or duty shall be punished with imprisonment at forced labor for not more than five years.

Article 260. (*Damage or Destruction of Structure*) A person who damages or destroys a structure or vessel belonging to another shall be punished with imprisonment at forced labor for not more than five years, and if the death or injury of another is occasioned thereby, he shall be dealt with with the punishments provided for the crimes of bodily injury if they be graver.

Article 261. (*Destruction of Things in General*) A person who destroys, damages, or injures a thing not specified in the preceding three Articles shall be punished with imprisonment at forced labor for not more than three years or a fine of not more than 500 yen or a minor fine.

Article 262. (*One's own Object*) Even when a person destroys, damages, or injures a thing belonging to him, he shall be dealt with in the same way as provided in the preceding three Articles, if the thing is under attachment or encumbered or leased.

Article 262–2. (*Destruction of boundary*) A person who destroys, moves or removes a boundary mark or otherwise makes a boundary indiscernible shall be punished with imprisonment at forced labor for not more than five years or a fine of not more than 1,000 yen.

Article 263. (*Concealment of Letter*) A person who conceals a letter of another shall be punished with imprisonment at or without forced labor for not more than six months or a fine of not more than 50 yen or a minor fine.

Article 264. (*Complaint*) The crimes provided in Article 259, Article 261, and in the preceding Article shall be prosecuted only upon complaint.

THE CODE OF CRIMINAL PROCEDURE

(Law No. 131 of 1948 as amended by Law No. 260 of 1948, Law No. 116 of 1949, Law Nos. 240 and 268 of 1952, Law Nos. 172 and 195 of 1953, Law Nos. 57 and 163 of 1954, Law No. 108 of 1958 and Law No. 42 of 1971)

BOOK I. GENERAL PROVISIONS

Article 1. The purpose of this law is, regarding criminal cases, to clarify the true facts of cases and to apply and realize criminal laws or ordinances fairly and speedily, while thoroughly accomplishing the maintenance of public welfare and security of fundamental human rights of individuals.

Chapter I. Jurisdiction of Courts

Article 2. The territorial jurisdiction of courts shall be determined by the place of offense, or the place of domicile or residence of the accused or by the place where the accused is at present.

2. In respect to an offense committed on board a Japanese vessel while outside Japanese territory, the question shall, in addition to the places mentioned in the preceding paragraph, be determined also by the place of home port of such vessel, or the place where the vessel has lain at anchor subsequent to the committal of the offense.

3. In respect to an offense committed on a Japanese aircraft while outside Japanese territory, the question shall, in addition to the places mentioned in Paragraph 1, be determined also by the place where the aircraft has made a landing (inclusive of an alighting on the water) subsequent to the committal of the offense.

Article 3. When several cases falling under the subject matter jurisdiction of different courts are connected with each other, a higher court may exercise jurisdiction over all of them conjointly.

2. When the cases under the special jurisdiction of a High Court and other cases are connected with each other, the High Court may exercise jurisdiction over all of them conjointly.

Article 4. When several connected cases falling under the subject matter jurisdiction of different courts are pending in a higher court and one or more such cases need not be adjudicated conjointly with the rest, the higher court may, by means of a ruling, transfer the same to a lower court having jurisdiction over it.

Article 5. When several connected cases are severally pending in a higher court and a lower court, the higher court may, notwithstanding subject matter jurisdiction, by means of a ruling, adjudicate conjointly also upon the case falling under the jurisdiction of the lower court.

2. When the cases under the special jurisdiction of a High Court are pending in a High Court, and other cases connected with the above mentioned cases are pending in an inferior court, the High Court may, by means of a ruling, adjudicate conjointly also upon the cases falling under the jurisdiction of the inferior court.

Article 6. When several cases falling under the territorial jurisdiction of different courts are connected with each other, a court which has jurisdiction over one of them may exercise jurisdiction over the others conjointly. However, the court may not exercise jurisdiction over the cases which fall under the jurisdiction of a specific court in accordance with the provisions of other laws.

Article 7. When several connected cases falling under the territorial jurisdiction of different courts are pending in one court and one or more of such cases need not be adjudicated conjointly with the rest, it may, by means of a ruling, transfer the same to another court having jurisdiction over it.

Article 8. When several cases which are mutually connected are pending severally in different courts which are identical in respect to

material jurisdiction, each court may, on motion of a public prosecutor or the accused, decide, by means of a ruling, that they shall be combined in one court.

2. If, in the case of the preceding paragraph, the rulings of several courts do not agree, the next immediately higher court having jurisdiction over all such courts may, upon request of a public prosecutor or the accused, decide, by means of a ruling, that the cases be combined in one court.

Article 9. Two or more cases are connected:

(1) Where several offenses have been committed by one person;

(2) Where several persons have conjointly committed an identical offense or several separate offenses;

(3) Where each of several persons acting in collusion, has committed a separate offence.

2. The offense of harbouring criminals, suppressing evidence, perjury, false expert evidence or interpretation and the offense concerning stolen property on the one hand, and the offense of the principal offender on the other, shall be deemed to have been committed conjointly.

Article 10. When one and the same case is pending in several courts differing in respect to their subject matter jurisdiction, it shall be adjudicated upon by a higher court.

2. The higher court may, on motion of a public prosecutor or the accused, require, by means of a ruling, the lower court having jurisdiction over the case to adjudicate upon it.

Article 11. When one and the same case is pending in several courts which are identical in respect to subject matter jurisdiction, it shall be adjudicated upon by the court in which the prosecution was instituted first.

2. The next immediately higher court having jurisdiction over all such courts may, on motion of a public prosecutor or the accused,

require, by means of a ruling, the case to be adjudicated upon by another court in which the prosecution was instituted later.

Article 12. When it is necessary for the purpose of discovering facts, a court may exercise its functions even outside the district under its jurisdiction.

2. The provision of the preceding paragraph shall apply mutatis mutandis to commissioned judges.

Article 13. Proceedings in an action shall not lose their effect by reason of the courts lacking jurisdiction over it.

Article 14. In case of urgency, a court may, even when it has no jurisdiction, adopt such measures as may be necessary for discovering facts.

2. The provision of the preceding paragraph shall apply mutatis mutandis to commissioned judges.

Article 15. In the following cases a public prosecutor shall move the next immediately higher court having jurisdiction over all the courts of first instance concerned to designate the court which shall have jurisdiction:

(1) When the competent court can not be determined by reason of the district boundaries of the court not being clearly defined;

(2) When there is no other court having jurisdiction over a case in respect to which a decision declaring a certain court to have no jurisdiction has become final.

Article 16. When there is no court having jurisdiction by law, or when it is impossible to ascertain such court, the Prosecutor-General shall move the Supreme Court to designate the court which shall have jurisdiction.

Article 17. In the following cases, a public prosecutor shall move the next immediately higher court to effect a change of jurisdiction:

(1) When for a legal reason, or owing to special circumstances, the competent court is unable to exercise judicial power;

(2) When, owing to the popular sentiment of the district, the circumstances of the proceedings, or other circumstances, there is fear that impartiality of trial cannot be maintained.

2. In the case contemplated in each item of the preceding paragraph, the accused also may move for a change of jurisdiction.

Article 18. When, owing to the nature of the offense, the popular sentiment of the district or any other circumstances, there is apprehension that the public peace would be disturbed, if the case were to be tried by the court having jurisdiction over it, the Prosecutor-General shall move the Supreme Court to transfer the case to another court.

Article 19. When it deems proper, a court, either upon request of the accused or public prosecutor or ex-officio, may, by means of a ruling, transfer a case to another competent court having concurrent subject matter jurisdiction.

2. The ruling of transfer shall not be made after the taking of evidence regarding the case has been commenced.

3. Only in cases of rights being seriously impaired as a result of the ruling transferring or refusing to transfer a case, an immediate *Kokoku* appeal may be taken by offering presumptive proof of such grounds.

Chapter II. Exclusion and Challenge of Court Officials

Article 20. In the following cases a judge is excluded from the exercise of his functions:

(1) If he himself is the injured party;

(2) If he is or was a relative to the accused or the injured party;

(3) If he is the legal representative, supervisor of the guardian or curator of the accused or the injured party;

(4) If he has acted as witness or an expert witness in the case;

(5) If he has acted as the representative, counsel or assistant of the accused in the case;

(6) If he has exercised the functions of a public prosecutor or a judicial police officer in the case;

(7) If he has participated in the ruling mentioned in Article 266, Item (2), in a summary order, in the decision by the court below, in the original judgment of the case which has been sent back or transferred in accordance with the provisions of Articles 398 to 400, 412 or 413, or in the investigations which form the basis of such decisions. However, this shall not apply if he participated as a requisitioned judge.

Article 21. In case a judge is to be excluded from the exercise of his functions, or there is apprehension that he may give a partial judgment, he may be challenged by a public prosecutor or the accused.

2. Defense counsel may make a motion for challenge for the benefit of the accused, but not against the cleary expressed intention of the latter.

Article 22. After a demand or a statement has been made in the case, no judge shall any longer be challenged on the ground of there being apprehension that he might give a partial judgment. However, this shall not apply if the party was unaware of the existence of a ground for challenge, or if such ground came into existence subsequently.

Article 23. When a judge who is a member of a collegiate court has been challenged, the court to which such judge belongs shall render a ruling thereon. If the court in such case is a District Court, the ruling shall be rendered by a collegiate court.

2. When a sole judge of a District Court or a judge of a Family Court has been challenged, the ruling must be rendered by a collegiate court of the court to which such judge belongs, and when a judge of a Summary Court has been challenged, by a collegiate

court of the competent District Court. However, if the judge who has been challenged finds the motion for challenge to be well founded, the ruling shall be deemed to have been made.

3. The judge who has been challenged shall take no part in the ruling mentioned in the preceding two paragraphs.

4. When the court is unable to render such a ruling in consequence of the withdrawal of the judge challenged, the ruling shall be rendered by the next immediately higher court.

Article 24. A motior for challenge which has clearly been made merely for the purpose of delaying the proceedings shall be dismissed by means of a ruling. In such case, the provision of Paragraph 3 of the preceding Article shall not apply. The same shall apply also when a motion for challenge made in contravention of the provision of Article 22 or the procedure fixed by the Rules of Court is to be dismissed.

2. In the cases of the preceding paragraph, a commissioned judge, a sole judge of a District Court, or a judge of a Family Court or of a Summary Court, who has been challenged, may render a decision dismissing the motion for challenge.

Article 25. Against a ruling by which a motion for challenge is dismissed, an immediate *Kokoku* appeal may be filed.

Article 26. With the exception of the provision of Article 20, Item (7), the provisions of this Chapter shall apply mutatis mutandis to court clerks.

2. The ruling shall be rendered by the Court to which the court clerk belongs. However, the decision to dismiss the motion for challenge in the case mentioned in Article 24, Paragraph 1, may be rendered by the commissioned judge to whom the court clerk is attached.

Chapter III. Litigation Capacity

Article 27. When the accused or the suspect is a juridical person, it shall be represented by its authorized representative in regard to acts of procedure.

2. Even when a juridical person is represented by two or more persons conjointly, it shall be represented by each of them severally in respect to acts of procedure.

Article 28. If, where the cases involves an offense to which the provisions of Articles 39 to 41 of the Penal Code do not apply, the accused or the suspect is devoid of mental capacity, he shall be represented by his legal representative (when there exist two persons who exercise parental power, each of them. The same shall apply hereinafter) in regard to acts of procedure.

Article 29. When there is no person to represent the accused in accordance with the provisions of the preceding two Articles, a special representative shall be appointed by the court upon request of a public prosecutor or ex-officio.

2. The same shall apply when there is no person to represent the suspect in accordance with the provisions of the preceding two Articles and such request is made by a public prosecutor, a judicial police officer, or a person interested.

3. The special representative shall exercise his functions as such until there is another person to do acts of procedure as the representative of the accused or the suspect.

Chapter IV. Defense by Counsel and Assistance by Relatives

Article 30. The accused or the suspect may select defense counsel at any time.

2. The legal representative, curator, spouse, lineal relatives, brother or sister of the accused or the suspect may independently select defense counsel for the accused or the suspect.

Article 31. Defense counsel shall be selected from among practicing attorneys.

2. In the Summary Court, Family Court or District Court, defense counsel may be selected from among persons who are not practicing attorneys, with the permission of the court. However, this

shall apply, in the District Court, only in cases where there is another defense counsel selected from among practicing attorneys.

Article 32. Selection of defense counsel effected prior to the institution of prosecution shall have its effect also in the first instance.

2. Selection of defense counsel after the institution of prosecution shall be effected for each instance of trial.

Article 33. In case there are several counsels for the accused, the chief defense counsel must be appointed as prescribed by the Rules of Court.

Article 34. The powers and functions of the chief defense counsel as mentioned in the preceding Article shall be provided by the Rules of Court.

Article 35. The court may restrict the number of defense counsel of the accused or the suspect as prescribed by the Rules of Court. However, as regards the defense counsel of the accused, this shall apply only where there are special circumstances.

Article 36. Where the accused is unable to select his defense counsel for poverty or some other reasons, the court shall assign defense counsel on behalf of the accused upon his request. However, this shall not apply where defense counsel has been selected for him by some person other than the accused.

Article 37. If the accused is not represented by defense counsel, the court may, ex-officio, assign a defense counsel to him in the following cases:

(1) Where the accused is a minor;

(2) Where the accused is not less than 70 years of age;

(3) Where the accused is deaf or mute;

(4) Where the accused is suspected to be insane or weak-minded;

(5) Where it is deemed necessary for any other reasons.

Article 38. The defense counsel to be assigned by a court or a presiding judge in accordance with the provisions of this law shall be appointed from among practicing attorneys.

2. The defense counsel appointed in accordance with the provision of the preceding paragraph shall be entitled to demand travelling expenses, daily allowances, lodging charges and fees.

Article 39. The accused or the suspect placed under physical restraint in any way may, without having any official watchman present, have an interview with his defense counsel or any other person who is going to be his defense counsel upon request of the person who is entitled to select defense counsel (in case a person other than a practicing attorney is going to be selected as a defense counsel, this shall apply only after the permission prescribed in Paragraph 2, Article 31 has been obtained), and may deliver or receive any documents or any other things.

2. With regard to the interview and delivery or receipt of things mentioned in the preceding paragraph, such measures may be provided by law or ordonance (including the Rules of Court. The same shall apply hereinafter) as are necessary for preventing the escape of the accused or the suspect, the destruction or alteration of evidence, or the delivery or receipt of those things which may hinder the safe custody of the accused or the suspect.

3. The public prosecutor, public prosecutor's assistant officer and judicial police official (this includes both judicial police officer and constable. The same shall apply hereinafter) may, when it is necessary for investigation, designate the date, place and time of interview and delivery or receipt of things mentioned in Paragraph 1 only prior to the institution of prosecution, provided that such designation does not unreasonably hold the suspect in check when he exercises his rights for the defense.

Article 40. Subsequent to the institution of prosecution, defense counsel may, in a court, inspect or copy documents and articles of evidence relating to the case. However, he must obtain the permission of the presiding judge in order to copy any article of evidence.

Article 41. Defense counsel may undertake the acts of procedure in his name, only when it is especially provided in this law.

Article 42. The legal representative, curator, spouse, lineal relatives brother or sister of the accused may at any time be an assistant (Hosanin).

2. Any person who desires to act as an assistant to the accused shall notify the court to that effect for each instance of trial.
3. An assistant may do such acts of procedure as the accused is entitled to do, in so far as the acts are not against the clearly expressed intention of the accused. However, this shall not apply if otherwise provided in this law.

Chapter V. Decision

Article 43. Except as otherwise provided in this law, a judgment (*han-ketsu*) shall be rendered on the basis of oral proceedings.

2. A ruling (*Kettei*) or an order (*Meirei*) shall not necessarily be based upon oral proceedings.
3. In making a ruling or an order, the court may, whenever necessary, make examination of facts.
4. The examination mentioned in the preceding paragraph may be assigned to a member of a collegiate court concerned, or a judge of a District Court, Family Court or Summary Court may be requisitioned to undertake it.

Article 44. A decision shall be accompanied by the reason therefor.

2. In the case of a ruling or an order against which no appeal is allowed, reasons therefor may be dispensed with. However, this shall not apply to the ruling against which objection may be raised in accordance with Article 428, Paragraph 2.

Article 45. Decision other than judgment may be rendered by an assistant judge alone.

Article 46. The accused or any other person concerned in the case may, at his own cost, demand the delivery of a copy of or extracts

from the document of decision or the protocol in which the decision is entered.

Chapter VI. Documents and Service

Article 47. No document relating to a case shall be made public prior to the opening of public trial. However, this shall not apply, when it is deemed proper on account of the necessity of public interest and other reasons.

Article 48. A protocol of public trial shall be prepared in respect to the proceedings taking place on the dates for public trial.

2. The protocol of public trial shall contain important matters concerning the trial held on the dates therefor, as prescribed by the Rules of Court.

3. The protocol of public trial must be completed in good order as soon as possible after each date for trial, at the latest, by the time of the pronouncement of judgment. However, this shall not apply to the protocol of public trial where the judgment is pronounced.

Article 49. If the accused has no defense counsel, he may inspect the protocol of public trial, as prescribed by the Rules of Court. And if the accused is blind or cannot read himself, he may ask the protocol to be read aloud to him.

Article 50. When the protocol of public trial has not been completed in good order before the date for the next trial, a court clerk shall, upon request of a public prosecutor, the accused or defense counsel, inform the requesting party of the outlines of testimony given by witnesses on the date for the last trial, either on or before the date for the next trial. In this case, if the public prosecutor, the accused or defense counsel who made the request raises an objection as to the accuracy of the outlines of testimony given by a witness, a statement of such objection shall be entered in the protocol.

2. When the protocol of public trial held in the absence of the accused and his defense counsel has not been arranged in good order before the date for the next trial, a court clerk shall inform the accused or his defense counsel who appears either on or before the date for the next trial, of the essential happenings which took place on the date for the last trial.

Article 51. The public prosecutor, the accused or defense counsel may raised, at latest, within 14 days after the last date for public trial. A statement of such objection, if raised, shall be entered in the protocol.

2. The objection as mentioned in the preceding paragraph shall be raised, at latest, within 14 days after ther last date for public trial of each instance. However, as regards the protocol of public trial where the judgment is pronounced, such objection may be raised within 14 days after the completion of the protocol.

Article 52. Proceedings on the date of public trial which are written in the protocol of public trial can be proved only by that protocol.

Article 53. Any person may examine the records of trial after the conclusion of a criminal case. However, this shall not apply in case the examination interferes with the preservation of the records of trial or with the business of a court or a public prosecutors office.

2. Any record of the trial of which hearing was closed to the public or any record whose examination is prohibited to the public because it is considered improper, shall not be examined, regradless of the provisions of the preceding paragraph, unless they are the parties interested in the case or they have due reason for its examination and have obtained special permission from the custodian of the records of trial.

3. In respect to the cases as prescribed by the proviso of Paragraph 2 of Article 82 of the Constitution of Japan, the examination of the records of such cases shall not be prohibited.

4. Matters concerning the preservation of the records of trial and charges for inspection thereof shall be provided by other law.

Article 54. Except as otherwise provided by the Rules of Court, the provisions of the law or ordinance concerning the Civil Procedure (excluding the provisions regarding service by publication) shall apply mutatis mutandis to the service of documents.

Chapter VII. Periods

Article 55. In the calculation of periods, those that are calculated by hours shall begin to run immediately, while in the calculation of those that are calculated by days, months or years, the first day shall not be included. However, the first day of a period of limitations shall be counted as one day irrespective of the number of hours involved.

2. Months and years shall be calculated in accordance with the calendar.

3. If the last day of a period falls on Sunday, the 1st, 2nd or 3rd of January, the 29th, 30st or 31st of December, or a day designated as a general holiday, such day shall not be included in the calculation. However, this shall not apply to the case of a period of limitations.

Article 56. A legal period may be extended, as fixed by the Rules of Court, in accordance with the distance between the place of domicile, residence or office of the person who is required to do the acts of procedure and the location of the court or the public prosecutors office, and with the conveniency in respect to transportation and communication.

2. The provisions of the preceding paragraph shall not apply to the period within which an appeal against a decision pronounced must be made.

Chapter VIII. Summons, Production and Detention of the Accused

Article 57. A court may summon the accused giving a reasonable time in advance which shall be provided by the Rules of Court.

Article 58. A court may produce the accused in the following cases:

(1) If he has no fixed dwelling;

(2) If he fails to, or if there is apprehension that he may fail to, comply with the summons without good reason.

Article 59. The accused who has been produced shall be released within 24 hours from the time when he was brought to court. However, this shall not apply when a warrant of detention is issued within the said period.

Article 60. The court may detain the accused when there is reasonable ground enough to suspect that he has committed a crime and the case falls under any one of the following items:

(1) If he has no fixed dwelling;

(2) If there is reasonable ground enough to suspect that the accused may destroy evidence;

(3) Where the accused escapes or there is reasonable ground enough to suspect that he may escape.

2. The term of detention shall not exceed two months after the day of the institution of prosecution. Where there is special necessity for continuing further detention, the term may be renewed every last day of one month period by means of a ruling with a statement of the concrete reasons for the renewal. However, the renewal of the detention term may be rendered only once except in the cases which fall under Item 1, 3, 4 or 6, Article 89.

3. In respect to a case involving a crime which shall be punished with a fine not exceeding 500 yen, penal detention or minor fine, the first paragraph of this Article shall apply only where the accused has no fixed dwelling.

Article 61. The accused shall not be placed under detention before the court has informed the accused of the charge and has heard his statement regarding it. However, this shall not apply to the cases where the accused has escaped.

Article 62. The summons, production or detention of the accused shall

be effected by issuing a writ of summons, or a warrant of production or of detention.

Article 63. A writ of summons shall contain the name and dwelling of the accused; the name of crime; the date, time and place for appearance; a statement that a warrant of production may be issued in case he fails to appear without good reason; as well as other matters as prescribed by the Rules of Court; and the name and seal of the presiding judge or commissioned judge issuing the writ.

Article 64. A warrant of production or of detention shall contain the name and dwelling of the accused; the name of crime; essential facts concerning the prosecuted crime; place where to bring him or prison where to detain him; effective period and a statement that the warrant shall not be executed after the lapse of such period and shall be returned to the court of issuance; the date issued; as well as other matters as prescribed by the Rules of Court; and the name and seal of the presiding judge or commissioned judge issuing the warrant.

2. In case the name of the accused is uncertain, he may be identified by the description of his face, build or other features specifying him.

3. In case the dwelling of the accused is uncertain, it shall not have to be stated.

Article 65. Writs of summons shall be served.

2. If the accused submits a document stating that he will appear on a date fixed for hearing, or if the court orders the accused, who appears on a date for hearing, to appear on the next date for hearing, it shall have the same effect as service of a writ of summons. In case his appearance has been orally ordered, the fact shall be entered in the protocol.

3. The accused who is detained in a prison near the court may be summoned by notifying the prison officials. In such case, a writ of summons shall be deemed to have been served when the accused has received the notification from the prison officials.

Article 66. A court may requisition a judge of a District Court, Family Court or a Summary Court of the place where the accused is at present to produce the accused.

2. The requisitioned judge may in turn requisition a judge of another District Court, Family Court or Summary Court who is authorized to accept such requisition.

3. If the requisitioned judge himself has no authority over the matter under requisition, he may transfer the requisition to a judge of another District Court, Family Court or Summary Court who is authorized to accept such requisition.

4. The judge who has received or been transferred such requisition shall issue a warrant of production.

5. The provision of Article 64 shall apply mutatis mutandis to the warrant of production mentioned in the preceding paragraph. In this case, the warrant shall contain a statement that it is issued under requisition.

Article 67. The judge who has issued a warrant of production under requisition in the case of the preceding Article shall within 24 hours from the time when the accused is brought, make an inquiry as to whether no mistake has been made as to his identity.

2. If there has been no mistake as to the identity of the accused, he shall be promptly and directly delivered to the court designated. In such case, the judge who has issued the warrant of production under requisition shall specify a time limit within which the accused shall be brought before the court designated.

3. In the case of the preceding paragraph, the period mentioned in Article 59 shall be calculated from the time when the accused has been brought before the court designated.

Article 68. The court may, in case of necessity, order the accused to appear at, or be accompanied to, any place designated. If the accused fails to comply with such order without good reason, he may be produced to such place. In such case, the period specified in Article 59 shall be calculated from the time when the accused has been produced to the said place.

Article 69. In case of urgency, a presiding judge may take the measures provided for in Article 57 to 62, Articles 65, 66 and preceding Article inclusive, or cause a member of his collegiate court to do so.

Article 70. A warrant of production or of detention shall be executed by a public prosecutor's assistant officer or a judicial police official under the direction of a public prosecutor. However, in case of urgency, the execution may be directed by a presiding judge, a commissioned judge, or a judge of a District Court, Family Court or of a Summary Court.

2. A warrant of detention issued against the accused who is in prison shall be executed by prison officials under the direction of a public prosecutor.

Article 71. A public prosecutor's assistant officer or a judicial police official may, in case of necessity, execute a warrant of production or of detention outside the jurisdiction, or have it executed by a public prosecutor's assistant officer or a judicial police official on the spot.

Article 72. When the present location of the accused is unknown, a presiding judge may commission the Superintending Public Prosecutor (of the High Public Prosecutors Office) to carry out the investigation and execute the warrant of production or of detention.

2. The Superintending Public Prosecutor of the High Public Prosecutors Office who has received such commission shall cause the public prosecutor within his jurisdiction to follow the procedure for the investigation and the execution of the warrant of production or of detention.

Article 73. In executing a warrent of production, it shall be shown to the accused, who shall be brought as promptly as possible and directly before the court or any other place designated. In the case of a warrant of production mentioned in Article 66, Para-

graph 4, the accused shall be brought before the judge who issued the warrant.

2. In executing a warrant of detention, it shall be shown to the accused, who shall be taken as soon as possible and directly to the prison designated.

3. When, because of no warrant of production or detention being possessed, it cannot be shown to the accused, the warrant may, if urgency is required, be executed, notwithstanding the preceding two paragraphs, after the accused has been informed of the essential facts concerning the prosecuted crime and of the fact that the warrant has been issued. However, the warrant shall be shown as soon as possible.

Article 74. In case the accused against whom a warrant of production or of detention has been executed, is to be sent under guard he may, if necessary, be provisionally detained in the nearest prison.

Article 75. In case the accused against whom a warrant of production has been executed has been brought, he may, if necessary, be detained in prison.

Article 76. In case the accused has been produced, he shall immediately be informed of the essential facts concerning the prosecuted crime and of his being entitled to select defense counsel, and also of his right to assignment of defense counsel on his behalf by the court in case he is unable to secure defense counsel by his own efforts because of poverty or other reasons. However, if the accused already has a defense counsel, it shall suffice to inform him only of the essential facts concerning the prosecuted crime.

2. A member of a collegiate court or a court clerk may be caused to take the measure mentioned in the preceding paragraph.

3. In the case where a warrant of production has been issued in accordance with Article 66, Paragraph 4, the measure mentioned in the first paragraph shall be taken by the judge who issued the warrant. However, the court clerk may be caused to do so.

Article 77. In order to detain the accused excepting the case where the detention follows production or arrest, the accused shall be informed of the fact that he may select defense counsel and also of his right to assignment of defense counsel on his behalf by the court in case he is unable to secure defense counsel by his own efforts because of proverty or other reasons. However, this shall not apply in case he already has a defense counsel.

2. In the case of the proviso of Article 61, the accused shall be informed of the essential facts concerning prosecuted crime in addition to the matters provided in the preceding paragraph, immediately after he has been detained. However, if the accused already has a defense counsel, it shall suffice to inform him only of the essential facts concerning prosecuted crime.

3. The provision of Paragraph 2 of the preceding Article shall apply mutatis mutandis to the measures mentioned in the preceding two paragraphs.

Article 78. The accused who has been produced or detained may apply to the court or to the warden or his substitute, for the selection of defense counsel, designating a practicing attorney or a Bar Association. However, this shall not apply if the accused already has a defense counsel.

2. The court, or the warden or his substitute who has received the above application shall give notice of such fact to the practicing attorney or the Bar Association designated by the accused, without delay. In case the accused has made such application designating two or more practicing attorneys or Bar Association, it shall suffice to give the notice to one of them.

Article 79. When the accused has been detained, his defense counsel shall be notified of such fact without delay. If he has no defense counsel, such notice shall be given to one person designated by him from among his legal representative, curator, spouse, lineal relatives, brother or sister.

Article 80. The accused who is under detention may, in so far as laws or ordinances permit, interview with persons other than

those provided in Article 39, Paragraph 1, or deliver to or receive from them documents or other things. The same shall apply to the accused who is detained in prison upon a warrant of production.

Article 81. When there is resonable ground enough to suspect that the accused under detention may escape or destroy evidence, a court may, upon request of a public prosecutor or ex-officio, forbid him to inteview with other persons than those mentioned in Article 39, Paragraph 1, examine documents and other things he may deliver to or receive from such persons, forbid him to deliver or receive them, or seize them. However, he shall not be forbidden to receive food nor shall it be seized.

Article 82. The accused who is under detention may request a court to indicate the reason for his detention.

2. The defense counsel, legal representative, curator, spouse, lineal relative, brother or sister of the accused under detention, or other interested persons may make the request mentioned in the preceding paragraph.

3. The request mentioned in the two preceding paragraphs shall lose its effect, when the release on bail or suspension of execution of detention has been effected, when the detention has been rescinded, or when the warrant of detention has lost its effect.

Article 83. The indication of the reason for detention shall be held in open court.

2. The court shall be opened in the presence of judges and court clerks.

3. The court shall not be opened if the accused and his defense counsel do not appear. However, this shall not apply to the case, regarding the appearance of the accused, where the accused is unable to appear by such unavoidable reasons as illness and there is no objection on the part of the accused, nor to the case, regarding the appearance of his defense counsel, where there is no objection on the part of the accused.

Article 84. In the court a presiding judge shall give notification of the reasons for detention.

2. A public prosecutor or the accused, his defense counsel and the other persons who have made the request may state their opinions. However, the presiding judge may, when he deems appropriate, order them to submit a written statement of their opinions in lieu of an oral statement of the opinions.

Article 85. The indication of the reason for detention may be effected by the members constituting a collegiate court.

Article 86. In case there are two or more requests mentioned in Article 82 in respect to one and the same detention, the indication of the reason for detention shall be taken as for the first request. The other requests shall be dismissed, by means of a ruling, after the indication of the reason for detention has been completed.

Article 87. When the grounds or necessity for detention have ceased to exist, the court shall, upon request of a public prosecutor, the accused under detention or his defense counsel, legal representative, curator, spouse, lineal relatives, brother or sister, or ex-officio, rescind the detention, by means of a ruling.

2. The provision of Article 82, Paragraph 3 shall apply mutatis mutandis to the request mentioned in the preceding paragraph.

Article 88. The accused under detention or his defense counsel, legal representative, curator, spouse, lineal relatives, brother or sister may request release on bail.

2. The provision of Article 82, Paragraph 3 shall apply mutatis mutandis to the request mentioned in the preceding paragraph.

Article 89. When the request for release on bail has been made, it must be allowed except in the following cases:

(1) Where the accused is charged with an offense punishable with death penalty, or imprisonment with or without force-

ed labor for life or for minimum period of more than one year;

(2) Where the accused was previously convicted of an offense punishable with death penalty, or imprisonment with or without forced labor for life or for maximum period of more than 10 years;

(3) Where the accused has habitually committed an offense punishable with imprisonment with or witout forced labor for maximum period of three years or more;

(4) Where there is reasonable ground enough to suspect that the accused may destroy evidence;

(5) Where there is reasonable ground enough to suspect that the accused may injure the body or damage the property of the injured party or some other person who is considered to have knowledge necessary for trial of the case or his relative, or may do a threatening act towards him;

(6) Where the name or dwelling of the accused is unknown.

Article 90. A court may, if it deems it proper, grant release on bail ex-officio.

Article 91. When detention upon a warrant of detention has been effected for an unreasonable long period, the court shall, by means of a ruling, rescind the detention or allow the release on bail, upon request of the person mentioned in Article 88, or ex-officio.

2. The provision of Article 82, Paragraph 3 shall apply mutatis mutandis to the request mentioned in the preceding paragraph.

Article 92. A court shall hear the opinion of a public prosecutor before it renders a ruling to allow release on bail or to reject the request therefor.

2. The preceding paragraph shall apply when a ruling to rescind the detention is rendered, except where the rescission has been requested by a public prosecutor. However, this shall not apply in case of urgency.

Article 93. Where release on bail is granted, the amount of the bail money shall be fixed by the court.

2. The bail money shall be fixed in amount sufficient and adequate to insure the presence of the accused, taking into consideration the nature and circumstances of the offense, weight of evidence against him, his character and his financial conditions.

3. When release on bail is granted, restriction may be imposed on the dwelling of the accused, or any other conditions considered proper may be imposed.

Article 94. A ruling granting release on bail shall not be executed before the bail money has been paid in.

2. A court may permit a person other than the person demanding bail to pay the bail money.

3. A court may permit negotiable securities, or a wirtten undertaking produced by a person other than the accused, whom the court recognizes as proper, to be substituted for the bail money.

Article 95. A court may, by means of a ruling, if it deems it proper, suspend the execution of detention by entrusting the accused under detention to the charge of his relative, a protective institution and the like, or restricting his dwelling.

Article 96. A court may, upon request of a public prosecutor or ex-officio, rescind, by means of a ruling, the release on bail or the suspension of execution of detention in any one of the following cases:

(1) Where the accused has failed to appear without good reason when summoned;

(2) Where the accused has escaped, or there is reasonable ground enough to suspect that the accused may escape;

(3) Where the accused has destroyed evidence, or there is reasonable ground enough to suspect that the accused may destroy evidence;

(4) Where the accused has injured or attempted to injure the body or has damaged or attempted to damage the property

of the injured party or some other person who is considered to have knowlege necessary for trial of the case or his relative or has done a threatening act towards him;

(5) Where the accused has infringed the restriction imposed upon his dwelling or other conditions provided by the court.

2. When the release on bail is rescinded, the court may, by means of a ruling, sequestrate the whole or a part of the bail money.

3. When a person released on bail against whom a sentence has been given and the judgment has become final, has failed to appear without good reason when called before the court for execution, or has taken flight, the court shall, on motion of a public prosecutor, by means of a ruling, sequestrate the whole or a part of the bail money.

Article 97. In case the detention is to be renewed or rescinded, or the release on bail or suspension of execution of detention is to be effected or rescinded, in connection with the case respecting which the period for appeal has not expired and the appeal of which has not yet been instituted, the ruling necessary for the purpose shall be rendered by the court of original instance.

2. The court which is to render the ruling mentioned in the preceding paragraph, in connection with the case regarding which an appeal is pending and the record of the proceedings has not reached the court of appeal, shall be determined by the Rules of Court.

3. The provisions of the preceding two paragraphs shall apply mutatis mutandis to the case where the indication of reason for detention is to be made.

Article 98. Where the release on bail or suspension of execution of detention is rescinded by a ruling, or the term of the suspension expires, the accused must be put in confinement, under the direction of a public prosecutor, by a public prosecutor's assistant officer, judicial police official or prison officer, who shall show the accused the copy of the warrant of detention, or the copy of the written ruling which has rescinded the release on bail or suspen-

sion of execution of detention or which has fixed the term of the suspension.

2. In case, because of the copy mentioned in the preceding paragraph being not possessed, it cannot be shown to the accused, and urgency is required, the accused may, notwithstanding the provision of the said paragraph, be put in confinement, under the direction of a public prosecutor, after he has been informed that the release on bail or suspension of execution of detention has been rescinded or that the term of the suspension of execution of detention has expired. However, such copy shall be shown as soon as possible.

3. The provision of Article 71 shall apply mutatis mutandis to the confinement under the preceding two paragraphs.

Chapter IX. Seizure and Search

Article 99. When it is necessary, a court may seize any articles which, it believes, should be used as evidence, or liable to confiscation, except as otherwise provided in this and other laws.

2. A court may designate articles to be seized and order the owner, possessor or custodian thereof to produce such articles.

Article 100. A court may seize or cause to be produced postal matters or papers relating to telegrams, sent out by or to the accused, which are in the custody or possession of a Government office or of any other person transacting communication business.

2. Postal matters or papers relating to telegrams other than those mentioned in the preceding paragraph, which are in the custody or possession of a Government office or of any other person transacting communication business, may be seized or caused to be produced only when there are circumstances which warrant their being considered to be connected with the case in hand.

3. When any disposition has been effected under the provisions of the preceding two paragraphs, notice of such fact shall be given to the sender or to the addressee. However, this shall not apply

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if there is apprehension that such notification may obstruct the proceedings.

Article 101. Articles which have been dropped or left behind by the accused or any other person, or which have been voluntarily produced by their owner, possessor or custodian, may be retained.

Article 102. A court may, when it deems necessary, search the person, effects or dwelling or any other place of the accused.

2. The person, effects or dwelling or any other place of a person other than the accused may be searched only when there are circumstances wich warrant the belief that there are articles liable to seizure there.

Article 103. If, in respect to articles held in the custody or possession of a person who is or was a public officer, such person or the public office to which he belongs or belonged declared that they relate to an official secret, such articles may be seized only with the consent of the competent supervisory office. However, such office may not refuse to give such consent except in cases where compliance would be prejudicial to important interests of the State.

Article 104. If the declaration mentioned in the preceding Article has been made by the following persons, the seizure shall not be effected without the consent of the House in the case of a person mentioned in Item (1) and without the consent of the Cabinet in the case of a person mentioned in Item (2):

(1) Person who is or was a member of the House of Representatives or the House of Councillors;

(2) Person who is or was Prime Minister or Minister of State.

2. In the case of the preceding paragraph, the House of Representatives, the House of Councillors or the Cabinet may not refuse to give such consent except in cases where compliance would be prejudicial to important interests of the State.

Article 105. A person who is, or was, a doctor, dentist, midwife, nurse, practicing attorney, patent agent, notary public or a religious functionary may refuse seizure of articles held in his custody or possession in consequence of a mandate he has received in professional lines and which relates to secrets of other persons. However, this shall not apply if the client has consented to such seizure, or if the refusal of seizure is deemed as nothing but an abuse of right intended merely for the interest of the accused when he is not the client or if there exist any special circumstances which shall be provided by the Rules of Court.

Article 106. A warrant of seizure or of search shall be issued in case seizure or search is to be effected elsewhere than in open court.

Article 107. A warrant of seizure or of search shall contain the name of the accused and offense: Articles to be seized or place, person or articles to be searched, effective period; and a statement that the execution of warrant shall not be commenced in any way after the lapse of such period and shall be returned to the court of issuance; and the date of issuance as well as such other matters as prescribed by the Rules of Court; and the name and seal of the presiding judge.

2. The provisions of Paragraph 2 of Article 64 shall apply mutatis mutandis to the warrant of seizure or of search mentioned in the preceding paragraph.

Article 108. A warrant of seizure or of search shall be executed by a public prosecutor's assistant officer or a judicial police official under the direction of a public prosecutor. However, when the court deems it necessary to protect the interests of the accused, the presiding judge may direct that the warrant be executed by the court clerk or a judicial police official.

2. In the execution of a warrant of seizure or of search, the court may give such instructions in writing as it considers proper to a person who executes it.

3. The instructions mentioned in the preceding paragraph may be

caused to be made by a member of a collegiate court.

4. The provision of Article 71 shall apply mutatis mutandis to the execution of a warrant of seizure or of search.

Article 109. In the execution of a warrant of seizure or of search, a public prosecutor's assistant officer or a court clerk may, if necessary, ask a judicial police official for assistance.

Article 110. A warrant of seizure or of search shall be shown to the person against whom the measure is taken.

Article 111. In the execution of a warrant of seizure or of search, locks may be removed or seals opened, or any other necessary measures taken. The same shall apply to the seizure or search effected in open court.

2. The disposition mentioned in the preceding paragraph may be conducted in regard to the seized articles.

Article 112. During the execution of a warrant of seizure or of search, any person whosoever may be forbidden to enter or leave the place without permission.

2. Any person who does not comply with the prohibition of the preceding paragraph may be forced to withdraw or be placed under guard until the execution is completed.

Article 113. A public prosecutor, the accused or his defense counsel may be present when the warrant of seizure or of search is being executed. However, this shall not apply to the accused who is held under physical restraint.

2. The person who executes a warrant of seizure or of search shall inform, in advance, the persons who may be present in accordance with the provisions of the preceding paragraph, of the date and time and the place of the execution. However, this shall not apply to the case where a person who is entitled to be present at the execution clearly expresses his will in advance to the court not be present there, nor to the case where urgency is required.

3. In the execution of a warrant of seizure or of search, the court may, if necessary, cause the accused to be present.

Article 114. In case a warrant of seizure or of search is to be executed in public office, a head of such office or a person acting for him shall be notified of the fact and caused to be present when the disposition is being effected.

2. Except the cases provided in the preceding paragraph, when a warrant of seizure or of search is executed in the dwelling of a person, or in premises, buildings or vessels guarded by persons, the occupant or keeper or persons acting for the same shall be caused to be present. If such persons are not available, a neighbor or an official of local public entities shall be caused to be present.

Article 115. When a warrant of search is executed on the person of a woman, another woman of full age shall be required to be present. However, this shall not apply in case of urgency.

Article 116. Before sunrise and after sunset the dwelling of a person, or premises, buildings or vessels guarded by persons, shall not be entered for the purpose of the execution of a warrant of seizure or of search unless the warrant includes a statement that it is to be executed even at night.

2. In case the execution of a warrant of seizure or of search was commenced before sunset, the disposition may be continued even after sunset.

Article 117. The restriction provided for in Paragraph 1 of the preceding Article need not be observed in respect to the execution of a warrant of seizure or of search in the following:

(1) Places which are considered to be habitually used for gambling, lotteries or acts prejudicial to good morals;

(2) Inns, restaurants or other places to which the public has access even at night-time; but only during the hours when they are open to the public.

Article 118. When it is necessary in case the execution of a warrant of seizure or of search is suspended, the place concerned may be closed or the guard may be set for it until the execution is completed.

Article 119. When a search has been made without discovering any piece of evidence or articles liable to confiscation, a certificate to that effect shall be delivered on his demand to the person who has been subject to such search.

Article 120. In case of seizure, an inventory of the property taken shall be made and given to the owner, possessor or custodian of the property, or person who represents him.

Article 121. In respect to articles seized which cannot be conveniently transported or held in custody, either a guard may be placed or the owner or some other person may be asked to assume custody thereof, if he gives consent to it.

2. Article seized may be destroyed or thrown away if there is apprehension of their causing danger.

3. The person who executed a warrant of seizure also may effect the dispositions mentioned the preceding two paragraphs, unless otherwise directed by a court.

Article 122. If there is apprehension that any articles seized which are liable to confiscation may be lost, destroyed or damaged, or if they are inconvenient to be held in custody, they may be sold by a court and the proceeds held in custody.

Article 123. Any articles seized which are unnecessary to retain, shall, by means of a ruling, be restored without awaiting the completion of the case.

2. On demand of the owner, possessor, custodian or party who has produced them, articles under seizure may be temporarily restored, by means of a ruling.

3. The opinion of a public prosecutor, and the accused or his defense counsel shall be heard before the rulings mentioned in the preceding two paragraphs are rendered.

Article 124. Seized ill-gotten goods which are unnecessary to retain, shall, after hearing the opinion of a public prosecutor, and the accused or his defense counsel, be restored to the injured party, by means of a ruling, without awaiting the completion of the case, but only when there are obvious reasons for restoring them to the injured party.

2. The provisions of the preceding paragraph shall not prevent any person interested from asserting his right by means of civil procedure.

Article 125. A member of a collegiate court may be caused to effect seizure or search, or a judge of a District Court, Family Court or a Summary Court at the place where such seizure or search is to be effected may be requisitioned to do so.

2. A requisitioned judge may in turn requisition another judge of a District Court, Family Court or a Summary Court who has authority to act under such requisition.

3. If the requisitioned judge has himself no authority over the matter under requisition, he may transfer the requisition to a judge of another District Court, Family Court or Summary Court who is authorized to accept such requisition.

4. As regards seizure or search effected by a commissioned judge or a requisitioned judge, the provisions relating to seizure or search effected by a court shall apply mutatis mutandis. However, notice mentioned in Article 100, Paragraph 3 shall be given by a court.

Article 126. Where it is necessary for the purpose of executing a warrant of production or of detention, a public prosecutor's assistant officer or judicial police official may enter the dwelling of a person, or the premises, buildings or vessels guarded by persons,

for search of the accused. In the above case a warrant of search is not necessary.

Article 127. The provisions of Articles 111, 112, 114 and 118 shall apply mutatis mutandis to search effected by a public prosecutor's assistant officer or judicial police official in pursuance of the provisions of the preceding Article. However, in case of urgency, the provision of Article 114, Paragraph 2 need not be complied with.

Chapter X. Evidence by Inspection

Article 128. If it is necessary for the purpose of discovering facts, a court may effect an inspection of evidence.

Article 129. By way of inspection, an examination of the person, dissection of a corpse, opening of a grave, destruction of things or any other necessary disposition may be effected.

Article 130. Before sunrise and after sunset, the dwelling of a person, or the premises, buildings or vessels guarded by persons may be entered for the purpose of inspection only with the consent of the occupant or keeper or persons acting for them. However, this shall not apply when there is apprehension that the object of inspection might not be attained after sunrise.

2. Inspection commenced before sunset may be continued even after sunset.

3. In the places mentioned in Article 117, the restriction specified in the first paragraph need not be observed.

Article 131. In case of physical examination, sex, condition of health and other circumstances must be taken into consideration and every measure must be taken, especially in the choice of the method, not to harm his or her reputation.

2. In case of physical examination of a woman, a doctor or another woman of full age shall be present.

Article 132. A court may summon persons other than the accused either to the court or to other place designated for the purpose of the physical examination.

Article 133. In case any person who is summoned in accordance with the preceding Article does not appear without due reasons, the court may, be means of a ruling, impose him a non-penal fine not exceeding 5,000 yen and at the same time order to compensate for the expenses resulting from his non-appearance.

2. An immediate *Kokoku* appeal may be made against the ruling of the preceding paragraph.

Article 134. In case any person is summoned in accordance with Article 132 and does not appear without due reasons, he may be punished with a fine not exceeding 5,000 yen or penal detention.

2. Both fine and penal detention may be imposed, according to the circumstances, on the person who has committed the offense of the preceding paragraph.

Article 135. Any person who does not obey the summons in accordance with Article 132 may be summoned again or produced under a warrant of production.

Article 136. Article 62, 63 and 65 shall apply mutatis mutandis to the summons under the provisions of Article 132 and the preceding Article, while Articles 62, 64, 67, 70, 71 and Paragraph 1 of Article 73, to the production under the preceding Article.

Article 137. When the accused or any person other than the accused refuses the physical examination without good reason, he shall be imposed a non-penal fine not exceeding 5,000 yen, by means of a ruling, and moreover may be ordered to compensate for the expenses resulting from such refusal.

2. An immediate *Kokoku* appeal may be filed against the ruling mentioned in the preceding paragraph.

Article 138. Any person who refuses the physical examination without due reason shall be punished with a fine not exceeding 5,000 yen or penal detention.

2. Any person who has committed the offense mentioned in the preceding paragraph may be punished with both fine and penal detention according to the circumstances.

Article 139. When a court deems it ineffective to impose a non-penal fine or penalty upon one who refuses the physical examination, it may examine the person regardless of his refusal.

Article 140. Before punishing with non-penal fine in accordance with the provision of Article 137, or before carrying out physical examination in accordance with the provision of the preceding Article, a court shall hear the opinion of a public prosecutor, and also make a reasonable effort to ascertain the objections thereto of the individual who is to be examined.

Article 141. A judicial police official may, if necessary, be caused to assist in the inspection.

Article 142. The provisions of Articles 112 to 114, 119 and 125 shall apply mutatis mutandis to inspection.

Chapter XI. Examination of Witness

Article 143. Except as otherwise provided in this law, a court may examine any person whomsoever as a witness.

Article 144. If, in respect to facts of which a person who is or was a public officer has obtained knowledge, either such person himself, or the public office to which he belongs or belonged, declares that they relate to official secrets, he shall not be examined as a witness without the consent of th competent supervisory office. However, such office may not refuse to give such consent except in cases where compliance would be prejudicial to important interests of the State.

Article 145. When the declaration mentioned in the preceding Article has been made by the following persons, they shall not be examined as witnesses without the consent of the House in the case of a person mentioned in Item (1), and, of the Cabinet in the case of a person mentioned in Item (2):

(1) Person who is or was a member of the House of Representatives or the House of Councillors;

(2) Person who is or was Prime Ministetr or Minister of State.

2. In the case of the preceding paragraph, the House of Representatives, the House of Councillors or the Cabinet may not refuse to give such consent except in cases where compliance would be prejudicial to important interests of the State.

Article 146. A person may refuse to answer to any question which may tend to incriminate himself or herself.

Article 147. A witness may refuse to answer to any question which may tend to incriminate the following persons:

(1) The spouse, a relative by blood within the third degree of relationship or a relative by affinity within the second degree of relationship, of the witness, or a person who was in any of such relationships to the witness;

(2) The guardian, supervisor of the guardian or curator of the witness;

(3) A person of whom the witness is the guardian, supervisor of the guardian or curator.

Article 148. Even though a witness may be in one of the relationships mentioned in the foregoing Article to one or more of co-offenders or co-defendants, he shall not refuse to answer as regards matters which concern only the rest of co-offenders or co-defendants.

Article 149. A person who is, or was, a doctor, dentist, midwife, nurse, practicing attorney, patent agent, notary public or a religious functionary may refuse testimony in respect to facts of which he has obtained knowledge in consequence of a mandate he

has received in professional lines and which relate to secrets of other persons. However, this shall not apply if the client has consented, or if the refusal of testimony is deemed as nothing but an abuse of the right intended merely for the interest of the accused when he is not the principal or if there exist any special circumstances which shall be provided by the Rules of Court.

Article 150. If a witness who has been summoned fails to appear without good reason, he may, be means of a ruling, be punished with a non-penal fine not exceeding 5,000 yen, and may, moreover, be ordered to compensate for the expenses arising from his non-appearance.

2. An immediate Kokoku appeal may be filed against the ruling mentioned in the preceding paragraph.

Article 151. If a person who has been summoned as a witness fails to appear without due reason, he shall be punished with a fine not exceeding 5,000 yen or penal detention.

2. In the case mentioned in the preceding paragraph, both fine and penal detention may be imposed according to the circumstances.

Article 152. A witness who does not obey the summons may be summoned again or produced under a warrant of production.

Article 153. The provisions of Articles 62, 63 and 65 shall apply mutatis mutandis to the summons of a witness, while the provisions of Articles 62, 64, 66, 67, 70, 71 and 73, Paragraph 1, to the production of a witness.

Article 153–2. In case the witness against whom a warrant of production has been executed is to be sent under guard or has been brought, he may, if necessary, be provisionally detained in the nearest police station or other suitable place.

Article 154. A witness shall be caused to take an oath except as otherwise provided in this law.

Article 155. A witness who connot understand what an oath is shall be examined without being sworn.

2. Even though a witness mentioned in the preceding paragraph has taken an oath, it shall not prevent his testimony from being valid evidence.

Article 156. A witness may be caused to state inferences which he has drawn from facts which he has actually experienced.

2. The statement mentioned in the preceding paragraph shall not lose its validity as testimony even if it partakes of the nature of expert evidence.

Article 157. A public prosecutor, the accused or his defense counsel may be present at the examination of a witness.

2. Notice of the date and place of the examination of a witness shall be given in advance to the persons who are entitled, by provision of the preceding paragraph, to be present at the examination. However, this shall not apply if a person who is entitled to be present at the examination clearly expresses his will in advance, to the court, not to be present there.

3. When the persons mentioned in the first paragraph are present at the examination of a witness, they may, upon notifying a presiding judge, examine a witness.

Article 158. A court may, if it deems necessary, summon for examination a witness to any place other than the court or examine him at the place where he is, after hearing the poinion of a public prosecutor, and the accused or his defense counsel, and taking into consideration of the importance of the witness, his age, occupation, health, other circumstances, and the gravity of the case.

2. In the case mentioned in the preceding paragraph, the court shall, in advance, give the public prosecutor, the accused and his defense counsel an apportunity to know what questions are going to be asked of the witness by the court.

3. The public prosecutor, the accused or his defense counsel may respectively add his own questions to the questions mentioned in

the preceding paragraph, which he may request the court to ask of the witness.

Article 159. The court shall give the public prosecutor, the accused or his defense counsel an opportunity to know what a witness has testified, if the public prosecutor, the accused or his defense counsel was not present at the examination of the witness prescribed by the preceding Article.

2. When the testimony of a witness mentioned in the preceding paragraph contains an unexpected and serious disadvantage to the accused, he or his defense counsel may again request to reexamine the witness as regards necessary matters.

3. The court may dismiss the request mentioned in the preceding paragraph, if it thinks the request is not a reasonable one.

Article 160. If a witness refuses to be sworn in or to testify without due reason, he may, by means of a ruling, be punished with a non-penal fine not exceeding 5,000 yen, and may, moreover, be ordered to compensate for the expenses arising from such refusal.

2. An immediate Kokoku appeal may be filed against the ruling mentioned in the preceding paragraph.

Article 161. Any person who refuses to be sworn or to testify without due reason shall be punished with a fine not exceeding 5,000 yen or penal detention.

2. In the case mentioned in the preceding paragraph, both fine and penal detention may be imposed according to the circumstances.

Article 162. A court may, by means of a ruling, when it is necessary, order a witness to go together to the designated place. The witness may be produced, when he does not comply with the order of going together without due reason.

Article 163. When witness is to be examined outside the court, a member of a collegiate court may be caused to make such examination, or a judge of a District Court, Family Court or Summary

Court at the place where the witness actually is may be requisitioned to do so.

2. The requisitioned judge may in turn requisition a judge of another District Court, Family Court or Summary Court, who is authorized to accept such requisition.

3. When the requisitioned judge has himself no authority over the matter under requisition, he may transfer the requisition to a judge of another District Court, Family Court or Summary Court who is authorized to accept such requisition.

4. In respect to the examination of witness, the commissioned or requisitioned judge may effect dispositions appertaining to a court or a presiding judge. However, the rulings mentioned in Articles 150 and 160 may be rendered by the court also.

5. Despite the preceding paragraph, all the proceedings provided by Article 158, Paragraphs 2 and 3, and Article 159 shall be carried out by the court.

Article 164. A witness may demand travelling expenses, daily allowances and lodging charges. However, this shall not apply if, without good reason, he has refused to be sworn or to testify.

2. In case a witness, who has in advance been provided with travelling expenses, daily allowances and lodging charges, has failed to appear or refused to be sworn or to testify, without good reason, he shall return the same provided to him.

Chapter XII. Expert Evidence

Article 165. A court may order persons of learning or experience to give expert evidence.

Article 166. An expert witness shall be caused to take an oath.

Article 167. When expert evidence is required in respect to the mental or physical condition of the accused, a court may, if necessary, confine the accused in a hospital or other proper place for a fixed period.

2. In order to confine the accused in accordance with the preceding paragraph, a writ of confinement for expert evidence shall be issued.

3. When it is necessary for the confinement mentioned in Paragraph 1, a court may order a judicial police official to guard the accused, upon the request of the administrator of the hospital or other place in which the accused is consigned, or upon its own authority.

4. A court may, if necessary, extend or shorten the period of confinement.

5. Unless otherwise provided in this law, the provisions relating to detention shall apply mutatis mutandis to the confinement mentioned in the first paragraph. However, this shall not apply to the provisions relating to release on bail.

6. The confinement mentioned in Parapraph 1 shall be deemed to be detention in regard to the calculation of the number of days of detention pending judgment.

Article 167-2. Where a writ of confinement for expert evidence has been executed against the accused under detention, the execution of detention shall be deemed to have been suspended while he is confined.

2. In the case of the preceding paragraph, when the disposition mentioned in Paragraph 1 of the preceding Article has been rescinded, or the period of confinement has expired, the provisions of Article 98 shall apply mutatis mutandis.

Article 168. Where it is necessary for the purpose of furnishing expert evidence, an expert witness may, with the permission of a court, enter the dwelling of a person, or the premises, buildings or vessels guarded by persons, examine the person, dissect a corpse, open a grave, or break and destroy things.

2. A court shall, on giving the permission mentiotned in the preceding paragraph, issue a warrant of permission in which the name of the accused, offense, place to be entered, the person to be examined, the name of the expert witness and other matters provided by the Rules of Court shall be entered.

3. A court may provide some conditions that it deems reasonable as for the examination of a person.

4. The expert witness shall show the warrant of permission to the person who is subject to the disposition mentioned in the first paragraph.

5. The provisions of the preceding three paragraphs shall not apply to the dispositions mentioned in the first paragraph, which are effected by an expert witness in the court room.

6. The provisions of Articles 131, 137, 138 and 140 shall apply mutatis mutandis to the case of the examination of the person made by an expert witness in accordance with the provisions of the first paragraph.

Article 169. A court may cause a member of a collegiate court to effect dispositions necessary for taking expert evidence. However, this shall not apply to the disposition provided for in Article 167, Paragraph 1.

Article 170. A public prosecutor or defense counsel may be present at the examination or inquiry by an expert witness. The provisions of Article 157, Paragraph 2 shall apply mutatis mutandis to this case.

Article 171. With the exception of the provisions relating to production, the provisions of the preceding Chapter shall apply mutatis mutandis to expert evidence.

Article 172. When one who is to undergo bodily examination by an expert witness in accordance with Article 168, Paragraph 1 refuses the examination, the expert witness may request the examination to a judge.

2. The judge, upon the request mentioned in the preceding paragraph, may examine the person in accordance with the provisions of Chapter X with necessary modifications.

Article 173. An expert witness may claim fees for expert examination in addition to travelling expenses, daily allowances and lodging, and request payment or reimbursement for any disbursements necessary for expert examination.

2. If the expert witness who has received payment in advance for disbursements necessary for expert examination refuses to appear, take oath or conduct expert examination without due cause, he shall be required to return the money he has received.

Article 174. In case a person is examined in regard to past facts which he knows by special knowledge, the provisions of the preceding Chapter shall apply instead of those of this Chapter.

Chapter XIII. Interpretation and Translation

Article 175. When a person not versed in the Japanese language is required to make a statement, an interpreter shall be caused to interpret.

Article 176. When a deaf or mute person is required to make a statement, an interpreter may be caused to interpret.

Article 177. Letters, signs or marks not in the Japanese language may be caused to be translated.

Article 178. The provisions of the preceding Chapter shall apply mutatis mutandis to interpretation and translation.

Chapter XIV. Preservation of Evidence

Article 179. The accused, suspect, or his defense counsel may, when there are reasons which make it difficult to use evidence unless they are preserved in advance, only prior to the day of first public trial, request a judge to effect such dispositions as seizure, search, evidence by inspection, examination of witness or expert evidence.

2. The judge who has received the request prescribed in the preceding paragraph has the same power as a court or presiding judge has regarding the dispositions thereof.

Article 180. A public prosecutor and defense counsel may, in a court, inspect and also copy documents and pieces of evidence relating to the dispositions mentioned in Paragraph 1 of the preceding Article. However, in case a defense counsel copies pieces of evidence, he shall obtain the permission of a judge.

2. The accused or suspect may, in a court, inspect the documents and pieces of evidence mentioned in the preceding paragraph with the permission of a judge. However, this shall not apply to the case where a defense counsel is assigned to the accused or suspect.

Chapter XV. Costs of Trial

Article 181. When a punishments has been pronounced the whole or a part of the costs of trial shall be charged to the accused. However, this shall not apply in case it is evident that the accused is unable to pay such costs because of poverty.

2. Even where no punishment has been pronounced, any costs which has arisen from a cause imputable to the accused may be charged to him.

3. When only a public prosecutor has taken an appeal, and the appeal is dismissed or withdrawn, the costs connected with the appeal shall not be charged to the accused.

Article 182. The costs of trial against co-offenders may be charged to such co-offenders to be borne by them jointly and severally.

Article 183. If, in case a decision of innocence or acquittal has been delivered on the case in respect to which prosecution has been executed upon complaint, accusation or request, the complainant, accuser or person who made the request has acted in bad faith or with gross negligence, the costs of trial may be charged to him.

Article 184. In the event of an appeal, or a demand for reopening of procedure or an application for formal trial being withdrawn by a person other than a public prosecutor, the costs connected with the appeal, reopening of procedure or formal trial may be charged to such person.

Article 185. When the costs of trial are to be charged to the accused in a case in which the proceedings are terminated by decision, the decision relating to such costs shall be rendered ex-officio.

Against such decision, an appeal may be raised only where an appeal has been made against the decision as to the principal matters.

Article 186. Where the costs of trial are to be charged to a person other than the accused in a case in which the proceedings are terminated by decision, a separate ruling for the purpose shall be rendered ex-officio. Against such a ruling, an immediate *Kokoku* appeal may be made.

Article 187. Where the costs of trial are to be charged in a case in which the proceedings are terminated otherwise than by decision, a ruling for the purpose shall be rendered ex-officio by the court in which the case is last pending. Against such a ruling, an immediate *Kokoku* appeal may be made.

Article 188. If, in a decision ordering the costs of trial to be borne, the amount of such costs is not fixed, the same shall be fixed by a public prosecutor who is to direct its execution.

BOOK II. FIRST INSTANCE

Chapter I. Inquiry and Investigation

Article 189. A police official shall perform his duties as a judicial police official as authorized by law, or regulations of the National Public Safety Commission or of the Prefectural Public Safety Commission.

2. A judicial police official shall, when he deems an offense has been committed, investigate the offender and evidence thereof.

Article 190. Those who are to exercise the functions of judicial police officials in regard to forestry, railways or other special matters, and the scope of their functions shall be provided by other law.

Article 191. A public prosecutor may, if he deems necessary, investigate an offense himself.

2. A public prosecutor's assistant officer shall investigate an offense under the instruction of a public prosecutor.

Article 192. There shall be mutual cooperation and coordination on the part of public prosecutors and the Prefectual Public Safety Commission and judicial police officials regarding the criminal investigation.

Article 193. A public prosecutor may, within his jurisdiction, give necessary general suggestion to judicial police officials regarding their investigation. Such suggestion shall be made by setting forth general standards for a fair investigation and other matters necessary for the fulfillment of prosecution.

2. A public prosecutor may, within his jurisdiction, also issue to judicial police officials such general instructions as are necessary for them to cooperate in investigations.

3. A public prosecutor may, when it is necessary in case he himself investigates an offense, instruct judicial police officials and cause them to assist in the investigation.

4. In the case of the preceding three paragraphs, judicial police officials shall follow the suggestions and instructions of the public prosecutor.

Article 194. The Prosecutor-General, Superintending Public Prosecutor of the High Public Prosecutors Office or Chief of the District Public Prosecutors Office may, when he deems necessary in cases where judicial police officials fail to follow the suggestions and instructions of public prosecutors without good reason, file charges regarding disciplinary action against them or for their removal, either with the National Public Safety Commission or Prefectural Public Safety Commission, in case they are judicial police officials who are police officials, or with the person who has the right of disciplinary action or removal in case they are judicial police officials other than police officials.

2. The National Public Safety Commission, Prefetural Public Safety Commission, or the person who has the right to give disciplinary action against or remove judicial police officials other than police officials shall, when it is deemed that the charges mentioned in the preceding paragraph are well-founded, take disciplinary action against or remove the persons charged, as prescribed by other laws.

Article 195. A public prosecutor and public prosecutor's assistant officer may, when it is necessary for the purpose of investigation, carry out their duties outside their jurisdiction.

Article 196. A public prosecutor, public prosecutor's assistant officer, judicial police official, defense counsel and any other persons whose duties are connected with criminal investigation are required to be cautious against injuring the reputation of the suspect or other persons and interfering with the administration of criminal investigation.

Article 197. With regard to investigation, such examination as may be necessary for attaining its object may be made. However, compulsory dispositions shall not be effected except when there are special provisions therefor in this law.

2. Public offices, or public or private organizations may be asked to make reports on necessary matters relating to investigation.

Article 198. A public prosecutor, public prosecutor's assistant officer and judicial police official may ask any suspect to appear in their offices and question him, if it is necessary for pursuing criminal investigation. However, the suspect may, except the case where he is under arrest or under detention, refuse to appear or after he has appeared, may withdraw at any time.

2. In the case of questioning mentioned in the preceding paragraph, the suspect shall, in advance, be notified that he is not required to make a statement against his will.

3. The statement of the suspect may be recorded in a protocol.

4. The protocol mentioned in the preceding paragraph shall be in-

spected by or read to the suspect for his verification, and if he makes a motion for any increase or decrease or alteration, his remarks shall be entered in the protocol.

5. If the suspect affirms that the contents of the protocol are correct, he may be asked to sign and seal on it. However, this shall not apply, if the suspect refuses to do so.

Article 199. Where there exists any reasonable cause enough to suspect that an offense has been committed by the suspect, a public prosecutor, public prosecutor's assistant officer or judicial police official may arrest him upon a warrant of arrest issued in advance by a judge. However, in respect to the offenses punishable with a fine not exceeding 500 yen, penal detention or a minor fine, such arrest may be effected only in cases where the suspect has no fixed dwelling or where he fails to appear without good reason notwithstanding that he has been called in accordance with the provision of the preceding Article.

2. In case a judge deems that there exists reasonable cause enough to suspect that the suspect has committed an offense, he shall issue a warrant of arrest mentioned in the preceding paragraph, upon request of a public prosecutor or a judicial police officer (in the case of a judicial police officer who is police official, only the person designated by the National Public Safety Commission or the Prefectural Public Safety Commission and ranking as or above the police inspector; the same shall apply hereinafter in this Article.) However, this shall not apply in case he deems that there is evidently no necessity for arresting the suspect.

3. When asking for a warrant mentioned in the first paragraph, a public prosecutor or judicial police official shall inform the court of all the requests or issuance of warrants, if any, that have been made previously against the same suspects for the same offense.

Article 200. A warrant of arrest shall contain the name and dwelling of the suspect; the name of offense; essential facts of suspected crime; public offices or other places where to bring him; effective period and a statement that arrest cannot be made after the lapse

of this period and that the warrant shall be returned to the court of issuance; the date issued; as well as such other matters as prescribed by the Rules of Court; and the name and seal of the judge issuing the warrant.

2. The provisions of Paragraph 2 and 3 of Article 64 shall apply mutatis mutandis to the warrant of arrest.

Article 201. When the suspect is arrested upon a warrant of arrest, the warrant shall be shown to him.

2. The provisions of Article 73, Paragraph 3 shall apply mutatis mutandis to the case where the suspect is arrested upon a warrant of arrest.

Article 202. When a public prosecutor's assistant officer or judicial police constable has arrested the suspect upon the warrant of arrest, the former shall immediately produce him to a public presecutor and the latter to a judicial police officer.

Article 203. When a judicial police officer has arrested a suspect upon a warrant of arrest or received a suspect who was arrested upon a warrant of arrest, he shall immediately inform him of the essentiall facts of crime and the fact that he is entitled to select a defense counsel, and then, giving him an opportunity for explanation, he shall immediately release the suspect when he believes there is no need to detain him, or take steps to transfer the suspect together with the documents and evidence to a public prosecutor within 48 hours after the person of the suspect was subjected to restraints, when he believes it necessary to detain him.

2. In the case of the preceding paragraph, the suspect shall be asked whether or not he has a defense counsel and, if he has, he need not be informed of his right to select a defense counsel.

3. If the suspect is not transferred within the time limitation mentioned in the first paragraph, he shall be released immediately.

Article 204. When a public prosecutor has arrested the suspect upon a warrant of arrest or received the suspect who was arrested

upon a warrant of arrest (excluding such suspect as was delivered in accordance with the preceding Article), he shall immediately inform him of the essential facts of crime and the fact that he is entitled to select a defense counsel, and then, giving him an opportunity for explanation, shall immediately release him when he believes there is no need to detain him, or shall request a judge to detain him within 48 hours after his person was subjected to restraints, when he believes it necessary to detain him. However, the request for detention is not necessary, in case a prosecution has been instituted within the limitation of time.

2. If the request for detention or the institution of prosecution is not made within the time limitation mentioned in the preceding paragraph, the suspect shall be released immediately.

3. The provisions of Paragraph 2 of the preceding Article shall apply mutatis mutandis to the cases of Paragraph 1 of this Article.

Article 205. When a public prosecutor has received the suspect delivered in accordance with the provisions of Article 203, he shall give the suspect an opportunity for explanation, and immediately release the suspect if he believes there is no need to detain him, or shall request a judge to detain him within 24 hours after he received the suspect, if he believes it necessary to detain the suspect.

2. The time limitation mentioned in the preceding paragraph shall not exceed 72 hours after the person of the suspect was subjected to restraints.

3. When a prosecution is instituted with the time limitation provided by the preceding two paragraphs, a request for detention need not be made by the public prosecutor.

4. If the request for detention or the institution of prosecution is not made within the time limitation mentioned in the first and second paragraphs, the suspect shall immediately be released.

Article 206. When unavoidable circumstances prevented a public prosecutor or judicial police officer from complying with the time limitations provided for in the preceding three Articles, a public

prosecutor may, offering presumptive proof of the grounds thereof, request a judge to detain the suspect.

2. The judge who has been requested as prescribed in the preceding paragraph shall not issue a warrant of detention, unless he recognizes that the unavoidable circumstances have justified the delay involved.

Article 207. The judge who has received the request for detention mentioned in the preceding three Articles shall have the same power as a court or presiding judge, regarding the disposition thereof. However, this shall not apply to release on bail.

2. A judge shall promptly issue a warrant of detention when he has received the request mentioned in the preceding paragraph. However, when he recognizes that there are no grounds for detention or when a warrant of detention cannot be issued in accordance with the provisions of Paragraph 2 of the preceding Article, he shall immediately order to release the suspect without issuing a warrant of detention.

Article 208. When a prosecution has not been instituted within 10 days after the request of detention was made, in connection with the case where a suspect was detained in accordance with the provisions of the preceding Article, a public prosecutor shall immediately release the suspect.

2. A judge may, if he deems unavoidable circumstances exist, extend the period prescribed in the preceding paragraph upon request of a public prosecutor. Such total period of extention or extensions shall in no event be longer than 10 days.

Article 208-2. A judge may, upon request of a public prosecutor, further extend the period extended in accordance with the provisions of Paragraph 2 of the preceding Article, with regard to cases involving crimes mentioned in Book II, Chapters II to IV inclusive or VIII of the Penal Code. Such total period of extention shall not exceed five days.

Article 209. The provisions of Articles 74, 75 and 78 shall apply mutatis mutandis to the arrest effected under a warrant of arrest.

Article 210. When there are sufficient grounds to suspect the commission of an offense punishable by the death penalty, or imprisonment with or without forced labor for life or for a maximum period of three years or more, and if, in addition, because of great urgency a warrant of arrest cannot be obtained beforehand from a judge, a public prosecutor, a public prosecutor's assistant officer or a judicial police official may, upon statement of the reasons therefor, apprehend the suspect. In such cases, measures for obtaining a warrant of arrest from a judge shall be immediately taken. If a warrant of arrest is not issued, the suspect must be released immediately.

2. The provision of Article 200 shall apply mutatis mutandis to the warrant of arrest mentioned in the preceding paragraph.

Article 211. When a suspect has been arrested in accordance with the provision of the preceding Article, the provisions regarding the case where a suspect is arrested in accordance with the provision of Article 199 shall mutatis mutandis apply.

Article 212. A person who is committing or has just committed an offense, is called a flagrant offender.

2. If any person who falls under one of the following items is found under circumstances which indicate clearly that an offense has just been committed, he shall be deemed flagrant offender:

(1) A person being pursued with hue and cry;

(2) A person carrying with him ill-gotten goods, or arms or other objects apparently used in connection with the offense;

(3) A person bearing on his body or cloths visible traces of the offense;

(4) A person who attempts to run away when challenged.

Article 213. Any person whosoever may arrest a flagrant offender without warrant.

Article 214. When any person other than a public prosecutor, public prosecutor's assistant officer, and a judicial police official has arrested a flagrant offender, he shall immediately deliver him to a public prosecutor of a District or Local Public Prosecutors Office or to a judicial police official.

Article 215. When a judicial police constable has obtained delivery of a flagrant offender, he shall promptly bring him to a judicial police officer.

2. A judicial police constable who has obtained delivery of the offender shall ascertain the name and residence of the arrester and the reason for the arrest. If necessary, he may require the arrester to accompany him to the government or public office concerned.

Article 216. The provisions relating to the case where suspect has been arrested in accordance with Article 199 shall apply mutatis mutandis to the case where a flagrant offender has been arrested.

Article 217. Regarding the flagrant offense punishable with a fine not more than 500 yen, penal detention or minor fine, the provisions of Articles 213 to 216 shall apply only in case the dwelling or name of the offender is unknown or there is apprehension of the offender taking flight.

Article 218. If necessary for the investigation of an offense, a public prosecutor, public prosecutor's assistant officer or judicial police official may effect seizure, search and inspection of evidence upon a warrant issued by a judge. In this case, the examination of the person must be made upon a warrant for the examination of the person.

2. In the case where a suspect is under physical restraint, his finger-prints or foot-prints may be taken, his height or weight measured, or his photographs taken without the warrant mentioned in the preceding paragraph, provided that he cannot be stripped naked.

3. The warrant mentioned in the first paragraph shall be issued upon demand of a public prosecutor, public prosecutor's assistant officer or judicial police officer.

4. A public prosecutor, public prosecutor's assistant officer or judicial police officer must, when he requests a warrant for the examination of the person, show the reason for the necessity of examination of the person, sex and physical condition of the person to be exmained and other matters provided for in the Rules of Court.

5. A judge may provide some conditions that he deems reasonable, as for the examination of the person.

Article 219. The warrant mentioned in the preceding Article shall contain the name of the suspect or accused and name of offense, articles to be seized, place, person or articles to be searched, place or articles to be inspected, person to be examined and conditions relating to the examination of the person, effective period, a statement that the seizure, search or inspection of evidence shall not be commenced in any way after the lapse of such period and the warrant shall be returned to the court, and the date of issuance as well as such other matters as provided for in the Rules of Court, and shall contain the name and seal of the judge issuing the warrant.

2. The provisions of Paragraph 2 of Article 64 shall apply mutatis mutandis to the warrant mentioned in the preceding Article.

Article 220. When a public prosecutor, public prosecutor's assistant officer or a judicial police official arrests a suspect in accordance with Article 199 or he arrests a flagrant offender, he may, if necessary, take the following dispositions. The same shall apply, if necessary, to the case where a suspect is arrested in accordance with Article 210:

(1) To enter the dwelling of a person, or the premises, buildings or vessels guarded by persons and search for the suspect:

(2) To seize, search or inspect on the spot of the arrest.

2. The things seized shall be returned immediately if a warrant

of arrest cannot be obtained in the case mentioned in the latter part of the preceding paragraph.

3. For the dispositions mentioned in the first paragraph, a warrant need not be obtained.

4. The provisions of Item (2), Paragraph 1 and the preceding paragraph shall mutatis mutandis apply to the case where a public prosecutor's assistant officer or a judicial police official executes a warrant of production or detention. The provisions of Item (1), Paragraph 1 shall also mutatis mutandis apply to the case where the warrant of production or detention issued against a suspect is executed.

Article 221. A public prosecutor, public prosecutor's assistant officer or judicial police official may retain articles which have been left behind by a suspect or other persons, or those which have been voluntarily produced by their owner, possessor or custodian.

Article 222. The provisions of Articles 99, 100, 102 to 105, 110 to 112, 114, 115, and 118 to 124 shall apply mutatis mutandis to the seizure and search effected by a public prosecutor, public prosecutor's assistant officer or judicial police official in accordance with the provisions of Articles 218, 220 and 221. The provisions of Articles 110, 112, 114, 118, 129, 131 and 137 to 140 shall apply mutatis mutandis to the inspection of evidence effected by a public prosecutor, public prosecutor's assistant officer or judicial police official in accordance with the provisions of Article 218 or 220. However, a judicial constable shall not effect the disposition provided for in Articles 122 to 124.

2. In the case of searching the suspect in accordance with the provision of Article 220, the provision of Article 114, Paragraph 2 need not be complied with, if urgency is required.

3. The provisions of Articles 116 and 117 shall apply mutatis mutandis to the seizure and search effected by a public prosecutor, public prosecutor's assistant officer or judicial police official in accordance with the provision of Article 218.

4. Before sunrise and after sunset, a public prosecutor, public pros-

ecutor's assistant officer or judicial police official shall not enter the dwelling of a person, or the premises, buildings or vessels guarded by persons, for the purpose of taking evidence by inspection in accordance with the provision of Article 218, unless the warrant includes a statement that it is to be effected even at night. However, this shall not apply to the places mentioned in Article 117.

5. When the taking of evidence by inspection is commenced before sunset, the disposition may be continued even after sunset.

6. When a public prosecutor, public prosecutor's assistant officer or judicial police official effects seizure, search or inspection of evidence in accordane with the provision of Article 218, the suspect may, if necessary, be caused to be present.

7. When any one who refuses the examination of the person is to be imposed a non-penal fine or be ordered to compensate for the expenses resulting from the refusal in accordance with the provisions of the first paragraph, the request for such dispositions shall be made to the court.

Article 223. A public prosecutor, public prosecutor's assistant officer and judicial police official may ask any person other than the suspect to appear in their offices, question him or request him to formulate an opinion as an expert or act as an interpreter or translator, if it is necessary for pursuing the criminal investigation.

2. Proviso of Paragraph 1 of Article 198 and Paragraphs 3 to 5 of the same Article shall apply mutatis mutandis to the case prescribed by the preceding paragraph.

Article 224. When a request is made for an expert evidence in accordance with Paragraph 1 of the preceding Article, and the measures provided by Paragraph 1, Article 167 are needed, the public prosecutor, public prosecutor's assistant officer and judicial police officer shall ask the judge for the measures above mentioned.

2. The judge, if he recognizes the asking mentioned in the preceding paragraph reasonable, shall carry out the same measures as

in the case of Article 167. In this case, the provision of Article 167–2 shall apply mutatis mutandis.

Article 225. A person who has been requested to give an expert opinion in accordance with Paragraph 1, Article 223, may carry out the measures provided by Paragraph 1 Article 168, with the permission of the judge.

2. The permission mentioned in the preceding paragraph shall be asked by the public prosecutor, public prosecutor's assistant officer or judicial police officer.

3. Where the judge recognizes that the asking mentioned in the preceding paragraph is reasonable, he shall grant it by issuing a warrant of permission.

4. The provisions of Paragraphs 2 to 4 and 6, Article 168 shall apply mutatis mutandis to the warrant of permission mentioned in the preceding paragraph.

Article 226. When a person who apparently possesses imformation essential to the investigation of a crime refuses to appear or disclose such infomation voluntarily at the examination in accordance with Paragraph 1, Article 223, the public prosecutor may request a judge to interrogate him as a witness, only before the first date fixed for the public trial of the case.

Article 227. When there is a cause to believe that an individual who has voluntarily furnished information at the examination by a public prosecutor, public prosecutor's assistant officer or judicial police official in accordance with Paragraph 1, Article 223 may be subjected to pressures to withdraw or change such statements in testimony at the public trial, and when it appears that such testimony will be essential for proving the guilt of the accused, the public prosecutor may request a judge to interrogate the person as a witness, only before the first date fixed for the public trial of the case.

2. When making the request mentioned in the preceding paragraph, the public prosecutor must offer presumptive proof of the reasons

for the necessity of such interrogation and of its being absolutely necessary for proving the guilt of the accused.

Article 228. A judge to whom the request provided by the preceding two Articles has been made shall have the same authority as a court or a presiding judge has in regard to the examination of witness.

2. The judge may, when he recognizes it does not appear to interfere with the pursuance of the criminal investigation, cause the accused, the suspect or his defense counsel to be present at the examination mentioned in the preceding paragraph.

Article 229. When a body of a person who has died an unnatural death or is suspected of having died an unnatural death has been found, a public prosecutor of a District or Local Public Prosecutors Office which has jurisdiction over the place where it has been found shall inspect and examine the body.

2. A public prosecutor may cause a public prosecutor's assistant officer or judicial police officer to effect the disposition mentioned in the preceding paragraph.

Article 230. A person who has been injured by an offense may file a complaint.

Article 231. The legal representative of the injured party may file an independent complaint.

2. On the death of the injured party, his spouse or any of his lineal relatives or brother or sister may file a complaint, but not against the express intention of the injured party.

Article 232. Where the legal representative of the injured party is the suspect, the spouse of the suspect, a relative by blood within the fourth degree of relationship or a relative by affinity within the third degree of relationship of the suspect, a relative of the injured party may file an independent complaint.

Article 233. In respect to the offense of defaming a deceased person, his relatives or descendants may file a complaint.

2. The provisions of the preceding paragraph shall apply also where, in respect to an offense of defamation, the injured party has died without filing a complaint. However, no complaint shall be filed contrary to the express intention of the injured party.

Article 234. If there is no person who can file a complaint, in respect to an offense subject to prosecution on complaint, a public prosecutor may, on the application of any person interested, designate a person who can file a complaint.

Article 235. In respect to an offense subject to prosecution on complaint, no complaint shall be made after the lapse of six months from the day on which knowledge of the offender was obtained. However this shall not apply to the complaint to be made by the representative of a foreign power in accordance with Article 232, Paragraph 2 of the Penal Code or to the complaint to be made, in relation to the offense against a forign mission sent to Japan as mentioned in Article 230 or 231 of the Penal Code, by such mission.

2. Complaint in the case contemplated in the proviso of Article 229 of the Penal Code shall not be valid unless it is made within six months from the day on which the decision declaring the marriage void, or annulling it, became final.

Article 236. Where there are two or more persons entitled to file a complaint, failure by one of them to observe the term for complaint shall not operate against the others.

Article 237. Complaint may be withdrawn at any time before prosecution is instituted.

2. A person who has withdrawn his complaint shall be barred from filing another complaint.

3. The provisions of the preceding two paragraphs shall apply mu-

tatis mutandis to a demand made in a case which is to be received on demand.

Article 238. Complaint filed against one or more of the co-offenders in an offense subject to prosecution on complaint, or the withdrawal thereof, shall take effect in respect to the other co-offenders also.

2. The provision of the preceding paragraph shall apply mutatis mutandis to an accusation or demand, or the withdrawal thereof, made in respect to a case which is to be received on accusation or demand.

Article 239. Any person who believes that an offense has been committed may lodge an accusation.

2. When a government or public officer in exercise of his functions believes that an offense has been committed, he must lodge an accusation.

Article 240. Complaint may be filed by proxy. The same shall apply to the withdrawal of complaint.

Article 241. Complaint or accusation shall be filed with a public prosecutor or a judicial police officer in writing or orally.

2. On receipt of an oral complaint or accusation, a public prosecutor or a judicial police officer shall draw up a protocol.

Article 242. On receipt of a complaint or accusation, a judicial police officer shall promptly forward the documents and piece of evidence pertaining thereto to public prosecutor.

Article 243. The provisions of the preceding two Articles shall apply mutatis mutandis to the withdrawal of complaint or accusation.

Article 244. The complaint or withdrawal thereof to be made by the representative of a foreign power in accordance with the provisions of Article 232, Paragraph 2 of the Penal Code may be made to the Minister for Foreign Affairs notwithstanding the

provisions of Article 241 and the preceding Article of this law. The same shall apply to the complaint or withdrawal thereof, regarding the offense against a foreign mission sent to Japan as mentioned in Article 230 or 231 of the Penal Code, to be made by such mission.

Article 245. The provisions of Articles 241 and 242 shall apply mutatis mutandis to self-denunciation.

Article 246. Except as otherwise provided in this law when a judicial police officer has conducted the investigation of a crime, he shall send the case together with the documents and pieces of evidence to a public prosecutor. However, this shall not apply to the case which is specially designated by a public prosecutor.

Chapter II. Public Action

Article 247. Prosecution shall be instituted by a public prosecutor.

Article 248. If, after considering the character, age and situation of the offender, the gravity of the offense, the circumstances under which the offense was committed, and the conditions subsequent to the commission of the offense, prosecution is deemed unnecessary, prosecution need not be instituted.

Article 249. Prosecution shall not take effect against persons other than the accused designated by a public prosecutor.

Article 250. The period of limitations shall be completed upon the lapse of:

(1) 15 years, for offenses punishable with death;

(2) 10 years, for offenses punishable with imprisonment with or without forced labor for life;

(3) Seven years, for offenses punishable with imprisonment with or without forced labor for a maximum term of not less than 10 years;

(4) Five years, for offenses punishable with imprisonment with or without forced labor for a maximum term of under 10 years;

(5) Three years, for offenses punishable with imprisonment with or without forced labor for a maximum term of under five years or with a fine;

(6) One year, for offenses punishable with penal detention or a minor fine.

Article 251. In regard to offenses punishable by the concurrent imposition of two or more principal punishments or by the imposition of one of two or more principal punishments, the provisions of the preceding Article shall apply with reference to the heaviest punishment.

Article 252. When the punishment is to be increased or commuted in accordance with the Penal Code, the provision of Article 250 shall apply with reference to the punishment not so increased or commuted.

Article 253. The period of limitations shall commence to run at the time when the criminal act has ceased.

2. In the case of an offense committed conjointly by two or more persons, the period of limitations shall, in respect to all the co-offenders, commence to run at the time when the final act has ceased.

Article 254. The period of limitations shall cease to run on the institution of the prosecution against the case concerned, and begins to run when a decision notifying jurisdictional incompetency or dismissing the prosecution becomes final.

2. The suspension of the period of limitations caused by the institution of the prosecution against one of the co-offenders shall take effect against the other co-offenders also. And the period of limitations which has ceased to run shall start again when the decision of the case becomes final.

Article 255. The period of limitations shall not run during the period for which the offender is outside Japan or he conceals himself

so that it is impossible to serve him with a copy of the information or to notify him of the summary order.

2. The matters needed for proving the absence of the offender from Japan or his concealment which made the service of the information or the notification of the summary order impossible shall be provided by the Rules of Court.

Article 256. Prosecution must be instituted by filing an information with a court.

2. The information shall contain:

(1) Name of the accused and other matters necessary to specify the accused;

(2) Facts constituting the offense charged;

(3) Charge.

3. Facts constituting the offense charged shall be described clearly in the form of specified counts, in which time, place and method of offense must be stated as far as known.

4. Charges shall be stated by enumerating the applicable Article of laws or ordinances which the accused has violated. However, errors in the enumeration of such Articles, if there is no apprehension that they may create any substantial prejudice to the defense of the accused, shall not affect the validity of institution of prosecution.

5. Several counts and applicable Articles may be entered in a conjunctive or alternative way.

6. No evidential document or other things, which may cause the judge to frame a prejudication, must be annexed or referred to in the information.

Article 257. Prosecution may be withdrawn before the judgement in the first instance rendered.

Article 258. If a public prosecutor considers that the case does not come within the jurisidiction of the court corresponding to the public prosecutors office to which he belongs, he shall send such case, together with the documents and pieces of evidence, to a

public prosecutor of the public prosecutors office corresponding to the competent court.

Article 259. When a public prosecutor has made a disposition not to prosecute, he shall promptly inform the suspect of such fact upon his request.

Article 260. If, in a case with respect to which complaint, accusation or demand has been lodged, prosecution has been instituted, or a disposition not to prosecute has been made, notice of such fact shall, by a public prosecutor, be promptly given to the complainant, accuser or the person who made the demand. The same shall apply where prosecution has been withdrawn, or the case has been sent to a public prosecutor of another public prosecutors office.

Article 261. If, in a case with respect to which complaint, accusation or demand has been lodged, a disposition not to prosecute has been made, a public prosecutor shall, upon request of the complainant, accuser or the person who made the demand, promptly inform them of the reasons thereof.

Article 262. If, in a case with respect to which complaint or accusation is made concerning the offenses mentioned in Articles 193 to 196 of the Penal Code or Article 45 of the Subversive Activities Prevention Law (Law No. 240 of 1952), the complainant or accuser is dissatisfied with the disposition made by a public prosecutor not to prosecute, he may apply to a District Court having jurisdiction over the place of the public prosecutors office to which that public prosecutor belongs for committing the case to a court for trial.

2. The application mentioned in the preceding paragraph shall be made by submitting a written application to a public prosecutor who made the disposition not to prosecute, within seven days from the day on which the notice mentioned in Article 260 was received.

Article 263. The application mentioned in Paragraph 1 of the preceding Article may be withdrawn before ruling of Article 262 is rendered.

2. The person who made the withdrawal as provided in the preceding paragraph shall not make anew the application mentioned in Paragraph 1 of the preceding Article in respect to the same case.

Article 264. A public prosecutor shall institute prosecution if he considers the application mentioned in Paragraph 1 of Article 262 well-founded.

Article 265. Trial and decision on the application mentioned in Paragraph 1 of Article 262 shall be conducted and delivered by a collegiate court.

2. The court may, if it deems necessary, cause a member of a collegiate court to investigate the fact, or requisition a judge of a District or Summary Court to do so. In this case a commissioned judge or a requisitioned judge shall have the same authority as the court or a presiding judge has.

Article 266. On receipt of the application mentioned in Paragraph 1 of Article 262, a court shall render a ruling according to the following classification:

(1) In the event of the application having been made contrary to the form fixed by law or ordinance or after the right of application has extinguished or of its being without grounds, it shall be dismissed;

(2) If the application is well-founded, the case shall be committed to a competent District Court for trial.

Article 267. When the ruling mentioned in item (2) of the preceding Article has been rendered, prosecution shall be deemed to have been instituted on the case.

Article 268. When a case has been committed to it for trial in accordance with the provision of Article 266, Item (2), the court shall designate from among practicing attorneys one who shall sustain the prosecution on such case.

2. The practing attorney designated as mentioned in the preceding paragraph shall exercise the functions of a public prosecutor in order to sustain the prosecution until the decision has become final. However, the practicing attorney mentioned in the preceding paragraph shall commission a public prosecutor to direct public prosecutor's assistant officer or judicial police official for criminal investigation.

3. The practicing attorney who exercises the functions of a public prosecutor in accordance with the preceding paragraph shall be deemed to be an official engaged in the public service in accordance with laws or ordinances.

4. A court may cancel the designation of the practicing attorney designated in accordance with the first paragraph at any time if it finds that he is not qualified to exercise his functions or there are any other special circumstances.

5. The practicing attorney designated in accordance with the first paragraph shall be given allowances as fixed by cabinet order.

Article 269. When a court dismisses the application mentioned in Paragraph 1 of Article 262 or when the application is withdrawn, the court may, by means of a ruling, order the person who made the application to compensate for the whole or a part of the costs arising from the procedure relating to the application. An immediate *Kokoku* appeal may be filed against the ruling.

Article 270. After the prosecution has been instituted, a public prosecutor may inspect and copy the documents and pieces of evidence relating to the case.

Chapter III. Public Trial

Section I. Preparation for Public Trial and Process of Public Trial

Article 271. When prosecution has been instituted, a court shall serve the accused with a copy of the information without delay.

2. When the copy of information fails to be served on the accused within two months after the prosecution has been instituted, the institution of prosecution shall lose its validity retroactively.

Article 272. On the institution of prosecution, a court shall notify the accused without delay that he may select his defense counsel, and that he may ask the court to appoint a defense counsel for him, if he cannot have it for himself because of poverty or other causes. However, this shall not apply where the accused has already his defense counsel.

Article 273. The presiding judge shall fix the date for public trial.

2. The accused shall be summoned on the date for public trial.

3. The public prosecutor, defense counsel and assistant shall be notified of the date for public trial.

Article 274. Where the accused who is found within the precincts of a court is notifiled by the court of the fixed date for public trial, he shall be deemed as served with a writ of summons.

Article 275. There shall be a reasonable interval prescribled by the Rules of Court between the first date fixed for public trial and the service of the writ of summons on the accused.

Article 276. The court may change the fixed date for public trial, either ex-officio or upon request of a public prosecutor, the accused or his defense counsel.

2. Before changing the fixed date for public trial, the court shall hear the opinion of a public prosecutor and the accused or his defense counsel, as provided by the Rules of Court. However, this shall not apply if urgency is required.

3. In cases prescribed by the proviso of the preceding paragraph, the court shall afford a public prosecutor and the accused or his defense counsel an opportunity to make objections at the commencement of the public trial on the new date.

Article 277. Where a court has changed the fixed date for public trial in abuse of its authority, persons concerned in the case may request remedy in the judicial administrative control proceedings in accordance with Rules or instructions of the Supreme Court.

Article 278. Where an individual who has been summoned for public trial cannot appear on the fixed date because of sickness or other causes, he shall submit to the court, in accordance with the Rules of Court, a medical certificate or other evidential materials.

Article 279. Upon request of a public prosecutor, the accused or his defense counsel or ex-officio, a court may ask other public offices, or organizations, whether they be public or private, for reports on the matters necessary for public trial.

Article 280. After the institution of prosecution and before the first date for public trial, dispositions relating to detention shall be taken charge of by a judge.

2. Where before the expiration of the time limitations prescribed by Article 204 or 205, prosecution has been instituted against a suspect who has been arrested in accordance with the provision of Article 299 or 210 or as a flagrant offender, and who has not been detained by a warrant of detention, the judge must immediately notify the accused of the offense charged, hear his statement thereon, and, if the judge does not issue a warrant of detention, order to release him without delay.

3. The judge mentioned in the preceding two paragraphs shall have the same authority as a court or presiding judge in respect to the dispositions.

Article 281. A court may examine witnesses on other dates than fixed for public trial, when it deems necessary after taking into consideration any such condition that is prescribed by Article 158 and hearing the opinion of a public prosecutor and the accused or his defense counsel.

Article 281-2. Where a court believes a witness to be unable to testify fully under pressures occasioned by the presence of the accused at

the examination of the witness on a date other than that fixed for public trial, the court may, provided that the defense counsel is present, order the accused to withdraw during the examination of the witness after hearing the opinions of the public prosecutor and the defense counsel. In this case, the court must inform the accused of the outlines of the testimony after the testimony has been given and give him the opportunity to examine the witness.

Article 282. Hearing on the date for public trial shall be conducted in a court room.

2. Court shall be opened in the assembled presence of judge and court cleark and with the attendance of public prosecutor.

Article 283. Where the accused is juridical person, it may always appear by proxy.

Article 284. Where the offense charged is punishable with a fine not exceeding 5,000 yen or a minor fine, the accused need not appear. However, he may appear by proxy.

Article 285. Where the offense charged is punishable with penal detention, the accused must be present on the date for public trial when the judgment is rendered. He may be permitted to be absent at any other stage of the public trial, when the court finds that his attendance is not essential for protection of his rights.

2. Where the offense charged is punishable with imprisonment with or without forced labor for a maximum term not exceeding three years or with a fine of more than 5,000 yen, the accused must be present on the date for public trial at the proceedings prescribed by Article 291 and at the rendition of the judgment. As to the other stage of public trial, the last part of the preceding paragraph shall apply.

Article 286. Except as otherwise provided by the preceding three Articles, public trial shall not be held, if the accused is not present.

Article 286–2. When, in a case where public trial shall not be held if the accused is not present, the accused under detention has, when summoned on the date for public trial, refused to appear without good reason, and made it particularly difficult for a prison official to bring him to court, the court may conduct the proceedings of public trial on that date without the presence of the accused.

Article 287. The accused, while in public trial court, shall be subject to no physical restraint whatsoever, unless he employs violence or attempts to escape.

2. However, guards may be placed over the accused, even when he is subject to no physical restraint.

Article 288. The accused shall not withdraw from the court except with the permission of the presiding judge.

2. The presiding judge may take suitable measures to make the accused stay in court and to maintain order.

Article 289. Where the offense charged is punishable with death, or imprisonment with or without forced labor for life or for more than three years of maximum penalty, public trial shall not be conducted without defense counsel.

2. Where the defense counsel does not appear, or no defense counsel has yet been selected for the cases of which the public trial cannot be conducted without the attendance of defense counsel, the presiding judge must, ex-officio, assign defense counsel for the accused.

Article 290. If defense counsel does not appear in cases falling under any one of the items of Article 37 a court may, ex-officio, assign defense counsel.

Article 291. The information shall be read aloud by a public prosecutor on opening the public trial.

2. After the information has been read, the presiding judge must notify the accused that he may be silent at all time and refuse to

answer any question, and other necessary matters which shall be provided by the Rules of Court for protection of the rights of the accused, and must afford the accused and his defense counsel an opportunity to make any statement concerning the case.

Article 291–2. When, at the time of the procedure mentioned Paragraph 2 of the preceding Article, the accused has made the statement that he is guilty of a count or counts stated in the information, the court may, after hearing the opinions of the public prosecutor, the accused, and the defense counsel, render the ruling that trial is conducted according to the prosedure of summary public trial, only with respect to the count or counts of which the accused has made the statement that he is guilty. However, this shall not apply to offenses punishable with the death penalty, or imprisonment with or without forced labor for life or for a minimum period of more than one year.

Article 291–3. The court shall, if it deems that the case with respect to which the ruling mentioned in the preceding Article has been rendered is the one in which the resort to the procedure of summary public trial is not allowed or is improper, rescind such ruling.

Article 292. Examination of evidence shall be commenced after the completion of the procedure provided by the preceding Article.

Article 293. Upon completion of the examination of evidence, a public prosecutor shall state his opinion as to the question of fact and of the application of law.

2. The accused and his defense counsel may also state their opinion.

Article 294. Hearing on the date for public trial shall be presided by the presiding judge.

Article 295. A presiding judge may control any questions asked or any statements given by persons concerned in the trial, if they are unnecessarily repeated, irrelevant to the issue of the case, or in-

admissible in any way, so far as it does not injure the essential rights of those persons. The same shall apply where the accused is questioned by persons concerned in the trial.

Article 296. A public prosecutor shall, on entering into the examination of evidence, shall state what he expects to prove. However, he may not make any such statement, based upon materials inadmissible or not intended to offer as evidence, which may tend to cause the court to hold prejudice or to frame a prejudication.

Article 297. As regards the process of examination of evidence, a court may determine its scope, order and method, after hearing the opinion and suggestion of a public prosecutor and the accused or his defense counsel.

2. A court may cause any one of its collegiate members to carry out the procedure mentioned in the preceding paragraph.

3. A court may, at any time when it deems proper, change the scope, order and method of examination of evidence determined before in accordance with the first paragraph, after hearing the opinion and suggestion of a public prosecutor and the accused or his defense counsel.

Article 298. A public prosecutor, the accused and his defense counsel may request the examination of evidences.

2. A court may, if it deems necessary, examine evidences ex-officio.

Article 299. Before requesting examination of a witness, expert witness, interpreter or translator, a public prosecutor, the accused or his defense counsel must give his opponent party, in advance, an opportunity to know the name and address of the person. Where documentary or real evidence is going to be produced for examination, the opponent party must be afforded, in advance, an opportunity to inspect it. However, this shall not apply where the opponent party raises no objection.

2. Before rendering a ruling of examination of evidence ex-officio, a court must hear the opinion of a public prosecutor and the accused or his defense counsel.

Article 300. A public prosecutor must request the examination of the documents which may be used as evidence in accordance with the provision of the last part of Item (2), Paragraph 1, Article 321.

Article 301. Where the statement of the accused which may be used as evidence in accordance with the provisions of Article 322 and Paragraph 1, Article 324 is his confession of the offense charged, examination thereof shall not be requested until after the other evidences for proving facts constituting the offense are examined.

Article 302. Where the documents which may be used as evidence in accordance with the provisions of Articles 321 to 323 or 326 are a part of investigation records a public prosecutor shall request the examination thereof, separating them from other files as far as possible.

Article 303. A court must examine, on the date for public trial, all the documents which contain the results of the examination of witnesses or other persons, inspection of evidence and of seizure and search, and all the objects seized in the course of preparation for public trial as documentary or real evidences respectively.

Article 304. The witness, the expert witness, the interpreter or the translator shall be examined by the presiding judge or by an associate judge first.

2. A public prosecutor, the accused or his defense counsel may, upon notifying the presiding judge, examine the witness, the expert witness, the interpreter or the translator, after the examination mentioned in the preceding paragraph has been completed. In this case, where the examination of the witness, the expert witness, the interpreter or translator is commenced upon the request made by a public prosecutor, the accused or his defense counsel, the person who has made such request shall examine them first.

3. A court may, if it deems proper, change the order of examination mentioned in the preceding two paragraphs, after hearing the opinion of the public prosecutor, the accused or his defense counsel.

Article 304–2. Where a court believes a witness to be unable to testify fully under pressures occasioned by the presence of the accused in the course of the examination of the witness, the court may, providing that the defence counsel is present, order the accused to withdraw from the courtroom during the examination of the witness after hearing the opinions of the public prosecutor and the defense counsel. In this case, the court must make the accused enter into the courtroom after the testimony has been given, inform his of the outlines of the testimony and give him the opportunity to examine the witness.

Article 305. In the case of examination of documentary evidences upon request made by a public prosecutor, the accused or his defense counsel, the presiding judge shall cause the person who has made the request to read them aloud. However, the presiding judge may read them aloud himself, or cause an associate judge or a court clerk to do so.

2. In case court examines documentary evidences ex-officio, the presiding judge shall read the documents aloud himself, or cause an associate judge or a court clerk to do so.

Article 306. In the case of examination of real evidences upon request made by a public prosecutor, the accused or his defense counsel, the presiding judge shall cause the person who has made such request to show them. However, the presiding judge may show them himself, or cause an associate judge or court clerk to do so.

2. In case a court examines real evidences ex-officio, the presiding judge himself shall show them to persons concerned in the trial or cause an associate judge or a court clerk to do so.

Article 307. Documents, as real evidences, of which the purport serves as a proof, shall be examined in accordance with both Article 305 and the preceding Article.

Article 307–2. The provisions of Articles 296 and 297, Articles 300 to 302 inclusive, and Article 304 to the preceding Article inclusive

shall not apply to the case with respect to which the ruling mentioned in Article 291–2 has been rendered, and the examination of evidence may be made by such method as is deemed appropriate on the date for public trial.

Article 308. A court must afford a proper opportunity necessary for challenging the probative value of evidence to a public prosecutor and the accused or his defense counsel.

Article 309. A public prosecutor, the accused or his defense counsel may raise objections regarding the examination of evidences.

2. A public prosecutor, the accused or his defense counsel may raise objections to any dispositions effected by a presiding judge, besides the objections prescribed by the preceding paragraph.

3. The court shall render a ruling on the objections raised under the preceding two pargraphs.

Article 310. Documentary or real evidences of which the examinaiton has been completed shall be presented to the court without delay. However, as regards a document, a copy may be presented in lieu of the original thereof with the permission of the court.

Article 311. The accused may be silent all the time or refuse to answer any question during the course of the trial.

2. Where the accused makes statement voluntarily, the presiding judge may at any time question him about necessary matters.

3. An associate judge, public prosecutor, defense counsel, co-defendant or his defense counsel may also, upon notifying the presiding judge, question the accused in the cases mentioned in the preceding paragraph.

Article 312. A court shall permit a public prosecutor, upon his request, to add, withdraw or change the count, or descriptions of laws or ordinances violated in the information, so far as it does not modify the identify of the offense charged.

2. A court may order a public prosecutor to add or change the count

or descriptions of laws or ordinances where it deems it proper according to the development of the trial.

3. Where the count or descriptions of laws or ordinances violated have been added, withdrawn or changed, the court must notify the accused of the part added, withdrawn or changed without delay.

4. Where a court believes there is an apprehension that the addition or change of the count or descriptions of laws or ordinances may cause a substantial prejudice to the defense of the accused, it must, upon request of the accused or his defense counsel and, by means of a ruling, stay the procedure of public trial for a period necessary for the accused to prepare sufficient defense.

Article 313. When it deems proper, a court may, either on request of a public prosecutor, the accused or his defense counsel or ex-officio, by means of a ruling, separate or join the oral proceedings or resume the oral proceedings which were concluded.

2. A court must, when it is necessary for the protection of the rights of the accused, by means of a ruling, separate the oral proceedings in accordance with the Rules of Court.

Article 314. If the accused is in a state of insanity, the procedure of public trial shall, after hearing the opinion of a public prosecutor and defense counsel, be stayed by means of a ruling during continuance of such state. However, in case there are obvious reasons for which a decision of innocence, acquittal, remission of punishment or dismissal of prosecution should be given, such decision may be rendered at once without awaiting the appearance of the accused.

2. If the accused is unable to appear on account of sickness, the procedure of public trial shall, after hearing the opinion of a public prosecutor and defense counsel, be stayed by means of a ruling until it becomes possible for him to appear. However, this shall not apply where a proxy has been caused to appear in accordance with Articles 284 and 285.

3. Where a witness essential for proving the existence or non-existence of the facts constituting a crime, cannot appear on the date

for public trial because of illness, a court must stay the procedure of public trial until it becomes possible for him to appear, except in case the court deems it proper to examine him on other dates than for public trial.

4. Before staying the trial in accordance with the preceding three paragraphs, a court shall hear the opinion of a medical expert.

Article 315. Where a judge or judges was or were changed subsequent to the commencement of public trial, the procedure thereof shall be renewed. However, this shall not apply when only the judgment remains to be pronounced.

Article 315–2. When the ruling mentioned in Article 291–2 has been rescinded, the procedure of public trial shall be renewed. However, this shall not apply in cases where there is no objection on the part of the public prosecutor and the accused or the defense counsel.

Article 316. The proceedings conducted by a single judge of a District Court shall not lose its effect, even if the case in question turns out to be one which should have been tried by a collegiate court.

Section II. Evidence

Article 317. Facts shall be found on the basis of the evidence.

Article 318. The probative value of evidence shall be left to the free discretion of judges.

Article 319. Confession made under compulsion, torture or threat, or after prolonged arrest or detention, or which is suspected not to have been made voluntarily shall not be admitted in evidence.

2. The accused shall not be convicted in cases where his own confession, whether made in open court or not, is the only proof against him.

3. Confession mentioned in the preceding two paragraphs includes any admission of the accused which acknowledges himself to be guilty of the offense charged.

Article 320. Except as otherwise provided by Articles 321 to 328, no document shall be used as evidence as a substitute for a statement of any person given orally on the date for public trial, nor shall oral description of a statement made by another on other dates than dates fixed for public trial be used as evidence.

2. The provisions of the preceding paragraph shall not apply to the evidence in the case with respect to which the ruling mentioned in Article 291–2 has been rendered, except to the evidence of which the public prosecutor, the accused or the defense counsel has raised an objection to the admission in evidence.

Article 321. A written statement made by a person other than the accused, or a document which contains his statement and is signed and sealed by him may be used as evidence only in cases falling under any one of the following items:

(1) As regards the document which contains a statement of a person given before a judge, where he does not appear or testify on the date either for the preparation for public trial or for the public trial because of death, unsoundness of mental condition, missing, staying outside of Japan or being so physically incapacitated that he cannot testify, or where he, appearing on the date above mentioned, has given a testimony different in any way from his previous statement;

(2) As regards the document which contains a statement of a person given before a public prosecutor, where he does not appear or testify on the date either for the preparation for public trial or for the public trial because of death, unsoundness of mental condition, missing, staying outside of Japan or being so physically incapacitated that he cannot testify, or where he, appearing on the date above mentioned, has given a testimony contrary to or materially different from his

previous statements; however, in the last case this shall apply only where there exist special circumstances, because of which the court may find that the previous statements are more credible than the testimony given in the course of interrogation on the date above mentioned;

(3) As regards written statements other than those provided in the preceding two items, where the person who has given the statements does not appear or testify on the date either for the preparation for public trial or for the public trial because of death, unsoundness of mental condition, missing, staying outside of Japan or being so physically incapacitated that he cannot testify, and his previous statements are essential for proof of the offense prosecuted; however, this shall apply in cases where there exist special circumstances under which the statements had been made, and which lend a special credibility.

2. A written record which contains the statements given by a person other than the accused on the date either for the preparation for public trial or for the public trial, or a written record which describes the result of the inspection by a court or a judge may, despite the preceding paragraph, be used as evidence.

3. A written record which describes the result of the inspection by a public prosecutor, public prosecutor's assistant officer or a judicial police official may, despite the first paragraph of this Article, be used as evidence, if he who has prepared it appears on the date for public trial as a witness and verifies the document being genuinely prepared.

4. The preceding paragraph shall apply mutatis mutandis to the document prepared by an expert witness which describes his conclusions and process under which he has formulated his opinion.

Article 322. A written statement made by the accused or a document which contains his statement and is signed and sealed by him may be used as evidence against him, if the statement contains an admission by the accused of the fact which is adverse to his interests, or if the statement was made under such circumstances

as secure a special credibility. However, where the written statement or document contains an admission by the accused of the fact which is adverse to his interests and there exists any suspicion that the admission has not been made voluntarily, it shall not be used as evidence against the accused as well as in cases prescribed by Article 319, even though the admission is not a confession of a crime.

2. A written record which contains the statements given by the accused on the date either for the preparation for public trial or for the public trial may be used as evidence, in so far as the statement appears to have been made voluntarily.

Article 323. Documents other than those provided by the preceding two Articles may be used as evidence only when they come under any one of the following:

(1) A copy of one's family register, a copy of a notarial deed or such other public documents certifying the facts which the public officer (including an officer of a foreign government) has the duty or authority to certify;

(2) An account book, a voyage log and other documents prepared in regular course of business;

(3) Documents other than those provided by the preceding two items, prepared under the circumstances which lend a special credibility to the assertion of the fact contained therein.

Article 324. As to the oral statements given by a person other than the accused on the date either for the preparation for public trial or for the public trial which contain the pre-trial statements of the accused, the provision of Article 322 shall apply mutatis mutandis.

2. As to the oral statements given by a person other than the accused on the date above mentioned which contain the pre-trial statements of a person other than the accused, the provision of Item (3), Paragraph 1, Article 321 shall apply mutatis mutandis.

Article 325. Even when a document or statement is admissible as evidence in accordance with the preceding four Articles, it shall not be used as evidence by the court, unless it believes after investigation that the statement described in the document or the statement of a person contained in oral statement by another on the date either for the preparation for public trial or for the public trial has been made voluntarily.

Article 326. Despite Articles 321 to 325, any document or statement may be used as evidence only when a public prosecutor and the accused give consent thereto and the court finds it proper after considering the circumstances under which the document or statement was obtained.

2. In cases where examination of evidences may be carried out in spite of non-attendance of the accused and the accused does not appear, he shall be deemed to have given the consent mentioned in the preceding paragraph. However, this shall not apply where his proxy or defense counsel appears for him.

Article 327. When agreed to and submitted by a public prosecutor and the accused or his defense counsel, written stipulations at to the contents of any document, or substance of any testimony which would be rendered if the witness were to appear in court may be used as evidence without examining the original document or interrogating the witness in public trial. However, the probative value of the stiuplation may be challenged at any time.

Article 328. Any document or oral statement, which shall not be used as evidence in accordance with the provisions of Articles 321 to 324, may be used as a method for the purpose of determining the credibility of the statement made on the date either for the preparation for public trial or for the public trial by the accused, witness or other persons.

Section III. Decision in Public Trial

Article 329. In the event of a case pending against the accused not coming within the jurisdiction of a court, a pronouncement of

incompetency shall be made by a judgment. However, as regards the case which has been committed to trial in a District Court under Item (2), Article 266, the court shall not make a pronouncement of incompetency.

Article 330. If a case for which a prosecution has been instituted in a High Court as one coming within its special jurisdiction is found to come within the jurisdiction of a lower court, it shall be transferred to the competent court by means of a ruling, notwithstanding the provisions of the preceding Article.

Article 331. A court shall not make a pronouncement of incompetency in regard to territorial jurisdiction, execept upon the application of the accused.

2. No plea of incompetency shall be preferred after the examination of evidence has been commenced in regard to the case pending against the accused.

Article 332. A Summary Court shall, by means of a ruling, transfer a case to a District Court which has jurisdiction, if it deems it proper that the case is to be tried by a District Court.

Article 333. Where there is proof of guilt in regard to the case pending against the accused, a sentence shall be pronounced by a judgment, execept in the case of Article 334.

2. Suspension of execution of a sentence shall be pronounced by a judgment simultaneously with such sentence. The same shall apply when the accused is placed on probation in accordance with the provision of Paragraph 1, Article 25–2 of the Penal Code.

Article 334. Where the punishment is to be remitted in regard to the case pending against the accused, a pronouncement to such effect shall be made by a judgment.

Article 335. In pronouncing the accused guilty, the facts constituting the offense, an inventory of the evidence and the application of laws

or ordinances shall be indicated.

2. When an allegation has been made as to legal grounds barring the formation of the offense, or as to facts by reason of which the punishment should be aggravated or commuted, a decision thereon shall also be indicated.

Article 336. If the case against the accused does not constitute an offense, or if the proof of guilt is lacking, the accused shall be pronounced "not guilty" by a judgment.

Article 337. A pronouncement of acquittal shall be made by a judgment in the following cases:

(1) Where a final judgment has already been rendered;

(2) Where the punishment has been abolished by a law or ordinance enforced subsequent to the commission of the offense;

(3) Where a general amnesty has been proclaimed;

(4) Where the period of limitations has been completed.

Article 338. Prosecution shall be dismissed by a judgment in the following cases:

(1) Where a court has no jurisdiction over the accused;

(2) Where a prosecution has been instituted in violation of Article 340;

(3) Where, on a case in which a prosecution was instituted, another prosecution has been opened in the same court;

(4) Where the procedure for instituting a prosecution is void by reason of its having been contrary to the provisions relating thereto.

Article 339. Prosecution shall be dismissed by means of a ruling in the following cases:

(1) Where the institution of prosecution has lost its effect in accordance with the provision of Paragraph 2, Article 271;

(2) Where the counts in the information, even if true, do not constitute any specified offense;

(3) Where prosecution has been withdrawn;

(4) Where the accused has died, or, being a juridical person, has ceased to exist;

(5) Where adjudication is barred by the provision of Article 10 or 11.

2. Against the ruling mentioned in the preceding paragraph, immediate *Kokoku* appeal may be filed.

Article 340. When a ruling dismissing prosecution as a result of its withdrawal, becomes final, new prosecution may be instituted for the same offense only when it is based upon a newly discovered material evidence.

Article 341. When the accused has refused to make any statement, retired from court without permission, or been ordered by the presiding judge to retire from court for the maintenance of order, a judgment may be rendered without hearing his statement.

Article 342. A judgment shall be made known by pronouncement in public trial court.

Article 343. Bail or suspension of execution of detention shall lose its effect at the time of rendition of a sentence to imprisonment or graver punishment. In this case, the provisions of Article 98 shall apply mutatis mutandis, only when a new ruling of bail or of suspension of execution of detention is not rendered.

Article 344. The provisions of the proviso of Paragraph 2, Article 60 and Article 89 shall not apply after the rendition of a sentence to imprisonment or graver punishment.

Article 345. A warrant of detention shall lose its effect when the decision of "not guilty", acquittal, remission of punishment, suspension of execution of sentence, dismissal of prosecution (except where dismissal of prosecution is made in accordance with the provision of Item (4), Article 338), or of a fine or minor fine has been made known.

Article 346. When no pronouncement of confiscation has been made in regard to articles seized, a pronouncement releasing such articles from seizure shall be deemed to have been made.

Article 347. If, in regard to ill-gotten goods under seizure, there is a clear reason for restoring to the injured party, a pronouncement directing the restoration of such goods to the injured party shall be made.

2. A case in which the injured party demands delivery of any articles acquired as consideration for ill-gotten goods shall also be governed by the preceding paragraph.

3. When no special pronouncement is made to the contrary in regard to goods provisionally restored, a pronouncement of restoration shall be deemed to have been made.

4. Notwithstanding the provisions of the preceding three paragraphs, any person interested may assert his rights in accordance with civil procedure.

Article 348. When a court pronounces a fine, minor fine or additional collection to the accused, the court may, upon request of a public prosecutor or ex-officio, order the provisional payment of such amount of money as being pronounced, if it considers there is apprehension that it is impossible or extremely difficult to execute the judgment in case the execution is prolonged until the judgment becomes final.

2. The decision for provisional payment shall be pronounced by a judgment simultaneously with the pronouncement of punishment.

3. The decision ordering provisional payment may be executed immediately.

Article 349. If a pronouncement on suspension of execution of sentence is to be rescinded, a public prosecutor shall demand such rescission to the District Court, Family Court or Summary Court which has the jurisdiction over the area where the convicted person is or stayed last.

2. When a pronouncement for suspension of execution of a sentence is to be rescinded in accordance with the provision of Article 26–2,

Item (2) of the Penal Code, the demand mentioned in the preceding paragraph shall be made upon application of the chief of the Probation Office.

Article 349–2. In case the demand mentioned in the preceding Article has been made, the court shall render a ruling, after hearing the opinion of the person on whom the suspension was pronounced or of his proxy.

2. When, in the case of the preceding paragraph, the demand is the one for the rescission of the pronouncement of the suspension in accordance with the provision of Article 26–2, Item (2) of the Penal Code, oral proceedings shall be conducted, upon request of the person on whom the suspension was pronounced.

3. In case oral proceedings are conducted for rendering the ruling mentioned in Paragraph 1, the person on whom the suspension was pronounced may select defense counsel.

4. In case oral proceedings are conducted for rendering the ruling metioned in Paragraph 1, the public prosecutor may, by permission of the court, cause a probation officer to state his opinion.

5. Against the ruling mentioned in Paragraph 1, immediate *Kokoku* appeal may be filed.

Article 350. In case a punishment is to be determined in accordance with Article 52 of the Penal Code, a public prosecutor shall request the court which rendered the final judgment upon the case to determine a punishment. In this case, the provisions of Paragraphs 1 and 5 of the preceding Article shall apply mutatis mutandis.

BOOK III. APPEAL

Chapter I. General-Provisions

Article 351. Appeal (*Joso*) may be lodged by a public prosecutor or the accused.

2. When a case committed to the trial of a court in accordance with Item (2), Article 266 has been jointly tried with another case and one decision has been rendered, the practicing attorney who exercises the functions of a public prosecutor in accordance with Paragraph 2, Article 268 and the public prosecutor engaged in the latter case may respectively lodge an appeal independently against such decision.

Article 352. *Kokoku* appeal may be filed by a person other than a public prosecutor or the accused, against whom a ruling has been rendered.

Article 353. The legal representative or curator of the accused may lodge an appeal on behalf of the accused.

Article 354. When the reason for detention was indicated, the person who requested the indication may also make an appeal against the detention on behalf of the accused. The same shall apply to the ruling which rejects the appeal.

Article 355. A proxy or defense counsel in the original instance may lodge an appeal on behalf of the accused.

Article 356. Appeal mentioned in the preceding three Articles shall not be taken against the clearly expressed intention of the accused.

Article 357. Appeal may be filed against a part of a decision. An appeal which is not specially limited to a part shall be deemed to have been taken against the entire decision.

Article 358. The period for making an appeal shall begin to run from the day on which the decision was made known.

Article 359. A public prosecutor, the accused or the person mentioned in Article 352 may waive or withdraw an appeal.

Article 360. The persons mentioned in Article 353 or 254 may waive or withdraw an appeal with the consent of the accused.

Article 360-2. An appeal against the judgment imposing the death penalty or imprisonment with or without forced labor for life may not be waived, notwithstanding the provisions of the preceding two Articles.

Article 360-3. A motion for waiver of appeal shall be made in writing.

Article 361. A person who has waived or withdrawn an appeal shall not take another appeal in respect to the same case. The same shall apply to the accused who has given consent to the waiver or withdrawal of the appeal.

Article 362. When a person entitled to make an appeal by provision of Articles 351 to 355 has been prevented, by a cause not imputable to himself or his representative, from lodging an appeal within the period for making an appeal, he may apply to the original court for recovery of his right of appeal.

Article 363. Demand for recovery of the right of appeal shall be made in writing within a period equivalent to the period for appeal beginning on the day on which the cause which prevented the appeal ceased to exist.

2. A person who demands for recovery of the right of appeal shall make an application for an appeal simultaneously with such demand.

Article 364. Immediate *Kokoku* appeal may be filed against the ruling made regarding the demand for recovery of the right of appeal.

Article 365. When a demand has been made for the recovery of the right of appeal, the original court may render a ruling staying

the execution of the decision until the ruling provided for in the preceding Article is rendered. In this case, a warrant of detention may be issued against the accused.

Article 366. If the written application for an appeal is submitted by the accused who is in prison to the warden or his deputy within the period for appeal, such appeal shall be deemed to be made within the prescribed period.

2. If the accused is unable to prepare a written application himself, the warden or his deputy shall write it instead, or cause an official under him to do so.

Article 367. The provisions of the preceding Article shall apply mutatis mutandis in cases where the accused who is in prison waives or withdraws an appeal or demands recovery of his right of appeal.

Article 368. In case an appeal which has been instituted only by a public prosecutor is dismissed or withdrawn, the State shall compensate the then accused of the case for the expenses incurred by him because of the appeal in the instance in which the appeal has been lodged.

Article 369. The amount of the compensation shall be only travelling expenses, daily allowances and lodging charges which have been incurred by the then accused and the then defense counsel for the purpose of appearing on the date for the preparation for public trial or for the public trial, and the remuneration which the then accused has given to the then defense counsel, and, as regards the amount which shall be granted, the provisions concerning the witness and defense counsel of the Law concerning the Costs of Criminal Procedure shall apply mutatis mutandis to the then accused and the then defense counsel respectively.

Article 370. Compensations shall be allowed upon request of the then accused or his proxy, by means of a ruling by the Supreme Court

or the High Court which has exercised the appellate jurisdiction over the case in question.

2. The request mentioned in the preceding paragraph shall be made within two months after the decision dismissing the appeal has been notified or the appeal has been withdrawn.

3. To the ruling rendered by a High Court by provision of the first paragraph, objections may be made according to Paragraph 2, Article 428. The provisions concerning immediate *Kokoku* appeal shall also apply mutatis mutandis to the objections mentioned above.

Article 371. Except as otherwise provided in this Code, the Rules of Court shall cover the request, payment of compensation and other proceedings regarding the compensation.

Chapter II. Koso Appeal

Article 372. *Koso* appeal may be lodged against a judgment rendered in the first instance by a District Court, Family Court or Summary Court.

Article 373. The period allowed for *Koso* appeal shall be fourteen days.

Article 374. *Koso* appeal shall be lodged by presenting a written application for *Koso* appeal to the court of the first instance.

Article 375. Where it is obvious that a *Koso* appeal has been lodged after the termination of the right of *Koso* appeal, the court of the first instance shall dismiss it by means of a ruling. Immediate *Kokoku* appeal may be filed against such ruling.

Article 376. An appellant must present the statement of reasons for *Koso* appeal to the appellate court within the period which shall be prescribed by the Rules of Court.

2. Presumptive proof or certificate of a public prosecutor or de-

fense counsel must be appended to the statement of reasons for *Koso* appeal as required in this Code or the Rules of Court.

Article 377. Where *Koso* appeal is lodged on any of the following grounds, the statement of reasons for the appeal shall be appended with a certificate of a public prosecutor or defense counsel to the effect that sufficient proof of the existence of such grounds can be offered:

(1) That the original court was not constituted as prescribed by law;

(2) That a judge who for some legal reason ought not to have participated in the judgement, did in fact participate in the judgment;

(3) That the provisions relating to open trial were contravened. travened.

Article 378. Where *Koso* appeal is lodged upon any of the following grounds, the statement of reasons for the appeal shall contain an adequate reference to matters which appear in the record describing the procedure done and the contents of evidence taken by the original court and which are sufficient to make the alleged ground credible:

(1) That the court illegally considers itself competent or incompetent;

(2) That the prosecution was illegally accepted or dismissed;

(3) That a judgment was not given in regard to a count in the information, or that it was given in regard to a count not made in the information;

(4) That the judgment was not accompanied by reasons, or the reasons were contradictory.

Article 379. Where *Koso* appeal is lodged upon the ground, other than prescribed by the preceding two Articles, that a certain law or ordinance of procedure was violated and that the violation is material to the judgment, the statement of reasons for the appeal shall contain an adequate reference to matters which appear in the record describing the procedure done and the contents of evidence

taken by the original court and which are sufficient to make the alleged ground credible.

Article 380. Where *Koso* appeal is lodged upon the ground of a mistake in the construction, interpretation or application of law or ordinance by the original court, and that the mistake is material to the judgment, the statement of reasons for the appeal shall specifically point out the mistake and its materiality to the judgment.

Article 381. Where *Koso* appeal is lodged upon the ground that the punishment has been determined improperly or unjustly, the statement of reasons for the appeal shall contain an adequate reference to matters which appear in the record describing the procedure done and the contents of evidence taken by the original court and which are sufficient to make the alleged ground credible.

Article 382. Where *Koso* appeal is lodged upon the ground of errors in finding fact and its obvious materiality to the judgment, the statement of reasons for the appeal shall contain an adequate reference to matters which appear in the record describing the procedure done and the contents of evidence taken by the original court and which are sufficient to make the alleged ground credible.

Article 382-2. The fact that can be proved by the evidence, the request for the examination of which could not be made prior to the conclusion of the oral proceedings in the first instance owing to unavoidable circumstances, and that sufficiently makes it credible that there exist the reasons for lodging *Koso* appeal prescribed in the preceding two Articles may be referred to in the statement of reasons for *Koso* appeal, even though the fact is other than the fact appearing in the record of proceedings and the contents of the evidence taken by the original court.

2. The preceding paragraph shall apply to the fact which occured in the first instance, after the conclusion of the oral proceedings but before the pronouncement of the judgment and which suffici-

ently makes it credible that there exist the reasons for lodging *Koso* appeal prescribed in the preceding two Articles.

3. In the case of the preceding two paragraphs, the statement of reasons for *Koso* appeal shall be appended with the presumptive proof for such fact. In the case of Paragraph 1, it shall also be appended with the presumptive proof showing that the request for the examination of the evidence could not be made owing to unavoidable circumstances.

Article 383. Where *Koso* appeal is lodged on any of the following grounds, the statement of reasons for the appeal shall be appended with the presumptive proof for the ground:

(1) That there exists a fact which would support a reopening of procedure (*Saishin*);

(2) That, subsequent to the rendition of the judgment in the lower court, the punishment has been abolished or changed or general amnesty has been proclaimed.

Article 384. Koso appeal may be lodged only by asserting any of the grounds for appeal prescribed by Articles 377 to 382 and the preceding Article.

Article 385. Where it is obvious that the application for *Koso* appeal has been made not following the form established by law or ordinance or subsequent to the termination of the right of appeal, the court of *Koso* appeal shall dismiss it by means of a ruling.

2. Against the ruling mentioned in the preceding paragraph, an objection may be raised in accordance with Article 428, Paragraph 2; in this case, the provisions of immediate *Kokoku* appeal shall also apply mutatis mutandis.

Article 386. The court of *Koso* appeal shall dismiss the *Koso* appeal by means of a ruling:

(1) When the statement of reasons for *Koso* appeal is not presented within the period provided by Article 376, Paragraph 1;

(2) When the statement of reasons for *Koso* appeal does not follow the form established by this Code and the Rules of Court, or when it is not appended with the necessary presumptive proof or certificate provided by this Code or the Rules of Court;

(3) When it is obvious that the contents of the statement of reasons for *Koso* appeal do not form any ground for the appeal provided by Articles 377 to 382 and 383.

2. As to the ruling mentioned in the preceding paragraph, the provisions of Paragraph 2 of the preceding Article shall apply mutatis mutandis.

Article 387. For a trial on *Koso* appeal, no person other than a practicing attorney shall be appointed a defense counsel.

Article 388. In a trial on *Koso* appeal, only the detense counsel may argue on behalf of the accused.

Article 389. On the date of hearing, a public prosecutor and defense counsel shall argue on the basis of the statement of reasons for *Koso* appeal.

Article 390. In a trial on *Koso* appeal, the accused is not required to appear on the date for public trial. However, in case of the offense other than punishable by a fine not exceeding 5,000 yen or minor fine, the court of *Koso* appeal may order the accused to appear on the date for public trial, if it deems it essential for the protection of rights of the accused.

Article 391. If a defense counsel does appear, or no defense counsel has been appointed, a judgment may be given after hearing the statement of a public prosecutor, except in cases where defense counsel is required by this Code or has been assigned by a ruling.

Article 392. The court of *Koso* appeal shall investigate all the matters contained in the statement of reasons for the appeal.

2. The court of Koso appeal may ex-officio investigate any matters provided by Articles 377 to 382 and 383 even though they are not contained in the statement of reasons for the appeal.

Article 393. The court of *Koso* appeal, when it deems it necessary for the investigation mentioned in the preceding Article, may examine facts, upon request of a public prosecutor, the accused or his defense counsel, or ex-officio. However as to the facts of which the presumptive proof mentioned in Article 383-2 is presented, the court must examine such facts, only where they are essential to the proof of improper determination of punishment or of the errors in the finding of fact material to the judgment.

2. The court of *Koso* appeal, when it deems it necessary, may, ex-officio, examine the circumstances which occurred after the judgment in the first instance and are material to the determination of punishment.

3. The examination in the preceding two paragraphs may be caused to be carried out by a member of a collegiate court; or a judge of a District Court, Family Court or Summary Court may be requisitioned to conduct it. In such case, a commissioned judge and a requisitioned judge shall have the same power as a court or a presiding judge has.

4. When the examination in accordance with the provision of Paragraph 1 or 2 has been conducted, the public prosecutor and the defense counsel may argue on the basis of the result thereof.

Article 394. Any evidence which was admitted or used as evidence in the court of first instance may be used as evidence also in the court of *Koso* appeal.

Article 395. When an application for *Koso* appeal has been made not following the form established by law or ordinance or subsequent to the termination of the right of *Koso* appeal, the court of *Koso* appeal must dismiss it by means of a judgment.

Article 396. Where there exists no ground for *Koso* appeal prescribed by Articles 377 to 382 and 383, it shall be dismissed by means of a judgment.

Article 397. Where there exists any of the grounds for *Koso* appeal prescribed by Articles 377 to 382 and 383, the original judgment shall be quashed by means of a judgment.

2. In case, as a result of the examination according to the provision of Article 393, Paragraph 2, it is recognized to be apparently contrary to justice unless the original judgment is quashed, the original judgment may be quashed by means of a judgment.

Article 398. When the original judgment is to be quashed on the ground that the original court illegally pronounced itself incompetent or illegally dismissed the public action, the case shall be sent back to the original court by means of a judgment.

Article 399. When the original judgment is to be quashed on the ground that the court illegally considered itself competent, the case shall, by means of a judgments, be transferred to the competent court of first instance. However, if the court of *Koso* appeal has itself the jurisdiction of first instance over the case, it shall try the case as court of first instance.

Article 400. When the original judgment is to be quashed on any ground other than the grounds mentioned in the preceding two Articles, the case shall be either sent back to the original court or transferred to another court in the same class as the original court by means of a judgment. However, if the court of *Koso* appeal recognizes that it may immediately render a judgment on the basis of the record of court proceeding and the evidences examined by the original court and the court of *Koso* appeal, it may render the judgment for the case.

Article 401. In case the original judgment is quashed for the benefit of the accused, such judgment shall be quashed also for the

co-accused by whom *Koso* appeal was lodged if the ground for quashing is common to such co-accused.

Article 402. In a case where *Koso* appeal has been lodged by, or for the benefit of, the accused, no punishment graver than that imposed by the original judgment shall be pronounced.

Article 403. In the event of the original court having illegally failed to render a ruling dismissing the prosecution, the prosecution shall be dismissed by means of a ruling.

2. As to the ruling mentioned in the preceding paragraph, the provisions of Article 385, paragraph 2 shall apply mutatis mutandis.

Article 404. The provisions relating to public trial in Book II shall apply mutatis mutandis to trial on *Koso* appeal, except as otherwise provided in this Code.

Chapter III. Jōkoku Appeal

Article 405. Jokoku appeal may be lodged against judgment in first or second instance rendered by a High Court in the following cases:

(1) When there is a violation of the Constitution or an error in construction, interpretation or application of the Constitution;

(2) When a judgment has been formed incompatible with the judicial precedents formerly established by the Supreme Court;

(3) When, in cases for which there esist no judicial precedents of the Supreme Court, a judgment has been formed incompatible with the judicial precedents formerly established by the former Supreme Court (*Dai Shin In*) or by the High Court as the Court of *Jokoku* appeal or, after the enforcement of this Code, by the High Court as the court of *Koso* appeal.

Article 406. The Supreme Court, as the court of *Jokoku* appeal, may, in accordance with the Rules of Court, admit any cases which it deems involve an important problem of the construction of law or ordinance, only before the original judgments become final, even though the cases be not those of which *Jokoku* appeals may be lodged by provision of the preceding Article.

Article 407. The statement of reasons for *Jokoku* appeal shall specifically point out the ground for the appeal in accordance with the Rules of Court.

Article 408. Where the court of *Jokoku* appeal finds, after examining the statement of reasons for *Jokoku* appeal and other documents, that the appeal is not sustainable, it may dismiss the appeal, by means of a judgment, without holding the oral proceedings.

Article 409. The court of *Jokoku* appeal is not required to summon the accused on the date for public trial.

Article 410. The court of *Jokoku* appeal shall quash the original judgment, by means of a judgment, if it finds out that there exists any of the grounds for quashing provided by each item of Article 405. However, this shall not apply, if the existence of the ground does not affect the judgment at all.

2. The preceding paragraph shall not apply in the case where there exist only such grouds for quashing the original judgment as falling under Items (2) and (3), Article 405 and the court of *Jokoku* appeal deems it rather proper to break the judicial precedent and sustain the original judgment.

Article 411. Even where there exists no ground as prescribed by any one of the Items in Article 405, if the court of *Jokoku* appeal deems it incompatible with justice not to quash the original judgment because of the existence of the following causes, it may quash it by means of a judgment:

(1) That there exists any mistake of construction, interpretation or application of law or ordinance which is material to the judgment;
(2) That the punishment has been imposed too unjustly and improperly;
(3) That there exists a gross error in finding facts which is material to the judgment;
(4) That there exists any reason which would support reopening of procedure (*Saishin*);
(5) That the punishment has been abolished or changed or a general amnesty has been proclaimed after the rendition of the original judgment.

Article 412. When the original judgment is to be quashed on the ground that the court illegally considered itself competent, the case shall, by means of a judgment, be transferred to the competent court of *Koso* appeal or competent court of first instance.

Article 413. When the original judgment is to be quashed on any ground other than the grounds mentioned in the preceding Article, the case shall be either sent back to the original court or the court of first instance, or transferred to another court in the same class as such court, by means of a judgment. However, if the court of *Jokoku* appeal recognizes that it may immediately render a judgment on the basis of the record of court proceeding and the evidences examined by the original court or court of first instance, it may render the judgment for the case.

Aritcle 414. The provisions of the preceding Chapter shall apply mutatis mutandis to the trial of *Jokoku* instance, except as otherwise provided in this Code.

Article 415. The court of Jokoku appeal, where it notes error in the contents of its judgment, may amend it by another judgment upon request of a public prosecutor, the accused or his defense counsel.

2. The request mentioned in the preceding paragraph shall be made within ten days after the day when the judgment has been pronounced.

3. The court of Jokoku appeal, if it deems proper, may extend the term fixed by the preceding paragraph upon request of those mentioned in the first paragraph of this Article.

Article 416. A judgment for amendment may be rendered without opening oral proceedings.

Article 417. The court of *Jokoku* appeal shall reject the request, by means of a ruling, without delay in case it will not render a judgment for amendment.

2. No further request shall be brought forward against the judgment for amendment by provision of Paragraph 1, Article 415.

Article 418. The judgment of the court of *Jokoku* appeal shall become final on expiration of the term mentioned in Article 415, or where any request is made in accordance with Paragraph 1 of the same Article, on the rendition of a judgment for amendment or of a ruling rejecting the request.

Chapter IV. Kōkoku Appeal

Article 419. In addition to the cases where it is specially provided that immediate *Kokoku* appeal may be made, *Kokoku* apeeal may be made, against a ruling rendered by a court, except as otherwise provided in this Code.

Article 420. Against a ruling rendered, prior to the judgment, concerning the jurisdiction of a court or the proceedings, no *Kokoku* appeal shall be made except in cases where it is specially provided in this Code that immediate *Kokoku* appeal may be made.

2. The provision of the preceding paragraph shall not apply to a ruling relating to detention, release on bail, seizure or restoration of articles seized or a ruling relating to confinement necessitated for expert evidence.

3. Against detention, no Kokoku appeal shall be made on the ground that there is no suspicion of crime, notwithstanding the provisions of the preceding paragraph.

Article 421. With the exception of immediate *Kokoku* appeal, *Kokoku* appeal may be made at any time. However, this shall not apply when there would no longer be any actual advantage in having the original ruling cancelled.

Article 422. The period allowed for immediate *Kokoku* appeal shall be three days.

Article 423. *Kokkoku* appeal shall be filed by presenting a written application to the original court.

2. When the original court finds the *Kokoku* appeal to be well-founded, it shall correct error in the ruling. If it finds the whole or a part of the *Kokoku* appeal to be groundless, it shall sent the written application with the written opinions attached thereto the court of *Kokoku* appeal within three days after the day when it received the application.

Article 424. With the exception of immediate *Kokoku* appeal, *Kokoku* appeal shall not have the effect of suspending the execution of the decision. However, the original court may, be means of a ruling, suspend the execution until the *Kokoku* appeal will have been adjudicated upon.

2. The court of *Kokoku* appeal may suspend the execution of the decision by means of a ruling.

Article 425. The execution of a decision shall be suspended during the period allowed for immediate *Kokoku* appeal, and also when such *Kokoku* appeal has been made.

Article 426. In the event of a *Kokoku* appeal having been made in a manner contrary to the provisions governing it, or if a *Kokoku* appeal is without grounds, it shall be dismissed by means of a ruling.

2. Should the *Kokoku* appeal be well-founded, the original ruling shall be cancelled by means of a ruling and, if necessary, a decision rendered anew.

Article 427. Against a ruling of the court of *Kokoku* appeal, no further *Kokoku* appeal shall be made.

Article 428. Against a ruling of a High Court, no *Kokoku* appeal shall be made.

2. To a ruling made by Hight Court against which immediate *Kokoku* appeal is allowed by special provisions or against which *Kokoku* appeal may be made by provisions of Articles 419 and 420, an objection may be made to the High Court.

3. The provisions relating to *Kokoku* appeal shall apply mutatis mutandis to the objection mentioned in the preceding paragraph. The provisions relating to immediate *Kokoku* appeal shall apply mutatis mutandis to an objection to a ruling against which immediate Kokoku appeal is allowed by special provisions.

Article 429. Any person dissatisfied with any of the following decisions, may request for rescission or alteration of the decision, in case it has been rendered by a judge of a Summary Court, to the District Court having jurisdiction over it, or in case rendered by a judge of a higher court, to the court to which the judge belongs:

(1) A decision dismissing a motion for challenge;

(2) A decision relating to detention, release on bail, seizure or restoration of articles seized;

(3) A decision ordering confinement for the purpose of expert evidence;

(4) A decision imposing a non-penal fine or ordering compensation for costs to a witness, expert witness, interpreter or translator;

(5) A decision imposing a non-penal fine on the individual whose person is to be examined or ordering him to compensate the costs.

2. The provision of Article 420, Paragraph 3 shall mutatis mutandis apply to the request prescribed in the preceding paragraph.

3. A District Court or Family Court which has received the request mentioned in the first paragraph shall make a ruling by a collegiate court.

4. The request for the rescission or alteration of the judgment mentioned in Item (4) or (5) of the first paragraph shall be made within three days from the day on which such decision has been rendered.

5. The execution of a decision shall be suspended during the period allowed for the request under the preceding paragraph, and also when such request is made.

Article 430. Any person who has any objection to the dispositions mentioned in Article 39, Paragraph 3, or the dispositions concerning seizure or the restoration of seized articles which were effected by a public prosecutor or a public prosecutor's assistant officer may make a request for the cancellation or alteration of such dispositions to the court corresponding to the public prosecutor's office to which the said public prosecutor or public prosecutor's assistant officer belongs.

2. Any person who has any objection to the dispositions mentioned in the preceding paragraph which were effected by a judicial police official, may make a request for the cancellation or alteration of such dispositions to the District Court or Summary Court having jurisdiction over the place where the said judicial police official exercises his functions.

3. The provisions of law or ordinance concerning administrative litigations shall not apply to the requests mentioned in the preceding two paragraphs.

Article 431. Requests mentioned in the preceding two Articles shall be made in writing to the competent court.

Article 432. The provisions of Articles 424, 426 and 427 shall apply mutatis mutandis in cases where the requests mentioned in

Articles 429 and 430 have been made.

Article 433. Against a ruling or order to which no objection is allowed in this Code, a *Kokoku* appeal may be filed with the Supreme Court only on the ground that there exists a reason provided in Article 405.

2. The period allowed for the Kokoku appeal mentioned in the preceding paragraph shall be five days.

Article 434. The provisions of Articles 423, 424 and 426 shall apply mutatis mutandis to the *Kokoku* appeal mentioned in Paragraph 1 of the preceding Article, exept as otherwise provided in this Code.

BOOK IV. REOPENING OF PROCEDURE

Article 435. Request for the reopening of procedure may be made for the benefit of a person against whom a judgment of "guilty" has become final, in the following cases:

(1) When documentary evidence or pieces of evidence, on which the original judgment was based, has been proved by another finally binding judgment to have been forged or altered;

(2) When a testimony, expert opinion, interpretation or translation on which the original judgment was based, has been proved by another finally binding judgment to be false;

(3) When the offense of false accusation committed against a person pronounced guilty has been proved by another finally binding judgment; however, this shall apply only where the judgment of "guilty" was rendered because of such false accusation;

(4) When the decision on which the original judgment was based has been altered by a finally binding decision;

(5) When, in a case in which a judgment of "guilty" has been rendered for the offense of infringing a patent right, a utility model right, a design right or a trade-mark right, a decision of the Patent Office holding such right to be void has become final or a judgment of a court has been rendered to the same effect;

(6) When clear evidence has been newly discovered that in regard to a person pronounced guilty a judgment of "not guilty" or acquittal should be pronounced, or in regrad to a person condemned a judgment or remission of punishment should be pronounced, or that a lighter offense than that found by the original judgment should be recognized;

(7) When it is proved by a finally binding judgment that a judge who participated in the original judgment, a judge who participated in making the documentary evidences which formed the basis of original judgment, or a public prosecutor, public prosecutor's assistant officer or judicial police official who made evidential documents or statements which formed basis of original judgment has committed offences in performing his official function in the case concerned. However, this shall apply only where, in case a prosecution was instituted against such judge, public prosecutor, public prosecutor's assistant officer or judicial police official prior to the rendition of the original judgment, the court which rendered the original judgment was unaware of such fact.

Article 436. Request for the reopening of procedure may be made against a finally binding judgment by which *Koso* appeal or *Jokoku* appeal was dismissed, for the benefit of the person to whom the judgment was rendered, in the following cases:

(1) If the causes specified in the preceding Article, Item (1) or (2) exist;

(2) If the causes specified in the preceding Article, Item (7) exist in regard to a judge who took part in the original judgment or in the preparation of the documentary evidence which was adopted as evidence in the original judgment.

2. After a judgment has been rendered as the result of the reopening of procedure on a case in which the reopening of procedure against a finally binding judgment in the first instance was requested, the reopening of procedure shall not be requested against a judgment dismissing the *Koso* appeal.

3. After a judgment has been rendered as the result of the reopening of procedure on a case in which the reopening of procedure against a finally binding judgment in the first or second instance was requested, the reopening of procedure shall not be requested against a judgment dismissing the *Jokoku* appeal.

Article 437. When it is impossible to obtain such finally binding judgment in a case where, in accordance with the preceding two Articles, the fact of an offense having been proved by a finally binding judgment ought to be made the cause for reopening of procedure, reopening of procedure may be requested on proving such fact. However, this shall not apply to the case where such finally binding judgment cannot be obtained for lack of evidence.

Article 438. Request for the reopening of procedure shall come within the jurisdiction of the court which rendered the original judgment.

Article 439. Following persons may request the reopening of procedure:

(1) A public prosecutor;

(2) A person who has been pronounced "guilty";

(3) The legal representative and curator of a person who has been pronounced "guilty";

(4) The spouse, lineal relatives and brothers and sisters of a person who has been pronounced "guilty," if the latter has died or is in a state of insanity.

2. Request for the reopening of procedure for the causes specified in Article 435, Item (7) or Article 436, Paragraph 1, Item (2) may be made only by a public prosecutor if the offense was instigated by the person who has been pronounced "guilty."

Article 440. When a person other than a public prosecutor requests the reopening of procedure, he may select a defense counsel.

2. The selection of defense counsel under the provisions of the preceding paragraph shall remain valid until a judgment is rendered in the reopening of procedure.

Article 441. Reopening of procedure may be requested even after execution of the punishment has been completed or where the punishment is not to be executed.

Article 442. Request for reopening of procedure shall not have the effect of staying the execution of the punishment. However, a public prosecutor of a public prosecutors office corresponding to a competent court may stay the execution of the punishment until a decision is rendered in regard to the request for reopening of procedure.

Article 443. Request for reopening of procedure may be withdrawn.

2. A person who has withdrawn a request for reopening of procedure shall not again request reopening of procedure for the same cause.

Article 444. The provisions of Article 336 shall apply mutatis mutandis to a request for reopening of procedure and the withdrawal thereof.

Article 445. On receipt of a request for reopening of procedure, a court may, if necessary, cause a member of the collegiate court to conduct an investigation of facts relating to the cause of the request or may requisition a judge of a District Court, Family Court or Summary Court to undertake it. In such case, a commissioned judge and a requisitioned judge shall have the same authority as a court or a presiding judge has.

Article 446. When a request for reopening of procedure has been made contrary to the form of law or ordinance or subsequent to the termination of the right to make such request, it shall be dismissed by means of a ruling.

Article 447. When a request for reopening of procedure is without grounds, it shall be dismissed by means of a ruling.

2. After ruling mentioned in the preceding paragraph has been rendered, reopening of procedure shall not again be requested for the same cause by any person.

Article 448. When a request for reopening of procedure is well-founded, a ruling for commencing reopening of procedure shall be rendered.

2. When a ruling for commencing reopening of procedure has been rendered, the execution of the punishment may be stayed by means of a ruling.

Article 449. When, in case reopening of procedure has been requested in respect to a finally binding judgment dismissing *Koso* appeal and to a judgment of first instance which has become final by the above judgment, the court of first instance has rendered a judgment in the reopening of procedure, the court of *Koso* appeal shall, by means of a ruling, dismiss the request for reopening of procedure.

2. When, in case reopening of procedure has been requested in respect to a finally binding judgment dismissing *Jokoku* appeal against the judgment in first or second instance and to a judgment of first or second instance which has become final by the above judgment, the court of first or second instance has rendered a judgment in the reopening of procedure, the court of *Jokoku* appeal shall, by means of a ruling, dismiss the request for reopening of procedure.

Article 450. Immediate *Kokoku* appeal may be made against the rulings mentioned in Articles 446, 447, Paragraph 1, Article 448 Paragraph 1 or Article 449, Paragraph 1.

Article 451. With respect to a case in which a ruling for commencing reopening of procedure has become final, a court shall, except in the case of Article 449, conduct a trial anew depending on the instance concerned.

2. The provisions of Article 314, body of Paragraph 1 and Article 339, Paragraph 1, Item (4), however, shall not apply to the tiral

mentioned in the preceding paragraph in the following cases:

(1) When a request for reopening of procedure has been made on behalf of a deceased person or a person who is in a state of insanity and for whom there is no hope of recovery;

(2) When a person who has been pronounced "guilty" has, prior to a judgment being rendered in the reopening of procedure, died or fallen into a state of insanity from which there is no hope of recovery.

3. In the case of the preceding paragraph, trial may be held without the appearance of the accused. However, it shall not be held if his defense counsel does not appear.

4. If, in the case of the second paragraph, the person who has requested reopening of procedure does not select a defense counsel, a presiding judge shall, ex-officio, assign a defense counsel.

Article 452. In reopening of procedure, no punishment heavier than that pronounced in the original judgment shall be imposed.

Article 453. When a pronouncement of "not guilty" has been made as the result of the reopening of procedure, such judgment shall be published in the Official Gazette and newspapers.

BOOK V. EXTRAORDINARY APPEAL

Article 454. When it has been discovered after a judgment has become final that the trial or judgment of the case was in violation of law or ordinance, the Prosecutor-General may lodge an extraordinary appeal in the Supreme Court.

Article 455. In making an extraordinary appeal, a written application stating reasons thereof shall be presented to the Supreme Court.

Article 456. A public prosecutor shall argue on the basis of the written application on the date for public trial.

Article 457. When an extraordinary appeal is without grounds, it shall be dismissed by a judgment.

Article 458. When an extraordinary appeal is considered to be well-founded, a judgment shall be rendered according to the following categories:

(1) When the original judgment was in violation of law or ordinance, the part in violation shall be quashed; however, if the original judgment was disadvantageous to the acccused, it shall be quashed and a judgment rendered anew in the case;

(2) When any procedure was in violation of law or ordinance, the procedure in violation shall be quashed.

Article 459. With the exception of a judgment rendered under the proviso of Item (1) of the preceding Article, the effect of a judgment in extraordinary appeal shall not extend to the accused.

Article 460. The court shall investigate only those matters which are stated in the written application for the extraordinary appeal.

2. The court may examine facts as to the jurisdiction of the original court, the acceptance of the prosecution and the procedure of the case. In this case the provision of Article 303, Paragraph 3 shall apply mutatis mutandis.

BOOK VI. SUMMARY PROCEDURE

Article 461. In a matter coming within its jurisdiction, a summary court may, on a public prosecutor's demand, impose a fine not exceeding 5,000 yen or minor fine by a summary order prior to public trial. In this case, the suspension of the execution of sentence, confiscation and other accessory dispositions may be effected.

Article 461-2. A public prosecutor shall, at the time of making demand for a summary order, beforehand explain to the suspect matters necessary to have him understand the summary procedure,

inform him that he may be tried in accordance with the usual provisions, and ascertain whether he has no objection to summary procedure.

2. The suspect shall, when he has no objection to summary procedure, set forth to that effect plainly in writing.

Article 462. Demand for summary order shall be made in writing simultaneously with the institution of prosecution.

2. The writing mentioned in the preceding paragraph shall be accompanied by the writing mentioned in Paragraph 2 of the preceding Article.

Article 463. If, in case a demand has been made under the preceding Article, it should be considered that the case does not admit of a summary order being issued or that it is not proper to do so, trial shall be conducted in accordance with the usual provisions.

2. The preceding paragraph shall apply in case a public prosecutor has demanded a summary order without taking the procedure prescribed in Article 461–2 or in contravention of Paragraph 2 of the preceding Article.

3. When trial is conducted in accordance with the usual provisions pursuant to the provisions of the preceding two paragraphs, the court shall forthwith notify a public prosecutor to that effect.

4. In the cases of Paragraphs 1 and 2, the provision of Article 271 shall apply. However, the period prescribed in Paragraph 2 of the same Article shall be two months from the day of the notification mentioned in the preceding paragraph.

Article 463–2. Except the cases mentioned in the preceding Article, the institution of prosecution shall lose its effect retroactively, in case a summary order is not notified to the accused within four months from the day of the demand therefor.

2. In the case of the preceding paragraph, the court shall dismiss prosecution by means of a ruling. When a summary order has already been notified to a public prosecutor, the court shall rescind the summary order and render the ruling.

3. Against the ruling mentioned in the preceding paragraph, immediate *Kokoku* appeal may be filed.

Article 464. In a summary order, the fact constituting an offiense, the law or ordinance applied, the punishment and other accessory dispositions to be imposed, and a statement that an application for formal trial may be made within 14 days from the day of notification of the order, shall be entered.

Article 465. A person against whom a summary order has been issued, or a public prosecutor may apply for formal trial within 14 days from the day on which they received a notification thereof.

2. An application for formal trial shall be made in writing to the court which has issued the summary order. When an application for formal trial has been made, the court shall promptly notify the fact to the public prosecutor or the person against whom the summary order has been issued.

Article 466. An application for formal trial may be withdrawn prior to the rendering of a judgment in first instance.

Article 467. The provisions of Articles 353, 355 to 357, 359, 360 and 361 to 365 shall mutatis mutandis apply to applications for formal trial or withdrawals thereof.

Article 468. In the event of an application for formal trial having been made contrary to the forms of laws or ordinances or subsequent to the termination of the right of application, it shall be dismissed by means of a ruling. Against such a ruling immediate *Kokoku* appeal may be made.

2. Should an application for formal trial be considered legal, trial shall be conducted in accordance with the usual provisions.

3. In the case of the preceding paragraph, the summary order shall not be binding.

Article 469. When a judgment is given on an application for formal trial, the summary order shall lose its effect.

Article 470. A summary order shall acquire the same effect as an irrevocable judgment upon the lapse of period for application for formal trial or upon the withdrawal of such application. The same shall apply where a decision dismissing the application for formal trial has become final.

BOOK VII. EXECUTION OF DECISION

Article 471. Except as otherwise provided in this Code, a decision shall be executed after it has become final.

Article 472. The execution of decision shall be directed by a public prosecutor of the public prosecutors office corresponding to the court which rendered such decision. However, this shall not apply to the cases mentioned in the proviso of Article 70, Paragraph 1 and the proviso of Article 108, Paragraph 1, nor to the cases which are of such nature that it should be directed by a court or a judge.

2. When a decision of an inferior court is to be executed as the result of a decision on appeal or of the withdrawal of an appeal, a public prosecutor of the public prosecutors office corresponding to the court of appeal shall direct its execution. However, if the records of the case are in the inferior court or in the public prosecutors office corresponding to that court, the public prosecutor of the public prosecutors office corresponding to the court shall direct the execution of the decision.

Article 473. The execution of decision shall be directed in writing, and such writing shall be accompanied by a copy of, or an extract from, the document of decision or the protocol containing the decision. However, the direction, unless it be for the execution of punishment may also be given by affixing a *mitome-in* (initialing seal) to the original or a copy of, or extracts from the document of decision, or a copy of or extracts from the protocol containing the decision.

Article 474. If there are two or more principal punishments other than fines and minor fines, the heaviest shall be executed first. However, a public prosecutor may stay execution of the heavier punishment and cause the other punishment to be executed.

Article 475. The death penalty shall be executed under an order from the Minister of Justice.

2. The order mentioned in the preceding paragraph shall be given within six months from the day when a judgment becomes final. However, in cases where request for the recovery of right of appeal or for the reopening of procedure, or an extraordinary appeal or petition or recommendation for amnesty has been made, the term for finishing the procedure thereof and the term for which the judgments pronounced upon co-defendants, if any, remain not final shall not be calculated in the said term.

Article 476. In the event of the Minister of Justice having ordered the execution of the death penalty, such execution shall be carried out within five days.

Article 477. The death penalty shall be executed in the presence of a public prosecutor, a public prosecutor's assistant officer and either a warden or his representative.

2. No person shall enter the place of execution except with the permission of a public prosecutor or a warden.

Article 478. A public prosecutor's assistant officer who attends at the execution of the death penalty shall make an account of the execution, which shall be signed and sealed by him together with the public prosecutor and the warden or his representative.

Article 479. If a person condemned to death is in a state of insanity, the execution shall be stayed by order of the Minister of Justice.

2. If a woman condemned to death is pregnant, the execution shall be stayed by order of the Minister of Justice.

3. When the execution of the death penalty has been stayed under the provision of the preceding two paragraphs, the penalty shall not be executed unless an order is given by the Minister of Justice subsequent to recovery from the state of insanity or delivery.

4. The provision of Paragraph 2 of Article 475 shall apply mutatis mutandis to the order mentioned in the preceding paragraph. In such case, "the day when a judgment becomes final" in the said Article shall read "the day of recovery from the state of insanity or the day of delivery."

Article 480. If a person sentenced to imprisonment with or without forced labor or penal detention is in a state of insanity, the execution shall be stayed until his recovery, subject to the direction of a public prosecutor of the public prosecutors office corresponding to the court which pronounced the punishment or of a public prosecutor of the District Public Prosecutors Office having jurisdiction over the place where the convicted person is situated.

Article 481. In case the execution of a punishment has been stayed in accordance with the preceding Article, a public prosecutor shall deliver the convicted persons to the person who is bound to guard and protect him or to the head of the local government and cause him to be placed in a hospital or other suitable place.

2. A person for whom the execution of a punishment has been stayed shall be contained in prison until the disposition provided for in the preceding paragraph has been effected, and the period of such detention shall be included in the term of the punishment.

Article 482. The execution of imprisonment with or without forced labor or penal detention may be stayed in the following cases, subject to the direction of a public prosecutor of the public prosecutors office corresponding to the court which has pronounced the punishment or of a public prosecutor of the District Public prosecutors Office having jurisdiction over the place where the convicted person is situated.

(1) If the health of the condemned will be seriously impaired as a result of the execution of punishment or there is apprehension that he will not survive it;
(2) If the convicted person is at least 70 years of age;
(3) If the convicted person has been pregnant for 150 days or more;
(4) If 60 days have not elapsed after the condemned was delivered of the child;
(5) If there is apprehension that irretrievable disadvantage will result from the execution of punishment;
(6) If the grandparents or parents of the condemned are at least 70 years of age or crippled or seriously ill, and there is no relative to look after them;
(7) If the children or grandchildren of the condemned are in their infancy and there is no relative to look after them;
(8) If there is any other serious cause.

Article 483. The execution of the decision ordering the costs of trial to be borne shall be stayed within the period allowed for making the request provided by Article 500, or, in case such request has been made, until a decision thereon becomes final.

Article 484. If a person sentenced to death, imprisonment with or without forced labor or penal detention is not under confinement, a public prosecutor shall call him for the purpose of the execution of punishment. If he does not appear in response to the calling, a writ of commitment shall be issued.

Article 485. If a person sentenced to death, imprisonment with or without forced labor or penal detention has taken flight, or if there is apprehension that he may take flight, a public prosecutor may immediately issue a writ of commitment or order a judicial police officer to do so.

Article 486. Should the whereabouts of a person sentenced to death, imprisonment with or without forced labor or penal detention be

unknown, a public prosecutor may request a Superintending Public Prosecutor of High Public Prosecutors Office to commit him to prison.

2. The Superintending Public Prosecutor so requested shall direct a public prosecutor in his district to issue a writ of commitment.

Article 487. In a writ of commitment, the name, dwelling and age of the convicted person, the name and duration of the punishment and other matters for the commitment shall be entered, and it shall bear the name and seal of a public prosecutor or judicial police officer.

Article 488. A writ of commitment shall have the same effect as a warrant of production.

Article 489. The provisions relating to the execution of warrant of production shall apply mutatis mutandis to the execution of writ of commitment.

Article 490. A decision imposing a fine, minor fine, confiscation, additional collection, non-penal fine, sequestration, the costs of trial, compensation for costs or provisional payment shall be executed by an order of a public prosecutor. Such an order shall have the same effect as an executable title of obligation.

2. The provisions of law or ordinance concerning the civil procedure shall apply mutatis mutandis in regard to the execution of decisions referred to in the preceding paragraph. However, the service of the decision is not necessary prior to the execution.

Article 491. Confiscation, or a fine or additional collection imposed under the provisions of law or ordinance relating to taxes or other imposts or Government monopolies, may be executed upon the property of succession in the event of the convicted person having died after the judgment became final.

Article 492. If, in case a juridical person has been sentenced to a fine,

minor fine, confiscation or additional collection, such juridical person has been extinguished by amalgamation after the judgment became final the punishment may be executed on the juridical person which continues in existence after the amalgamation or which was formed by the amalgamation.

Article 493. If, in case decisions of provisional payment were made in the first and second instances, the decision in the first instance has been executed, such execution shall be deemed to be for the decision in the second instance to the extent of the amount of money ordered to be paid by the decision in the second instance.

2. In the case of the preceding paragraph, when the amount of money obtained by the execution of decision of provisional payment in the first instance exceeds the amount of maney ordered to be paid by such decision in the second instance, the exceeding amount shall be reimbursed.

Article 494. If a decision of a fine, minor fine or additional collection has become final after the execution of decision of provisional payment, the punishment shall be deemed to have been executed to the extent of the amount paid.

2. In the case of the preceding paragraph, when the amount of money obtained by the execution of decision of provisional payment exceeds the amount of fine, minor fine or additional collection, the exceeding amount shall be reimbursed.

Article 495. The number of days of detention during the period allowed for appeal shall be included in the calculation of the regular punishment, except the number of days of detention pending judgment subsequent to the application for appeal.

2. The number of days of detention pending judgment subsequent to the application for appeal shall be included in the calculation of the regular punishment, in the following cases:

(1) When application for appeal has been made by a public prosecutor;

(2) When application for appeal has been made by a person other than a public prosecutor, and the original judgment is quashed by the court of appellate jurisdiction.

3. For the purpose of calculation under the preceding two paragraphs, one day of detention pending judgment shall be counted as one day of penal term or sum of 20 yen.

4. Detention effected after the court of appellate jurisdiction has quashed the original judgment shall be included in the calculation following the example of the number of days of detention during the pendency of appeal.

Article 496. Goods which have been confiscated shall be disposed of by a public prosecutor.

Article 497. If within three months after the execution of confiscation, delivery of the goods confiscated is demanded by the person entitled, a public prosecutor shall deliver them, with the exception of those which are to be destroyed or thrown away.

2. If the demand mentioned in the preceding paragraph is made after the confiscated goods have been disposed of, a public prosecutor shall deliver the proceeds realized at the public sale.

Article 498. In case an article forged or altered is restored, the part which is forged or altered shall be indicated on the article itself.

2. In case the article forged or altered has not been seized, it shall be caused to be produced and the measure specified in the preceding paragraph taken. However, if the article belongs to a public office, the latter shall be notified of the part forged or altered and caused to take suitable measures.

Article 499. In case goods under seizure cannot be restored because the whereabouts of the person entitled to such restoration is unknown or for any other reason, a public prosecutor shall give public notice to such effect according to the procedure presribed by the cabinet order.

2. If restoration is not requested whithin six months from the time of publication, the goods shall accrue to the National Treasury.

3. Even within the period specified in the preceding paragraph, things of no value may be thrown away, and those inconvenient to be kept in custody may be sold at public sale and the proceeds held in custody.

Article 500. If a person who has been ordered to bear the costs of trial connot make full payment because of poverty, he may, in accordance with th Rules of Court, make a request for excusing him from the execution of the decision in respect to the whole or a part of such costs.

2. The request mentioned in the preceding paragraph shall be made within 20 days from the time when the decision ordering the costs of trial to be borne became final.

Article 501. If a person pronounced to a punishment has any doubt in regard to the interpretation of the decision, he may request the court which pronounced the decision for its interpretation.

Article 502. If a person on whom a decision is to be executed, or his legal representative or curator, considers any disposition effected by a public prosecutor in regard to the execution to be improper, he may raise an objection to the court which pronounced such decision.

Article 503. The motions contemplated in the preceding three Articles may be withdrawn at any time before a ruling is rendered thereon.

2. The provision of Article 366 shall apply mutatis mutandis to the motions mentioned in the preceding three Articles and to the withdrawal thereof.

Article 504. Against a ruling rendered in relation to the motions mentioned in Articles 500 to 502, an immediate *Kokoku* appeal may be made.

Article 505. As regards the execution of detention in a work house in a case of inability to make full payment of a fine or a minor fine, the provisions relating to the execution of punishments shall apply mutatis mutandis.

Article 506. The costs of execution of any decision referred to in Article 490, Paragraph 1 shall be charged to the person on whom such execution is levied, and shall be collected simultaneously with the execution in accordance with the provisions of law or ordinance concerning the civil procedure.

END