THE EVOLUTION OF THE COUNCIL
IN THE
JAPANESE GOVERNMENT.
1868-1890.

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**Introductory Notes.**

Dates throughout are from the Western solar calendar. Thus dates before the 1st of January, 1873 have been transposed. The Japanese date is given in footnotes when necessary for reference.

Abbreviations:

DNHKSS. Dai Nihon Kenseishi.

HRZS. Hōrei Zensho.

HKBRTZ. Hōki Bunrui Taizen.

" 2 " KSM. Kanshokumon.

"  " KSS. Kanshokusō.

"  " KS. Kansei.

MJBKZS. Meiji Bunka Zenshu.
INTRODUCTION

Between 1868 and 1890, Japan advanced from an agglomeration of feudal principalities rapidly escaping from central control to a modern, centralised state equipped with a constitution and a national assembly in line with the advanced states of the world. Centred on the person of the young Emperor Meiji, a government largely drawn from the samurai executives of a handful of feudal principalities slowly but steadily tightened its grip upon the country, until in 1890 a new regime had been established which lasted basically unchanged until 1945.

The technical problem of building a centralised state involved new economic and social policies, such as new systems of taxation, new conscription laws and improved communications. The human problem was to attract leading men to the new government; and having done so, to get them work well together on a common policy and to rise above the factions and rivalries inevitable in a government dependent at the outset for its existence upon the support of several independent principalities, none of which was alone strong enough
to impose its will upon the rest.

The Meiji government began with a civil war, but from the start it was of necessity a government based upon some measure of accommodation of different interests. The alternative to accommodation was further civil wars and a return to a discredited regime which in the past had left Japan at the mercy of foreign powers.

The person of the young Emperor enabled his factious servants to formulate a new concept of national loyalty; the more so since in feudal Japan loyalties were to persons rather than to principles. The undivided sovereignty necessary for the creation of a modern centralized state could be convincingly attributed in their eyes to the young Emperor for whom they acted in trust. Thus while power had to be shared, all power could be attributed to the Emperor.

It is in the Council, a body that changed its name and shape several times during this period but which never lost its control of the sovereign power, that these dilemmas may best be seen. While maintaining a jealous control of sovereign power in the name of the Emperor, accommodation demanded that this control should never attain the dimensions of "preponderance." Behind the doctrine of the separation of Legislature, Executive and Judiciary, the one principle with which western
political thought provided Japan, there lay the more immediately human concern to avoid the domination of the country in the name of the Emperor by a single person or faction, an evil of which the past history of Japan was largely made up. But before power could be shared, it had to be defined; and the course of constitutional progress between 1868 and 1890 is largely one of legal definition.

This thesis is an attempt to describe the evolution of the Council between these dates. While tracing the steps towards the final definition in the light of the legal ordinances, an attempt will be made to describe the personal factors involved at each successive stage. The legal definitions had to be arrived at; but the personalities were ready-made. In the course of the evolution of the Council, the discrepancy between how things were intended to work and how they actually worked provides an essential commentary upon the forces of constitutional change.
CHAPTER I.

THE FIRST STAGES. 1868-1871.

On November 9th, 1867, Tokugawa Keiki submitted a proposal to the Emperor in which he offered to return the governing power which had been held for over two centuries by his family in their office as Shōgun. He declared that the growing pressure of foreign relations made a unified national government essential, and briefly outlined a system of government in which the Imperial Court would bear the final responsibility for the administration, but in which the public deliberation (Kōgi) of the realm should be widely promoted. The resulting conclusions were to be submitted to the final decision of the Emperor in a spirit of unity and co-operation in the defence of the country which would enable Japan to maintain itself on an equal footing with the nations of the world.

Tokugawa Keiki had been warned by the friendly Tosa Han of the plot of powerful elements in the Satsuma Han to precipitate a civil war against the Bakufu in alliance with the rebel Chōshū Han. His offer to return the

I. Keiō 3 I0m I4d. HRZS. No.1. note.
governing power to the throne disarmed the charge of disloyalty by which his enemies sought to discredit him and promised to relieve him of an office which had incurred all the odium of the repeated concessions to the foreign powers and which had failed to exert its authority over the rebels in Chōshū. It seemed likely that a new Imperial government would consist of a Council of great Daimyō controlling the Executive, with the Daimyō as a whole acting as an Assembly in which important measures of national policy would be discussed and submitted to the Emperor for final approval. With powerful friends at Court and with the support of Tosa, Owari and Echizen, Tokugawa Keiki as the greatest Daimyō in the realm could expect to play a leading role in the new regime.

While tentatively accepting the offer to return the governing power, the Court was in no position to assume the immediate direction of affairs; accordingly, on the 10th of November (2) an Imperial edict was issued to the Daimyō requesting them to assemble in Kyōto as soon as possible to confer upon the Shōgun's proposal, foreign affairs and other important matters which were to be submitted to common deliberation (Shūgi).

2. Keiō 3 10m 15d. HRZS. No.1.
Thereafter, affairs remained at a complete standstill. Tokugawa Keiki was ordered to conduct state affairs as in the past, and his petitions to return his Court rank and to be relieved of his office as Shōgun were both rejected. However, on the 12th of December, Tokugawa Keiki and the Daimyō were required to forward their opinions on the establishment of an Imperial government on the ancient model of a Department of State Religion (Jingikan), a Council of State (Dajōkan), and eight Executive Departments (Shō) in which Court nobles and Daimyō would take office and serve by turns. But nothing could be decided until the Daimyō had assembled in Kyōto, and as yet besides the Daimyō of Satsuma, Aki, Owari and Echizen only a handful of minor Daimyō had responded to the Imperial summons.

In fact, the Shōgun's offer to return the governing power to the Emperor had brought the balance of forces within Japan to a virtual stalemate which only the use of force was to resolve. The mass of the Daimyō would not respond to the Imperial summons to assemble in the capital, but waited in their domains to observe the struggle for control among the leading Daimyō. The powerful Chōshū Han had defied the Bakufu.

3. Keiō 3 IIm 17d. HRZS. No.7.
from its seat in south west Japan since 1865; in 1866 a secret alliance had been formed between Satsuma and Chōshū and thereafter Satsuma had sought to embarrass the Bakufu by refusing to join the punitive expedition against Chōshū, by demanding that the major Daimyō should ratify important decisions taken by the Bakufu and by attempting to form a co-alition of Daimyō to challenge the Bakufu monopoly of governing power. Finally, in 1867, through the agency of Iwakura Tomomi, a Court noble of low rank with a marked talent for intrigue, Satsuma obtained a secret Imperial edict ordering the overthrow of the Bakufu by force of arms which it prepared to execute in alliance with Chōshū. On the other hand, Aizu and Kuwana the die-hards of the Tokugawa House were willing to fight to maintain the supremacy of the Bakufu and regarded the proposal of the Shōgun to return the governing power to the Emperor as unwarranted weakness. Between them stood Tosa, Owari and Echizen with hereditary ties with the Tokugawa House who realised that the Bakufu must be replaced by a more broadly based co-alition of Daimyō to form the basis for a unified national regime. They therefore strove to prevent an armed clash by persuading the Shōgun to return the governing power to the Emperor
and by establishing the principle that national policy should be determined by an Assembly of the Daimyō as a whole.

But while the Daimyō were supposed to be gathering in the capital to determine important matters by common deliberation, and while the opinions of the Shōgun and the Daimyō were being elicited on the form of the new Imperial government, Saigō Takamori entered Kyōto at the head of 3,000 Satsuma troops on the 18th of December, 1867, and 700 Chōshū troops disembarked in readiness to march on the capital on the 3rd of January, 1868. With military forces at his disposal, Iwakura was ready to act.

On the 2nd of January, Iwakura called a meeting of the principal retainers of Owari, Echizen, Satsuma, Tosa and Aki to inform them that the Restoration was imminent and to secure contingents of troops to guard the gates of the Imperial Palace. On the same day, the Regent (Sesshō) Nijō called a conference in the Palace to discuss the granting of pardons to the Daimyō of Chōshū and to those Court nobles in exile or under domiciliary confinement as a result of conflicts between the Court and the Bakufu since 1862. The most important

5. ibid. p.562-3
of these were Sanjō Sanetomi in exile in Kyūshū since the failure of the Chōshū rōnin to gain control of the capital in 1864, and Iwakura himself who had been in domiciliary confinement in Kyōto since 1862. Tokugawa Keiki, Aizu and Kuwana were invited to this conference but refused to attend on pleas of illness; the other major Daimyō present in the capital were also invited, and after much discussion it was finally resolved that pardons should be granted. (7) In the early morning of January 3rd, the Regent Nijō who had always worked for compromise with the Bakufu retired from the Palace with his followers, leaving behind Nakayama, Ōgimachi-Sanjō and the Daimyō of Owari, Echizen and Aki. Iwakura was summoned to the Palace, and went at once taking with him the Restoration Edict and other papers in a box; shortly afterwards the Satsuma troops under Saigō took up their positions around the Palace, followed by the contingents from the other four Han. (8)

When other Court nobles of the Restoration party and the Daimyō of Satsuma and Tosa had arrived, the Restoration Edict was read out by the young Emperor. This Edict (9) abolished the offices of Sesshō, Kampaku and Bakufu, and set up an Imperial Council of a single

President (Sōsai), 10 Senior Councillors (Gijō) and 20 Junior Councillors (Sanyo). Collectively, the new Council was termed the Three Offices (Sanshoku). The Council consisted of Arisugawa Taruhito as President and two other Imperial Princes as Senior Councillors; Nakayama, Ōgimachi-Sanjō and Nakamikado, the three Court nobles who had worked closely with Iwakura in his intrigues, were also appointed Senior Councillors with the Daimyō or heirs of Owari, Echizen, Aki, Tosa and Satsuma. Iwakura and four other Court nobles were appointed Junior Councillors, and it was envisaged that the five Daimyō would each appoint three of their retainers to this position.

It is clear that this Council was to form the nucleus of a future Executive, since it was empowered to administer all affairs of state preparatory to the erection of a Council of State (Dajōkan) in the near future. But its members were also enjoined to hold "proper public deliberations" (Shito no Kōgi) in the interests of the realm regardless of social distinctions and thus took on the character of an Assembly. The appointment of large numbers of Senior and Junior Councillors in the succeeding months reinforces this impression. In relation to the country at large, it
was stated that the promotion of men of talent was an urgent necessity, and that persons of suitable merit were to be speedily reported to the government; free expression for the reform of existing abuses was also to be encouraged regardless of social status. The employment of talented men from all the Han as officials in a new national government was a commonplace of Bakumatsu political thinking; this and the concern to promote the free expression of opinion underlay the desire to establish Assemblies of the Han samurai on a national and local scale which was to be a feature of the new Imperial government.

The first meeting of the new Council took place on the evening of the 3rd of January. A bitter dispute arose between Iwakura backed by Satsuma and Aki who insisted that Tokugawa Keiki should only be allowed to participate in the deliberations of the Council if he surrendered his lands and revenues to the Emperor, and Yamanouchi of Tosa backed by Echizen and Owari who insisted that he should take part without conditions. A complete deadlock ensued in which the three Court nobles Nakayama, Ōgimachi-Sanjō and Nakamikado began

10. For example, Sakamoto Ryūma. Vid. Osatake. Nihon Kenseishi Taikō. I. p.36-7, points I and 3. The Bakufu had recognised this principle in its schools of naval and military science, in which selected students from all the Han were trained.

11. Ōtsu. DNHKSS. I. p.183 ff.
to waver towards compromise, and only the promise of Saigō to use force if necessary steeled Iwakura to insist on the point. Finally, through the agency of Gōto Shōjirō, his chief retainer who was well informed of the trend of the times, Yamanouchi was prevailed upon to give his reluctant consent to the exclusion of Tokugawa Keiki from the Council until he had surrendered his lands and revenues to the Emperor. (12)

Thereafter, Tosa, Owari and Echizen continued to work for a compromise. They failed owing to the determination of Saigō and Ōkubo of Satsuma to precipitate a struggle at all costs, and it was on the news of the violence of the Satsuma rōnin in Edo that Tokugawa Keiki decided to march on the capital from his headquarters in Osaka to which he had politically withdrawn while the negotiations were still going on. The result was the battle at Fushimi and Tōba on the approaches to Kyōto, when after four days of fighting his troops were defeated by the Imperialist forces and fell back on Osaka in disorder on the 30th of January. During this interim period, the compromise party were the most active in insisting that the new Imperial government should be based upon consultation of the Daimyō as a whole, and in drawing up schemes for the structure of

12. Gōto might well have been aware of Iwakura's influence with an important section of the Tosa military forces. Vid. Ōe Tenchi Denki. p. 53.
the new government. Yamanouchi sent in a memorial on the 6th of January to insist that an Assembly should be speedily set up which the major Daimyō should be summoned to attend, and that regulations should be drawn up for the deliberations of the Council to make it clear that the new regime was to be based on openness and impartiality. (13) On the same day, ten Han including Awa, Higo, Chikuzen and Hizen memorialised the Court to form a government based on the principle of general deliberation. (14) But the first detailed proposal for government by Assembly was made by Goto Shōjirō and Fukuoka Kōtei, two Junior Councillors of the Tosa Han, in a memorial of the same month. (15)

They proposed that regulations should be drawn up for a new enlarged Assembly; the Upper House to consist of the President of the Council (Sōsai) and the Senior and Junior Councillors of Court noble or Daimyō rank, and to be the place to which any other Daimyō resident in the capital could address their proposals. The Lower House was to consist of officials selected to serve in the Executive departments for a specific period (Chōshi) and several representatives from each Han and from the country as a whole who were to concern themselves

15. Ishin Shi. 5. p.519-21.
with public deliberation and the handling of memorials (Kōshi). The Lower House was to be presided over by a Senior Councillor, assisted by the Junior Councillors of samurai rank. The two Houses were to meet daily; draft proposals (Gian) were to be drawn up in the Upper House, put before the Lower House on the following day, reconsidered by the Upper House and its decision finally ratified by the President of the Council (Sōsai).

At this early stage, there were no definite Council functions or specific Executive departments; the new government was a loose association of Court nobles, Daimyō and Han retainers meeting together to discuss matters of government policy. By the 30th of January, the day when the defeat of the Bakufu forces outside Kyōto made the future of the new government secure, the original 10 Senior Councillors of January 3rd had increased to 14 with the appointment of Sanjō Sanetomi and Date Muneshiro, the Daimyō of Uwajima, and the promotion of Hase Nobuatsu and Iwakura Tomomi from Junior Councillor. The number of Junior Councillors had increased to 35, of whom 9 were Court nobles. The rest were samurai retainers of Daimyō attached to the new government; three of them were retainers of Chōshū.  

16. Dates of appointment and numbers of incumbents of government offices are taken from the Kenyō Shokumuhoninroku, unless stated otherwise.
The first step in the creation of an organised Council was perhaps the appointment of Sanjō Sanetomi and Iwakura Tomomi as Vice-Presidents (Fuku-Sōsai) on February 2nd. Sanjō with the special support and trust of Chōshū, and Iwakura with a similar backing from Satsuma were already the two mainstays of the new regime. They were both appointed Senior Councillors on the 21st of January on the arrival of Sanjō at Court, and had immediately begun to work well together in spite of fears of the contrary. Their elevation to joint Vice-Presidency marks them out from the other members of the Council as the men by whom decisions were in fact made, under the nominal Presidency of Arisugawa.

On the 10th of February, 1868 (Meiji 1st) the first regulations for the structure of the new government were issued. The withdrawal of the Bakufu armies to Edo had left the three major cities of Kyōto, Osaka and Nagasaki and the newly opened port of Hyōgo in the hands of the Imperial government. In keeping with its new Executive responsibilities, the Council now consisted of a President charged with the general supervision of the administration and powers of decision on all matters of government business. Under him, the Senior Councillors

18. Meiji 1st 17d. HRZS. No.36.
drawn from the Imperial Princes, Court nobles and Daimyō acted as the Heads (Sōtoku) of seven Executive Departments in addition to their collective duties as a Council. (19)

The Junior Councillors participated in their deliberations and worked under them as Executives (Kakari) in the various Departments. Talented men from the Han samurai and from the country as a whole were to be selected as lesser officials of the Departments (Chōshi); and all the Han were required to provide one, two or three representatives according to their size to be members of a Lower House of a national Assembly for the expression of public opinion and for public deliberation (Yoron Kōgi). The lesser officials (Chōshi) were to be selected by the Junior Councillor Executives and by the public deliberation of the Han representatives. They were to serve for a period of four years, after which they were to give way to men of greater talent. The Han representatives (Kōshi) were to be appointed and dismissed by their Daimyō and served for an indefinite period; if they displayed talent, they could be selected as lesser officials.

In this tentative arrangement, there was clearly no

19. The seven Departments consisted of six Ka, handling Home, Foreign, Military, Financial and Judicial affairs, and one Ryō to draft official legislation. Hence, this arrangement was termed the seven Ka. However, the President, Senior and Junior Councillors collectively were regarded as forming another Department, and it soon became termed the eight Ka.
division between the Council and the Executive, or between Legislative and Executive functions. In order to build up support for the coming campaign against the Bakufu, it was necessary for the new government to make as many appointments as possible to the senior positions and to accommodate many Han samurai in the capital who were willing to serve in the lesser executive or deliberative positions. On the day the new arrangement was announced, there were already 18 Senior and 40 Junior Councillors. Each of the seven Executive Departments was staffed by from one to four Senior Councillors, and roughly the same number of Junior Councillors. Plural office holding had been a feature of Tokugawa administration, and with the need to travel constantly to and from the capital and the localities it served some purpose at this time; but the new government was soon to find it a formidable bar to administrative efficiency.

Collectively, the Senior and Junior Councillors formed a Deliberative Assembly in which important matters were debated and determined. In this capacity, they formed the Upper House of a proposed Legislature, of which the lesser officials and Han representatives formed the Lower House. An account of a meeting of the Senior and Junior Councillors in their deliberative
capacity on the 12th of February suggests that it was not a very promising group; only the tact of Iwakura brought the Court nobles to a sensible conclusion in the critical question of foreign relations. (20) On several subsequent occasions formal deliberative sessions of the Council were held to determine important matters of policy. On the 16th of February, the proposed transfer of the capital was debated; (21) on April 1st, the Emperor attended a debate on the future of Ezo and on April 17th Iwakura presided over the deliberations of the Senior and Junior Councillors and the lesser officials (Chōshi) on the administration of Ezo. (22)

But the real direction of affairs at this time lay in the President's Department (Sōsai Ka). In the new structure wide powers of administrative control and decision had been reserved to the President; Sanjō and Iwakura remained Vice-Presidents in addition to their posts as Senior Councillors. In addition, Sanjō was appointed one of the Heads of the Foreign Affairs Department, and Iwakura a Head of both the Military and Finance Departments. Kido Kōin, the senior retainer of Chōshū was appointed Adviser (Komon) to the President's Department on the 18th of February, followed by Ōkubo

22. Ishin Shi. 5. p.522.
Toshimichi of Satsuma two days later. These four men formed a kind of inner Council, controlling the agenda of the main Council and the administrative policies of the Executive Departments.

On the 24th of February, 1868, new regulations were issued for the structure of the government which streamlined the arrangements of the previous month. As before, the President (Sōsai), Senior Councillors (Gijō) and Junior Councillors (Sanyo) formed a deliberative Council, and acted as Heads and Executives of eight Departments (Kyoku). The chief of these was the President's Department (Sōsai Kyoku), the other seven being concerned with State Religion, Home, Foreign, Military, Finance and Judicial affairs and the drafting of Official Regulations. Arisugawa remained President, and Sanjō and Iwakura Vice-Presidents; Nakayama and Ōgimachi-Sanjō, two Court nobles who had worked closely with Iwakura in the Restoration movement, were appointed to a new post as Imperial Assistants (Hohitsu), and Kido of Chōshū, Komatsu of Satsuma and Goto of Tosa were appointed Advisers (Komon) to the President's Department. Under them, eight other Junior Councillors were appointed Council Executives (Benji). These new appointments reflect the growing importance of the President's

23. Meiji I 2m 3d. HRZS. No.73.
Department as the co-ordinating office of the Executive Departments, and the medium through which decisions of the Council were transmitted to the Executive, and the actions and enquiries of the Executive were ratified or put up for Council approval.

Some streamlining of the Executive Departments was achieved in this reorganisation by placing each of them under a single head. But the day on which the new regulations were issued was also the day on which the campaign for the subjection of the Bakufu forces in Edo was announced. For this campaign, the support of the Daimyō and their retainers was essential and the new government could not afford to narrow its numbers or fail to widen the basis of support by making the Council into a kind of Upper House of a deliberative Assembly and by pushing forward its plans for a Lower House of Han representatives. At this time, 35 men were serving as Senior Councillors and 89 as Junior Councillors. The Council and the chief positions in the Executive Departments were cluttered up with office holders of high rank but little administrative ability.

Speaking of the government at this time, Higashikuzé declared that although on the surface there was an appearance of order with Sanjō, Iwakura, Kido, Ōkubo
and Gotō at the centre and a number of Court nobles and Daimyō in the highest places, in fact it was a motley gathering in which each upheld his own opinion with little unity in government policy. Although the Daimyō in Kyōto had attached retainers to the Imperial army, they had not yet given their sincere allegiance to the Court. The two Court nobles serving as Imperial Assistants (Hohitsu) were completely ignorant of some of the orders issued by the Junior Councillors, and the Junior Councillors were unaware of matters on which the Senior Councillors conferred directly with Sanjō. Rumours were current that another Shōgun would emerge from Satsuma or Chōshū who were merely using the Imperial Court for the overthrow of the Tokugawa. Iwakura was also being slandered by many people as covetous of power and as handling matters in an arbitrary fashion. (24)

In order to display to the realm that the Imperial government was a truly National government, the ratification of important measures by an Upper House of Court nobles and Daimyō and a Lower House of Han representatives was an urgent necessity. The Court nobles and Daimyō were provided with posts as Senior and Junior Councillors and assented to government measures in Council meetings; provisions for a Lower House of Han representatives (Kōshi)

were issued on the 3rd of February\(^{(25)}\) requiring all the Han to send representatives within 50 days to be members of the Lower House of a national Assembly. On the 6th of March\(^{(26)}\) the Emperor swore the famous Charter Oath before an assembly of Court nobles, Daimyō and officials, proclaiming in the first article that "an Assembly widely convoked shall be established and all matters of state determined by public discussion."

The need was for a system that would strike a proper balance between the seemingly irreconcilable dictates of wide support and administrative efficiency. On the one hand, Fukuoka Kōtei of Tosa and Soejima Taneomi of Hizen complained in a memorial of March or April that the press of executive business had led to the loss of the conception of public deliberation in spite of the original intention to establish a Legislative body and to determine matters by public opinion and discussion. They therefore proposed that the government should be divided into a Legislative Department (Giseikan) consisting of an Upper and Lower House, and an Executive Department (Gyōseikan) headed by two Imperial Assistants (Hoshō) controlling four Executive Departments of State Religion, Finance, Military and Foreign affairs with a fifth Department of Justice to exercise the judicial power.

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25. Meiji 1 2m 10d. HRZS. No.88.
26. Meiji 1 3m 14d. HRZS. No.156.
independently. On the other hand, Yokoi Shōnan at this time wrote of the need to cut the number of officials by half and for the present office holders, starting with the Court nobles, to be replaced by men of talent. He proposed that the number of Senior Councillors be reduced to seven, and the Junior Councillors to eight, to form a compact Council determining matters of policy put to them by the Emperor and ratifying the decisions of the Executive Departments. Ōkubo seems to have shared his low opinion of the capacity of the Court nobles who thronged the upper ranks of the Council and Departments.

A new organisation of the government embodying these ideas was accordingly announced on June 11th, 1868. While claiming that all authority in the realm was vested in the Imperial government in its collective capacity as the Great Council of State (Dajōkan) lest there be any division of sovereignty; yet within the government the Legislative, Executive and Judicial powers were to be kept distinct in order to prevent "preponderance" (Henchō). The Legislative power was to be exercised by an Upper House of Senior and Junior Councillors; its powers were specifically defined as

27. Ishin Shi. 5. p.523-4.
29. Ōkubo Toshimichi Bunsho. 2. p.360.
30. Meiji I leap 4m 21d. HRZS. No.331. This document is generally known as the Seitaisho.
the establishment of the Constitution, the making of laws, the determination of administrative matters, the appointment of officials of the third grade and above, the clarification of rewards and punishments, the determination of Treaties and declarations of war and peace. The Lower House was to consist of the Han representatives (Kōshi) and was to debate the following matters under the orders of the Upper House; taxes, posts, coinage, weights and measures, treaties, domestic and foreign commerce, reclamations, declarations of war and peace, arrests on sea and land, the levy and provisioning of troops, military contributions, the establishment of forts and storehouses on Han territory and disputes between Han.

The Executive was headed by two Imperial Assistants (Hoshō) drawn from the Senior Councillors who aided the Emperor, reported the decisions of the Legislature to the throne, exercised a supreme direction over internal affairs and controlled the business of the Palace. Under them, ten Council Secretaries (Benji) and Assistant Secretaries received and transmitted documents relating to internal and external business and handled the affairs of the Palace. From the duties of the six Clerks (Shikan) of this department, it is clear that it acted as the drafting office for government orders. While the Upper
House was empowered to make laws, the technique of drafting legislation was developed in the executive office of the Hoshō; no provision was made for it to draft legislation in committee. Moreover, the Upper House deliberated under the presidency of the two Hoshō who also acted as directors of the Executive Departments. Similarly, the Lower House deliberated under the presidency of two Council Secretaries (Benji) serving under the Hoshō. The continued "preponderance" of the Executive was more or less assured by such an arrangement.

In the new system, Arisugawa was no longer President; Sanjō and Iwakura held the key posts as Hoshō, and may thus be termed the joint Presidents of the new Council. The Senior Councillors were reduced to ten; consisting of Sanjō, Iwakura, Nakayama, Ōgimachi-Sanjō, Nakamikado and Tokudaiji, and the Daimyō of Echizen, Hizen, Awa and Chōshū. The Junior Councillors were also reduced to ten; consisting of Ōkubo and Komatsu of Satsuma, Kido and Hirosawa of Chōshū, Goto and Fukuoka of Tosa, Soejima of Hizen, Yokoi of Kumamoto and Yuri of Echizen. These men were all senior retainers of their Han, and they were to act as a Council distinct from the Executive Departments. Technically, they formed the Upper House of a proposed Legislature; in fact they formed a Council and the division of the Legislative from the Executive.
which was the object of the new system was in fact an attempt to separate Council and Executive functions. Many years were to elapse before this awkward point of constitutional practice was satisfactorily solved.

One immediate result of the new system was the removal of a large number of Senior and Junior Councillors who had cluttered up the previous administration. In all, 14 Senior Councillors and 74 Junior Councillors were dismissed. Many of them were dismissed outright; those with any talent were appointed to exclusively executive duties in the six Departments. In letters of this time, Yokoi Shōnan, one of the Junior Councillors, expressed his satisfaction with the new system for eliminating many useless Court nobles from high positions, and described the government as carried on largely by the Presidents, the Senior and Junior Councillors and the Council Secretaries. (31)

The Lower House of the Legislature was set up on July 13th, 1868. (32) Under the title of Kōshi Taisakusho it met three times a month to debate administrative matters, but the written memorial was the most convenient form of consulting the Daimyō and the Han samurai, and regular sessions of the Lower House were suspended on the 16th of September. (33) Shortly after, on the 5th

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32. Meiji 15m 24d. HRZS. No. 417.
33. Meiji 1 8m 1d. HRZS. No. 600.
of October(34) the office of Han representative in the Lower House(Kōginin) was defined as that of receiving Imperial orders and reporting conditions in the Han to the government. The legislative character of the Lower House of Han representatives had clearly lapsed.

A government notification of November 3rd(35) declared that although it had been intended to establish an Assembly by dividing the Legislative and the Executive, in actual practice these two powers had become so intermingled that it had proved impossible to establish an Assembly. While reiterating that popular participation in the government in a national Assembly was essential to the firm foundation of the regime, especially in the matter of finance, yet for the present the Legislative branch of the government was abolished and the Senior and Junior Councillors were to enter the Executive branch under the direction of the Presidents(Hōshō). The task of drawing up a new Assembly system was entrusted to a special investigation Bureau. (Giji Torisirabe Kyoku)

Prior to this notification, Senior and Junior Councillors had already taken over posts in the Executive Departments. Komatsu was appointed Vice-Head of the Foreign Department on October 18th, and Nakamikado was

34. Meiji 1 8m 20d. HRZS. No.643.
35. Meiji 1 9m 19d. HRZS. No.760.
appointed Head of the Finance Department on the 7th of October. At this time, the link between the Council as a whole and the Executive Departments was provided by the Council Secretaries (Benji), whose duties were defined as follows on December 2nd, 1868. (36) The ten Secretaries divided government business into six broad sections to which two or three of them would be assigned. These sections consisted of the Palace; the Daimyō; the upper samurai; the Fu and Ken; temples and seals; the receipt and transmission of official documents, proclamations, petitions, enquiries and reports of the Executive Departments; the University, appointments and promotions. The Secretaries received all incoming official documents, scrutinised them and passed them on to the Council after affixing their seals. Clerks were attached to the Council to record its decisions and to return them to the Secretaries concerned, who then transmitted them to the person or Department concerned.

This Council Secretariat was by far the largest in the government, employing 10 Secretaries, 12 Under-Secretaries and 35 clerks. (37) It was here that the documentary procedure of the government was evolved and the records of the government kept. In the extreme press of business, the Legislative and the Executive

36. Meiji 1 10m 29d. HRZS. No. 911.
37. Kaninroku. Meiji 1 9m. (October-November, 1868)
were indeed difficult to separate, since the Council was responsible for decisions on a flood of memorials, petitions, enquiries and reports from individuals and from Executive Departments to which its answers had the force of legislation. At a time when there were no legal codes, no administrative precedents and no clear division of Departmental functions, the Council was bound to engross a huge amount of business.

On the 2nd of January, 1869 (38) the Senior and Junior Councillors were themselves divided into sections for the handling of official business; Nakayama taking shrines and temples, Hachisuka taking military affairs and official appointments, Higashikuze taking foreign affairs and justice, Kido and Ōkubo taking the Daimyō, upper samurai and the Fu and Ken, Soejima and Ōki taking finance, the University and Tōkyō Fu. On the 28th of February (39) when the government had definitely settled in Tōkyō, these provisions were extended and the Senior and Junior Councillors and the Council Secretaries were organised into five sections handling the whole range of government business. Takatsukasa, Nakayama, Ano and Fukuoka handled the Department of State Religion, official ranks and ceremonies and the Court nobles.;

38. HKBRTZ. I. KSM 2. KS. Dajōkan Naikaku. l. p.127.
Iwakura, Nakamikado, Ano, Yuri, Kido, Ōkubo, Goto, Ōkuma and Hirosawa handled the Finance Department, the Fu and Ken, shrines and temples; Iwakura, Tokudaiji, Matsudaira of Echizen, Nabeshima of Hizen, Kido and Ōkubo handled the Military Department, the Daimyō and upper samurai and appointments to office; Tokudaiji, Date of Uwajima, Fukuoka and Soejima handled the Foreign Department, the University and the Bureau of Official Legislation; Takatsukasa, Nakamikado, Hirosawa and Iwashita handled the Justice Department, the Palace guard and gates. The Council Secretaries were also assigned to these five sections, and to special duties connected with the receipt and transmission of official documents.

On the same day, regulations were issued for the conduct of business in the Council. The Councillors were to hold a conference daily from ten till twelve, to which the Council Secretaries and the Heads and Executives of Departments could be invited if necessary. After a meal at twelve, the Councillors then retired to their offices to handle their respective sections of government business. Petitions, enquiries and other official documents were sent to the Junior Councillors by the Council Secretaries concerned with their opinion attached; the Junior Councillors considered them and

40. Meiji 2 1m 18d. HRZS. No. 54.
presented them in turn to the Senior Councillors. The Senior Councillors deliberated and determined (Gihan) upon them and forwarded them to the Presidents, who obtained the sanction of the Emperor and returned them to the Council Secretaries for disposal. Strict injunctions were given to avoid delays, and a separate regulation\(^{(41)}\) enjoined that a document received by the Council Secretariat should be considered by the Secretaries by noon of the day following and determined in Council conference by noon of the day after. On the same day it was to be transmitted to the Presidential Secretaries and returned to the Secretaries responsible, who returned it with the decision to the originator on the fourth day. All matters were thus to be disposed of within four days.

At this time, the Council was acting both as the Legislative and the office for the co-ordination of the Executive. The system was extremely unwieldy in spite of injunctions to avoid delays, and it could not be long before a new organisation would have to be drawn up.

Meanwhile, the government was still committed to setting up a Legislative Assembly and was still much in need of support from the Han for the spring campaign

\(^{41}\) Meiji 2 \(1\)m 18d. HRZS. No.56.
against the Bakufu remnants in the north. Within the Council, Kido Kōin was a strong advocate of government by Assembly\(^{(42)}\) and Iwakura also regarded the erection of an Assembly as vital for the stability of the new regime.\(^{(43)}\) Yamanouchi, the Daimyō of Tosa, had been appointed Head of a special Bureau for the investigation of Assemblies on the 3rd of November, 1868. Other members of the Bureau were Akizuki Taneki, Daimyō of Takanabe and a Council Secretary, Fukuoka and Ōki, Junior Councillors, Sameshima and Mori, executives in the Foreign Department, and Kanda Kōhei, an ex-Bakufu official who had made a special study of Assembly systems.

On the 5th of November 1868,\(^{(44)}\) a government notification re-affirmed the intention to establish an Assembly and to determine important affairs by public deliberation. The Han representatives were urged to devote themselves to clarifying opinion in their Han and to avoid the empty arguments and vain discussions of the Kōshi Taisakusho. On December 8th,\(^{(45)}\) the Han representatives were required to be appointed from the incumbents of the two highest executive offices of the Han government.

\(^{43}\) Iwakura Kō Jikki. 2. p.687-8. Memorial of March 7th, 1869.
\(^{44}\) Meiji 1 9m 21d. HRZS. No.771.
\(^{45}\) Meiji 1 10m 28d. HRZS. No.902.
On the 22nd of January, 1869(46) the Han were ordered to send their representatives to a new Assembly called the Kōgisho to be opened in Tōkyō on the 27th of March. Detailed draft regulations for this Assembly were drawn up in January or February(47). The chief object of the Assembly was stated to be the determination of Laws(Hōritsu), but not exceptional or emergency matters. The members were to draw up draft proposals (Gian) which were to be introduced, discussed and determined on consecutive days, and if passed by a majority of three fifths were to be immediately sent up for the Imperial decision by the President. Executive officials could be summoned for questioning when necessary. In April or May,(48) the President of the Assembly issued instructions to the members encouraging them to form committees specialising in 18 separate administrative matters such as agriculture, taxes, posts and currency in which groups of members sharing a special knowledge or interest would draw up draft proposals from the memorials and petitions received by the Assembly. On April 29th,(49) the President of the Assembly informed the Executive Departments that when the members of the Assembly in committee were engaged in drawing up draft

46. Meiji 12m 10d. HRZS. No.1063.
47. HKBRTZ.1. KSM. 17. KS. Kōgisho/Shūgi-In. p. 259-62.
49. ibid.
proposals, they were to confer with the Executive Departments when necessary; on the other hand, officials of the Executive Departments could participate in the deliberations of the Assembly. The Kōgisho was clearly intended to act as a Legislative Assembly, and its framers took an optimistic estimate of the capacity of the Han representatives to draft legislation.

On the 18th of April, 1869(50) 227 Han representatives took their seats in the Kōgisho, and were immediately given a government Enquiry to debate. Thereafter, under the Presidency of Akizuki Taneki, Ōhara Shigesane and Kanda Kōhei, it debated over 20 topics in the next few months until its final session on the 15th of July. Kanda, Mori and Suzuki who had served on the committee which planned the new Assembly provided the most important draft proposals for debate, but none of these men held high positions in the government. The Kōgisho was in fact eclipsed by important movements taking place within the government during its sessions, and in any case its debates were marked by much disorder and discord.

Early in 1869, the future of the new government was by no means secure. Ezo was still in the hands of

the Bakufu remnants, the northern provinces were in a state of great chaos and turbulence, and considerable friction had arisen between the Satsuma and Chōshū troops during the course of the campaign.\(^{51}\) The finances of the new government were extremely embarrassed and the country swarmed with Rōnin.\(^{52}\) The officials of the government were alarmingly given up to drunkenness and debauchery;\(^{53}\) while in the Imperialist Han important reforms had to be pushed through to pacify the turbulent spirit of the returning troops, keeping many of the principal men of the time busy in the Han rather than in the central government.\(^{54}\)

The creation of an Assembly was proposed as one answer to these problems. But two other policies were being mooted at this time; firstly, the return of land registers to the Emperor by all the Daimyō to demonstrate that sovereignty resided in the central government and not the individual Han; secondly, to carry out a thorough reform of the official system to increase efficiency, to attract men of talent to the government and to elevate its status in the eyes of the nation.

On March 5th, 1869, the Daimyō of Satsuma, Chōshū,

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52. Ōkubo Toshimichi Bunsho. 3. p.131 ff; p.144-5.
Dai Saigo Zenshū. 3. p.640-1, for Satsuma.
Tosa and Hizen sent in a joint memorial offering to return their land registers to the throne. In the succeeding months, some 200 Daimyō followed their example. But it was felt that these memorials should not be accepted until the surrender of land registers had been ratified by a grand Assembly of the officials, Court nobles, Daimyō and upper samurai of the realm. It was this Assembly rather than the Kōgishō which occupied the attention of the government in the first half of 1869. In January or early February, 1869, the Daimyō and upper samurai of the Han were informed of the intention to consult them in a grand Assembly of the whole realm, and they were required to be present in the capital by the 21st of April. On March 11th, the Governors and senior executives of the Fu and Ken were required to send one of their number to attend this Assembly.

But before the Assembly met, reforms were carried out within the government itself. Talented men from the Han were invited to join the central government, and after much discussion among the officials as a whole it was decided to hold an election for the posts of President (Hoshō), Senior and Junior Councillor (Gijō, Sanyo) and Head and Vice-Head of the seven Executive

55. Meiji 1 12m. HRZS. No.1165.
56. Meiji 1 lm 29d. HRZS. No.82.
Departments (Chiji, Fuku-Chiji). Since the Restoration, the posts of Senior Councillor and Head of an Executive Department had been confined to Court nobles and Daimyō; but election to all these posts was to be performed by a ballot held among the officials of the top three grades (Chokunin). This election was carried out largely on the insistence of Iwakura and Ōkubo, who were both anxious to weed out superfluous officials particularly in the higher posts, and regarded an election as the only practical way to do so. (58)

Accordingly, on June 22nd (59) in the presence of the Emperor an election was carried out which resulted in a new and more compact Council of one President, Sanjō, three Senior Councillors, Iwakura, Tokudaiji, Nabeshima, and six Junior Councillors, Higashikuze, Kido, Ōkubo, Gotō, Soejima and Itagaki. This was an attempt to create a smaller Council of able men enjoying the support of the higher officials as a whole and balancing the claims of the four major Han to the direction of the government. Since the previous attempt on June 11th, 1868, to limit the Senior and Junior Councillors to ten apiece, numbers had swollen until just before the election there were 19 Senior and 16 Junior Councillors. As a result of this election,

58. Iwakura Ko Jikki. 2. p.725
59. Meiji 2 5m 13d. HRZS. No. 443.
seven Daimyō Senior Councillors and two Daimyō Junior Councillors were dismissed and appointed to honorific posts in the Palace; with the exception of Nabeshima of Hizen as Senior Councillor and a handful of Daimyō still in executive positions, the Daimyō thus followed the Court nobles of the previous year in being quietly dropped as officials of the central government. (60)

On the same day (61) the Legislative branch (Giseikan) of the government which had been suspended on the 3rd of November, 1868 (62) was formally replaced by Upper and Lower Assemblies (Jō/Ka Gikyoku). The new Council of President, Senior and Junior Councillors and Council Secretaries was to act as the Executive branch (Gyōseikan). The stage was now set for the Upper Assembly of Court nobles, Daimyō and Imperial officials to debate the return of land registers to the Emperor and other crucial issues of the time. On June 30th, (63) the Emperor consulted the Upper Assembly (Jōkyoku Kaigi) on the three questions of the promotion of the Imperial regime, the appointment of the Daimyō as Imperial Governors of their Han and the colonisation of Ezo; present at the Assembly were government officials of the fifth grade and above,

60. The Daimyō concerned were Tsuwano, Tokushima, Yamaguchi, Okayama, Tottori, Hiroshima, Nagoya, Saga and Kumamoto.
61. Meiji 2 5m 13d. HRZS. No.443.
63. Meiji 2 5m 21d. HRZS. No.496.
the Imperial Princes, Court nobles and Daimyō. In subsequent meetings diplomacy and finance were also discussed, but once the Daimyō had approved the return of land registers the Upper Assembly had largely served its purpose. On July 25th,(64) the previous memorials for the return of land registers were accepted and the Daimyō were appointed Imperial Governors of their Han. Sessions of the Lower House (Kōgisho) had by this time been suspended; after the final session of the Upper House on the 3rd of July, the Daimyō were never again summoned to participate in a national Assembly.

Within the Council at this time there was much dissatisfaction with the existing structure of the government. On July 12th,(65) Ōkubo wrote to a friend that many useless arguments had arisen in the Kōgisho and that he was proposing to have it closed as unsuitable to the national tradition (Kokutai). Iwakura earlier in the year advocated in a memorial to Sanjō that official titles should be drawn from the ancient Taihō Code, since the prevailing opinion despises the new and reveres the old.(66) Kido was pressing at this time for a clear line to be drawn between the functions of Junior Councillor and Vice-Head of Executive

64. Meiji 2 6m 17d. HRZS. No.543.
65. Ōkubo Toshimichi Bunsho. 3. p.197.
Departments; failure to do so in his opinion was leading to the formation of "little Departments of State" which by-passed the Council.\(^{(67)}\)

On August 15th, 1869\(^{(68)}\) an Ordinance was issued revising the structure of the government. The Department of State Religion (Jingikan) was exalted to the rank of the chief Department of State. Next came the Great Council of State (Dajōkan), consisting of Ministers of the Left and Right (Sa/U Daijin) acting as Council Presidents over three Senior Councillors (Dainagon) and three Junior Councillors (Sangi). The Presidents advised the Emperor and exercised over-all supervision and control of the administration. The Senior and Junior Councillors assisted the Presidents in carrying on the administration, in accepting or rejecting proposals and in promulgating Imperial Edicts. Under the direction of the Council were six Executive Departments (Shō) handling Civil, Financial, Military, Judicial, Palace and Foreign affairs. Finally Institutes (In) were established for the Receipt of Petitions (Taishō-In) and for the Assembly of Han representatives (Shūgi-In).

In keeping with the reduction of the Councillors, the Council Secretariat was also reduced to three Chief Secretaries (Daiben), 5 Second Secretaries (Chūben)

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68. Meiji 2 7m 8d. HRZS. No.622. Generally known as the Shokuinrei.
and six Third Secretaries (Shōben). Associated with this reduction of the Council Secretariat was an attempt to define the routine matters of government which could be handled in the Executive Departments without being sent up for Council approval. On May 19th, the Departments were ordered to handle routine matters at their own discretion and to settle routine matters which concerned other government offices by direct conference with them. Very important matters and matters upon which decision was difficult were to be sent as enquiries (Ukagai) to the Council Presidents; matters to be issued as Imperial Proclamations (Fukoku) to the Fu, Han and Ken were to be sent to the Council Secretariat. On May 31st, it was further stipulated that important matters such as the revision of previous regulations or the composition of new systems (Hōsei) were to be reported to the Council Presidents for Imperial sanction after discussion and decision in the Department concerned. Decisions taken in respect to the enquiries of the Fu, Han and Ken were to be reported twice a month to the Presidents; but the reports (Todoke) on business handled within the Department were to be settled within the Department itself. On June 2nd, the Departments were authorised.

69. Meiji 2 4m 8d. HRZS. No. 347
70. Meiji 2 4m 20d. HRZS. No. 372.
71. Meiji 2 4m 22d. HRZS. No. 377.
to appoint clerical officials without prior reference to the Council Secretariat.

The definition of important matters to be reported to the Council and routine matters to be determined by the Departments themselves was a vital one for the proper working of both the Council and the Executive Departments. If too much business was reported to the Council for decision, stagnation was bound to result; if too little, the Departments tended to escape from central control. Striking the correct balance demanded a constant series of legal definitions as official business expanded.

Another feature of the new system was the abandonment of the Legislative Assembly. From the regulations issued for the Shūgi-In in October 1869, it clearly had no powers of initiating legislation since draft proposals were put before it by the Council of State, and those proposed by the Shūgi-In itself could only be debated after informing the Council. By an order of the 25th of September, the Institute for the Receipt of Petitions(Taishō-In) was reduced to a Bureau (Kyoku) within the Shūgi-In; which thus emerged as an Institute in which representatives of the Fu, Han and Ken met to discuss proposals put to them by the government, and in which the petitions of the people

72. Meiji 29m. HRZS. No.949. Clause 2.
73. Meiji 28m 20d. HRZS. No.779.
could be received and considered.

The revision of August 15th was above all an attempt to create a strong and compact Council, which was henceforth designated the Great Council of State (Dajōkan), a term that had been applied to the government as a whole in previous usage. But there was much tension and rivalry between various factions within the government at this time and it proved extremely difficult to get the principal men to assume the highest posts in the new Council. Kido of Chōshū headed a faction composed of Itō, Inoue, and Ōkuma handling the financial and civil affairs of the new government. Kido worked closely with Sanjō but disliked and distrusted Iwakura, who in turn was always in close correspondence with Ōkubo and the Satsuma men. Goto and Itagaki of Tosa disliked Ōkubo and tended to side with Kido. Kido was also on good terms with Yamanouchi Yōdo, the Daimyō of Tosa, and often visited him whereas Ōkubo never did so. Since the dispute over the treatment of Tokugawa Keiki on the evening of the Restoration Edict, Yamanouchi had nursed a hatred of Iwakura, who alone of all the Court nobles had directly opposed him. On the other hand, Soejima of Hizen allied himself to Iwakura and Ōkubo, and the Daimyō of Hizen also had close connections with Iwakura. (74)

In the formation of the new Council, Iwakura insisted on giving way to Sanjō, who was appointed President (Udaijin). Iwakura and Tokudaiji were appointed Senior Councillors (Dainagon). On the proposal of Iwakura, Ōkubo, Kido and Itagaki were appointed to posts as Doctors in the Institute for the Receipt of Petitions (Taishō-In Gakushi). Iwakura wished them to leave active posts and to act as advisers (Komon) to the Emperor in their capacity as the three great statesmen of the realm. But Kido refused the post on the grounds that he was not a man of scholarship, and the three men were appointed simply as officials (Shusshi) of the Institute on the 18th of August. (75) Soejima Taneomi of Hizen was appointed Junior Councillor (Sangi) on the 15th of August, with Maebara Issei of Chōshū who accepted the post with the greatest reluctance and refused to attend to his duties. (76) The appointment of Ōkubo, Kido and Itagaki to retired positions caused considerable consternation among the higher officials, and so Iwakura on the 25th of August recommended to Sanjō that his previous plan should be scrapped and that Ōkubo, Kido and Itagaki should be appointed Junior Councillors. (77) Ōkubo was appointed Junior Councillor on the 29th of August, but Kido refused to serve on

75. Iwakura Kō Jikki. 2. p.764-5.
76. Denki Dainihonshi. Seijikahen. p.44.
77. Iwakura Kō Jikki. 2. p.765-6.
a plea of illness, and Hirosawa Saneomi of Chōshū was appointed Junior Councillor on the 30th of August. Kido disliked both Maebara and Hirosawa of his own Han and was offended at the failure of his own candidate Ōkuma Shigenobu to be appointed to the new Council. (78) Tosa was not represented in the new Council at all, and Hizen was represented by the conservative Soejima to the exclusion of the progressive Ōkuma of his own Han who was by now a powerful force in the Executive.

Thus while the creation of a small Council was necessary for the efficient direction of affairs, the staffing of such a Council was difficult in a time of factions and rivalries. However, soon after the formation of the new Council a step was taken towards the concept of Council solidarity in the Oath which the President and Senior and Junior Councillors jointly swore before the Emperor on the 15th of September, 1869 (79). They pledged themselves to preserve Council secrecy, to express opinions freely and without rancour, and to visit each other several times a month in their own homes for informal discussions. Important measures which were to be determined by public deliberation (Kōron) under the terms of the Imperial Oath were to be sent up

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for Imperial decision only after full deliberation in the Council after consultation with Heads of Executive Departments, the Council Secretaries and the Assembly of Representatives.

New instructions for the conduct of business in the Council were issued on the 13th of August, \(^\text{(80)}\) and again on the 12th of September. \(^\text{(81)}\) As before, a Council conference was held daily from ten till twelve in which matters sent up to the Council were deliberated and determined upon. The Council Secretaries (Benkan) in their respective sections (Bunka) received and considered the petitions, enquiries and reports and other official papers daily from ten till twelve, and forwarded them with their written opinions to the Junior Councillors when they retired to their offices at one. The Junior Councillors considered them, introduced them for discussion in the Council conference of the following day, and returned them to the Council Secretaries of the section concerned when they again returned to their offices between one and two. The Senior and Junior Councillors were empowered to handle and effect matters which had been deliberated upon and determined in the same way as the President. Heads of Executive Departments could attend the Council conference on the prior

\(^{80}\) Meiji 2 7m 13d. HRZS. No.647.
\(^{81}\) Meiji 2 8m 7d. HRZS. No.716.
permission of the Council Secretaries, and could be summoned to attend with their under officials when an important matter arose. No official documents were to be put before the Council conference without passing through the Council Secretaries. It seems that the handling of business in the Council had become rather too informal, at any rate in the opinion of Ōkubo who declared that although the free expression of opinion was the basis of enlightened government and should be observed by men in important posts, yet for mere country samurai to go to and fro before men in the highest positions adversely affected the dignity of the government. It should be therefore forbidden to all except the men in the chief positions to discuss government affairs.

The new instructions for the handling of business in the Council attempted to limit all approach to the Council to the Council Secretariat; further instructions issued later in the year on the 24th of December again declared that during the Council conference, officials were forbidden to enter without obtaining permission even if the matter was urgent; and to present official documents to the Council other than through the Council Secretaries was classed as a misdemeanour.

The new Council was strengthened by the appointment

82. Ōkubo Toshimichi Bunsho, 3, p. 229-30. Opinion to Sanjo and Iwakura, August 30th, 1869.
83. Meiji 2 11m 22d. HRZS. No. 1073.
of Nabeshima, the Daimyō of Hizen, as Senior Councillor on the 21st of September. Nakamikado was also appointed Senior Councillor on the 22nd of December. In an attempt to strengthen the foundation of the government, Ōkubo and Kido were ordered to return to their Han on the 6th of January, 1870, to persuade the Daimyō of Satsuma and Chōshū and Saigō Takamori to come up to the capital and assume office. It was clear that sooner or later the Han would have to be abolished, and Ōkubo was now advocating a coalition of Satsuma, Chōshū and Tosa to provide the military backing for the abolition of the Han and the creation of a strong central government.(84)

While Ōkubo and Kido were engaged in persuading their Daimyō to support this policy, the Daimyō of Tosa independently approached the Daimyō of Satsuma with a similar proposal.(85) But the attempt to persuade the Daimyō of Chōshū and Satsuma to come up to the capital failed, and Saigō also refused to leave Satsuma when his Daimyō would not do so.(86)

However, some new support from Tosa was acquired by the appointment of Sasaki Takayuki to Junior Councillor on the 6th of March, followed by Saitō Toshiyuki on the 13th of June. While the future of the new government was once more in the balance over the

84. Ōkubo Toshimichi Bunsho. 3, p.347ff.
86. ibid. p.177.
critical issue of the abolition of the Han, a bitter dispute arose within the government over the control of the Executive Departments.

On the 17th of September, 1869, the Department of Civil Affairs (Mimbushō) and the Department of Finance (Ōkurashō) had been amalgamated, and the combined Departments had come to possess wide executive powers which increasingly escaped from Council control. On the return of the Imperial armies to the Han, the vast majority of government business was concerned with finance and local administration. The need to construct a sound system of government finance and to establish the basis of a modern industrial economy demanded a specialised knowledge which only a handful of young executives like Ōkuma, Itō and Inoue possessed. Ōkuma had early distinguished himself by his ability in handling the diplomatic and financial crises which had arisen since the Restoration, and on the amalgamation of the two Departments he was appointed joint Vice-Head under the nominal control of Date, the Daimyō of Uwajima. Itō served directly under him, and together they drew into the combined Departments a number of able young men who laboured to promote the rapid financial, industrial and administrative progress of Japan on Western lines.
But their youth, their seeming arrogance, their western ways and extravagant style of living offended the more conservative members of the government; while the volume, complexity and specialised nature of the business they transacted tended to put them beyond effective Council control. When enforcing new financial and administrative regulations, the orders of the combined Departments were often resisted by local officials; and there was strong opposition in certain quarters to its policy of railway and telegraph expansion which were regarded as a waste of finances better spent on military preparations.\(^{87}\)

In the Council, Ōkubo in particular disliked the methods of Ōkuma and his associates, and planned to cut down their influence by separating the two Departments. Ōkuma and Itō naturally resisted this proposal, and they were supported by Kido and Gotō who were not in the Council but whose support the government was most anxious to gain. Kido accepted an appointment as Junior Councillor on the 5th of July, 1870, and the proposal to separate the combined Departments soon threatened to produce a deadlock in the Council with

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\(^{87}\) For an example of criticism of the policy of the combined Departments by a local Governor, vid. Iwakura Tomomi Kankei Bunsho. 4. p.412ff. For opposition to railway development, vid. Watanabe. Meiji Bunka Kenkyū. 4. p.18.
Okubo and Soejima for the proposal, Kido and Goto (88) against, and Hirosawa, Sasaki and Saito neutral. At this juncture, Sasaki suggested a compromise by which the two Departments should be separated and Okuma raised to Junior Councillor in compensation. (89) Sanjo, who was anxious to protect Okuma and Ito in this crisis, readily agreed to Sasaki's proposal. In a letter to Sasaki on the 11th of July, he wrote that the promotion of Okuma would open the way for the appointment of men of talent to the Council, which would be strengthened by the addition of men conversant with civil and financial business, and would work to avoid the danger of preponderance (Henchō). (90) Kido, however, was pressing not only for Okuma to be appointed Junior Councillor but for him to be put in charge of the combined Departments as part of a general plan for the improvement of the government. (91)

For several weeks the conflict remained unresolved, and Okubo and Soejima strongly resisted the appointment of Okuma to the Council. The compromise that emerged after much dispute was the separation of the two

88. Goto was not a Junior Councillor, but his opinion was influential. On the 8th of August, he was appointed to an honorary post in the Palace and ordered to advise the Emperor on national affairs.
89. For a full account of this dispute, vid. Tsuda. Meiji Seijō to omi Takayuki. p.197ff.
Departments on the 4th of August, followed by the elevation of Ōkuma to Junior Councillor on the 26th of September. When the two Departments were separated, Date remained Head of the Finance Department with Ōkuma as Vice-Head over Itō and Inoue; Iwakura, Ōkubo and Hirosawa attached themselves to the Civil Affairs Department as executives (Goyō-kakari) from the 6th of August until the 7th of December to assist the Vice-Head Ōki Takato to conduct its business.

Henceforth, the establishment of a proper relation between the Council and the Executive Departments was to remain an exacting problem of personalities and definitions. On top of the dispute over the separation of the combined Departments, Maebara Issei resigned from his post as Junior Councillor on the 26th of September; since January 3rd he had combined his post in the Council with the position of Vice-Head of the Military Department, and determined to resign after a series of disputes with the Finance Department, the Council and his own Department Secretary Kuroda Kiyotaka over his plans for the expansion of the army and navy. (92) Maebara was a man of a difficult disposition, but to some extent his resignation was due to the difficulties of his dual position as Councillor and Vice-Head of an Executive

Department.

After the separation of the combined Departments and the appointment of Ōkuma as Junior Councillor, the rivalry between Kido and the progressives and Ōkubo and the conservatives was still much in evidence. On the 12th of December, 1870, a new Department of Industry (Kōbushō) was set up to control the industrial, mining, steel manufacturing, lighthouse and telegraph business of the government. The new Department was erected largely on the proposal of Kido and Ōkuma, who advocated that it should be directed by officials of the Finance Department as an additional post. Soejima objected to this, and Ōkubo advocated that the new Department should be attached for the moment to the Department of Civil Affairs. As a result, the Department of Industry remained a skeleton organisation.

Morale was not high in the central government at this time. While the Council and the Executive Departments were rent by factions and disputes, the spirit of resolution grew weaker, red-tape grew ever more burdensome and the officials increasingly subject to criticism for their dissolute habits.

94. An appointment to the top position in the Department of Industry was not made until Goto was appointed Vice-Head on August 14th, 1871. He was assisted by five Secretaries and three clerks only. (Vid. Shokuinroku, Meiji 4 7m.) Detailed regulations and a full complement date from March 1872.
stir was caused by the public suicide of Yokoyama Yasutake of Satsuma on the 18th of August to draw attention to his petition against the inefficiency and corruption of the government. The three great Han seemed uncommitted to the new government; Shimazu, the Daimyo of Satsuma, and Saigō Takamori had refused to assume office and were known to be critical of some of its policies. Itagaki Taisuke with his large following in Tosa was also still outside the government.

It was therefore resolved in the Council on the 20th of November to send Iwakura as Imperial Envoy to persuade the Daimyo of Satsuma, Chōshū and Tosa to come up to the capital, while Ōkubo was to persuade Saigō and Itagaki to join the government. (96) On March 29th, 1871, it was agreed that Satsuma, Chōshū and Tosa should provide between them a body of 10,000 troops to form the nucleus of an Imperial army and as a necessary preliminary to the abolition of the Han. By mid-1871, these troops had arrived in the capital and after a little wavering, the Han were finally abolished on the 29th of August. (97)

The abolition of the Han was the signal for another major reconstruction of the central government. Since November 3rd, 1870; (98) Ōkubo had advocated reforms

98. Ōkubo Toshimichi Nikki. 2.p.127; Ōkubo Toshimichi Bunshō. 4. p.68ff.
to ensure Council control of the Finance and Civil Affairs Departments. He advocated that a Senior Council­lor should be appointed to each Department to exercise control, and that the Junior Councillors should also be assigned to the business of the Departments as part of their duties. Ōkubo also advocated that two or three men should be selected from among the Junior Councillors to act as Instructors (Go Hodō) to the Emperor, and that reforms should be carried out in the Palace to sweep out useless officials and to appoint specially selected Han samurai as Imperial Attendants (Jijū).

In July or August, 1871, Ōkubo advocated to Iwakura that the office of Junior Councillor should be abolished and their duties assumed by Heads of Executive Departments. Gōtō and Eto were advocating a Council of Senior Councillors (Daijin) over Junior Councillors acting as Heads of Executive Departments; Iwakura, Ōkubo and Sasaki inclined to this proposal, but were alive to the dangers foreseen by Sanjō of the disputes which might result from such a combination of functions. (100)

Finally, Saigō and Ōkubo proposed that a single Chief Councillor (Shusai) should be elected from Satsuma, Chōshū or Tosa under whom all the other officials should work in willing obedience in the Executive Departments. (101)

99. Ōkubo Toshimichi Bunsho. 4. p.304-5.
100. Tsuda. Meiji Seijō to omi Takayuki. p.244-5.
They proposed Kido for this post, and got the consent of Sanjō, Iwakura and Itagaki. Yamagata and Inoue were sent to persuade Kido to accept, but he refused to do so on the grounds that Saigō as the most respected man of the realm should assume this post. (102)

Kido was opposed to the combination of the functions of Junior Councillor and Head of Executive Departments, as tending to the destruction of the Legislature. In a memorial of August or September, 1871 (103) he advocated that the Senior and Junior Councillors should be combined to form a Supreme Legislature (Sūki Rippō no Kan) on the lines of western countries to determine policy, to supervise the working of the Executive Departments, to control official appointments and rewards and punishments and to determine Treaties. To abolish the Senior and Junior Councillors would be to abolish the Legislature, and to govern by the Heads of Executive Departments would lead not only to the unchecked supremacy of the Executive, but would result in each Department looking only to itself and to unbalance and factions. Kido regarded the Legislative and the Executive as the two wheels of the government which mutually aligned each other; without a Supreme Legislature there would be no body to adjudicate in disputes, and the government would

102. Iwakura Kō Jikki. 2. p.909.
collapse. Kido advocated that 10 or 15 statesmen (Jimbutsu) should be collected together to form this Supreme Legislature, and Gotō and Itō came to share his views.\(^{104}\)

On the other hand, Kido opposed the proposal of Itagaki that Han representatives should be appointed to the Supreme Legislature.\(^{105}\) In his memorial, one reason he advanced for the establishment of a Supreme Legislature was the danger that when a Lower House was established in the future in response to the demand for liberty which would result from the growing enlightenment of the people, all governing power would go immediately to this Lower House if it was confronted by an arbitrary Executive.\(^{106}\) By this time, the Assembly of Local Representatives (Shūgi-In) had gone into decline. The session of January 13th, 1870,\(^{107}\) which had debated the promotion of men of talent to the Navy had been attended by Arisugawa, Iwakura and Ōkubo. The opening of the Assembly on June 26th, 1870, had been attended by the President, the Councillors and influential Court nobles; while the Emperor himself attended the debate on the organisation and expansion of the army and navy on the 21st of October, 1870, with the President, Senior and Junior Councillors and Heads of Departments at his

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But the quality of its members drew adverse comment from the government on April 14th, 1870. In the following month, the Assembly itself asked for guidance from the Executive Departments on future policy since previous Assemblies had been in ill-accord with the trend of the times. In response to this, the Censorate (Danjōdai) suggested that a law should be speedily enacted to weed out incapable representatives.

At this time, Tani Kanjō wrote that "the Shūgi-In has none of its former influence, and it is reported that all men with any aspiration have turned their backs on it." The concept of a Lower House of local representatives in a national Legislative Assembly was by no means dead; Eto and Ōkubo approached Sanjō on the 19th of November, 1870 with a proposal for a Legislative Assembly of which the Shūgi-In should act for the moment as the Lower House, and for Assemblies to be set up in the Prefectures, rural districts, towns and villages. But with the abolition of the Han, the Shūgi-In lost much of its raison d'etre, and it was clear that the concept of the Lower House of the Legislature would have to be basically modified in the

108. Ishin Shi. 5. p.542-3.
109. Meiji 3 3m 14d. HRZS. No.199, note.
110. Ōtsu. DNHKSS. 1. p.344-5.
112. Ōtsu. DNHKSS. 1. p.543ff.
new system.

Just before the reform, the Council consisted of Sanjō as President, Iwakura, Tokudaiji and Ōgimachi-Sanjō as Senior Councillors, and Soejima, Ōkubo, Sasaki, Saitō, Kido and Ōkuma as Junior Councillors. The President and Senior Councillors had not shown great powers of direction in the disputes of the last year, and some signs of irritation towards them on the part of the Junior Councillors may be sensed in Ōkubo's reference to the absent-mindedness (Ukatsu) of Sanjō in a letter to a friend on the 18th of February, 1870 (113) and in Kido's statement in his diary on the 27th of August, 1871, that it had been planned to abolish the Han without informing Iwakura, but the leaders of the Han decided to inform him out of consideration for his past services to the Restoration (114). The proposals to abolish the distinction between the Senior and Junior Councillors, and to elect a Chief Councillor from the Han samurai reinforce this impression.

Kido finally assented to becoming Chief Councillor on condition that Saigō would serve with him; accordingly on the 11th of August, Kido and Saigō were appointed Councillors (Sangi) while all the other Junior Councillors were dismissed. The next step was the formation of

113. Ōkubo Toshimichi Bunsho. 4. p.124-5.
of an Investigation Bureau (Seido Torishirabe Kyoku) to determine the new structure, to which appointments were made on the 15th of August, 1871.\(^{115}\) Saigo and Kido were appointed joint Presidents, with Ōkubo, Ōkuma, Terashima, Goto, Yamagata, Etō, Fukubane, Inoue, Ōki, and Sasaki as members, and Shishido, Shibusawa and Yoshii as assistants. On the 20th of August,\(^{116}\) regulations for debate were issued; the decisions of this body were to be made by majority vote and sent directly to the Emperor for approval under their joint signature. They thus took on the character of a Legislative Assembly on the lines advocated by Kido. On the same day, Kido and Saigo asked the President and Senior Councillors to confer together on the powers of the Investigating Committee since it was intended to deliberate matters of government which would result in the discussion of the Imperial authority itself. On the following day, the President and Senior Councillors conferred together and in a Letter of Commission to the members of the Committee, they confirmed that matters discussed and determined by the members and sent for Imperial approval under joint signature would be speedily reported to the throne and put into effect. If Imperial approval was not granted, the reason would be made clear; if

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115. HKBRTZ. KSM. Dajōkan/Naikaku. 2. p.248.
116. Meiji 4 7m 5d, 7d. ibid. p.250.
the members regarded the reasons as unjustified, they could send a return report. The period of Imperial consideration for adoption or rejection was not to exceed three days; once the Imperial approval had been given a matter was to be executed without fail. (117)

On the 24th of August, while this Committee was in session, a meeting was held in Kido's residence attended by Saigō, Ōkubo, Ōyama, Saigō Tsugumichi, Inoue and Yamagata to discuss the abolition of the Han in secret. Sanjō and Iwakura were informed of their decision on the 27th of August, and the abolition of the Han was announced on the 29th. (118)

After a general meeting of the President, Councillors, Heads and Vice-Heads of Executive Departments on the 30th of August (119) the new structure of the government was announced on the 13th of September, 1871.

119. ibid. p.259.
CHAPTER 2.
UNITY AND DIVISION. 1871-1873.

The new structure was announced on the 13th of September, 1871. (1) The government was divided into three Offices of the Centre, Left and Right (Sei-In, Sa-In, U-In) representing the Council, the Legislature and the Executive. The Council consisted of one President (DajōDaijin) who assisted the Emperor, exercised general powers of decision on all matters of government, and supervised State Ceremonies, Foreign Relations, Treaties, Declarations of War and Peace, and the Army and Navy. Under him came the Senior Councillors (Nagon) who could perform the President's duties in his absence. Then the Junior Councillors (Sangi) who participated in the direction of the government and deliberated upon government affairs, assisting the President and Senior Councillors and assenting to all matters of government. The number of Senior and Junior Councillors was left undetermined.

The Legislature (Sa-In) consisted of one Chairman (Gichō) who was either to be appointed from the Junior

1. Meiji 4 7m 29d, HRZS. No.386.
Councillors as an additional post, or from the first class members of the Sa-In itself. The members (Giin) of the Sa-In were ranked in three classes, and were of undetermined number. All matters such as the establishment of new regulations for the official system (Seido Jōrei), the supplement, alteration or revision of existing regulations, and the determination of matters not yet defined under the existing regulations were to be debated and determined by the Chairman and members of the Sa-In, either on the instructions of the Council (Sei-In) or on the proposals of the Sa-In itself. The conclusions of the Sa-In were reported to the Council. When necessary, executive officials could be summoned to attend its debates and to answer questions after application to the Council which ordered them to do so. The regulations for Assembly, and the opening and closing of the Sa-In were to be specially determined by the government. (Dajōkan). The selection, promotion and dismissal of its members was determined by the Council (Sei-In).

The Executive (U-In) was a meeting of Heads or Vice-Heads of the Executive Departments to draft laws relating to their business and to deliberate upon measures of practical administration. Drafts of laws (Hōan) concerning Department business were to be drawn
up by Heads of Departments and submitted to the deliberation of the others. In enquiries sent down from the Council, the Head of the Department chiefly concerned drew up a draft approving or rejecting the measure and submitted it to deliberation. If differences of opinion arose, these were recorded and reported to the Council. If the Head of the Department chiefly concerned should decide after due consideration that a measure sent down to his Department for action should not be effected, he could return it after deliberation with the other Heads, and on the permission of the President and Councillors could attend the Council to explain his reasons for doing so.

The Council (Sei-In) exercised a general supervision and control over all government affairs, with the President and Senior Councillors assisting the Emperor and the Junior Councillors participating in counsel. The promotion and demotion of officials of the third grade and above, Heads and Vice-Heads of the Departments and the Chairman and senior members of the Legislature, (Chokuninkan), was performed by the Emperor with the assent of the President and Councillors. All legislative, executive and judicial business so specified in the regulations was to be reported by the Legislature and Executive for determination in the Council. Matters
concerning practical administration sent up to the Council by the Legislature were sent down to be considered by the Executive and returned to the Council for approval under its seal. Matters received by the Council from the Executive which concerned the Legislature were to be dealt with in the same way. It was the special right of the Council to determine upon the adoption or rejection, slow or speedy application of the proposals of the Legislature and Executive; and to determine the regulations for business, opening, closing, establishment or abolition of the Legislative Assembly and the Executive Departments. Matters concerning the regulations for the official system to be promulgated to the whole country and special Imperial Orders or regulations were to be issued by the Council of State (Dajōkan); matters to be promulgated to the whole country which did not concern the regulations for the official system such as administrative instructions could be directly issued by the Department concerned. The President of the Council signed and sealed all Imperial Rescripts. Imperial Rescripts, the orders and regulations of the Council, records of appointments and demotions, the scrutiny of confidential documents and the composition of draft laws (Hōan) were to be handled by the Confidential Secretaries of the Council (Sūmitsu Shikan). Past orders
useful as precedents and matters to be kept for reference after disposal were to be entrusted to the Ordinary Secretaries (Shikan) for compilation and filing.

Under the new system, the Council Secretariat consisted of 10 Confidential Secretaries (Sūmitsu Shikan) and 21 Ordinary Secretaries. Three Bureaux concerned with Palace ceremonial were also attached to the Council, and a special section was established within the Council for secret investigations into the conduct of the central and local officials of the government. (2)

On the 24th of September, (3) it was stated that the Council of State (Dajōkan) was the chief Department of the government (Honkan) of which the Executive Departments were branches (Bunkan). The officials of the Executive Departments and the Legislature were divided into 15 grades, but the President and Senior and Junior Councillors stood above the hierarchy of grades since they were of great importance as assistants to the Emperor. In September or October, (4) the final touches were added to the organisation of the Council Secretariat. The separate functions of the Confidential (Naishi) and Ordinary (Gaishi) Secretaries were defined, and two Bureaux were set up for records (Kiroku Kyoku) and for

2. The Kambuka. This section seems to have been set up in response to the suggestions of Kido (vid. Kido Kōin Bunsho. 8. p.64-5). For its regulations, vid. HKBRTZ. KSM. 2. Dajōkan/Naikaku.1.p.150-4.
3. Meiji 4 8m 10d. HRZS. No.400.
supplies (Yōdo Kyoku)

The new system was therefore a broad division of the government into Council, Legislature and Executive. The final authority was of course reserved to the Emperor and his Council, but as far as possible the functions of the Legislature and Executive were defined and it was hoped that the three sections would work in harmony and remain within their proper bounds. On the 13th of September (5) a separate order gave the Heads of Departments complete power in the internal directions of their Departments and charged them not to interfere in the affairs of others. Matters to be determined after reference to the Council and matters which could be determined by the Department itself were as far as possible stipulated in the Department regulations. It was also hoped that the Executive Departments would combine to draw up administrative legislation in the U-In. The regulations for the Legislature had been drawn up by Etō Shimpei in close association with Itagaki and Goto. (6) Itagaki had been worried at the extinction of the Shūgi-In, and was concerned to keep some sort of representative Assembly in existence. But Etō considered that for the moment an officially

appointed Assembly would be better than vainly advocating popular election with little hope of achieving it in practice. The three-fold division of the government into Council, Legislature and Executive was based on Etō's proposals; Gotō, Itagaki and Etō regarded the Legislature as providing a check on the predominately Satsuma and Chōshū Executive. In the absence of hard and fast definitions, the success of the new system would have to depend on the ability of the leading men of the four great Han to work well together.

In spite of the original intention to limit the number of Junior Councillors, Kido and Saigō were joined by Itagaki of Tosa and Ōkuma of Hizen on the 29th of August, 1871. It seems that Kido insisted on the new appointments in order to maintain the traditional balance of the four Han in the Council, and possibly to check the predominance of Satsuma. On the same day, the three Senior Councillors Iwakura, Tokudaiji and Ōgimachi-Sanjō were dismissed; Iwakura being appointed Head of the Foreign Affairs Department. The Council thus consisted of Sanjō as President, over four Han samurai as Junior Councillors. The other leading men were all in high executive positions; Ōkubo as Head of the Finance Department, Ōki as Head of the
Civil Affairs Department and soon to be appointed Head of the new Department of Education, Sasaki as Vice-Head of the new Department of Justice, and Goto as Vice-Head of the Department of Industry. Since no Head was appointed to the last two Departments, Sasaki and Goto were in full control of them.

The first signs of tension under the new system arose out of appointments to the Finance Department. Saigo and Okubo had agreed that reforms must be carried out in this Department, and Okubo himself became its Head on the 13th of August, just after leaving his post as Junior Councillor. As a first step in this reform, Saigo sought to replace the "underlings" (Zokuri) of the Okuma régime by "men of character" (Goketsu). In particular, he sought to appoint Yuri Kimimasa, Tsuda Izuru and Yasuba Yasukazu to the Finance Department. These were all men of mature age who had distinguished themselves as Han administrators; but they were quite out of tune with the young officials of the Finance Department who regarded the problem of creating a national financial structure as fundamentally distinct from the problems of restoring solvency to a Han. It was found impossible to employ Yuri in the Finance Department owing to his previous failure in handling

government finance;\(^9\) but on the 13th of September when Inoue Kaoru was appointed Vice-Head of the Finance Department, Tsuda Izuru was appointed Deputy Vice-Head and Itō Hirobumi demoted from this post to Head of the Tax Bureau. On the same day, Yasuba Yasukazu was appointed a Chief Secretary(Daijō) of the Finance Department.\(^10\)

Thereafter, there was continual friction between Shibusawa, Mutsu, Ono and Yoshikawa of Inoue's following and Yasuba and Tani, the two Chief Secretaries installed by Ōkubo. Shibusawa respected them as scholars, but found them lacking in any grasp of politics and economics, and felt that they had been introduced to the Department as spies to check the activities of Inoue. A sharp dispute arose in a Council meeting when Ōkubo as Head of the Finance Department proposed that the estimates for military expenditure should be fixed at ¥8 million per annum; Shibusawa who attended the meeting as Chief Secretary of the Department regarded this as ludicrously high and challenged Ōkubo directly on the point. After this incident, Shibusawa planned to resign but was only restrained by the assurance of Inoue that Ōkubo would soon be leaving the country on the Iwakura Mission, and that Inoue would direct the Department in his absence.

9. Ōkubo Toshimichi Bunsho. 4. p.349.
Finally, at a farewell gathering for Ōkubo before his departure on the Iwakura Mission, Inoue got very drunk and openly abused him.\(^{(11)}\)

But while the departure of Ōkubo was imminent, Saigō in addition to his post as Junior Councillor was appointed a special executive (Goyō-kakari) of the Finance Department on the 5th of December, 1871.\(^{(12)}\) At this time, Saigō was determined to push through his plans for an Industrial Bank on the lines recommended by Yuri Kimimasa, but strongly opposed by Ōkuma and the officials of the Finance Department.\(^{(13)}\)

Early in the following year, Saigō called on Shibusawa informally to try to persuade him to adopt the policies of Ninnomiya Sontoku which had been carried out with some success in the Sōma Han, but which the officials of the Finance Department regarded as useless as a national policy. Shibusawa refused Saigō's request, and took the opportunity to complain directly to him on the way in which the Council overrode the wishes of the Finance Department.\(^{(14)}\)

Tsuda Izuru resigned from the Department on the 21st of March, 1872\(^{(15)}\), and Yasuba Yasukazu also left.

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the Department on June 30th. Saigō had pressed Ōkuma to appoint Tsuda to the Department and had been angered at his refusal; but when Tsuda revealed his lack of ability and resigned from the Department, Saigō candidly apologised to Ōkuma for his mistake. The attempt by Saigō and Ōkubo to reform the Finance Department therefore ended in failure, and demonstrated that the relations between the Council and the Executive in the new system would not necessarily be smooth.

On the 20th of November, 1871, Iwakura was appointed Under President (U-Daijin) and it was announced that he would lead an Embassy to Europe and America. Kido, Ōkubo, Ito and Yamaguchi were appointed Vice-Ambassadors, and several important executive officials were appointed to accompany them, including Sasaki, Higashikuze and Yamada. Before the Embassy left Japan on the 23rd of December, the Presidents, Councillors, Heads of Executive Departments and the Chairman of the Legislature drew up a compact of 12 Articles to ensure the stability of the government during the absence of the Embassy. They promised to keep each other informed of all important matters at regular intervals. Since it was intended to implement large-scale reforms on the return of the Embassy, any revision of the existing regulations was

18. HKBRTZ. 1. KSM. 17. KS. Rinjikan. p.341-3.
to be avoided as far as possible. If by any chance a revision became necessary, the Embassy was to be fully informed. However, with the recent abolition of the Han, orderly and effective measures were to be taken to provide a foundation for reform. If the position of Head of an Executive Department fell vacant, a new appointment was not to be made; the Councillors were to undertake its duties between them and not alter its scope (Kihan). No increase was to be made in the number of officials, whether permanent or temporary. Finally the regular meetings of the Executive (U-In) were suspended; if a matter should arise for which such a meeting was necessary, the Council was to issue instructions and fix a day of meeting. This compact was signed by Sanjō, Iwakura, Saigō, Kido, Ōkuma, Itagaki, Gotō, Fukubane, Soejima, Ōkubo, Inoue, Yamagata, Ōk, Itō, Sasaki, Tokudaiji and Kuroda in their respective capacities as Councillors and Heads of the Legislature and Executive.

On the 2nd of November, 1871, Gotō Shōjirō was appointed the first Chairman of the Legislature (Sa-In Gichō), relinquishing his post as Vice-Head of the Industry Department to Itō Hirobumi. By the end of the year, 12 men had been appointed Members of the Legislature. Four of them were Daimyō, the rest were talented Han samurai including Etō Shimpei, Komuro Nobuo
and Hosokawa Junjirō who were especially interested in Legislative Assemblies.

But the part which the Legislature was to play in the government was still somewhat unclear. On the 18th of January, 1872 regulations were issued for its procedure, and the members were divided into four sections to handle matters connected with the Executive Departments. But on the following day the Council sent an enquiry to the Foreign Department and the Industry Department requesting them to present their written opinions on regulations for the business of the Legislature within three days. The Industry Department suggested that the Legislature should debate and report to the Council on legal systems (Hōrei Seido), that it should be consulted on appointments, dismissals and transfers of its members, and that in matters connected with its debates its members should be able to visit the Executive Departments and go on tours of inspection to the local districts. The Foreign Department objected to these proposals, and to others that would extend the jurisdiction of the Legislature in judicial and executive affairs. But in the revised regulations for the Legislature issued on the 5th of February it was conceded

19. HKBRTZ.1.KSM.17.KS. Sa-In. p.4.
20. ibid. p.6-7.
that all legislative matters such as the establishment of regulations for the official system (Seido Jōrei) and the supplement, deletion or revision of existing regulations should be debated and determined in the Legislature and reported to the Council. All legal systems (Horitsu Seido) to be generally promulgated were also to be debated in the Legislature. Although the appointment of its members was made by the Council, the written opinions of the Legislature were to be taken into account. Although the regulations and opening and closing of the Legislature was determined by the Emperor, it was not to remain closed for more than 30 days. If the regulations of the Legislature were supplemented or revised, this was to be performed on the decision of the Emperor after general deliberation (Shūgi).

In fact, the Legislature could play little part in the day to day business of the government. Its active spirits therefore turned to the task of drawing up a Constitution. In May or June, 1872, Miyajima Seiichirō with the support of Ijichi Masaharu sent in a memorial proposing that the Legislature should be set to work on a Constitution. (22) He advocated that the Legislature should act as the National Assembly (Koku Giin) and

the Council as an Assembly of Elder Statesmen (Genrōin). The Executive afforded by the officials of the Fu and Ken was to act for the moment as the Popularly Elected Assembly (Minsen Giin) until the growth of enlightenment among the people enabled them to be allowed to elect their own representatives. Miyajima above all stressed the need for a Constitution which would strike a just mean between the absolutism of the past when the people were ignorant of their rights and duties, and the dangers of the present when foreign systems were vainly copied and the people cry out for liberty to the extent of republicanism. On June 25th (23) the Legislature presented the Council with a far more radical proposal. It declared that the co-operation of high and low in the government (Jōge Dōji) in the terms of the Imperial Oath had not been effected. As a result, local government was not uniform, and the creation of a satisfactory financial and legal system was impossible. In the western countries an Upper and Lower House of an Assembly was always set up besides the Executive; although the Legislature had been set up in Japan it does not widely consult the opinion of the people, and therefore a Lower House should be speedily set up with representatives from the whole country. The Legislature declared that

if approval for this was granted, it would speedily draw up general regulations and rules of procedure.

On June 27th, 1872, the Council asked the Legislature to investigate and report upon regulations for promoting the common deliberation of representatives from the Fu and Ken. In September or October, the Legislature presented its findings to Chairman Gotō. It suggested that the officials of the Fu and Ken should meet in Tōkyō to form an Assembly of Local Officials (Chihōkan Kaigi) as a preparation for the setting up of a National Assembly (Kokkai Giin) the following year.

Suffrage was to be given to all males above 25 years of age subject to a property qualification, and one person elected by ballot from each of the 3 Fu and 75 Ken. These advanced proposals were chiefly the work of Matsuoka of Tosa, which was still in the van in the movement for government by Assembly aided by Itagaki in the Council and Gotō as Chairman of the Legislature.

But Gotō did not present these proposals to the Council, probably because other questions had arisen that made it unlikely that Saigō would assent to them. While the Emperor was in Kagoshima in July 1872, Shimazu

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had complained of the increasing westernisation of the government, and demanded that Saigō and Ōkubo should be dismissed. (26) On the return of Saigō to the capital with the Emperor, Itagaki told Miyajima that "the opportunity has been lost for opening a National Assembly. Saigō's spirit is not the same as before the Imperial visit to Kagoshima; he looks anxious. The opening of a National Assembly will be difficult." (27) And so it proved, for the question of the Assembly was overshadowed first by disputes within the Executive, and then by the question of Korea.

On the departure of Iwakura and the Vice-Ambassadors, the Council consisted of Sanjō as President, and Saigō, Itagaki and Ōkuma as Councillors. According to Ōkuma, Saigō and Itagaki liked to spend their afternoons in soldierly reminiscence, leaving him to transact most of the Council business. (28) Saigō's relations with the Finance Department have already been described; he was more successful in his reform of the Palace, and secured that henceforth the Emperor's Attendants (Jijū) should be samurai of integrity rather than Court nobles who still despised the samurai as upstarts. (29) Itagaki was principally concerned to establish some sort of

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27. Ōtsu. DNHKSS. 1. p.553.
representative Assembly, but he failed to carry Saigō with him at a critical moment.

With the Executive Assembly(U-In) in abeyance, the Legislature(Sa-In) reduced to a passive role, and the Council severely reduced in numbers, the centre of gravity shifted towards the Executive Departments. In particular, the Finance Department was as powerful as ever and had emerged controlling communications and all other business except public works on the abolition of the Department of Civil Affairs on September 11th, 1871. Ōkubo and Saigō had tried to check its influence and had failed to do so; but its influence was about to be challenged from a new and unexpected angle.

The independence of the Judiciary had attracted some attention in 1868, but had been overshadowed by the more vital concern to secure a balance of Assembly, Council and Executive. But Eto Shimpei and his associates were as anxious to establish local courts as to establish local assemblies, and saw proper government in terms of a three-fold division of power between Executive, Assemblies and Courts on both a national and local scale. When it became clear that the Legislature was not destined to play an active part in the conduct of affairs and that the prospect of popularly elected Assemblies

was remote, Etō switched his attention to the Justice Department as a means to maintain the independence of the Judiciary against the preponderance of a Satsuma and Chōshū Executive.

While Sasaki, the Vice-Head of the Justice Department was abroad with the Iwakura Embassy, his Deputy Shishido acted as Head of the Department. But Kawano Togama and Shimamoto Shindō within the Department pressed Ōkuma and Inoue to have a new Head appointed, saying that the Department could not make progress under Sasaki and Shishido. (31) As a result, Etō Shimpei left his post as Vice-Chairman of the Legislature and became the first full Head of the Justice Department on the 2nd of May, 1872. Shishido was transferred to be Vice-Head of the Department of Religion on June 27th, and was replaced by Fukuoka Kōtei on the 15th of September. Thereafter, Etō, Fukuoka, Kawano and Shimamoto, who were all from Tosa or Hizen, embarked upon an ambitious programme of legal reform, and sought to expand the jurisdiction of the Department at the expense of the judicial business handled by the Finance Department and the local officials.

Etō's first opportunity came in August, 1872, when a scandal was raised over the misappropriation of War Department funds by Yamashiroya, a Chōshū official.

merchant with close connections with Yamagata. When Yamashiroya's luxurious style of living while travelling abroad aroused comment, investigations suggested that he had borrowed from War Department funds to engage in the export of silk. At this time Yamagata was the Commander of the Imperial Guards, and the Satsuma army men such as Kirino were quick to raise an outcry against Yamashiroya and to demand strong measures. Etō thereupon asserted his powers of jurisdiction, and took the case up in the Justice Department. When Yamashiroya returned from abroad, he secretly altered the ledgers to have repaid the borrowed money, in collusion with Yamagata. But Etō's suspicions were aroused and he secured an inspection of the War Department treasury at which the money was found to be missing. Yamashiroya took the blame and committed suicide; Yamagata resigned from the Command of the Imperial Guards and was restrained from suicide by Saigō who had hurriedly returned from the Imperial visit to west Japan to settle the matter. In this action, Etō had both asserted the power of the Judiciary and set Satsuma and Chōshū at variance. Only the great personal influence of Saigō over the military leaders of both Han prevented a serious incident. (32)

Etō failed to abstract the "Maria Luz" case to

32. Denki Dai Nihon Shi. Seijikahen. p.32.
the Justice Department from Kanagawa Ken in August 1872 against the strong resistance of Soejima, the Head of the Foreign Department, and Ōe Taku the Ken Governor. (33) In September, Courts of Justice (Saibansho) were set up in 11 Ken in the face of considerable opposition from local officials; in November, Courts were set up in Osaka and Kyōto Fu. (34) Etō was soon embroiled with the Kyōto Fu authorities over the arrest of Ono Zensuke, who appealed to the Justice Department against his arrest by local officials. (35) Finally, Etō challenged Inoue and the Finance Department over the bankruptcy of Mitani Sankurō (36) and the appropriation of the Osarizawa copper mine. (37)

But the great clash between Etō and Inoue which had marked repercussions on the Council came early in 1873, and centred upon the control which the Finance Department exercised over the appropriations of all other government Departments. Between December 1871 and December 1872, government expenditure had exceeded income by over ¥7 million at a time when over half the revenue of the government was from printed or borrowed currency. (38) Inoue was therefore determined to enforce

36. ibid. p.86.
a policy of strict retrenchment, and to freeze or reduce
the appropriations of all Departments with the exception
of the Army Department. On July 4th, 1872, Sanjō
in a letter to Ōkuma wrote of the difficulties which
the Education Department found in obtaining funds from
the Finance Department to implement the new educational
policies which had been approved by the Council. He
urged Ōkuma to remonstrate with Inoue since the refusal
of the Finance Department to submit to the Council was
making things difficult.

At the end of 1872, Eto submitted an estimate for
the Justice Department of just under ¥1 million to cover
the cost of new Courts of Justice and the general ex­
pansion of the Judicial system. The previous budget
of the Justice Department had been just over ¥500,000;
far from acceding to Eto's demands, Inoue cut the
Department down to ¥450,000. Inoue and Eto argued the
point with great venom and when the Council inclined
to Inoue's view Eto determined to resign. He sent an
angry memorial to the Council on January 24th, 1873,
and Fukuoka, the Vice-Head of the Justice Department,
and the Chief Secretaries presented a joint protest
to the Council at the same time. The Justice Department

40. Ōkuıa. Segai Kō Jireki Ishin Zaisei Dan. 3. p.335-7;
41. Itō. op. cit. l. p.58-68.
seemed on the verge of dissolution, and Ōki Takato the Head of the Education Department joined Eto in his protests. Sanjō was powerless to resolve the crisis, and Ōkuma had to return hurriedly from a posting to Osaka to save the situation. In spite of his close ties with Inoue and the Finance Department, Ōkuma drew up an optimistic report showing a surplus in government funds sufficient to meet the demands of the Justice and Education Departments. The Council thereupon ordered the Finance Department to pay out. (42)

But so much friction had arisen in this dispute that a reconstruction of the Council became necessary to hold the government together. Accordingly, on the 9th of April 1873, Gotō, Eto and Ōki were appointed Junior Councillors (Sangi) and on the 2nd of May (43) the Council regulations were revised.

As before, the Council was headed by a single President (Dajō Daijin) who assisted the Emperor and exercised a general control of all matters of government. Next, provision was made for two Under-Presidents (Sa/U Daijin) who could carry out his duties in his absence. Then came the Junior Councillors (Sangi) who were not limited in number, and who deliberated and determined upon government affairs as Members of the Inner Council.

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43. HRZS. Dajōkan Muge Tasshi. p.762.
(Naikaku no Gikan). In the regulations for the business of the Council, it was asserted that all Legislative business lay within the special jurisdiction of the Council; all such business was to be debated and determined by the Members of the Inner Council (Naikaku Gikan); after considering advantages and disadvantages and the relative urgency of application, matters to be put into administrative practice were to be reported to the throne and after being approved and sealed were to sent as instructions to the person chiefly responsible to be put into effect. Reports sent to the throne for decision were to be jointly signed by all the Members of the Inner Council. The establishment, abolition or amalgamation of Executive Departments and their Bureaux and sections; the adoption and rejection and relative urgency of executive business were all within the special jurisdiction of the Council. Although the appointment and dismissal of Chokunin officials was made on the decision of the Emperor, the Members of the Inner Council were unfailingly to be consulted; they were also to be consulted by the President in the appointment and dismissal of the Secretarial officials (Sōnin). The Members of the Inner Council were to consider important legal appeals, or to supervise their hearing by attendance at Special Courts (Rinji Saibansho). Finally, matters
to be handled exclusively by the Council were detailed in 21 Articles, ensuring its control of the higher legal, financial, military and diplomatic affairs of the government. The Inner Council was declared to be the Axis (Kijiku) of the administration, the place in which the Junior Councillors specially appointed by the Emperor deliberated and determined upon legislative matters and the adoption or rejection of executive affairs. The members of the Inner Council were empowered to make special tours of inspection to the localities. When they discussed matters of practical administration, the Head of the Department chiefly responsible was always to be consulted before the matter was sent up to the President. When members of the Inner Council were sick or absent, proposals under discussion were to be sent to their homes and their opinions elicited.

The immediate object of these new regulations was to ensure future Council control over the Executive and to prevent the recurrence of the recent disputes. On the 18th of May, in an explanation of the new regulations, Sanjō stated that the previous system had led to clashes of jurisdiction between the Departments, since each sought to extend its jurisdiction and to increase its scale. Finally, they had lost all sense of proportion about the suitability and relative urgency of
practical undertakings. As a result, it had become necessary to embellish (Junshoku) the Council regulations and to standardise the jurisdiction of the Executive Departments. The relative urgency of undertakings had been determined in the light of the strength of the country and the condition of the people, and henceforth government business would be carried out in accordance with the estimates of income and expenditure. (44)

In the light of the recent disputes, Council control of the Treasury and the Judiciary had naturally to be asserted. But the control of the Council over the Legislature was also being tightened. In May, 1873, regulations were issued for the Confidential Secretariat (Naishikan) of the Council in which a Legislation Section (Hōseika) was entrusted with all business connected with laws, ordinances and regulations. On the 25th of June, 1873, the Shūgi-In was finally abolished and revised regulations were issued for the new Legislature (Sa-In)*. From these regulations, it is clear that the active function of drafting administrative legislation rested with the Legislation Section of the Council. The business of the Legislature was defined as the compilation of the Constitution and the Civil Code (Kokken Mimpō);

44. MBKZS. 2. p.186.
* HRZS. Dajōkan No.28 Fukoku. HKBRTZ. 1. KSM. 17.
KS. Sa-In. p.9-11.
the Legislature could draft legal proposals in response to the orders of the Council, and debated new laws and the revision of the existing regulations. But the drafting of administrative laws and regulations was carried out in the Legislation Section of the Council Secretariat. For the next two years, this definition was not strictly followed; on the 13th of November, 1873 officials of the Legislation Section were permitted to attend the Legislature as members, and on the 12th of February, 1874, its business was transferred to the Legislature. But on the 14th of April, 1875, it was transferred back to the Council, and thereafter the Council was never without its own Legislation section.(46) The distinction between what may be termed Constitutional Legislation and the administrative orders and regulations of the Council which had the force of legislation was to be a vital one for the future constitutional development of Japan. With the revision of the Council regulations on the 2nd of May, 1873, this distinction was beginning to be made.

When these new regulations were announced, it was clear that the members of the Inner Council were to act as the supreme legislative body and the position of the Legislature(Sa-In) became a matter of some doubt.

46. HKERTZ. 1. KSM. 17. KS. Sa-In. p.13-4.
On the 8th of May, Miyajima used this as an occasion to reiterate his pleas for a National Assembly (Kokkai-In) to be established in which local representatives should be summoned to be members. (47) At this time, the governors of the Fu and Ken were in the capital to discuss local administration in an Assembly of Local Governors (Chihōkan Kaigi) summoned by the Finance Department. Early in 1873, a proposal by Sugi, the Governor of Akita Ken, had been printed in the Official Bulletin suggesting that an Assembly (Kaigisho) of local governors and government officials should be held in the Finance Department to secure uniformity and efficiency in the conduct of local administration. (48) Draft regulations for this Assembly were prepared in the Finance Department in April, 1873. (49) This draft declared that the officials of the Finance Department and the local governors were to debate local business as a Legislature (Rippōkan), but were to concern themselves only with Finance Department business to be effected in the local districts. Proposals determined upon by this Assembly were to be lodged in the regulations for local government and regarded as Laws (Horitsu).

The Council rejected these proposals as an invasion

47. MJBKZS. 4. p. 350.
of the Legislature by the Finance Department. However, the local governors were summoned to Tōkyō to discuss local administration with the Finance Department, and returned to their districts after an address by Sanjō in which he explained the reasons for the recent revision of the Council regulations and informed them that the matters determined in their Assembly would be reported to the throne for decision. He also declared that Assemblies of local officials concerned with the affairs of the people were of no little value for the administration; the form of such an Assembly would be determined and would be opened every year in the Legislature.

Miyajima wanted them to be kept in the capital for such an Assembly to be opened immediately in the Legislature, and pressed his proposals on Saigō and Itagaki. Saigō agreed in principle, and a draft proposal for a National Assembly was presented to the Council. It envisaged a Grand Assembly (DaiKaigi) to be opened once a year by the Emperor, attended by the Presidents, Councillors and Heads of Executive Departments. Besides the regular members of the Legislature, the local governors and the secretarial officials of the Executive Departments would also sit as members. The agenda would

include 12 items concerned with government finance, taxation, public works, conscription and military expenses which had been specifically reserved for Council decision in the new Council regulations, but on which local comment would be useful. But the Vice-President of the Legislature, Ijichi, was absent from duty on account of illness and the proposal was not taken up by the Council. Miyajima pressed his proposals on Ōkubo on his return from abroad, and Iwakura on his return on the 13th of September called a meeting of the Councillors in his residence to get their opinion. But Saigō did not attend due to illness and the other Councillors were apathetic. At another meeting on the 2nd of October, Kido also did not attend on a plea of illness.\(^{51}\)

The question of the Legislature and the National Assembly had to give way to more important issues that were pressing on the Council at this time. The elevation of Goto, Eto and Ōki to the Council and the revised Council regulations were intended to strengthen Council control, and for the moment did so. On the 7th of May, 1873, Inoue and his Chief Secretary Shibusawa presented a memorial calling attention to the grave state of government finance, stating that the yearly

\(^{51}\) MJBKZS. 4. p. 351-55.
income of the government from all sources was only ¥40 million against which yearly expenditure was ¥50 million with debts since the Restoration of a further ¥120 million. (52) Subordinate officials of the Finance Department secured the publication of this memorial in a newspaper, and a great stir resulted. (53) But Ōkuma was appointed Controller (Sōsai) of Finance Department business and quickly calmed opinion by a more optimistic account of government finance. (54)

Inoue and Shibusawa were allowed to resign on the 14th of May, and it seemed that the Finance Department had at last been mastered by the Council. Goto was appointed Controller (Sōsai) of the business of the Legislature on July 14th, (55) and Eto and Ōki remained in virtual control of their previous posts since no Head was appointed to succeed them. Saigō was in undisputed control of the Armed Forces, having been appointed Commander-in-Chief of the Army and Commander of the Imperial Guard on the 22nd of August, 1872, and Field Marshal on the 10th of May, 1873. (56) While the original concern to separate the Council from the Executive had clearly broken down, the hold of the Council over the Executive had clearly been strengthened.

52. Ōtsu. DNHKSS. 1. p.581-87.
54. Ōtsu. DNHKSS. 1. p.589-94.
56. ibid. p.73.
But it was still unclear what part Iwakura, Ōkubo, Kido and the other members of the Embassy would play on their return from overseas.

Ōkubo returned to Japan on the 24th of May, 1873. During the Embassy he had found it impossible to work in harmony with Kido, and they had separated and returned to Japan by different routes. Struck by the industrial strength of Britain, his resolution seems to have faltered for a moment; while on a railway journey to Birmingham he is reported to have said "old people like myself will be useless for the future and ought to retire as unsuited to the trend of the times!" When rallied with the comparison of the extreme youth of those who carried on the government in Japan and the mature age of western statesmen, Ōkubo replied that the Bakufu had been overthrown and the Emperor restored, but now that this was completed he was at a loss on what to do in the future and regarded himself as unfitted for the world of progress he had seen in the west. (57)

On his return to Japan, Ōkubo did not immediately resume his duties as Head of the Finance Department but busied himself with plans for a new Home Department in which he could direct the internal development of Japan towards the standards he had seen achieved in

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Europe and America. During the Embassy, Itō had worked well with Ōkubo in spite of being a Chōshū man and the special protege of Kido. Itō had also been temporarily estranged from Kido while in London after an incident which suggests that Kido's poor health was beginning to affect his emotional balance. (58) Ōkuma who had also risen as a protege of Kido quickly transferred his allegiance to Ōkubo on his return to Japan. He found Ōkubo much depressed on his return owing to his strained relations with Kido and his Daimyō Shimazu, and expressing a wish to retire in favour of younger men; but Ōkuma gave him encouragement and thereafter worked closely with him. (59) Before the departure of the Embassy, Itō and Ōkuma had been opposed to Ōkubo; their willingness to work in close association with him after his return to Japan marks an important increase in Ōkubo's prestige which was soon to make him the undisputed leader in the Council.

Kido returned to Japan on the 27th of July, 1873, but would not attend to official business on a plea of illness. Although his relationship with Itō remained close, he swiftly turned against Ōkuma who had replaced his other protege Inoue in the Finance Department. Mutsu Munemitsu seems to have been particularly active in

Meanwhile, the question of Korea began to occupy the Council and swiftly led to a major crisis within the government. When the question of Korea was raised in the Council in June, 1873, Itagaki proposed that a regiment of troops should be sent to Pusan to protect the lives of the Japanese residents, after which a proper Treaty should be negotiated. Saigō maintained that this would only arouse Korean fears. Since previous Japanese diplomatic missions had been despised because of the low rank of the officials who composed them, he suggested that a high official should be sent as an Ambassador Plenipotentiary, who if assassinated would give Japan a just pretext for declaring war. Itagaki then agreed with Saigō against Sanjō who preferred the dispatch of troops, and Eto, Gotō and Ōkuma also agreed to Saigō's proposal. Saigō then proposed himself as Ambassador. (61)

Sanjō continued to have misgivings about the appointment of Saigō as Ambassador. Kuroda was opposed to a Korean expedition since he was anxious to solve the Karafuto question first. Soejima, the Head of the Foreign Department, insisted on his return from China on the 22nd of July that any Embassy to Korea must be staffed by Foreign Department officials. (62) However, Itagaki

and Saigō combined to press Sanjō with great vehemence, until on August 17th, by a unanimous decision of the Council, Saigō was appointed Ambassador and the Imperial sanction obtained. (63) Sanjō could only now insist that under the terms of the agreement made just before the departure of the Iwakura Embassy, the approval of Iwakura must be obtained before Saigō embarked on his commission. Iwakura returned to Japan on the 13th of September, and at once worked with Sanjō to get Kido and Ōkubo appointed to the Council in an attempt to reverse the decision to send Saigō to Korea. Itō and Kuroda acted as their intermediaries, and after considerable hesitation Kido and Ōkubo finally agreed to support Sanjō and Iwakura against Saigō. (64)

Ōkubo was appointed Junior Councillor on the 12th of October; Soejima who now supported the dispatch of Saigō as Ambassador was appointed Junior Councillor on the following day. On the 14th of October, in spite of Saigō's objections that the matter had already been determined in the Council and sanctioned by the Emperor, the question was again raised in the Council. Sanjō was by now almost paralysed with anxiety (65) and it fell to Iwakura to raise the first open objections to Saigō's commission. Iwakura argued that an Embassy

63. Ōtsu. DNHKSS. 1. p. 604-12.
64. ibid. p. 616ff.
65. ibid. p. 629-33.
should not be sent to Korea until some agreement had been reached with Russia, but Saigo brushed his objections aside supported by Itagaki. Okubo then attacked Saigo's arguments, but he also argued for postponement rather than cancellation. The meeting was inconclusive, and Saigo absented himself when discussion was resumed on the following day; once more a complete deadlock ensued with Itagaki, Soejima, Goto and Eto for the Embassy, and Okubo, Okuma and Oki against. Sanjo and Iwakura thereupon conferred privately, and decided to adopt Saigo's proposal. When they announced their intention to send a memorial to this effect to the throne, Okubo at once declared his intention to resign. (66) On the 17th of October, when the Imperial decision on the Embassy was expected, Sanjo, Saigo, Itagaki, Soejima, Goto and Eto attended the Council chamber, but Okubo, Okuma and Oki were absent. Iwakura also did not attend on a plea of illness. (67) Okubo, Kido, Okuma and Oki all sent in their resignations.

Sanjo thereupon told Saigo that a decision would have to await a meeting of the whole Council, but Saigo warned him that if the matter was not decided by the following day, he would execute his commission on his own responsibility. Sanjo made a last attempt to get

67. ibid. p.643.
Iwakura's approval, but Iwakura persisted in his plea of indisposition. On the morning of the 18th of October, which was the dead-line for the Imperial decision, Sanjō in a state of nervous collapse sent in his resignation and recommended that Iwakura should carry on the government. (68) On the 20th of October, the Emperor visited Sanjō and enquired after his illness, then called on Iwakura and ordered him to act as President. Encouraged by Ōkubo, Iwakura haughtily resisted an attempt by Saigō, Eto and the other members of their party to force him to put the matter to the Emperor on the 22nd of October; Iwakura and Ōkubo also took steps to gain the confidence of Tokudaiji who was in daily attendance on the Emperor as Chief Attendant (Jijū-Chō) in order to get an Imperial commission for Iwakura to act as President and to stop any attempt by Saigō and his following to approach the Emperor directly. (69)

Iwakura presented a memorial to the Emperor and spoke with him on the 23rd of October. On the 24th, he was informed that his memorial was accepted. Saigō had presented his resignation on the 23rd, and Eto, Itagaki, Goto and Soejima presented their resignations on the 24th. On the 25th of October, 1873, these resignations were accepted, and those of Sanjō, Kido, Ōkubo,

68. Ōtsu. DNHKSS. 1. p. 646.
69. ibid. p. 650-57.
Okuma and Ōki were refused.

The methods by which Iwakura and Ōkubo had thus contrived to reverse a previous decision of the Council gave their opponents much cause for complaint. By their actions they ensured that the government would have powerful outside enemies, but on the other hand the internal stability of the government was greatly increased. On their resignation, Itagaki told Saigō of his intention to devote his energies to the establishment of popularly elected Assemblies; Saigō in reply said that he did not expect to achieve his own aims by argument, but would overthrow the government and then carry out a great reform. (70) Saigō was followed in his resignation by many Satsuma men in the Imperial Guards and the Police Force, and their discontent also affected the Tosa troops. (71) Henceforth, Saigō was the prospective leader of armed rebellion against the government plotted by the more conservative elements among the samurai. Itagaki, on the other hand, became the leader of the more progressive samurai who stigmatised the government as a Satsuma and Chōshū clique and demanded the speedy erection of popularly elected Assemblies. It is more difficult to define the aims of Etō and Soejima of Hizen, but they subsequently supported Itagaki. Etō's

support of Saigō has been interpreted as a plan to diminish Satsuma and especially Chōshū's influence in the government. (72) On the other hand, Mutsu Munemitsu and a group of young Tosa men urged Kido to oppose Saigō in order to reduce the power of the Satsuma military group. (73) Significantly, Mutsu resigned from his post in the Finance Department on the 15th of January, 1874, when he found that the precedence of Saigō of Satsuma was replaced by that of Ōkubo of the same Han.

Above all, the crisis over Korea made Ōkubo the undisputed leader of the Council. Sanjō had proved quite incapable to exercise his functions as President, and Iwakura only took a strong line when he was assured of Ōkubo's support. Of the other members of the Council, Kido had not attended the Council meetings and remained inactive on a plea of illness; while Ōkuma and Ōki despite inward misgivings had not dared to oppose Saigō until Ōkubo returned to the Council to lead them.

The lesson of previous crises in the Council was that a Council based on the accommodation of differing interests would always fail when confronted by some great issue. The leadership of Ōkubo and the general agreement on major policies among those who remained

73. Saiga, Ōe Tenchi Denki. p. 341-43.
in office after the Korea dispute brought a period of stability to the Council and to the government as a whole which was to assure the success of the new regime.

The new Council was agreed on a policy of internal development to the temporary exclusion of diplomatic and military adventures.\(^{(74)}\) Yamagata and Katsu in command of the Army and Navy both insisted that a period of organisation was necessary before Japan could fight a war on the continent.\(^{(75)}\) Itō and Ōkuma had always insisted on the priority of financial and industrial progress.

On the question of the Constitution and the Assembly, Kido and Ōkubo were basically agreed in spite of some differences of mood and emphasis. Both insisted that constitutional progress must be gradual, since the people were still largely unenlightened.\(^{(76)}\) Both regarded a Constitution to define the rights and duties of ruler and subject as the great need, and the establishment of an Assembly as secondary to it.\(^{(77)}\) Ōkubo visualised an Assembly of nobles (Kazoku), Heads of Departments and specially selected representatives to discuss taxes, laws, and increases and decreases in the armed forces; Kido visualised the eventual establishment

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74. Ōkubo Toshimichi Bunsho. 5. p.53ff.
of a bicameral legislative system, but he insisted that for the present the government must exercise both executive and legislative powers. Kido was keenly aware of the need for strong leadership to carry out domestic reforms, and was satisfied for power to remain in the hands of the Council and the Executive Departments. Both agreed that it was too early to establish a popularly elected Assembly; that the Legislature should be composed of men appointed by the Emperor; and that the local officials should act as the representatives of the people.

In the Executive Departments, the work of Yamagata was considerably smoothed by the resignation of Kirino Toshiaki\(^\text{78}\) and on the resignation of Ōtō and Fukuoka the Justice Department was placed under the temperate Ōki and ceased to be a source of friction.\(^\text{79}\)

One immediate effect of the resignations was to solve the problem of the division of functions between the Council and the Executive. For the Council as reconstituted after the resignation of the Korea Embassy group consisted of Sanjō as President, Iwakura as Vice-President and a team of Junior Councillors who all served in addition as Heads of Executive Departments. On the 25th of October, 1873, Ōkuma and Ōki were appointed

\(^{79}\) Tsuda. Meiji Seijō to omi Takayuki. p.311.
Heads of the Finance and Justice Departments respectively, and Katsu Awa, Itō Hirobumi and Terashima Munenori were appointed Junior Councillors and Heads of the Departments of the Navy, Industry and Foreign Affairs. Ōkubo became Head of the new Home Department on the 29th of November, and Kido the Head of the Education Department on the 25th of January, 1874. This principle was extended on August 2nd, 1874, when Ijichi the Chairman of the Legislature, Yamagata the Head of the Army Department and Kuroda the Head of the Colonisation Office were all appointed Junior Councillors.

On the 25th of December, 1873, Shimazu Hisamitsu the ex-Daimyō of Satsuma was appointed Adviser to the Inner Council (Naikaku Komon). On the 27th of April, 1874, he joined Iwakura as Vice-President (Sa-Daijin). Shimazu was known to disapprove of the westernising policies of the new government, and his appointment to the Council in Tōkyō was regarded as a vital precaution against the threat of armed rebellion by Saigō's followers in Satsuma. He therefore enjoyed the distinction of being the last Daimyō appointed to a Council position.
CHAPTER 3.

THE PRIMACY OF ÖKUBO. 1874-1878.

The combination of posts as Heads of Executive Departments by the Junior Councillors made the old Executive (U-In) redundant; but the government could not afford to neglect the Legislature. On the 18th of January, 1874, Yuri, Eto, Itagaki, Gotō and Soejima presented a memorial declaring that the ruling power was not vested in the Emperor, nor in the people, but in the officials of the government alone. The people had a duty to pay taxes, and therefore had a right to be informed on government matters and to give their consent to them. A popularly elected Assembly should be speedily established. (1) The government replied that the backward state of the people and the need for preliminary reforms made it too early to contemplate the establishment of such Assemblies; but it could not ignore this challenge and worked to set the Legislature in order.

On the 12th of February, 1874, new regulations were issued for the Legislature (Sa-In). (2) It was stated that the Sa-In was the Legislative Office (Giseikan) of the

1. Ōtsu. DNHKSS. 1. p. 786-90.
2. HRZS. Dajōkan. p. 400-3.
government, which assisted the Council by debating its Enquiries (Suimon). When regulations for the Official System (Seido Jōrei) were established or existing regulations revised or supplemented, the Legislature was to debate and determine upon them in response to the enquiries of the Council, and to report them for Imperial decision. Before Legal Systems (Hōritsu Seido) were generally promulgated, they were to be sent to the Legislature by the Council for their merits and defects to be discussed. The Chairman of the Legislature could attend the Council to explain the decisions of the Legislature. The written reports of the Legislature were to be consulted when the Council appointed, dismissed or transferred its members. Members could be sent to the Executive Departments to investigate matters under debate, and on special occasions could make tours to the localities. Members of the Legislature attended the Assembly of Local Officials (Chihōkan Kaigi) to expound the purport of draft proposals drawn up in the Legislature in response to the enquiries of the Council. Appeals by the people against government offices were to be sent down to the Legislature by the Council for adjudication. When the Constitution (Kokken) or changes in the system of offices (Shokusei) were discussed in the Council, members of the Legislature could be
selected by special order to participate in the debate. The members of the Legislature were divided into six Sections (Ka) to deal with Home, Foreign, Finance, Military, Legal and Industrial Affairs. They were charged to compile good laws for the promotion of internal and external affairs, and to make useful responses to the enquiries of the Council.

The Legislature also took over some of the records and legal drafting work of the Council, for the regulations of the Official System (Seido Jōrei) promulgated by the Council were to be collected and compiled by the Legislature for future reference. The two sections dealing with Finance (Zaimuka) and Laws (Hōseika) were both transferred to the Legislature from the Council Secretariat.

On the 17th of February, 1874, members of the Legislature were specially chosen to debate 13 Articles of a proposed Constitution, and on the 23rd of August, 1874, the Legislature drew up new regulations for its Assemblies. Four kinds of matters were to be debated in the Legislature; enquiries from the Council, matters to be reported to the Council by the Chairman, matters proposed by the Sections within the Legislature, and the memorials of members or of the people at large.

These matters could be debated either in a General Assembly of all the members, or in a Petty Assembly of several Sections in a matter which had aroused differences of opinion, or in a Joint Meeting of one or two Sections on some matter of special concern. The General Assembly discussed Constitutional Legislation, Foreign Relations, Taxation, Conscription and Military Matters; also important matters which had been found difficult to determine in the Sections and matters which the Chairman especially wished to be put before it.

By October, 1874, the Legislature consisted of one Chairman, one Vice-Chairman and one member of Chokunin rank; 29 members of secretarial rank and 6 secretaries (Sōnin); and 71 Clerks. Its Chairman was Ijichi of Satsuma who was in addition a Junior Councillor, with Sasaki Takayuki of Tosa as Vice-Chairman. Although its agenda was closely controlled by the Council, it was an important body as the training ground for the future Upper House of the Assembly, and it showed that the concept of the Legislature was still alive at a time when the Council and the Executive had come together for the more efficient direction of affairs.

On the 2nd of May, 1874, regulations were also issued

5. Kanin roku.
for the Assembly of Local Officials (Chihōkan Kaigi) which clearly indicated that it was to act as the forerunner of a future popularly elected Assembly. In the preface to these regulations, the Emperor re-iterated his intention to summon the representatives of the whole people to determine Legislation (Rippō) by common opinion and deliberation (Kōgi Yoron). The regulations themselves were not issued as simple instructions, but under the imposing title of the Constitutional Law of the Assembly (Gin Kempō). The Assembly of Local Officials was to be opened once a year, with the Emperor himself performing the opening and closing ceremonies attended by the President and Vice-Presidents. Enquiries were to be sent down to the Assembly by the Emperor in the form of draft proposals (Gian) or by sending a committee to explain their purport. All draft proposals were put to the Assembly by its Chairman, who reported the decision to the throne. The final decisions on their resolutions were made by the Emperor himself. Enquiries concerning local administration and taxation were in particular to be put before the Assembly, and its decision reported to the Emperor who himself decided whether to put them into effect or not. If approved by the Assembly, the memorials of its members could be sent to the throne; again

6. HRZS. Dajōkan No.58 Tasshi.
the Emperor himself decided to adopt or reject them. The Chairman of the Assembly was to be elected from among the members, but until a suitable method had been determined the Chairman was for the moment to be appointed by the Emperor. Detailed regulations then followed for the General Assembly and Assembly Committees. The Chairman was assisted by Secretaries (Kanji) in drawing up the agenda; all proposals were to receive three readings. Although the members were Governors of Fu and Ken, they were enjoined to act as the representatives of the whole people.

On June 22nd, 1874, the local Governors were summoned to Tōkyō. On July 4th, Ijichi the Chairman of the Legislature was appointed to act as executive (Goyō-kakari) of the Assembly. On July 7th, Ito was appointed Chairman of the Assembly of Local Officials which was due to be opened on the 10th of September. The establishment of this Assembly was not only calculated to temper outside opposition, for among the Local Governors themselves a small but able group were pressing for such an Assembly to be set up. In May, 1874, Nakajima Nobuyuki, the Governor of Kanagawa Ken and his associates in a memorial to the President of the Council criticised the multiplicity of regulations since the division of local business between the Finance Department and the newly created
Home Department, and looked forward to the setting up of an Assembly of Local Officials as soon as possible in which the powers of the Council would be defined and fixed rules determined for the administration of Fu and Ken. (7) Nakajima also pressed Itō at this time to establish a "true Assembly." (8) However, differences of opinion arose within the government on the jurisdiction of this Assembly, and when a crisis arose in the Council over diplomatic relations with China the Assembly of Local Officials was indefinitely postponed.

While the memorial of Itagaki and his followers for a popularly elected Assembly kept the question of the Legislature before the eyes of the government, the unrest of the samurai demanding an overseas war led Ōkubo to sanction the Taiwan Expedition. Iwakura had been attacked and wounded on January 14th by a party of rōnin dedicated to war with Korea, and Etō Shimpei who had been allowed to leave Tōkyō to calm the discontented samurai of Saga ended up leading them in rebellion against the government in February. (9) Fortunately, Saigō refused to join the rising; Ōkubo in person led the forces which suppressed it by March, and Etō was captured and beheaded in April. But unrest had reached a point which seemed to demand some overseas

outlet. Since Satsuma discontent was most to be feared, Taiwan was the obvious choice.

When news reached Japan in mid-1872 that a party of Ryūkyū sailors had been murdered by the Taiwan aborigines, it was Ōyama Tsunayoshi of Kagoshima Ken who first demanded action from the government. At the same time, Kabayama Sukenori then a Major in command of the Kagoshima branch of the Western Garrison visited Kirino Toshiaki, the Major-General in command of the Western Garrison in Kumamoto to press for action. They set out for the capital together to report to Saigō and Yamagata; Saigō was the first to agree with Kabayama, and Soejima and Itagaki also approved. Against other members of the government who argued that the Ryūkyūs were under joint Chinese and Japanese authority and that a punitive expedition against the Taiwan aborigines was not the responsibility of Japan, Saigō insisted that the Ryūkyūs were Japanese by virtue of the authority that the Shimazu House had exercised there. In December 1872, Sanjō called a meeting of the Councillors, Heads and Vice-Heads of Departments in his residence to discuss the matter. Kirino, Saigō, Soejima and Itagaki were in favour of a punitive expedition; Inoue was opposed for financial reasons, and Ōkuma suggested that negotiations...
should first be opened with China to establish its diplomatic position. Soejima had been sent to China for this purpose in March, 1873; but the problem of Taiwan had been soon over-shadowed by the problem of Korea.

However, Taiwan remained the obvious outlet for Satsuma discontent, and an expedition headed by Saigō Tsugumichi which included 800 Satsuma men picked by his elder brother Saigō Takamori began to set out from Nagasaki on the 26th of April, 1874. The expedition was clearly an attempt to conciliate Satsuma; its immediate effect was to alienate Chōshū. Kido had opposed it from the start, appealing to Ōkubo's own arguments against the Korean expedition. When the expedition was dispatched Kido resigned from his posts as Junior Councillor and Head of the Education Department on the 13th of May, and returned home to Yamaguchi on the 27th. Three Chōshū Major-Generals, Yamada Akiyoshi, Miura Gorō and Torio Koyata also tendered their resignations and Miura had refused to supply arms to the Satsuma irregulars in the expedition on the grounds that it was against his duty as an officer of the Imperial Army to supply arms to a Han. Itō also considered following Kido in his retreat, but was dissuaded from doing so by Kido and Iwakura to avoid creating a complete split

between Satsuma and Chōshū in the Council. (13)

To increase Ōkubo's difficulties, Shimazu Hisamitsu who had been appointed Vice-President (Sa-Daijin) on the 27th of April presented Sanjō with a memorial on the 23rd of May and asked him to confer with Iwakura upon it. The memorial demanded a return to the old ceremonial dress and to the old taxation and military systems; Ōkubo was to be dismissed if he raised objections, and Shimazu himself would resign if these proposals were not accepted. (14) Shimazu also outlined changes within the government, by which Ōkuma and Yoshida would be immediately dismissed, Soejima, Saitō and Maebara re-appointed as Junior Councillors and Saigō and Itagaki restored to office. (15) On the 24th of May, Shimazu announced to Iwakura that he would not attend the Council until Ōkuma had been dismissed. Ōkubo attempted to dissuade him, but when he failed to do so he presented his own petition of resignation on the 25th of May. (16) Iwakura persuaded Shimazu to give up his demands for a return to the old ceremonial dress and for the dismissal of Ōkubo, but he still insisted on the dismissal of Ōkuma. Iwakura then attempted to persuade Ōkuma to resign through the agency of Ōki Takato, but Ōkuma

15. ibid. p. 880-81.
stoutly refused to do so. Ōkuma also seems to have attempted to challenge Shimazu directly on his views(17) and when he heard that Shimazu was accusing him of arousing public criticism by his infamous conduct, Ōkuma angrily demanded an immediate enquiry.(18) Sanjō and Iwakura replied that his conduct was not to be reproached, but that his dismissal was still under discussion. Ōkuma fiercely challenged them again on this point in October, and Sanjō and Iwakura finally agreed to drop the matter. Meanwhile, since his proposals had not been adopted, Shimazu announced his intention to return to Kagoshima and would not attend the Council on a plea of illness. But he was persuaded with great difficulty by the personal plea of the Emperor to resume his duties on the 16th of August.(19)

In November, 1874, while Ōkubo was in Pekin negotiating a settlement with China over the Taiwan expedition the first moves were made to restore the strength and unity of the Council. While Japan was on the verge of war with China, it was highly desirable to regain the support of Kido, Saigō and Itagaki for the government. Itō urged Ōkubo on the necessity to get Kido back into office, and was ordered to go to Chōshū to persuade Kido to return to the capital; but Kido refused to do

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17. Ōkuma Shigenobu Kankei Bunsho. 2. p.385-6.
so on a plea of illness even on receipt of an Imperial message stressing the perilous situation with China.\(^{(20)}\) Kido continued to blame the government for squandering its precious finances on a useless expedition, singling out for special criticism Saigō Tsugumichi who had insisted on leading the expedition against Ōkubo's last minute attempt to postpone it, and Ōkuma who had been largely responsible for its planning.\(^{(21)}\) When news of the settlement with China reached Kido, he noted in his diary that the indemnity received from China amounted to scarcely a tenth of the cost of the expedition.\(^{(22)}\)

Ōkubo returned from China on the 27th of November, 1874 and again expressed his anxiety to get Kido back into office. He suggested that he should go to visit Kido in Yamaguchi, but Itō suggested that this would display the weakness of the government and proposed Osaka as the meeting place.

Meanwhile, Inoue Kaoru who was in close touch with both Kido and Itō had met Komuro and Furuzawa, two followers of Itagaki, in the course of his travels on business and planned with them to persuade Itagaki to return to the government also.\(^{(23)}\)

Accordingly, in January 1875, Ōkubo, Kido and

Itagaki met in Osaka for informal discussions. A preliminary meeting between Ōkuho and Kido proved fruitless, but Kido reached a private understanding with Itagaki to work together for the setting up of popularly elected Assemblies. Even so, Itagaki still had doubts about the willingness of Kido to back his proposals. The situation was saved by Itō who drew up a four point programme on which they could all agree.

The four points were as follows

1. As a preparation for the opening of an Imperial Assembly (Teikoku Gikai), an Institute of Elder Statesmen (Genrō-In) should be set up to strengthen the Legislature.

2. A Supreme Court (Daishin-In) should be set up in order to strengthen the basis of the courts with a view to the independence of the Judiciary (Shihōken).

3. The Assembly of Local Officials should be promoted to create understanding between high and low, and as a step towards establishing a basis for Constitutional Government (Kensei).

4. In order to strengthen the system of government by the superior decision of the Emperor and to clarify Executive responsibility, the Council (Naikaku) and the Executive Departments were to be separated. The leading

24. Ōtsu. DNHKSS. p. 856-8. One account states that Kido told Itō that Itagaki's plan was to open a popularly elected Assembly at all costs, even if half the members were chosen by the government. Vid. Akiyama. Meiji Rekishi no Rimen. p. 213.
Statesmen (Genkun) should apply themselves to the duty of directly advising the Emperor (Hohitsu), and the men of the second stream to the responsibilities of the Executive.

Having agreed on these four points, Ōkubo, Kido and Itagaki returned to the capital together. An approach was made to Saigō to join the government, but he firmly refused, and Soejima and Gotō also refused to join. On the 8th of March, 1875, Kido was appointed Junior Councillor (Sangi); Itagaki at first refused to accept a position as Junior Councillor, perhaps because of Saigō's refusal to join the government, but he was finally prevailed upon to do so on the 12th of March.

On the 17th of March, 1875, Ōkubo, Kido, Itagaki and Itō were appointed members of a Committee to Investigate the Structure of the Government (Seitai Torishirabe Iin). On the 28th of March, they reported their draft proposals to the throne. They proposed that a Council (Sei-In) and an Executive (U-In) should be set up within the Great Council of State (Dajōkan). The Emperor was to control all state affairs in the Council, assisted by the President and Vice-Presidents (San Daijin). The President

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25. Ōtsu. DNHKSS. 1. p.858.
26. Hirota. Naikaku Kōtetsu Gojunen Shi. p.159. Soejima was opposed, Gotō was busy in commerce, and Saigō regarded his services as unnecessary.
27. Ōtsu. op.cit. p.859-60.
(Dajō-Daijin) was to act as Head of the Executive (U-In) in which the Vice-Presidents, Junior Councillors and Heads of Executive Departments debated and determined upon all executive matters. One of the Vice-Presidents or Junior Councillors was to be appointed Head of the Legislature (Sa-In) and should select members to handle all business concerned with Legal Systems (Hōsei). It was stated that since the joint establishment without preponderance (Henchō) of the three powers of the Legislature, Executive and Judiciary was the strong-point of European systems of government, the government in Japan should take this as a model. An Upper House (Jō-In) should be set up with members selected from the Nobles (Kizoku), men who had rendered distinguished services to the state and men of scholarship to act as a Legislature (Rippō-In). The Lower House (Ka-In) was to consist of the Assembly of Local Officials to act as the forerunner of a popularly elected Assembly.

On the 14th of April, 1875, an Imperial Rescript announced the establishment of the Genrō-In to widen the basis of the Legislature, the establishment of the Daishin-In to strengthen the jurisdiction of the Courts and the summoning of the Local Officials to communicate the feelings of the people and to plan measures for the public good. These measures were taken
in fulfilment of the Imperial Oath and in preparation for the gradual establishment of Government by a National Constitution (Kokka Rikken no Seitai). (29) On the same day, the Legislature (Sa-In) and the Executive (U-In) were abolished and the Genrō-In and Daishin-In were established. (30)

Also issued on the 14th of April, 1875, were revised regulations for the Council. (31) The Council consisted of a single President (Dajō-Daijin) who directly advised the Emperor and presented him with decisions for the adoption or rejection of Legislative and Executive matters. Under him were two Vice-Presidents (Sa/U Daijin) who were in addition to act as the Heads (Chōkan) of the Genrō-In and the Daishin-In. They were to deliberate and determine upon all affairs, and could act for the President in his absence. Then came an undetermined number of Junior Councillors (Sangi) who participated in the discussion of affairs.

The rules for the conduct of business in the Council (Sei-In) declared it to be the place in which supreme control was exercised over all affairs of state; the Emperor determining all matters with the direct assistance of the President, the deliberation and decision of the Vice-Presidents and the participation of the Junior

30. HRZS. Dajōkan No.59 Fukoku.
Councillors. Council business was to be divided into Legislative and Executive, and Legislative business submitted to the Assembly of the Genrō-In. All documents sent up for Imperial decision were to be jointly signed by the Junior Councillors and then signed by the Presidents. All regulations for the Official System (Seido Jōrei) and Imperial Instructions (Chokushi) or Special Orders were to be issued by the President in response to the orders of the Emperor.

Regulations for the Daishin-In were issued on the 24th of May, 1875. Two days previously, Tamano, a second class Judge of the Justice Department, was ordered to act as its Head since Iwakura was in retreat. It was in no way an independent body as had been planned since its Head and members were officials of the Justice Department. Its reports to the throne for the supplement and revision of the law were transmitted through the Head of the Justice Department, and the records of its decisions were also forwarded to the Justice Department for publication.

On the 5th of May, 1875, the Governors of Fu and Ken were required to present themselves in the capital by the 2nd of June for an Assembly of Local Officials to sit for 20 days. On the same day, they were informed

32. HRZS. Dajōkan No.91 Fukoku.
33. ibid. Clauses 10, 11.
34. HRZS. Dajōkan No.70 Tasshi.
that the Imperial enquiries would concern public works, local police, local popular Assemblies and methods of poor relief. (35) On the 19th of May, methods for the establishment and maintenance of primary schools was added to the agenda. (36)

It had also been provided on the 5th of May for one or two men from among the district heads (Ku/Ko Chō) or men concerned with the establishment of local Assemblies in each Fu and Ken to listen to the proceedings of the Assembly. (37) The regulations of the Assembly were basically those of the previous year; but in response to objections from the Genrō-In the regulations were modified to ensure that the decisions of the Assembly would be submitted to the Genrō-In before the Emperor gave his final decision upon them. (38)

Kido was appointed Chairman of the Assembly of Local Officials on the 2nd of June, 1875. The one controversial item on the agenda was the establishment of local popularly elected Assemblies; Kanda Kōhei who was known to advocate the speedy establishment of such Assemblies was elected Chief Secretary (Kanji Chō) of the Assembly, and Kido planned with Ōkubo to get him transferred to another post, but without success. (39)

35. HRZS. Dajōkan No.71 Tasshi.
36. HRZS. Dajōkan No.84 Tasshi.
37. HRZS. Dajōkan No.72 Tasshi.
38. HRZS. Dajōkan No.102 Tasshi.
But when the question was debated on the 8th of July, it was resolved by 39 votes to 21 that local Assemblies should consist of the semi-official district heads and not be popularly elected.\(^{40}\) The question of popularly elected Assemblies was in any case removed from the national to the local level. The Assembly of Local Officials was closed by the Emperor on the 17th of July, after proceedings of some disorder which must have sorely tried the patience of Kido, its Chairman and its chief protagonist.\(^{41}\)

The Genrō-In was clearly intended to act in two capacities; as a Legislature closely attached to the Council and as the nucleus of a future Upper House in a National Assembly. On the 25th of April, 1875, it was decreed that the Chairman and members of the Genrō-In should be officials of the first grade;\(^{42}\) thus giving them a rank equal to Heads of Executive Departments. On the same day, regulations for the business of the Genrō-In\(^{43}\) declared that the Genrō-In was the Office for the Discussion of Laws (Gihōkan), debating and determining the establishment of new laws and the revision of existing laws and receiving memorials (Kempaku). Its Chairman and members were officially selected, but one

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42. HRZS. Dajōkan No.67 Ōyama.
43. HKBRTZ. l.KSM.17.KS.Genrō-In.p.34-5.
Vice-Chairman was to be elected from among the members. The Chairman, Vice-Chairman and members were to be limited to persons who have performed distinguished services for the country or persons learned in government and law. Members were to be over 30 years of age, with the exception of persons who had served as Chokunin officials for over two years. All draft proposals to be debated in the Genrō-In were to be received from the Emperor; even proposals drafted within the Genrō-In could not be directly put to its Assembly (Clause 7). Although the Genrō-In was empowered to enquire into contradictions in laws or regulations already enacted and could report to the Emperor upon them, it could not propose the promotion or demotion of officials. The President, Vice-Presidents and Junior Councillors could attend the debates of the Genrō-In at any time whether they had given previous notice or not, and could express their opinion although they could not vote for the decision. The Heads and Vice-Heads of Executive Departments could also attend the Genrō-In in relation to the business under their charge and could argue the advantages or disadvantages of measures, but could not vote for the decision.

The appointments made to the Genrō-In on the 25th

44. On the 2nd of July, 1875 Imperial Princes and Nobles (Kazoku—Kuge and Daimyō) were also included. Vid. HKBRTZ.L.KSM.17.KS.Genrō-In.p.34-5.
of April aroused considerable controversy among the leading members of the government. Twelve members were appointed, six of whom were in government posts at the time of their appointment (Yamaguchi, Torio, Miura, Tsuda, Kawano and Katō) and six of whom were ex-officials who had left the government in varying shades of discontent (Gotō, Yuri, Fukuoka, Yoshii, Mutsu and Matsuoka). Of those in government posts, Yamaguchi was reputed to have been transferred from the Foreign Department because he was unpopular and had become an embarrassment to the Head of the Department; Torio and Miura had offered their resignations over the Taiwan expedition; Tsuda was a relic of Saigo's attempt to introduce men of character to the government; Kawano was under severe criticism and Shimazu had an especial dislike of Katō. Of the others, Kido and Itagaki had insisted on the appointment of Gotō and Mutsu against considerable opposition in conservative quarters, Gotō's business activities and Mutsu's notorious discontent having deprived them in conservative eyes of the high integrity necessary in high officials of an Imperial government.

46. ibid.
47. ibid. p.343.
Genrō-In; he declined, but does not seem to have resumed his duties as Head of the Navy Department and formally resigned on the 28th of November, 1875. (49)

The strict control exercised by the Council over the Genrō-In and the delicate position of most of its members suggest that it was regarded as a depository for men of undoubted capacity who could not be usefully or politically employed in Council or Executive posts. Employment in the Genrō-In kept them out of active opposition and consoled them with high rank and salaries.

On the 28th of April, 1875, Goto was elected Vice-Chairman of the Genrō-In and was soon attempting to define and expand its powers. Shortly after the issue of the first regulations on the 25th of April, a conference was held in which Itō and Itagaki took part to define Clauses 1 and 7 of these regulations more exactly. (50) Clause 1 had stated that the Genrō-In debated and determined all new laws; this was now conceded with the reservation that the legal regulations by which laws were put into effect were excepted. This distinction between laws and legal regulations was maintained throughout the Meiji period and enabled the Council to maintain a sure hold of the Legislature. By Clause 7 of the regulations, all draft proposals

debated by the Genrō-In had to be received from the Emperor even if the proposal originated in the Genrō-In itself. As a result of this conference, this point was strongly re-affirmed; the Genrō-In was forbidden to establish laws wantonly and hence was to report all matters it intended to draft as legislation to the throne.

Goto next objected that under the regulations of the previous year, the resolutions of the Assembly of Local Officials were to be reported directly to the Emperor for decision; in the meantime the Genrō-In had been established to debate and determine all legislative matters and that such an Assembly would encroach upon its jurisdiction. He therefore requested that before being reported to the throne, the resolutions of the Assembly of Local Officials should be submitted to the Genrō-In and sent for Imperial decision after its debate and decision. Ito, who seems to have been the Council spokesman on such matters, replied that the regulations of the previous year had not stated that the Local Officials would debate Laws (Horitsu), but merely the advantages and disadvantages of administrative regulations concerning local government. This being so, its powers did not conflict with the jurisdiction of the Genrō-In. (51) However, on the 14th of June, 1875,

the regulations of the Assembly of Local Officials were revised to meet Goto's objections. (52)

On the 31st of May, 1875, Goto as Vice-Chairman sent a request to the throne that the numbers of the Genrō-In should be substantially increased. He pointed out that with only 11 members, two or three of whom would be absent from illness or other causes, its numbers were not even sufficient to form a committee, let alone to fulfill the Imperial Oath to establish an Assembly widely convoked and to determine all matters by public deliberation. Similar institutions in Foreign countries had far greater numbers; for example, the English House of Lords with 479 members. Although there were wide variations in the number of members of similar institutions abroad, there were none with so few as 11 members. (53)

Three days before the Emperor opened the Genrō-In on the 5th of July, 1875, a further 10 members were appointed. Five of them were appointed from government positions (Yanagiwara, Sano, Kuroda Kiyotsuna, Nagatani, Ōgyu) and five from men who were not in office at the time (Arisugawa, Mibu, Akizuki, Sasaki, Saitō). The regulations were specially amended to include Imperial Princes and Nobles (Kizoku) as members (54) and those newly appointed included one Imperial Prince, three Court

52. HRZS. Dajōkan No.102 Tasshi.
53. HKBRTZ.1. KSM.17. KS. Genrō-In. p.43-45.
54. ibid. p.34-5.
Nobles and two ex-Daimyō. Later, on the 22nd of July Fukubane was appointed from an official post and Inoue was appointed from outside the government on the 27th of December, 1875.

On the 31st of July, the Genrō-In submitted a report to the throne for the clarification of the vague powers of inspection it had been allowed in Clause 8 of the regulations. This report proposed that members of the Genrō-In should be empowered to enquire into the unlawful acts of government officials on the permission of its standing committee. Appeals from the people against the unlawful acts of government officials could also be heard in the Genrō-In if sponsored by a member. If the majority of the members found that a case existed, a committee was to be appointed to investigate. The government officials concerned could be summoned to the Genrō-In, or secretaries of the Genrō-In sent to the localities to make investigations. When the investigations had been completed they were to be recorded and sealed by the investigating committee, and after being promulgated to the members were to be presented to the throne by the Chairman. (55)

However, on the resignation of Itagaki on the 25th of October, the Genrō-In lost a staunch defender of its

powers in the Council. (56) The revised regulations issued for the Genrō-In on the 28th of December, 1875 (57) make no mention of its powers of inspection. Clause 5 of these regulations drew a distinction between draft proposals to be debated and determined by the Genrō-In and those which were simply to pass its scrutiny (Kenshi); the Council (Naikaku) was to make this distinction. Clause 6 further provided that urgent matters were to be promulgated by the Council and afterwards submitted to the scrutiny of the Genrō-In. Thereafter, the Council was able to by-pass it at will on the grounds of urgency.

If neither the Assembly of Local Officials nor the Genrō-In could function as an effective Legislature, the true source of the Legislature may be found in the Legal Section (Hōseika) of the Council Secretariat. On the 3rd of July, 1875, this section was raised to a Bureau (Kyoku) (58) and Itō was appointed its first Head in addition to his posts as Junior Councillor and Head of the Industry Department. On the 22nd of September, 1875, the staff of this Bureau was defined as one Head, ten Law Officers (Hōseikan) and ten clerks. (59) On the same day, Hosokawa Junjirō, Inoue Ki, Furusawa Shigeru, Özaki Saburō, Sakurai Yoshiaki, Murata Tamotsu and Yamazaki

56. Ōmachi. Hakushaku Gotō Shōjirō. p. 485 ascribes the cancellation of the powers of impeachment of the Genrō-In to the resignation of Itagaki.
57. HRZS. Dajōkan No.217 Tasshi.
58. HRZS. Dajōkan Bangai Tasshi. p. 861.
59. HRZS. Dajōkan No.168 Tasshi.
Naotane were appointed Officers of this Bureau, followed by Matano Taku on the 30th of September.

The drafting of legislation was in fact a specialised bureaucratic technique which was never successfully delegated to an Assembly. It was Itō's skill as a legislator that was in time to raise him to Council President, and Hosokawa Junjirō and Inoue Ki were also to build outstanding careers as brilliant specialists in drafting legislation. Of the others, Murata and Ōzaki were later men of distinction, and Furusawa, Matano, Yamazaki and Sakurai had useful careers as Chief Secretaries in after years. (60)

In September, 1875, regulations were issued for the conduct of business in the Legislation Bureau (Hōseikyoku). It was to draft and revise legislation under the orders of the Council. Proposals for drafts (Kian) presented to the Council by the Genrō-In or the Executive Departments were sent to this Bureau for discussion, and matters requiring revision were re-drafted by it. When the draft proposals or revisions made by the Bureau were discussed in the Genrō-In, the Head or Officers of the Bureau on the orders of the Council could be sent as a committee to give explanations. Officials of the Executive Departments, Fu or Ken could be summoned to

60. The careers of these men may be traced in the Hyakkan Rireki, the Meiji Hōkan and the Jinji Kōshinroku.
conference with the Bureau on matters that concerned them. Legal Regulations of the Council of State for general notification were sent to the Bureau to be passed on to the newspapers. (61) Further regulations were issued on the 18th of October for Petty Meetings within the Bureau to be composed of five or more Officers under the Chairmanship of one of their number under the orders of the Head of the Bureau. Petty Meetings were to be held from one to three in the afternoon to deal with the specialised branches into which the enquiries of the Council and other government offices were divided. (62)

In sum, the reorganisation of the 14th of April, 1875, did little to diminish the preponderance of the Council-Executive on which the successful conduct of the government was now firmly based. The establishment of the Daishinin, the Genro-In and the Assembly of Local Officials could only be taken as an earnest of the government's intention at some future date to set up an independent Judiciary and Upper and Lower Houses of a Legislative Assembly. But before powers could be safely delegated, they had to be defined.

Meanwhile, as in previous attempts to build a strong Council by accommodating different interests, bitter disputes quickly arose. When Ōkubo returned from Osaka

61. HKBRTZ, 3. KSM. Dajōkan/Naikaku.2. p.269-70.
and told Iwakura of Kido's proposals for the establishment of a Constitution, Iwakura protested that the time was not yet ripe. When Ōkubo gave him a non-committal answer, Iwakura determined to resign. Iwakura seems also to have been offended at the proposed appointments to the Genrō-In and began to go into a discontented retirement. He presented his petition of resignation on the 20th of April on the pretext of his continued shame for his responsibility for the Taiwan expedition of the previous year, saying that he had only been dissuaded from resigning then by the pleas of Shimazu, his fellow Vice-President. In spite of the objections of Sanjō and Ōkubo, he again petitioned the Emperor for permission to resign on the following day, saying that if the Emperor punished him by dismissal for his part in the Taiwan expedition justice would be done and a good example set for official discipline. The Emperor summoned Iwakura to the Palace on the 23rd of April to refuse his request, but Iwakura refused to attend the Council for the next five months until he abruptly resumed his duties when the Korean problem arose.

Shimazu had shared Iwakura's objections to many of the appointments to the Genrō-In, of which in the scheme

63. Ōtsu. DNHKSS. 1. p.876.
of things he was supposed to be Chairman. But when he proposed to assume his office in August, 1875, his appointment was blocked by the objections of Kido, Goto and Mutsu. Thereafter, Shimazu was in great discontent and looking for an occasion to resign. (66)

It was not long before friction arose between the Junior Councillors also. Between Ōkubo and Kido there still remained a marked difference of temperament which made it hard for them to work together. Kido and Itagaki had pledged themselves to co-operate before re-entering the government, but Kido did not think that the model of English constitutional practice advocated by Itagaki could be usefully applied to Japan (67) and his followers and those of Itagaki opposed each other in the Genrō-In and the Assembly of Local Officials on the question of gradual or rapid progress towards popularly elected Assemblies. (68) In addition, Itagaki soon found that his re-entry to the government placed him in an equivocal position as a political party leader, for on the 28th of May revisions were made in the Press Laws to provide harsher penalties for criticising the government, and his followers were the first to suffer.

Itagaki's attempt to widen the powers of the Genrō-In having failed, he then turned his attention to

68. Ōtsu. DNHKSS. 1. p.896.
Article 4 in the Osaka Agreement which had stated that the Council and the Executive Departments were to be separated. Ironically, this was not originally a proposal of Itagaki, and Itō records that he was at first opposed to it.\(^{(69)}\) When the Daishinin and Genrō-In were set up in April, 1875, proposals were made for the Council to consist of the President, Vice-Presidents and Junior Councillors to advise the Emperor and to supervise the business of government over an Executive (Gyōsei-In) of Heads of Executive Departments who conferred together on executive business. But it was objected that the lines of division between Legislative and Executive were still unclear and that a confusion of business would result; such a division should not therefore be made until the regulations of the Executive Departments had been investigated and revised.\(^{(70)}\)

So the matter was postponed, until in October 1875, Itagaki began to insist that the division should be made. Sanjō conferred with Iwakura and Shimazu and they both agreed with him that since the question of Korea had arisen, the matter should again be postponed for the time being.\(^{(71)}\) However, Itagaki presented a memorial to the Emperor on the 12th of October, on which Sanjō also sent

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70. Otsu: DNHKSS. l. p.897.
71. ibid. p.899-901.
in a memorial stating his objections. (72)

Meanwhile, Shimazu who had long disliked Iwakura as a man of stratagems had also begun to nurse a special dislike for Sanjō. According to Sasaki, Shimazu and his followers began to slander Sanjō as making improper use of his influence as President in favour of Kido, who was alleged to have assisted Sanjō when in financial difficulties. When Kido and Itagaki fell out, Itagaki and his followers threw in their lot with Shimazu in an attempt to break the power of Kido and Sanjō in the Council. (73)

While the issue of the separation of the Council and the Executive was still pending a decision, Shimazu suddenly petitioned the Emperor in support of Itagaki. He demanded the dismissal of Sanjō as lacking in the ability to control the officials, dilatory in business and influenced by personal interest in making appointments and dismissals. Junior Councillors combining posts as Heads of Executive Departments had promoted useless public works regardless of the extravagant expense and the weakness of the people. The proposal of Itagaki ought to be accepted, since the present government did not depend upon responsible Presidents but on the Junior Councillors who formed cliques to the confusion and obstruction of business. The question of Korea should

72. Ōtsu. DNHKSS. 1. p.901-3.
be postponed until a thorough reform of the government had been carried out by preventing the tenure of additional posts, by a reduction in official numbers and by restoring unity to the counsels of the government. (74)

Iwakura's position at this juncture was unclear; Sasaki called on him on the 14th of October, and found him in general agreement with Shimazu but unable to persuade him to abandon his proposals for the restoration of the old military system and dress and the prohibition of the import of foreign goods. He told Sasaki that Shimazu was extremely bitter towards Sanjō and Kido. (75)

Iwakura refused to express an opinion on the controversy on the grounds of illness. Kido and Ōkubo called on him to use his influence to secure a compromise between Sanjō and Shimazu, but to no avail. Arisugawa, Date and Nakayama in anxiety at the situation also called on Iwakura, but he again refused to discuss the matter, saying that the decision must rest with the Emperor himself. The Emperor thereupon came to his bedside to consult him, but Iwakura continued to maintain that the Emperor himself must decide. On the 22nd of September, the Emperor summoned Shimazu and informed him that Sanjō was a pillar of the nation and that the attack upon him could not be accepted. Shimazu replied that

74. Ōtsu. DNHKSS. 1. p.904-5.
in that case he must present his own resignation. In spite of the Emperor's plea to remain in office while the question of Korea was still pending, Shimazu insisted on resignation and Itagaki also presented a petition of resignation. Meanwhile, Sanjō demanded that the charges made against him by Shimazu should be investigated. Finally, Iwakura advised the Emperor that the resignation of Shimazu and Itagaki and the plea of Sanjō should be determined by the Emperor after a conference of the Junior Councillors. Accordingly, a Council meeting was held before the Emperor on the 25th of October which resolved that the resignations of Shimazu and Itagaki ought to be accepted. On the 27th of October, this was duly performed by Imperial decree. (76)

In relation to Korea, it was agreed to dispatch a strongly armed Embassy to negotiate a Treaty. Kido was due to be Ambassador but could not undertake the post due to illness and for a moment it seemed that another clash would occur between Satsuma and Chōshū over the rival claims of Kuroda and Inoue to be Ambassador in his place. However, by the agency of Itō, Kido and Inoue were prevailed upon to give way to Kuroda and Inoue was appointed Vice-Ambassador. (77)

On the 28th of March, 1876, Kido resigned his post
as Junior Councillor on a plea of illness, and was appointed to a retired position as Council Adviser (Naikaku Komon). On the same day, Goto resigned his post as Vice-Chairman of the Genrō-In to devote himself to his business interests. Thus the attempt to broaden the membership of the Council after the Osaka agreement proved short-lived, and Ōkubo was left once more in undisputed direction of the Council. The system by which the Junior Councillors combined posts as Heads of the Executive Departments continued as before.

In 1876, no changes were made in the regulations of the Council itself but important regulations were issued for the handling of Council business in the Council Secretariat.

On the 14th of February, 1876, regulations were issued for the No. 5 Section (Ka) in the Council Secretariat. This section was concerned with scrutinising and reporting upon a wide range of financial matters, including the financial returns of the Executive Departments and was the means whereby the Council kept a check upon government finance. This section was to become a full Bureau in January, 1877, and was the fore-runner of the Bureau of Audit (Kaikei Kensa-In).

On the 8th of March, 1876, regulations were issued for

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the Council Committee (Naikaku Iin) that proposed
government measures to the Genrō-In. (79) At least three
days before draft proposals were debated in the Genrō-In
the Council was informed. On the first reading of a
proposal, the Council Committee attended the Genrō-In
and explained the object of the proposal immediately
after it had been read out by the Secretaries. In the
second reading, the Council Committee took part in the
debate to uphold the proposal. In the third reading,
they upheld the original draft against amendments.

Closely connected with these regulations and prob­
ably issued on the same day were new regulations for
the General Assembly (Sō Kaigi) of the Legislation Bureau
(Hōseikyoku) in the Council Secretariat. (80) This was an
Assembly of all the Officers of the Bureau held once a
week under the chairmanship of the Head of the Bureau.
Officials from the Executive Departments could attend
this Assembly when appropriate to provide explanations.
Legislative proposals were debated in this Assembly and
determined by majority vote.

Attached to these regulations were rules for the
handling of official documents in the Legislation Bureau
(Hōseikyoku). (81) The Officers (Hōseikan) were divided

80. ibid. p.272-3.
into three Charges (Kakari) concerned with the Civil Code (Mimpō), the Criminal Code (Keihō) and Administrative Regulations (Gyōsei Kisoku). The Officers of each of these three Charges scrutinised the relevant documents and within five days drafted an Opinion (Kōan) which was circulated to the other Charges. They approved it and affixed their seals, returning it to the original Charge. It was then sent to the Chief Secretary (Shuji) who approved it and presented it to the Bureau Head (Kyokuchō). On receiving his approval, it was reported to the Council. Official documents received by the Bureau were to be reported to the Council after following the above procedure within ten days of receipt. These regulations concerned only day to day enquiries on legal and administrative matters; the drafting of Legislation or special matters under the orders of the Head of the Bureau were specifically excepted.

It is clear from these regulations that the Legislative arm of the government lay chiefly in the Legislation Bureau of the Council Secretariat. It was here that government legislation was drafted and it was from here that the Council Committee which introduced legislation to the Genrō-In was drawn. The special relationship of the Legislation Bureau and the Council was emphasised when on the 1st of April, 1876, the Bureau
asked to be placed under the direct jurisdiction of the Council, since its business was too confidential to be sent through the Council Secretariat in the normal way. (82)

In the course of 1876, 15 new appointments were made to the post of Officer (Hōseikan) in the Legislation Bureau; 13 of them were appointed in addition to posts as Secretaries in the Foreign, Home, Finance, Army, Navy, Justice, Education, Religion and Industry Departments. In this joint capacity they formed the link between the Council and Executive Departments in the business of drafting administrative legislation.

In response to an order to determine its numbers, the Genrō-In suggested on January 14th, 1876, that it should consist of one Chairman, two Chief Secretaries (Kanji) and 28 Members divided almost evenly into three classes. This was approved by the Council a few days later. (83) Mutsu and Kawano had been appointed Chief Secretaries on the 28th of November, 1875; on the resignation of Goto from Vice-Chairman on the 28th of March, 1876, the Genrō-In was without a Chairman until the appointment of Arisugawa on the 18th of May, 1867. In the course of 1876, 6 new Members were appointed including Nakajima and Fukuoka from posts as Ken Governors and Hosokawa from the Legislation Bureau.

83. HKBRTZ.1.KSM.17.KS. Genrō-In. p.69-70.
On the 6th of September, the Emperor informed the Chairman Arisugawa that it was his wish for a Constitution to be drawn up. The Genrō-In was to engage in the study of foreign constitutions and to prepare a draft of a Constitution that the Emperor might adopt at a later date. (84) As a result, a committee was formed in the Genrō-In under Arisugawa consisting of Yanagiwara, Fukubane, Nakajima, Hosokawa and Kanda to make investigations for a National Constitution. Here for the moment the question of the Constitution rested; and with it the question of a National Assembly. The Assembly of Local Officials was not summoned in 1876 despite previous regulations which envisaged yearly sessions.

On the 11th of January, 1877 the Bureaux (Ryō) within the Executive Departments were abolished and new ones erected under the title Kyoku by which the Bureaux within the Council Secretariat had been designated since 1875. (85) The distinction between the titles of Department and Bureau Secretaries and Clerks was also abolished in favour of a single title for Secretaries (Shokikan) and for Clerks (Zoku). This system was extended to the Council Secretariat on the 18th of January, 1877, when the title Sei-In was abolished and all its officials classified as Secretaries and Clerks under the new

84. HRZS. Shōchoku.
85. HRZS. Dajōkan No.10 Tasshi.
names. (86)

The Legislation Bureau was not specifically abolished, but its Officers (Hōseikan) were included in the titles which were abolished at this time. A new Examinations Bureau (ChōsaKyoku) was set up in the Council Secretariat; its regulations issued in January, 1877, indicate that it was a development of the previous No. 5 Section. (87) It was to handle and scrutinise all enquiries and reports to the Council concerning financial business and compiled statistical tables. The financial accounts and monthly financial reports of the Executive Departments and other government offices were received by the Bureau which compiled clear statistical tables from them for presentation to the Council. Enquiries and reports concerning these matters were presented to the Council by this Bureau for decision accompanied by its Opinion (Kōan). On the 6th of February, 1877, Hijikata Hisamoto was appointed Head of this Bureau.

However, before the reforms of the Council Secretariat were complete, the Satsuma rebellion arose and kept the principal Councillors on campaign until its suppression in September.

On the news that Saigō had joined the rebellion, Ōkubo insisted that he should go and meet Saigō; but

86. HRZS. Dajōkan No.10 Tasshi.
when Itō and others refused to allow this for fear of his safety, he shut himself up at home and would not attend to business. The decision of Saigō to join the rebels was a bitter blow to Ōkubo, but he soon made up his mind that the conflict was inevitable and returned to business with his customary resolve. (88) On the 9th of February, 1877, an extraordinary meeting of the Genrō-In had resolved that if Saigō raised a rebellion against the government, troops should be speedily dispatched to suppress it; Sasaki, Mutsu, Kawano and Yanagiwara called on Iwakura to inform his of this resolution. (89)

Various discontented persons inside and outside the government tried to exploit the difficulties of Ōkubo and his allies in putting down the rebellion. Kido and Mutsu were the most insistent on strong measures against Satsuma; Mutsu pressed Kido to demand that Itagaki and Gotō should join the Council and busied himself with plans to levy troops from his old Han of Kishū. He got the consent of Iwakura to raise troops and went to Osaka on the 12th of April to put his plans to Ōkubo and Itō. They disagreed on the grounds that the ex-Daimyō of Kishū had already promised to raise troops, and that a decision could not be taken until Torio returned from a survey of the front. Torio was a Chōshū man but had

88. Ōtsu. DNHKSS. 2. p.132-33.
89. Tsuda. Meiji Seijō to omi Takayuki. p.388.
worked for Kishū after the Restoration and knew Mutsu well. They were good friends in spite of differences of opinion, and Torio knew that it would be too dangerous to entrust Mutsu with raising troops since he was in constant complaint against the dominance of the government by the Satsuma and Chōshū followers of Ōkubo. Torio therefore proposed that the ex-Daimyō of Kishū should levy the Han troops; but Mutsu persuaded Kido to agree to a plan to include Gōtō and Itagaki of Tosa and himself and Tsuda of Kishū in the Council under Kido as Chief Councillor, ousting Ōkubo and Satsuma and setting up a new Council of Chōshū, Tosa and Kishū. (90)

Kido by this time was in the last stages of the chronic illness from which he died on the 26th of May, 1877; but he too was in constant complaint against the dominance of Ōkubo and regarded the rebellion as a good opportunity to correct the "unfairness and injustice" of the government. (91)

On the outbreak of the rebellion, Gōtō considered that "the two tigers (i.e. Ōkubo and Saigō) should be set to fight, and the opportunity taken to overthrow the Han clique (Hambatsu)". On the 17th of February, the day on which the decision to send troops against the rebels was taken, Gōtō arrived in Kyōto to confer with

90. Saiga. Ōe Tenchi Denki. p.455-60.
91. Kanju Shogun Kaikoroku. p.120-21.
Kido and Sanjō. He returned to Tōkyō on the 19th of March, where Iwakura anxiously asked him if Itagaki would refrain from joining Saigō on condition that a popularly elected assembly were set up. (92)

Itagaki in fact had no intention of joining Saigō in armed rebellion, but he took the opportunity to embarrass the government by military preparations in Tosa, ostensibly to resist the passage of the rebel armies across the straits from Kyūshū. (93) In June, his follower Kataoka Kenkichi addressed a vigorous memorial to the Emperor in Kyōto charging the government with obstructing the Imperial oath to establish representative assemblies and a constitutional form of government; instead a small oligarchy from the four great Han had concentrated all power in their own hands, leading to confused administration, mismanaged finances and general oppression. (94)

Throughout the campaign, Tosa was in a state of considerable unrest, but by close government supervision the situation was kept under control. The plot of Ōe Taku and the Tosa hot-heads to seize Ōsaka, kill the leading men of the government and make terms with Saigō was quickly detected. (95)

94. ibid. July 7th, 1877.
95. For a full account of this plot, vid. Saiga. Ōe Tenchi Denki. p.460-69.
The rebellion was finally put down in September, 1877. With the deaths of Kido and Saigō, the primacy of Ōkubo was finally beyond dispute. In recognition of this fact, a group of Palace Advisers began a movement to bring him into closer personal contact with the Emperor. Since the abortive attempt of Iwakura to raise Ōkubo, Kido and Itagaki above the other Councillors as Advisers to the Emperor in August 1869, it had continued to be felt that the principal statesmen should leave active posts such as the direction of the Executive Departments and assist the Emperor in the general direction of affairs. The precedence of Ōkubo over the other Councillors now made it feasible to attempt this again.

The movement began when Takasaki as Head of the Imperial Attendants (JijūbanChō) approached Tokudaiji, the Head of the Palace Department, to advocate the need to draw the Council and the Court into a closer relationship. Takasaki spoke to Sanjō, Iwakura and Kido on the question and to Ōkubo himself, who agreed with him but took no action. At the time of the Satsuma rebellion the claim of Saigō to be a loyal servant of the Emperor underlined the need to clarify responsibility for advising the Emperor, and Takasaki called on Ōkubo in Kyōto to raise the matter again. Ōkubo apologised for his

96. Vid. supr. p. 41.
failure to act on the matter and referred him to Itō. Takasaki was at first offended at having to deal with Itō, whom he considered would not understand his point of view (a fact that in itself demonstrates the lack of understanding between Court and Council at this time) but Ōkubo while conceding that Itō was a "man of talent" (Zaishi) (97) stoutly defended him as a man of great understanding with whom he conferred on all matters of national policy. When Takasaki met Itō for the first time he was agreeably surprised at his understanding of the matter. Both Ōkubo and Itō agreed that the Council should be drawn closer to the Imperial Palace and that the Emperor should attend Council meetings. They also gave their consent to the establishment of a new post of Imperial Instructor (Jiho) to give guidance to the Emperor. (98)

The first appointments to this new office were made on the 29th of August, 1877, when Tokudaiji, Yoshii and Hijikata assumed the post. On the 5th of March, 1878, Sasaki was also appointed Instructor in addition to his post as a member of the Genrō-In. Sasaki was particularly active in attempting to get Ōkubo closer to the Emperor, either by assuming a Presidential position as Daijin or at least by combining his post as Head of the Home Department with that of Head of the Palace Department. (99)

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97. To conservative members of the government, this was a term of mild abuse, as the antithesis to the Jimbutsu or "man of character!"
When further consultations were held, Ōkubo refused to accept a Presidential post on the grounds that he was unfitted to do so; on the other hand he foresaw difficulties if he combined posts as Head of the Home and Palace Departments. If he assumed the post of Head of the Palace Department, he therefore intended Itō to succeed him as Head of the Home Department. Finally, when Yoshii, Takasaki and Sasaki called on Itō to discuss the matter on the 14th of May, 1878, a message arrived for Itō from Ōkubo asking him to meet him immediately. Itō took this as an indication that Ōkubo had made up his mind on the matter, but as he hurried to meet him he heard the news that Ōkubo had been assassinated. (100)

On the death of Ōkubo, Itō immediately succeeded him as Home Minister. A little later on the 24th of May, 1878 Kawamura Sumiyoshi of Satsuma was appointed Junior Councillor and Head of the Navy Department to fill the post left vacant since the resignation of Katsu in November, 1875; and Saigō Tsugumichi of Satsuma was appointed Junior Councillor and Head of the Education Department which had again been kept vacant since the resignation of Kido in May, 1874. Inoue Kaoru of Chōshū who was overseas at the time of Ōkubo's death was recalled and appointed Junior Councillor and Head of the Industry Department on the 29th of July, 1878. The Council then consisted of Sanjō as President, Iwakura as Vice-President and Ōkuma, Itō, Ōki, Terashima, Yamagata, Saigō, Kuroda, Kawamura and Inoue as Junior Councillors and Heads of Executive Departments.

In the Council, all functioned much as before. The Legislation Bureau in the Council Secretariat had been re-established by December, 1877, under Itō as Head; over nine Chief Secretaries (Dai Shokikan), including Inoue Ki,
four Chief Secretaries from the Justice, Education, Finance and Home Departments and two serving officers from the Army and Navy. In the regulations issued for the Bureau sometime in 1878, its members were divided as before into three sections broadly concerned with the Civil Code, the Criminal Code and Administrative Regulations.

The Genrō-In worked in quiet co-operation with the Council in debating the draft proposals for legislation submitted to it. Its numbers steadily increased; in 1877, three new members were appointed; in 1878, nine new members, of whom five combined their posts as members of the Genrō-In with posts as Vice-Heads of the Home, Army, Justice, Education, Industry and Palace Departments.

Thus the Junior Councillors acted as Heads of Executive Departments, a number of Vice-Heads of Departments were members of the Genrō-In and a number of Department Chief Secretaries were members of the Legislation Bureau in the Council Secretariat. In this way, the Council, Executive and Legislature were closely bound together.

On the 26th of February, 1878, the Governors of Fu and Ken had been summoned to the capital to attend an Assembly of Local Officials to be opened on the 1st of April. On the 15th of March, 1878, the regulations

3. HRZS. Dajōkan Mugo Tasshi.
for the Assembly were revised.\(^4\) The Assembly was as a general rule to be held once a year at a time determined by the government. The Heads of Executive Departments or their representatives could attend its sessions and give explanations or argue for or against proposals, but could not vote in the decision. The Emperor attended its opening and closing ceremonies. Its members could compose memorials, which were submitted as draft proposals to the Chairman who introduced them to the Assembly and reported them to the throne for decision when passed by the Assembly. Draft proposals (Gian) were to receive three readings, and provisions were made for amendments in Petty Assembly (Shōkaigi). Ito was appointed Chairman of the Assembly on the 5th of March, 1878; and from the 10th of April to the 3rd of May the Assembly debated the Law for the Formation of Urban and Rural Districts, Regulations for the Fu and Ken and Land Tax Reform. On the 22nd of July, 1878, regulations were issued for Fu and Ken Assemblies to debate matters financed by local taxes. The Chairman of these Assemblies was to be elected by the members from among their number, but the appointment was subject to the approval of the Governor, who also introduced all proposals for debate.\(^5\)

On the same day, regulations were issued for the

\(^4\) HRZS. Dajōkan No.9 Tasshi.
\(^5\) HRZS. Dajōkan No.18 Fukoku.
raising of local taxes for police, education, hospital and public works expenditure. Local Governors were required to submit reports on expenditure from local taxes to the Home and Finance Departments and to the Fu or Ken Assembly. (6)

While the Genrō-In continued its studies for a Constitution and acted as the fore-runner of a future Upper House of a National Assembly, the establishment of Fu and Ken Assemblies approving local expenditure under the direction of their Governors was clearly the first step towards the creation of a popularly elected Lower House. All this was in keeping with Ōkubo's plans for gradual progress towards constitutional government.

On the death of Ōkubo, the question of advising the Emperor remained unsolved. The direction of affairs rested primarily with Ōkuma, Itō and Inoue; but they were comparatively young and inspite of their undoubted talents they were not greatly respected in the country at large. They were certainly not of the calibre of Kido, Saigō and Ōkubo whose recent deaths had left them in command of affairs.

The Instructors (Jiho) continued their movement to establish a Council which would be in close personal

6. HRZS. Dajōkan No.19 Fukoku.
attendance on the Emperor. Hijikata approached Sanjō and Sasaki approached Iwakura to press this point, and the Junior Councillors were also canvassed. (7)

Sanjō, however, pointed out to Sasaki that a seat had been provided for the Emperor to attend the Council daily to hear the Presidents and Junior Councillors debate business. For the Instructors to attend the Emperor on such occasions would be a confusion of Palace and Government which could not be allowed. Ito also met Sasaki, Yoshii, Hijikata and Takasaki to inform them that it was the unanimous decision of the Council that the Instructors should not hear confidential matters of the administration. Although in ancient China the attendants of the Emperor took part in the administration, in modern Japan the Palace and Council were distinct. Hence the Head of the Palace Department was not a Junior Councillor as were the Heads of the other Executive Departments, and the Instructors should devote themselves chiefly to the education of the Emperor. The Instructors agreed that evils had been known to arise from the power of Palace officials over the administration, but urged that there were few such dangers at the present time. On the contrary, the danger at present was of two or three Councillors playing with power. In order to

establish a truly Imperial government, it was essential to preserve unity between the Palace and the Council. The Presidents and the Junior Councillors were chiefly concerned with assisting the Emperor in the business of government, and were busy with the affairs of the Executive Departments. There was a real need for personal assistance to the Emperor by two or three men of character versed in confidential matters both of the Palace and of the Administration.  

The active figures in this movement were Hijikata, who was appointed Vice-Head of the Palace Department on the 24th of December, 1878, in addition to his post as Instructor; Motoda who was appointed Instructor on the same day; and Sasaki and Yoshii who held posts as Instructors in addition to membership of the Genrō-In. They continued to press for their aims, until on the 13th of October, 1879, the office of Instructor was abolished.

When the office of Instructor (Jiho) was abolished, an order was issued that henceforth the Presidents and Junior Councillors would undertake the responsibility of advising the Emperor in person from time to time. One of the Presidents was to attend the Palace daily, and one Junior Councillor was also to attend the Palace at

fixed intervals. Junior Councillors and Heads of Executive Departments were to appear before the Emperor to present official documents for Imperial decision. (9)

These provisions were very vague, and the matter was far from settled. On the abolition of the office of Instructor, Sasaki was appointed an executive (Goyōgakari) of the Palace Department, and Yoshii, Hijikata and Motoda remained in Palace posts. They retained the confidence of the Emperor and continued to give advice freely on government matters. Their influence was particularly strong whenever disputes arose within the Council.

Under the unchallenged supremacy of Ōkubo, the Council of theoretically equal Heads of Executive Departments had worked well. But on his death a struggle for primacy was perhaps inevitable until one of the men of the second stream could gain a comparable ascendancy over the rest. Ito had succeeded Ōkubo as Head of the Home Department, but Ōkuma was his senior as a Councillor and wielded comparable power as Head of the Finance Department. The rivalry between Ōkuma and Ito had already been foreshadowed before Ōkubo's death when in April, 1878 the Emperor proposed to visit Ōkuma's residence. At this the other Junior Councillors, and

Itō in particular, protested to Iwakura and Ōkubo on the
grounds that only Kido and Ōkubo had been honoured with
such a visit previously. Ōkubo agreed that if the
Emperor visited Ōkuma's residence he should also visit
the residences of the other Junior Councillors; Iwakura
declared that the visit had been undertaken quite casually
as part of the general policy to bring the Emperor and
Junior Councillors into closer contact, and took pains
to console Itō and to apologise to Ōkubo. Since the
visit could not very well be cancelled, the Emperor
visited Ōkuma's residence on the 8th of April, 1878, as
proposed. (10)

This was a small incident, but it revealed that any
increase in the power or status of Ōkuma would be regarded
by the other Junior Councillors with some jealousy.
On the death of Ōkubo, Itō and Ōkuma reinforced by Inoue
were in general agreement on policy and had all worked
well together in the past. But signs of tension between
Itō and Ōkuma soon became apparent,

The first dispute arose when Itō, backed by a majority
of the Junior Councillors, proposed that the Council
and the Executive Departments should be separated. Ōkuma
and Ōki of Hizen resisted the proposal, but Ōkuma finally
agreed on condition that Sano Tsunetami should succeed

10. Watanabe, Meiji Ishin to Gendai Nihon. p.236. Iwakura
Tomomi Kankei Bunsho. 7. p.87-90.
him as Head of the Finance Department.

Accordingly, on the 28th of February 1880, Itō resigned his additional post as Head of the Home Department to Matsuoka and Ōkuma resigned the Finance Department to Sano; Saigō, Kawamura, Ōki, Terashima and Yamada resigned their additional posts as Heads of the Army, Navy, Justice, Education and Industry Departments. Exceptions were made for Yamagata who remained Head of the General Staff Office, Inoue who remained Head of the Foreign Department since Treaty revision was under negotiation and a change of Head was thought inopportune, and Kuroda who remained Head of the Colonisation Department. Ōki, too, was immediately appointed to an additional post as Chairman of the Genrō-In.

Occasion was also taken to appoint Arisugawa to the post of Vice-President (SaDaijin) left vacant since the resignation of Shimazu in 1875. The new Council thus consisted of Sanjō as President, Arisugawa and Iwakura as Vice-Presidents; Itō, Inoue, Yamagata and Yamada of Chōshū; Kuroda, Saigō, Kawamura and Terashima of Satsuma; Ōkuma and Ōki of Hizen all as Junior Councillors.

The creation of a Council distinct from the Executive Departments demanded a major re-organisation of the Council Secretariat. On the 3rd of March, 1880, the Legislation Bureau (HōseiKyoku) and the Examinations
Bureau (ChōsaKyoku) were abolished, and six Sections (Bu) set up within the Council Secretariat to deal with Legislation, Finance, Military, Home, Judicial and Foreign Affairs. On the 5th of March, a new Board of Audit (KaikēiKensaIn) was established. Its title marked it as destined to be an independent institution for the audit of government finance; it combined the functions of the previous Examinations Bureau (ChōsaKyoku) and of the Inspection Bureau (KensaKyoku) of the Finance Department, which was abolished on the same day and its business transferred to the new Bureau. Thereafter, the estimates (Yosan) of the yearly income and expenditure of the government were drawn up in the Accounts Bureau (SeisanKyoku) of the Finance Department, and the final accounts (Kessan) drawn up in the Board of Audit.

On the 30th of April, 1880, the Junior Councillors were allotted among the six Sections into which Council business was now divided; Ōki and Yamada to Legislation, Ōkuma, Terashima and Itō to Finance, Yamagata, Saigō and Kawamura to Military Affairs, Itō, Kuroda and Saigō to Home Affairs, Terashima and Yamada to Judicial Affairs and Ōkuma, Inoue and Kawamura to Foreign Affairs. On the same day, instructions were issued for the conduct of business in the six Sections. The Junior

11. HRZS. Dajôkan No.17 Tasshi.
12. HRZS. Dajôkan No.18 Tasshi.
Councillors in charge of each Section controlled its officials and exercised a general supervision of its business. When the Junior Councillors of each Section wished for Laws and Regulations to be established, abolished or revised in the Council (Naikaku) they were to send their proposals to the Legislation Section for consideration. If the matter concerned another Section, the Legislation Section was to confer with it. When the Council proposed to issue orders or instructions, they were to be sent to the Section concerned for consideration. Matters sent up to the Council by government offices were considered in the Section concerned and reported for decision with the opinion of the Section attached. Even if a matter was well within the jurisdiction of a Section, conference was to be held with any other Section whose business might be affected by it; if two Sections failed to agree, the matter was sent up for decision with the opinion of each party attached. Each section in relation to the business within its charge could order government offices to make reports in writing or confer with it verbally, and could dispatch officials of the Section to the localities. When draft of Laws (Hōan) were put before the Gennō-In, the Junior Councillors of the Section concerned or the Secretaries of the Section or Executive Department concerned were to be appointed to the Council Committee (Naikaku Iin) to attend the Assembly and give
Legislation and Financial Accounting occupied the greatest share of business. At the end of 1880, the Legislation section consisted of 8 Chief Secretaries, 12 Lesser Secretaries and 33 clerks; the Finance Section 6 Chief Secretaries, 4 Lesser Secretaries and 25 clerks. The other four Sections were on a much smaller scale. The Board of Audit consisted of one Head, 5 Auditors and 70 Clerks. (14)

It is difficult to determine what the point of this new system was. In essence, it was a return to the clumsy system of pre-1874 in which the Councillors divided up the business of the Council among themselves, with several men jointly responsible for the running of each section. One authority alleges that it was aimed at diminishing the influence of Ōkuma, but failed to do so since Ōkuma was succeeded as Head of the Finance Department by Sano Tsunetami who, as Ōkuma well knew in insisting on his appointment to succeed him, was not well versed in finance and had to rely largely on Ōkuma's directions. (15)

The first dispute to vex the new Council arose from a proposal of Ōkuma to finance the redemption of the paper currency by a foreign loan of ¥50 million. (16)

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On the 23rd of May, 1880 the Heads of Executive Departments were summoned to the Council chamber to be consulted on the question by the President and Vice-Presidents. Enomoto, Ōyama and Tanakâ of the Navy, Army and Justice Departments agreed with Ōkuma's proposal; but Kawano, Matsukata, Sano and Yamao of the Education, Home, Finance, and Industry Departments were opposed. On the 26th of May, Kawano recorded his objections in writing and suggested that a committee be set up to investigate the reserves of the Finance Department.

Iwakura was strongly opposed to the loan, which he regarded as equivalent to selling Kyūshū or Shikoku to a foreign power, and conferred with Hijikata and Motoda to report his objections to the Emperor. On the 29th of May, Sasaki called on Ijichi Masaharu of Satsuma who was serving as an executive (Goyō kakari) of the Palace Department to say that since many Satsuma men were in favour of the loan he was anxious to hear Ijichi's opinion because difficulties would arise if he agreed with them. Sasaki advocated rigid economy to restore the finances of the government, and feared that a loan would be wasted like the samurai pensions in frivolity. Ijichi agreed with him wholeheartedly.

On the 31st of May, Sasaki spoke with Hayashi Tomoyuki of Chōshū who was a special intimate of Iwakura.
Hayashi told him that although the President and Vice-Presidents opposed the loan, many of the Satsuma Junior Councillors agreed with Ōkuma. Although the Chōshū men were opposed, they were afraid of provoking a split in the Council and Itō and Inoue were therefore keeping silent. Sasaki urged Hayashi to inform Itō of his own opposition to the loan. Motoda then arrived to tell Sasaki that in response to an Imperial enquiry, Saigō and Kawamura agreed to Ōkuma's proposal while Itō and Inoue opposed it.

On the 2nd of June, Hayashi reported to Sasaki that Itō was anxious about the disagreement with Ōkuma since Chōshū and Satsuma were ranged against each other on the issue. Itō feared that if he continued to oppose the loan strongly a war might ensue, since the Navy was entirely behind Satsuma and its influence in the Army was strong. (17) On the same day, Motoda called on Sasaki to report that Soejima (who at this time was an executive in the Palace Department) was also opposed to the loan; Terashima was for the loan but considered ¥50 million too much; Ōki, Itō, Yamagata, Yamada and Inoue in the Council and Matsukata, Sano, Kawano and Yamao in the Departments opposed the loan against Ōkuma in the Council and Ōyama, Enomoto and Tanaka in the Departments. The

matter was finally decided on the 11th of June, when an Imperial rescript announced that a loan would not be raised, and that economy was to be practised.

This dispute provides an interesting revelation of the way in which the ex-Instructors of the Emperor like Hijikata, Motoda and Sasaki busily engaged in formulating and estimating opinion in the Palace and the Council whenever a controversial issue arose. The increasing maturity of the Emperor and the lack of any firm definition of his constitutional position enabled them to play an active part in this and in subsequent crises.

The reasons for Satsuma support of Ōkuma are not plain, but Ōkuma's connections with prominent Satsuma commercial houses were well known, whereas he seemed to have no dealings with the Chōshū business interests. Matsukata suggested that the loan was probably proposed to Ōkuma by Shibusawa, Godai, Masuda or Fukuzawa with whom he conferred on all financial matters; Godai and Masuda were the two most prominent Satsuma businessmen of the time. It is an interesting conjecture that Ōkuma secretly supplied ¥30,000 to assist Kawaji, the Satsuma Chief of the Metropolitan Police, in the investigations that led to the arrest of Fujita Denjirō and Nakano Gōichi of the Chōshū Fujita-gumi on the 15th of

September, 1880. (20) Nakano was a close friend of Inoue, and Yamagata had been closely connected with the Fujitagumi since it grew suddenly in riches from military contracts during the Satsuma rebellion.

Immediately after the decision to abandon the plan to raise a foreign loan, Itō received an Imperial order to investigate the funds of the Finance Department. (21) On investigations with Sano, he found that the sum of over ¥20 million in specie previously held in reserve by the Finance Department had been secretly sold to a certain Englishman in exchange for silver coin on the sole decision of Ōkuma. The reserve fund of the Finance Department at the time of inspection consisted of ¥4 million in silver and other coins and ¥4 million in gold coins, a total of only ¥8 million. Itō informed Yoshii of this, and Saigō and Kawamura were also informed and shared their anxiety. When Yoshii told Matsukata, who had been Vice-Head of the Finance Department from November, 1875, until February, 1880, Matsukata declared that he had no knowledge of the exchange. Itō had at first refused to carry out the inspection, but had been forced to make it by Imperial orders, and now found himself in a most difficult position. Sasaki, Yoshii

and Motoda discussed the matter on the 8th of July; when Yoshii mentioned that Inoue was demanding a thorough reform of the Finance Department, and that Soejima had recommended his appointment as Head of the Department to the Emperor, Sasaki objected that despite his talents Inoue was a man with a bad reputation in financial matters and should not be promoted to this position. Yoshii agreed and suggested that Itō should be appointed General Director of Finance and Matsukata Head of the Department. Both had great confidence in Matsukata as a man of integrity to handle the finances in the coming programme of strict economy. Inoue himself had recommended the employment of Shibusawa as a finance official to Yoshii. It was also noted that Masuda and other merchants were turning away from Ōkuma towards Shibusawa, leaving only Iwasaki Yatarō in close relations with him. On the 22nd of July, Sasaki with Yoshii and Motoda called on Arisugawa to give their opinions, and on the 23rd of July Hijikata reported them to the Emperor.

Itō reported his differences with Ōkuma to the Emperor, but finally got Ōkuma to agree to supply the deficiency of ¥10 million in government finance by increased sake taxes and cuts in Department appropriations and subsidies for local expenses. Ōkuma and Itō then

co-operated in arranging the finances, and the crisis was thus solved. (23)

Throughout the two crises over the foreign loan and the Finance Department reserve fund, Itō acted with the greatest circumspection. By character, he was always nervous of violent disagreements and anxious for compromise. The year ended with seeming unanimity between him and Ōkuma, but signs of a coming storm were already in the air.

The year 1881 began with a series of important new developments in the Council Secretariat. On the 14th of February, 1881, an Adjudications Bureau (ShinriKyoku) was established for deciding disputes between Local Governors and Local Assemblies. (24) Cases were to be heard by a commission of two members of the Genrō-In, two judges of the Supreme Court (Daishin-In) and two or more Secretaries of the Council Secretariat under the Chairmanship of a Junior Councillor.

On the 28th of April, 1881, new regulations were issued for the Board of Audit (KaikaiKensaIn) (25) following the Law of Finance (KaikaiHō) promulgated on the same day. (26) The Law of Finance provided that the receipts and expenditures of all government offices should be

24. HRZS. Dajōkan No.6 Tashii.
25. HRZS. Dajōkan No.35 Tashii.
26. HRZS. Dajōkan No.33 Tashii.
handled and recorded in the Finance Department, and ratified by the Council after passing the inspection of the Board of Audit. The Finance Department was to keep a daily record of receipts and disbursements from the National Treasury and to report them to the Board of Audit on the following day. (27)

On the 30th of May, 1881, a Board of Statistics (Tōkei-In) was set up in the Council Secretariat to provide the Council with detailed statistical information on matters of government. (28) The Head of this Board was to be a Junior Councillor.

Ōkuma played a prominent part in the establishment of these new bodies, and his followers occupied key positions within them. Ono Asuza held a prominent position in the Board of Audit as an Auditor 1st Class; Yano Fumio was appointed Chief Secretary of the Board of Statistics on the 21st of June, 1881, over Ushiba Takuzō, Inukai Ki and Ōzaki Yukiō who were all of Ōkuma's following. Ōkuma himself was Director (Sōsai) of the Board of Statistics and through his friends and followers controlled the Finance, Agriculture and Commerce, and Justice Departments and had great influence in the Foreign Department. (29)

27. Articles 7, 28.
28. HRZS. Dajōkan No. 49 Tasshi.
At this time, the government was committed to two great policies on which its future was held to depend; the drafting of a Constitution, and the sale of non-strategic government enterprises to cut expenditure and redeem the paper currency. It was on these two points that the issue between Itō and Ōkuma was finally determined.

In December, 1879 the Genrō-In completed the final draft of the Constitution on which it had been working in response to the orders of the Emperor since September, 1876. The Constitution it proposed drew heavily upon the English model. But Ito objected in particular to Section 8 Article 1 of the draft, which would require the government to obtain the approval of the Lower House of representatives for the yearly Estimates. (30)

Iwakura also had objections, and sent a memorial to Sanjō declaring that the draft Constitution contained elements not in accordance with the national tradition (Kokutai). He urged that an Imperial order should be given to all the Junior Councillors to present their views, and after Imperial consideration a Constitution drawn up in accordance with the national tradition. (31) Sanjō agreed, and at the same time Yamagata presented a memorial advocating an Assembly of members chosen by

the Emperor from the members of the Fu and Ken Assemblies, with the power of final decision on measures (GiketsuKen) reserved to the government. (32) In February, 1880, all the Junior Councillors were ordered to submit their opinions on the question.

The Constitution had become a burning issue in the face of growing political party opposition against the government. On the 15th of April, 1880, some 114 representatives of 27 political associations in 2 Fu and 22 Ken met in Ōsaka to launch a united movement for the prompt opening of a National Assembly. (33) The government responded with a Public Meetings Law ordering political associations to notify the local police three days in advance before holding meetings and to obtain police permission to do so. Notification was to include details of the proposed agenda, the names of speakers, the name of the Head of the association. Before a political association could be formed, similar details were to be given to the police and their permission obtained. Permission to form an association or hold a meeting could be refused at will by the police if the public peace was likely to be disturbed. (34)

While the government and the political parties

33. Ōtsu. DNHKSS.2.p.287ff.
34. HRZS. Dajōkan No.12 Fukoku.
prepared for battle, the Junior Councillors continued to send in memorials on the Constitution. Kuroda, Yamada and Ōki all urged that a period of legal definition was necessary before a Constitution and Assembly could be established, and were little in sympathy with the popular rights movement. Inoue and Itō made few concrete suggestions beyond the establishment of an Upper House of about 100 members chosen by the Emperor from the nobility, the samurai and men of distinguished services and scholarship to ratify the Laws. All were agreed that a period of legal definition must precede a Constitution, and that the Constitution must precede an Assembly. All were opposed to rapid progress and too heavy a reliance upon European models.

Itō had submitted his memorial on the 14th of December, 1880; but Ōkuma alone of all the Junior Councillors had not presented a memorial when in March, 1881, Arisugawa was sent to urge him to do so. (35) Ōkuma told Arisugawa that he wished to deliver his opinions to the Emperor verbally before the assembled Junior Councillors. But this was not allowed, so he gave his written opinion to Arisugawa and asked him not to show it to the other Junior Councillors before presenting it to the Emperor. In striking contrast to the memorials of the other Junior

35. Ōtsu. DNHKSS. 2. p.420.
Councillors, Ōkuma advocated that the principal officers of state should be appointed by the Emperor from the leaders of the political parties in a National Assembly on the English model; that a separation be made between party officials and permanent civil servants; that Councillors, Heads of Executive Departments and Heads of Bureaux should be party officials, with three Presidents (Daijin) acting as permanent neutral officials to advise the Emperor. He finally proposed that a National Assembly be opened early in 1883, after elections held at the end of 1882. (36)

Arisugawa was astonished by his proposals and at once showed his memorial to Sanjō and Iwakura. When Iwakura queried Ōkuma on the early establishment of a National Assembly, he replied that it was as well to keep ahead of the times. Iwakura then asked him if Itō shared his views, and Ōkuma replied that there were only small differences between them. (37)

Sanjō and Iwakura then decided to show the memorial to Itō. Itō angrily declared that when he had shown his own memorial to Ōkuma previously, Ōkuma had said that he agreed with its principles. Having now seen Ōkuma's memorial, he could not help being offended with Ōkuma. Itō sent a letter of resignation to Iwakura on the 2nd

37. ibid. p. 432.
of July, 1881; but Iwakura managed to effect a reconciliation between him and Ókuma. The memorial was withdrawn, and Itō resumed his duties on July 8th. But Itō was shortly to seize his opportunity to cast his weight against Ókuma in the question of the sale of the Colonisation Department assets.

In 1880, the government had a reserve fund of only ¥8 million in specie against ¥160 million of paper notes which changed hands at half their face value in silver. The issue of large sums of paper currency during the Satsuma rebellion had caused an inflationary movement all the more embarrassing to the government since the land tax had recently been reformed and taxes were now paid in money instead of grain. When Ókuma’s proposal to finance the redemption of the paper currency by a loan of ¥50 million from abroad was rejected, the government was committed to a policy of strict retrenchment and deflation in which the sale of its non-strategic enterprises played a major part. On November 5th, 1880, the government ordered the Executive Departments to sell all government enterprises under their jurisdiction to private buyers, with the exception of railways, telegraphs, dockyards and arsenals.

The sale which attracted most attention was that

38. Ōtsu. DNHKSS. 2. p.432-3.
of the enterprises of the Colonisation Department, which had received some ¥14 million since the Restoration for the development of Hokkaidō. On the 21st of July, 1881, Kuroda as Junior Councillor and Head of the Colonisation Department forwarded a petition of four Secretaries of the Department, who asked to be allowed to form a company to take over the enterprises of the Department if they were to be sold. In forwarding the petition, Kuroda urged that it should be accepted, since its authors had spent 10 years in loyal service to the Department and being well acquainted with the conditions of Hokkaidō would not abandon works that had been undertaken at great expense. Although as government officials they had insufficient funds, they were yet superior to those who though monied were ignorant of the conditions of Hokkaidō and likely to sustain great losses. In conjunction with Godai Tomoatsu of Satsuma and Nakano Goichi of Chōshū, they proposed to undertake the Colonisation Department enterprises in Hokkaidō in a company called the Kansai Bōeki Shōsha for the sum of ¥300,000 repayable without interest over 30 years. (39)

But immediately protests were raised within the government. Sano Tsunetami, the Head of the Finance Department, proposed that the sale should be postponed

for ten years; Arisugawa as Vice-President in the Council, Sasaki, Kawada and Nakamura in the Genrō-In and Torio, Miura, Tani and Soga in the Army were also strongly opposed to the sale.\(^{(40)}\) Kuroda was infuriated at the opposition to the sale, and pressed Sanjō for a decision with great vehemence. The sale was finally approved on the 2nd of August, but soon the newspapers got wind of the clash of opinion within the government and began to criticise the sale severely.\(^{(41)}\)

Ōkuma earlier in the year had refused Godai Tomoatsu a loan of ¥500,000, and had thus incurred the enmity of this powerful representative of Satsuma commercial influence and a major partner in the company which wished to purchase the Colonisation Department enterprises.\(^{(42)}\) Ōkuma also opposed the sale, and Kuroda seems to have singled him out as the leader of the opposition. In an attempt to mitigate the antipathy between them, they were both ordered to attend the Emperor on his tour to the Northern provinces on the 29th of July, 1881.\(^{(43)}\)

While Kuroda and Ōkuma were both absent from the capital, protests against the sale continued to be made both within the government and outside. Opposition from within the government centred on a group of men who

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40. Ōtsu. DNHKSS. 2. p.441ff.
41. Shimbun Shüsei Meiji Hennenshi. 4. p.423ff.
were equally opposed to the predominance of Satsuma and Chōshū in the government, and to the demands of the political parties for the speedy erection of an Assembly. They therefore began to press for the suspension of the Colonisation Department sale on the one hand, and for the dismissal of Ōkuma and his followers from the government on the other.

Sasaki and Hijikata, ex-Instructors of the Emperor, were still opposed to the dominance of the government by the Junior Councillors. They regarded the sale as an example of the way in which the Emperor's government could be exposed to popular odium by the arbitrary decision of the Council in response to the personal interest of one of its members. They were joined in opposition by a group of Army Major Generals who had for some time been highly critical both of the policies of Yamagata and of the virtual monopoly of the highest Army posts by Satsuma and Chōshū men of his following.

Tani Kanjō disliked the formation of the Army on the Prussian model by Yamagata. In March, 1881 he threatened to resign when the Governor of Nagasaki, who was a Chōshū man, was not dismissed in spite of his admitted negligence in handling the remains of the soldiers who had died in the Taiwan expedition. (44)

In May, 1881 Tani complained to Sanjō, Iwakura and Arisugawa about unfairness in the retention of commissions after the Satsuma rebellion, and again in August about unfairness in the allotment of the new kun rank. (45) Miura Gorō, although a Chōshū man, had nursed a marked dislike for Yamagata whom he regarded as responsible for failing to ensure that the Chōshū troops under his command received their pensions after the Restoration campaign. (46) Miura had been a close friend of Kido, and had shared his complaints against the dominance of the government by a handful of Satsuma and Chōshū men. In 1881, Miura like Tani was demanding a reform in the system of Army promotions to check the monopoly of Satsuma and Chōshū in the key positions. (47) Torio Koyata of Chōshū was another follower of Kido who was in ill-accord with the Yamagata regime in the Army. Both Torio and Miura had tendered their resignations at the time of the Taiwan expedition in support of Kido, and had returned to the government with him in 1875 as members of the Genrō-In.

On the other hand, these three Major Generals had little sympathy with the political party opposition to the government. Although a Tosa man, Tani had a long-

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47. ibid. p.175, p.185.
standing feud with Itagaki and Goto\(^{(48)}\) and he advocated gradual rather than rapid constitutional progress.\(^{(49)}\) Miura and Torio as followers of Kido thought likewise.

On the 12th of September, 1881, Tani, Miura, Torio and Soga, another Major General in sympathy with them, jointly signed a memorial to the Emperor and presented it to Arisugawa.\(^{(50)}\) They declared that if the Legislative, Executive and Judicial powers were all combined in the Council, the government would be an Imperial government in name only and the suspicions of the people justly aroused. They therefore advocated that the Legislative power should be given to the Genrō- ln which should discuss laws in the presence of the Emperor, who would ratify its decisions and send them to the Council to be effected. They also requested that an Assembly for the Establishment of the Constitution(Kokken Sōritsu Gikai) should be opened in the Genrō- ln; by special order, several members of the Assemblies of each Fu and Ken should be summoned to participate in this Assembly in order to determine the Constitution, establishing a lasting foundation for the country and regaining the confidence of the people. The memorial ended by saying that the sale of the Colonisation Department assets, although a small matter, had caused great discontent

\(^{49}\) ibid. p.505.
\(^{50}\) ibid. p.502-4.
among the people; it should be speedily reconsidered and a just and impartial settlement made.

At the same time, a copy was sent to Sanjō, and Tani spoke to him of the impropriety of government by a Satsuma and Chōshū clique. (51) On the other hand, Tani refused the overtures of Itagaki and his followers to co-operate with them in denouncing the government.

While the memorial of the four Major Generals was still being pondered, Kaneko Kentarō, a Secretary of the Genro-In, visited Sasaki on the 24th of September to ask him his opinion of the Colonisation Department sale. (52) Sasaki told him that he was opposed to it, and very anxious about the present situation. Kaneko thereupon told Sasaki that he had recently become associated with a group consisting of Iwasaki Kōjirō, the Chief of the Banking Bureau in the Finance Department, Miyoshi Taizō, a Chief Secretary of the Justice Department, Shimada Saburō and Tanaka Kōzō, Secretaries of the Education Department and three or four others. He claimed that Ishibashi Shigetomo and Nakajima Seiyū, two Secretaries of the Finance Department and members of Ōkuma's following, had told him that an opportunity had arisen to break the monopoly of Satsuma and Chōshū in the government and to form a new alliance of Hizen and Saga men. But since

Saga had too little influence, it was planned to unite their sympathisers in all districts. An alliance was to be made with Itagaki to gain the support of Tosa, and Yano Fumiō and Ono Asuza were to gain adherents in Kyūshū. Iwasaki Yatarō of Mitsubishi was to provide funds, and Fukuzawa Yukichi to provide newspaper support with the Hochi Shimbun. Kaneko said that he and his associates had been asked for support, but had refused. They preferred to remain neutral, and held that both the sale of the Colonisation Department assets and the actions of Ōkuma were improper, but that if anything the greater evil was on the side of Ōkuma.

On the same day, Fujita Ichirō called to tell Sasaki that Soejima had joined Ōkuma in reviling Kuroda, and that Kawano also seemed to be friendly with Ōkuma.

On the 25th of September, Tani called on Sasaki, to say that he had heard from Miyoshi and Iwasaki that Kaneko had called on him the previous day and that they had agreed to send a memorial to Arisugawa; Tani wished to sign it too. Kaneko called again on the 26th of September to report that Kawano had finally joined Ōkuma, and spoke of a proposed alliance between Ōkuma and Itagaki on the mediation of Fukuzawa. On the same day, Sasaki met Itō and Yamada, who were no doubt informed of these allegations. While Sasaki and Tani were opposed to
the sale of the Colonisation Department assets, the allegation that Ōkuma was attempting to make political capital out of the sale and proposed to form an alliance with the political party opposition thus seems to have originated from Kaneko and a group of fellow secretaries. Thereafter the suspension of the sale became linked with the dismissal of Ōkuma in the programme which Sasaki and Tani advocated.

On the 28th of September, 1881, Sasaki attended a meeting in Tani's residence which resolved that the sale of the Colonisation Department assets was a mistake; but that it would also be a mistake to open an Assembly under pressure from the popular rights movement. (53) A joint memorial to this effect addressed to Arisugawa was signed by the 16 persons present, including Tani as an Army Major General, Sasaki as Vice-Chairman of the Genrō-In, Kawada, Nakamura and Yasuba as members of the Genrō-In, and a group of Genrō-In and Department secretaries headed by Kaneko. Higashikuze as member of the Genrō-In, Hijikata as Vice-Head of the Home Department and Yamada Nobumichi as a Ken Governor were due to attend the meeting but could not do so owing to official business. Their memorial advocated that the structure of the government should be revised and plans for the establishment

of constitutional government drawn up. It is noticeable that none of the participants in the memorial were men of Satsuma, Chōshū or Hizen.

On the following day, Sasaki spoke with Hijikata on the formation of a Neutral Party (ChūritsuTō); and on the 1st of October Sasaki met with his followers in the Genrō-In, deciding to explain the object of their party to the President and Vice-Presidents as soon as possible after the return of the Emperor from his tour and to demand a speedy reform of the Council. Kaneko called on Sasaki once more to retail a rather far-fetched story of the plans of Fukuzawa and Iwasaki to subsidise members in a future Assembly. (54)

Meanwhile, important moves were being plotted in the Council. When Itō first saw Ōkuma's memorial on the Constitution, he seems to have believed that it had been composed by Fukuzawa. In fact, it was composed by Yano Fumiō who had been a pupil of Fukuzawa. Ōkuma denied any special connection with Fukuzawa, and Fukuzawa's letters show that he was equally in touch with Inoue and Itō at this time. (55) Fukuzawa himself has left an account of a meeting with Itō and Inoue in Ōkuma's residence in late December, 1880, at which they all agreed on plans for a future Assembly. (56) Yano

56. Ōtsu. DNHKSS. 2. p. 553-5.
Fumio who was resting in Ōita Ken at the time of the decision to sell the assets of the Colonisation Department was astonished when he returned to the capital to be told by Sano that it was being said in the Council that he had gone to Kyūshū to stir up popular excitement in aid of Ōkuma's plans to overthrow the government. He notes that in Sasaki's diary a conversation with Itō is recorded on the 29th of August, in which allegations were made that Ōkuma intended to link up with the popular rights movement in alliance with Fukuzawa and Mitsubishi, and that he, Yano, had gone to Kyūshū to spy out conditions. (57)

Yano suggests that Ōkuma was telling the truth when he told Iwakura that his intentions for the Constitution were basically the same as Itō's; but that Itō was embarrassed by the premature leakage of their plans and felt bound to repudiate Ōkuma. (58)

Whatever Itō's motives may have been, his actions in this crisis were directed towards the suspension of the Colonisation Department sale, and to the expulsion of Ōkuma from the government. Whether he genuinely believed that Ōkuma was plotting to overthrow the government in alliance with Itagaki, Fukuzawa and Iwasaki, or whether he sacrificed Ōkuma to appease Kuroda and preserve

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the Satsuma and Chōshū alliance is open to conjecture.

On the 6th of September, 1881 Sanjō reported to Iwakura, who was recuperating from illness in Kyōto, that Itō, Inoue, Yamagata, Yamada and Saigō were pressing charges against Ōkuma. He urged Iwakura to return to the capital to avert a possible split in the Council. (59) On the 18th of September, Yamada in disguise called on Iwakura to repeat the charges against Ōkuma. Iwakura promised to return to the capital the day before the Emperor returned from tour, which was expected to be on the 10th of October. Iwakura would then make up his mind after conferring with Itō directly. On the 1st of October, Kawamura called on Iwakura to urge him to return to the capital since his support was necessary in the urgent task of drawing up a Constitution and forecasting a date for the opening of a National Assembly. He told Iwakura that he, Saigō and Ōyama were working on Kuroda for a settlement of the Colonisation Department problem; although Kuroda had not given them a clear answer, a peaceful settlement was in sight. Iwakura renewed his promise to return to the capital, and insisted that since Imperial orders had been given for the sale it should not be cancelled; instead Kuroda should be prevailed upon to withdraw his original petition.

59. Ōtsu. DNHKSS. 2. p.448-452.
Iwakura left Kyōto for the capital with Kawamura on the 4th of October.

On the 7th of October, Itō called on Iwakura after his arrival in the capital and showed him the draft of an Imperial edict announcing preparations for the establishment of a National Assembly, and draft regulations for the Council, the Genrō-In and a new body to be termed the Sanji-In. He asked Iwakura to have them speedily submitted to the Council, and reporting on Ōkuma's recent conduct he demanded his dismissal from office. Saigō also called on Iwakura to support Itō's proposals. (60)

Meanwhile, Kuroda had at last agreed to the suspension of the Colonisation Department sale in response to the persuasion of Saigō, Kawamura and Kabayama of his own Han. (61) On the 9th of October, Sanjō, Itō, Saigō and Yamada met in Iwakura's residence. It was agreed that when the Emperor returned to the capital the President and Vice-Presidents should obtain Imperial orders for the dismissal of Ōkuma, an edict promising the establishment of a National Assembly, the promulgation of revised regulations for the Council and the Genrō-In, and a swift decision on the Colonisation Department sale to pacify the people. (62)

On the 11th of October, the evening of the return

60. Ōtsu, DNHKSS. 2. p.452.
61. ibid. p.455-56.
of the Emperor to the capital, a Council meeting was held before him at which the Presidents, Vice-Presidents and Junior Councillors were all present with the sole exception of Ōkuma. The Junior Councillors presented a joint proposal to the throne, advocating the appointment of mature nobles (Kizoku rōsei) to the Genrō-In and the placing of the Army and Navy under the direct command of the Emperor in order to establish a firm foundation for Imperial constitutional government. The Upper and Lower Houses of an Assembly were like two wheels; the Genrō-In as the Upper House was to act as a balance to the Lower House, preventing the evil of precipitate change, preserving the permanence of the Constitution and assisting the Imperial House. Imperial princes over the age of 18 years were to be appointed to the Genrō-In, and a Peerage established from which the most able members would be appointed to the Genrō-In by the Emperor for a fixed period of service. The samurai, as the educated class of the country, were also qualified to be selected for service in the Genrō-In and to be ranked with the nobles. Several samurai were to be elected in each Fu and Ken by public election to serve in the Genrō-In for a period somewhat shorter than the nobles.  

The Emperor accepted this proposal, and on the

63. Ōtsu. DNHKSS. 2. p.458-462.
12th of October and Imperial edict was issued to announce the Emperor's intention to summon representatives of the people to a National Assembly to be opened in 1890. On the same day, the Colonisation Department was informed that the order to sell its assets was revoked. (64)

During the Council meeting, the Junior Councillors had insisted on the dismissal of Ōkuma; but Arisugawa and Iwakura avoided the issue by insisting that the meeting was only to discuss the two questions of the Imperial edict and the Colonisation Department sale. It was left to Ito and Saigō to call upon Ōkuma to persuade him to resign. (65)

Faced by the united opposition of his fellow Junior Councillors, Ōkuma had little alternative. His resignation on the 12th of October, 1881, was immediately followed by that of his followers. Yano, Ushiba, Inugai, Ozaki, Nakamigawa, Ono, Mutaguchi, Komatsubara, Nakano, Tanaka and Morishita all resigned from their posts as Secretaries in the Board of Statistics, the Board of Audit, and the Agriculture and Commerce, Foreign, Education and Finance Departments. On the 20th of October, Kawano Togama resigned his post as Head of the Agriculture and Commerce Department, and on the 8th of November, Maejima Mitsu resigned from his post as Postmaster General.

64. Ōtsu. DNHKSS. 2. p. 462-64.
65. Ibid. p. 486-7.
The last word on the Colonisation Department sale came from Iwasaki, who called on Sasaki to complain that he had been unjustly suspected by the government and policemen sent to spy on him. He denied any special connection with Ōkuma and accused Godai of inciting the Satsuma men against him. He had no designs upon the assets of the Colonisation Department, but rather approved of the sale since the persons concerned would be bound to fail and Mitsubishi would profit in the end. (66)

On the resignation of Ōkuma and his followers, a major reconstitution of the Council took place. On the 21st of October, 1881, a return was made to the old system of Junior Councillors acting in addition as Heads of the Executive Departments. The Council therefore consisted of Sanjō as President, Arisugawa and Iwakura as Vice-Presidents. Itō combined his post as Junior Councillor with a new post as Head of the Sanji-In, Yamagata with his post as Head of the General Staff Office. Inoue, Yamada, Matsukata, Ōyama, Kawamura, Fukuoka, Sasaki, Ōki, Saigō and Kuroda acted as Junior Councillors and Heads of the Foreign, Home, Finance, Army, Navy, Education, Industry, Justice, Agriculture and Commerce, and Colonisation Departments. While the majority of posts were held by Satsuma and Chōshū, Hizen was

represented by Ōki, and Tosa by Sasaki and Fukuoka.

On the same day, the six Sections were abolished in the Council Secretariat (67) and a new institution called the Sanji-In was established. (68) The Sanji-In was to consist of a Chairman (Gichō), a Vice-Chairman (Fuku-Gichō), and an unspecified number of Members (Gikan) and Assistant Members (GikanHo). In addition, provision was made for an unspecified number of Outside Assistant Members (Ingai GikanHo) appointed as an additional post from the Secretaries of the Executive Departments. A number of the Assistant Members were to act as the Secretaries of the new body.

The regulations of the Sanji-In stated that it was to draft and scrutinise legal regulations (Hōritsu Kisoku) under the orders of the Council (Naikaku). The Chairman ordered six of the members to act as Heads of the Sections (Bu) into which its business was divided. The assistant members were attached to these six Sections, in which they drew up draft proposals (Gian) and attended the deliberations of the Sanji-In to explain their purport. The outside assistant members were appointed from among the Secretaries of the Executive Departments, and attended deliberations from time to time in connection with the affairs of their chief posts.

67. HRZS. Dajōkan No. 88 Tashhi.
68. HRZS. Dajōkan No. 89 Tashhi.
The business of the Sanji-In was defined under five headings. It drafted legal regulations either on its own proposals or in response to the orders of the Council, and presented its drafts to the Council with covering explanations. It examined drafts of legal regulations sent up from the Executive Departments for approval, and forwarded them to the Council with its opinions and amendments. It examined draft laws (Hōan) debated and determined in the Genrō-In, and could either send an opinion to the Council and request it to order the Genrō-In to reconsider the draft, or on the orders of the Council could send a committee to discuss the matter with the Genrō-In. It gave its opinion on various documents sent to it by the Council that had been sent up for approval from the Executive Departments, government offices and the Fu and Ken. Finally, it examined the Annual Reports and other reports of the Executive Departments.

In addition, the Sanji-In adjudicated disputes of jurisdiction between the Executive and Judiciary, and disputes between local officials and local Assemblies over the laws or limits of jurisdiction. It also clarified doubtful points of law in response to the enquiries of the Executive Departments, government offices and the Fu and Ken. Members of the Sanji-In could be
summoned before the Council to give their opinions upon specific questions, or ordered to attend the meetings of the Genrō-In as the Council Committee (Naikaku Iin) to explain draft proposals (Gian). The business of the Sanji-In was divided into six Sections concerned with Foreign, Home, Military, Financial, Judicial and Legislative Affairs on the lines of the previous division of business in the Council Secretariat.

Itō was appointed Chairman of the new body, Tanaka Fujimaro the Vice-Chairman. Ten members were appointed who were all of Chokunin rank and thus equivalent to Heads and Vice-Heads of Executive Departments. Fukubane was appointed from the Genrō-In, Yamaguchi from Head of the Board of Audit and member of the Genrō-In, Tsuruda from the Genrō-In, Inoue Ki from Chief Secretary of the Council of State, Yamao from Head of the Industry Department, Mizumoto, Watanabe Noboru, Yasuba and Nakamura all from the Genrō-In, Tanaka in addition to his commission as Lieutenant General and Hachisuka from a post as an executive of the Finance Department. By December, 1881 (69), 18 assistant members had been appointed, with a clerical staff of 41 clerks.

On the erection of the Sanji-In to handle the Legislative business of the Council, the other branches of

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69. Kaninroku.
Council business were handled by the Council Secretariat (Dajōkan), the Board of Audit(KaikeiKensaIn) and the Board of Statistics(TōkeiIn). On the 21st of October, 1881 Iwamura of Tosa was appointed Head of the Board of Audit from his post as member of the Genrō-In, and on the 21st of April, 1882 Torio Koyata was appointed Head of the Board of Statistics. In December, 1881 the Council Secretariat consisted of 3 Chief Secretaries, 4 Lesser Secretaries and 48 Clerks; the Board of Audit of 13 Auditors and Secretaries and 87 sub-Auditors and clerks; the Board of Statistics of 4 Secretaries and 23 Clerks. (70)

On the 25th of October, 1881 two Bureaux were set up in the Council Secretariat. (71) The No.1 Bureau(Daiichi Kyoku) examined documents concerning Foreign, Finance, Agriculture and Commerce, and Industry business; the No.2 Bureau(Daini Kyoku) examined documents concerned with Home, Education, Military and Judicial business. The procedure for handling business in these Bureaux was indicated on the 28th of October, 1881. (72) They received official documents from the Council Secretaries Bureau(Naikaku Shokikan Kyoku), attached their opinions (Kōan) to them and sent them up to the Council under

70. Kaninrouku.  
71. HKBRTZ.1. KSM.3. Dajōkan/Naikaku.2. p.300.  
72. ibid. p.300-1.
the title of the Bureau for the scrutiny of the Presidents and Junior Councillors. The Presidents and Junior Councillors indicated whether these documents should be forwarded to the Sanji-In, the Genrō-In or the Board of Audit, or sent as enquiries (Kamon) to government offices. If so, they were returned to the Council Secretaries Bureau for disposal. In December, 1881 both these Bureaux were staffed by 3 Secretaries and 10 clerks. (73)

The return to the system whereby the Junior Councillors held additional posts as Heads of Executive Departments illustrates that the line between Council and Executive functions had still to be properly defined. One of the reasons for the previous attempt at division had been to avoid a state of affairs in which Councillors would not comment on the affairs of Departments headed by fellow Councillors as if declining to poke their noses into another's business. (74) But the division in fact either resulted in the Head of the Department being overshadowed by a powerful Councillor as in the case of Sano and Ōkuma, or led to acrimonious disputes within the Department which the Head lacked sufficient influence to resolve. Thus Kawano as Head of the Agriculture and Commerce Department had been involved in disputes with his Vice-Head Shinagawa, (75) and Enomoto had resigned.

73. Kaninroku.
74. Yamazaki. Naikaku Seido no Kenkyū. p.64.
from Head of the Navy Department after disputes over Naval Policy. (76) The need was rather for the Junior Councillors to exchange Executive Departments more freely than for a division of functions, since the Departments still required a strong Head to keep them under control.

The erection of the Sanji-In under the Chairmanship of Itō assisted by a team of talented high-officials from the Departments and the Genrō-In reinforced the principle of strong Council control over the Legislature. This body also exercised the Council prerogative of determining the respective boundaries of the Executive and Judiciary. The Council still determined what legal drafts should be submitted to the Genrō-In; meanwhile the powers of Heads of Executive Departments to draft and issue legal regulations was still rather vague. In the regulations for the conduct of business in the Executive Departments issued on the 10th of November, 1881 (77) it was re-iterated that when Heads of Departments drafted legal regulations (Hōritsu Kisoku) for the business in their charge or when they proposed abolitions or revisions of the existing regulations, the Head was to report the draft (An) to the throne and await the Imperial decision. When legal regulations were promulgated, the Head of the Department concerned was to countersign them and bore the

76. Vid. Japan Weekly Mail, April 9th, 30th 1881.
77. HRZS. Dajōkan No. 94 Tasshi.
responsibility for putting them into effect. When such legal regulations concerned the business of two or more Departments, the Heads concerned jointly countersigned them. Heads of Departments were empowered to issue instructions and admonitions to the officials under their charge. On the same day, the division of business between and within the Departments was ordered to be as before. Yamagata had sent in a memorial pointing out the need for definition in the scope of the Departments, but had suggested that for the moment the current regulations should be maintained until future investigations were complete.

The division of legislation into clear categories of laws issued by the Council, laws issued with the consent of the Genrō-In and legal regulations issued by the Executive Departments had still to be made before the Council, National Assembly and Executive Departments could function as distinct entities under a written Constitution.

On the 1st of November, 1881 Sasaki spoke with Matsukata about the mutual reserve of the Junior Councillors in Council meetings, which he hoped to reform by getting them to discuss matters freely and openly. Previously the Junior Councillors had each pressed their

78. HRZS. Dajōkan No.94 Tasshi, clauses 3,4,5.
79. HRZS. Dajōkan No.95 Tasshi.
80. HKBRTZ.1. KSM.1. KSS. p.69.
own opinions on the President and Vice-Presidents, but Sasaki hoped that henceforth matters would be freely discussed among the Junior Councillors and then sent to the Presidents for report to the Emperor. Matsukata agreed, but warned Sasaki that Kuroda had a suspicious nature. On the 4th of November, Sasaki met Ito and Matsukata to discuss government finance; Sasaki urged that each Department should submit its estimates at the end of each year to be fully debated in the Council to ensure a fair division of government funds and to cut down waste. The tensions which had existed within the Council chamber since the Restoration were clearly still much alive.

Since the cancellation of the Colonisation Department sale, Kuroda in discontent had refused to attend to business. Iwakura, Sanjō and the Satsuma Councillors remonstrated with him, but he would still not respond. Ito suggested that Kuroda should be offered the post of Head of a new Communications Department on the coming abolition of the Colonisation Department. But when he learned that Kuroda would be unlikely to accept, Ito then proposed that he himself should transfer to the Genrō-In, that Yamada should succeed him as Chairman of the Sanzi-In and that Kuroda should be appointed Head.

82. ibid. p.556-7.
of the Home Department. But it was objected that if Kuroda was appointed to this post, a split would develop within the Department. Kawamura then suggested that a General Staff Office should be set up in the Navy of which he himself should be Head, and that Kuroda should be appointed Head of the Navy Department. But Saigō and Yamagata opposed this on the grounds that there was no such body in Foreign countries. Itō then suggested that the abolition of the Colonisation Department could be postponed, but Yamagata threatened to resign if this was done. Finally, after getting the agreement of the Satsuma Councillors to follow the ruling of the Council, it was resolved that Kuroda should be allowed to resign. Accordingly, on the 11th of January, 1882 Kuroda left his posts as Junior Councillor and Head of the Colonisation Department, and was appointed to the retired post of Council Adviser (Naikaku Komon).

It is an interesting parallel that Kido had held this post from his resignation in 1876 until his death the following year. On the death of Ōkubo, Kuroda was the senior Satsuma Councillor and might have expected to succeed him as the leader of the Council. But Itō's recent triumph over Ōkuma was also a triumph over Kuroda, for he had been forced to agree to the suspension of the

Colonisation Department sale. Just as Kido's illnesses and petulance drew his Chōshū followers towards Ōkubo, so the drunkeness of Kuroda turned his Satsuma followers increasingly towards Itō, whose fairness and conciliation made it easy for them to do so. And just as Kido found it impossible to work with Ōkubo in such a situation, so Kuroda could not reconcile himself to being out-shone by Itō. With the dismissal of Ōkuma and the retirement of Kuroda, Itō's star was perceptibly rising. It was soon to reach its zenith as his talent as a drafter of legislation marked him out as the man to direct Japan into the new era of constitutional government.

In a conversation with Sasaki on the 16th of November 1881 Itō insisted that the creation of a peerage system was a necessary step in the process of transforming the Genrō-In into the Upper House of a National Assembly. Itō was particularly insistent that samurai and commoners of merit should be ennobled. When Sasaki spoke of this to Sanjō and Iwakura, they were very anxious that the present nobles would resent titles being given to samurai and commoners, and felt that since most of the men of merit who could expect to be elevated were from Satsuma, Chōshū, Tosa and Hizen, the samurai of the country as a whole would share their resentment. In order to pacify the samurai, the Council therefore determined on the 12th
of December, 1881 to spend ¥800,000 per annum for the next seven years on schemes for the relief of needy samurai. (84)

The next step was to determine who should draft the Constitution. On the 6th of July, 1881, Iwakura in a letter to Saño and Arisugawa suggested three methods by which the Constitution could be drawn up. (85) A committee could be set up to draft a Constitution openly; or a Bureau could be set up in the Imperial Palace under one of the Presidents to draft a Constitution secretly; or three or four men from among the Presidents and the Junior Councillors could be secretly appointed by the Emperor to draft a Constitution to be put before the Council when complete.

On the 23rd of January, 1882, Inoue invited Sasaki, Fukuoka and Öki, the three Junior Councillors who were not from Satsuma or Chōshū, to his residence and asked their support for the dispatch of Itō to Europe for one year to study constitutions. On Itō's return, all matters concerning the Constitution would then be determined. Inoue told them that Iwakura had already agreed to this, and that Sanjō, Arisugawa, Yamagata, Saigō and Öyama also approved. Inoue also mentioned that Itō had recently been suffering from nervous exhaustion and had to drink heavily to be able to sleep at night, and so

85. Iwakura Kō Jikki. 3. p.715.
the trip to Europe might benefit his health. Ōki suggested that Arisugawa should be sent with him; Sasaki agreed but pointed out the need to avoid a repetition of the Iwakura Embassy troubles. (86)

On the 5th of February, 1882, Sasaki and Ōki called on Iwakura to urge that the Constitution should be based upon the Imperial Household, and not simply upon the model of Germany. In the Constitution, the Executive and Legislature should be clearly separated. It should also be an opportunity to sweep away government by the Satsuma and Chōshū clique; if Satsuma and Chōshū still held the governing power after the opening of the Assembly it would cause great damage to the country. Iwakura agreed, and suggested that the problem might be solved if an Advisory Bureau (KomonKyoku) were set up in the Palace Department to which the Satsuma and Chōshū Junior Councillors could be appointed as an honorific post while retaining their Councillor rank. However, Iwakura said that the expense of this would amount to about ¥300,000 which would be difficult to obtain in the present state of government finance. (87)

On the 11th of February, Sasaki called on Itō to discuss the Council. Itō agreed that the influence of Satsuma and Chōshū ought to be cut down, but thought it

87. Ibid. p. 569-70.
hard to effect. Sasaki urged that the influence of the Genrō-In should be increased to prevent the preponderance (Hencho) of the Council. Itō replied that on his return to Japan on the following year, he would create a new peerage system and reform the Genrō-In.\(^{88}\)

On the basis of a report to the Emperor by the Presidents and Vice-Presidents on the 24th of February, 1882, it was resolved to send Itō overseas to study constitutions; the other Junior Councillors were enjoined to labour in their respective charges for the improvement of the administration in mutual understanding and resolve.\(^{89}\) On the 25th of February, on receipt of Imperial orders to visit Europe, Itō resigned his additional post as Chairman of the Sanji-In. On the 27th, Yamagata replaced him in this post. Itō left Japan on the 14th of March, 1882; he was accompanied by Itō Miyoji who had worked under him in the Sanji-In, Hirata Tōsuke of the Finance Department put up by Yamagata, Kawajima of Satsuma from the same Department, Yamazaki the Chief Secretary of the Council Secretariat, Miyoshi of the Justice Department put up by Inoue, Yoshida of Tosa from the Foreign Department, and Saionji of the Palace Department.\(^{90}\)

These men were all Secretaries of talent, and among them

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89. Ōtsu. DNHKSS. 2. p. 738-742.
most Departments and most interests were represented.

Meanwhile, the numbers of the Genrō-In members were increasing steadily; from 29 in 1880, to 35 in 1881, to 40 in 1882. But as has been seen, the Council rejected the Genrō-In draft Constitution, and the Bureau for the Investigation of the Constitution (Kokken Torishirabe Kyoku) within the Genrō-In was closed on the 23rd of March, 1881. The new Sanji-In had also eaten into the Jurisdiction of the Genrō-In as the organ for the consideration of legislation. Opinion in the Genrō-In was naturally disturbed at these developments.\(^{91}\) During Ito's absence, it became necessary for the Council to issue a notification to the Genrō-In on the subject of its legislative powers. On the 28th of June, 1883, the Genrō-In was informed that although all Laws (Hōritsu) must necessarily be submitted to its debate and decision, yet some matters promulgated by the government were not submitted to the Genrō-In since all promulgations (Fukoku) were not necessarily laws (Hōritsu). Such matters were not submitted to the Genrō-In because although they were of great importance and were promulgated to the people, their character was annexed to the jurisdiction of the Executive (Gyōsei no Kān) rather than to the Legislature (Rippō). Henceforth, promulgations (Fukoku) concerned

with war and peace, treaties, the establishment and abolition of Executive Departments and the granting of ranks and titles (Kunshaku) which are within the scope of the Executive were not to be submitted to the Genrō-In. (92)

On the same day, Yamagata as Chairman of the Sanji-In sent a note to the Vice-Chairman of the Genrō-In providing for his reference an investigation made in 1879 by the Council Secretariat on the subject of classifying the promulgations of the government. (93) The Council Secretariat noted that laws concerning the government and the people such as taxation and conscription laws, legal codes, laws concerning the rights, private affairs and occupations of the people, the national debt and boundaries are in the constitutions of all countries sanctioned by the Legislature. But declarations of war and peace, treaties, the establishment and abolition of government offices, the grant of honours and other matters are reserved to the jurisdiction of Executive officials and are not submitted to the Legislature.

Ito returned from Europe on the 4th of August, 1883. He did not resume his post as Chairman of the Sanji-In, but was appointed Head of the Official System Investigations Bureau (Seido Torishirabe Kyoku) on the 17th of

92. HKBRTZ.1.KSM.17.KS. Genrō-In. p.87-8.
March, 1884. This was a new Bureau set up in the Palace Department, of which Ito was next appointed Head on the 21st of March. But Ito retained his control over the drafting of the most important branches of government legislation. For on the 24th of March, instructions were issued that drafts for the establishment or revision of laws (Horitsu) sent up to the Council for approval by the Executive Departments should be inspected by the Junior Councillors chiefly concerned and sent for examination in the Official System Investigation Bureau. They were then to be submitted to the debate and decision of the Sanji-In, and after general discussion in the Council they were put before the Emperor for approval. They were next submitted to the Genro-In, and after being discussed for a second time in the Council, they were sent up to the throne for permission to be put into effect. On the same day, the Sanji-In was informed that all documents concerning legal regulations (Horitsu Kisoku) and changes in the official system (Shokusei; Seido) were to be forwarded to the Official System Investigations Bureau in the Palace Department. (94)

The new Bureau was thus specifically concerned with legal regulations relating to the official system. In it, Ito assisted chiefly by Inoue Ki and Ito Miyoji drew up

the plans for the new Council system of 1885, and the
draft of the Constitution of 1889.

While there was still little sign of independent
legislative activity by the Genrō-In, the Sanji-In
attached to the Council continued to grow. In October,
1884 it consisted of one Chairman, 17 members(Gikan),
32 assistant members(Gikan Ho), 26 outside assistant
members(Ingai Gikan Ho), 9 Secretaries and 77 clerks.(95)

The next step towards the creation of an Upper House
was the Peerage Law of the 7th of July, 1884. Fives
grades of nobility were created, and appointments made
for 11 Princes(Kōshaku), 24 Marquises(Kōshaku), 76 Counts
(Hakushaku), 324 Viscounts(Shishaku) and 74 Barons
(Danshaku). In accordance with Ito's plans, the new
system broke the old distinction between the Court nobles
and Daimyō(Kazoku) and the samurai and commoners who had
held important positions in the government. The descend­
ants of Kido and Ōkubo were granted the rank of Marquis;
present and past Junior Councillors were in general given
the rank of Count; distinguished soldiers, sailors and
executives ranking as Viscounts. These titles were to
be hereditary in the direct male line, and bonds were
given from the property of the Imperial Household to
samurai and commoners with insufficient property to

95. Kaninroku. October 2nd, 1884.
maintain their position. In the case of Counts, the sum was ¥35,000 on which they received interest on the directions of the Head of the Palace Department.

The Court nobles who had shared in the restored fortunes of the Emperor, and the Daimyō who had been generously pensioned on the abolition of the Han in 1871, were thus joined by the government samurai; together they formed a conservative bloc closely attached to the government by ties of interest from which to create the Upper House of a future National Assembly.
CHAPTER 5.
COUNCIL AND CONSTITUTION. 1885-1890.

Having raised the government samurai to the peerage, Itō next faced the delicate task of raising a Junior Councillor to the Presidency as an essential step towards replacing the old Council of State by a modern Cabinet system. Iwakura had died on the 20th of July, 1883, thus leaving Sanjō as President and Arisugawa as the sole Vice-President. It was clear that they would eventually have to be superseded, but there was considerable reluctance among the Junior Councillors for the unenviable task of doing so. Even Ōkubo had refused a Presidential post.

Itō approached the problem by suggesting that Kuroda should be appointed to the post of Vice-President (Udaijin) left vacant after the death of Iwakura. Since his resignation in 1882, Kuroda had remained in the retired post of Council Adviser (Naikaku Komon) and had kept aloof from government affairs. If Itō could persuade him to accept a post as Vice-President, Satsuma would be conciliated and the way opened for a Junior Councillor to assume the Presidency of the future Cabinet.
In November, 1885 Itō therefore conferred with Sanjō to get Kuroda to accept the post, and in an interview with the Emperor also recommended that Kuroda be appointed. The Emperor replied that if the appointment of a Vice-President was necessary, Itō himself should assume the post. The Emperor feared that if Kuroda was made Vice-President while the real power remained with Itō, a situation might arise like that of the time when Shimazu was appointed Vice-President. The Emperor doubted if Kuroda had the wisdom and popularity to assume the post, but declared that he would appoint Kuroda if Sanjō and Itō pressed him to do so.(1)

Itō got Sanjō to persuade Kuroda to accept the post, which Kuroda did in a letter to Sanjō on the 20th of November, 1885. But the following day, Kuroda suddenly refused the appointment as if aware that he was being picked as Itō's watch-dog, and perhaps because he was aware of opposition to him in influential Court circles. When Kuroda's refusal became known, a Council meeting was held on the 24th of November. The general view was that Itō should be appointed Vice-President, but Itō himself would not accept. When Sanjō reported this to the Emperor, the Emperor suggested that the question of a Vice-President should be put aside, and that the

reform of the Council should proceed. \(^{(2)}\)

On the 3rd of December, 1885, Sanjō spoke to Sasaki of his opposition to the appointment of Kuroda which he declared had earned him the dislike of Itō and the majority of the Satsuma Junior Councillors. He told Sasaki that he intended to retire from his post as President in the coming reform of the Council. Sasaki spoke of the low moral standing of the Junior Councillors in the eyes of the nation, and felt that a man promoted to a Presidential post from among the samurai would have no moral influence, especially Kuroda whose drunkenness disgusted the whole realm. Sanjō also told Sasaki that Itō had attempted to put up Ōki as Vice-President before turning to Kuroda, which they regarded as an attempt by the Chōshū Junior Councillors to open the way for their assumption of power by the use of these men as a front. Sasaki then called on Itō, who spoke of his concern at appearing to demote Sanjō who although feeble had great moral influence and a distinguished family name and official record. \(^{(3)}\)

By this time, Itō's plans for the reform of the Council were complete. When the question was raised of who should be the President (Naikaku Sōri Daijin) of the new Council, Sanjō declined of his own accord and

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suggested Ito. The Emperor approved. Ito then called a meeting of the Junior Councillors and Kuroda to discuss the new system in Sanjō's residence. All the Junior Councillors attended, but Kuroda refused and in a drunken state abused Ito's messenger. On the 8th of December, Inoue called on Kuroda to remonstrate with him, but was drunkenly abused and threatened with a pistol. Finally, Sanjō attempted to get Kuroda to attend, but Kuroda persisted in his refusal to do so and Ito decided to form a Cabinet without Kuroda's assistance. But still anxious about the effect of excluding Kuroda on the Satsuma men, Ito proposed Kuroda as Minister of Agriculture and Commerce. The Emperor agreed to this proposal on the 12th of December; but on the following day Kuroda announced his intention of resigning his posts as Council Adviser and Major General on a plea of illness. Kuroda's sulking at this juncture was decisive in drawing his Satsuma followers towards Ito and did much to make his coming assumption of the Presidency a success. (4)

On the 22nd of December, 1885, Sanjō presented a petition to the Emperor asking to be relieved of his post as President, and for a new Council (Naikaku) to replace the old Council of State (Dajōkan). He stated that in the previous system, the Executive Departments

had sent administrative orders (Shirei) to the Council, which sent back notice of their adoption and ordered the Departments to put them into effect. Thus all official documents had to pass through the Council, to which the Departments stood in much the same relation as the Bureaux within a Department stood towards the Department itself. This was a makeshift arrangement which was not only unable to maintain uniformity in the government, but in lightening the responsibilities of Heads of Departments led to the evil of obstruction in handling business. The Emperor had now reached an age of discretion and was able to grasp the reins of government, attending the Council and summoning Ministers for advice on civil and military affairs. In the face of pressing affairs both domestic and foreign, and with the need to strengthen the official system and to exercise strict economy in government finance, it was now time for a change. The system whereby a Council of State was set up over the Executive Departments should be replaced by a Council in which Ministers should meet before the Emperor to handle all matters of state expeditiously. The Ministers should attend the Council to assent to matters of government, and return to apply them in their respective Departments, thus acting as the hands, feet, ears and eyes of the Emperor. But one Minister should
be chosen to apply himself especially to both foreign and domestic business, and to advise the Emperor with the special aim of preserving the balance and unity of all the Departments. It was in this principle that the ancient system of direct government by Imperial decision had consisted, and this was the principle of the Constitution. (5)

On the same day, December 22nd, 1885, the old offices of President, Vice-President, Junior Councillors and Heads of Departments were abolished; and a President (NaikakuSōriDaijin) and Ministers (Daijin) of the Palace, Foreign, Home, Finance, Army, Navy, Justice, Education, Agriculture and Commerce and Communications Departments were set up. (6) The President and Ministers, with the exception of the Minister of the Palace Department, corporately formed the Council (Naikaku). On the same day, a new office of Household Minister (NaiDaijin) was established to keep the Imperial seal and the Seal of State, to be the Personal Adviser (Jōtai Hohitsu) of the Emperor and to preside over the Assembly of the Palace Advisers (Kyūchū Komon). Up to 15 men of Chokunin rank were to be appointed Palace Advisers, for consultation and advice on Court ceremonies. (7)

The new Council consisted of Itō as President, and

5. Ōtsu. DNHKSS. 2. p.809-10.
6. HRZS. Dajōkan No.69 Tasshi.
7. HRZS. Dajōkan No.68 Tasshi.
Inoue, Yamagata, Matsukata, Ōyama, Saigō, Yamada, Mori, Tani and Enomoto as Ministers of the Foreign, Home, Finance, Army, Navy, Justice, Education, Agriculture and Commerce, and Communications Departments respectively. Íto remained Head of the Palace Department; Sanjo was appointed Household Minister (NaiDaijin), and Kawamura, Fukuoka, Sasaki, Terashima, Sano and Yamao were appointed Palace Advisers (Kyūchū Komon).

The functions of the Council were defined as follows.

1. The President at the head of the Ministers reports all matters to the Emperor, and in response to his wishes directs the policy of the government, exercising a general supervision over all branches of the administration.

2. The President in considering their conduct of affairs may demand explanations and particulars from the Executive Departments.

3. The President when he deems it necessary may suspend the actions or orders of all branches of the administration pending a decision by the Emperor.

4. The President supervises the legal drafting committees (Hōritsu Kian Iin) of all branches of the administration.

5. All Legal Orders (Hōritsu Meirei) are countersigned by the President; those concerning the business of Executive Departments are countersigned by the President and
and the Minister responsible.

6. Ministers are to report to the President from time to time on the business under their charge. Although the Chief of the General Staff Office reports to the Emperor directly on military matters, the Army Minister is to report such matters to the President.

7. When a Minister is indisposed, another Minister may handle his business on receipt of special orders. (8)

On the 23rd of December, 1885, a special message from the Emperor spoke of the need to adopt a simplified Council system in which Ministers should individually bear responsibility for their Departments under the direction of the President. It was hoped in this way to avoid the delays and complexities of the previous system in which the Executive Departments made reports to the Council and awaited orders before acting. The need was for responsibility to be made clear in all branches of the government to reduce wasteful expenditure, delay and inefficiency. (9)

Again on the 23rd of December, the Legislation Bureau (HōseiKyoku) was re-established in the Council Secretariat to replace the Sanji-In and the Official System Investigations Bureau which were abolished on the previous day. (10) The new Legislation Bureau consisted of a

8. Ōtsu. DNHKSS. 2. p.812.
10. HRZS. Naikaku No.74 Tasshi.
Head of Chokunin rank, and 20 officials (Sanjikan) of Secretarial rank. Yamao Yōzō of Chōshū who had been Vice-Chairman of the Sanji-In at the time of its abolition was appointed Head of the Legislation Bureau in addition to his post as Palace Adviser. It is noteworthy that whereas the members of the Sanji-In had been of Chokunin rank drawn mainly from the Genrō-In, the members of the new Legislation Bureau were all of secretarial rank. The Bureau was under the jurisdiction of the Council President so, as ever, Ito retained control of the organ for drafting government legislation. The members of the Bureau were divided into three sections (Bu); an Executive Section (Gyōseibu) to draft and examine regulations concerning the business of the Executive Departments; a Legislation Section (Hōseibu) to draft and examine Civil Codes, Laws of Appeal, Commercial Laws and Criminal Laws and instructions relating to them; and a Justice Section (Shihōbu) controlling amnesties and special favours, the constitution of the courts and the administration of justice. This Bureau also adjudicated disputes between local Governors and local Assemblies.

The Council Secretariat was also streamlined. On the 24th of December, an instruction was issued that four secretaries were to be appointed Council Secretaries (Naikaku Shokikan) to handle correspondence and keep
documents concerning the personal status of officials of secretarial rank and above under the orders of the Council President.\(^{(11)}\) On the same day, three Bureaux were established to handle Records (Kiroku Kyoku), Accounts (Kaikei Kyoku) and the Official Gazette (Kampo Kyoku). Each of these Bureaux was headed by a secretary, assisted by another secretary.\(^{(12)}\) On the 28th of December, the Board of Statistics was reduced to a Bureau (Tōkei Kyoku).\(^{(13)}\)

This was part of a general move to simplify the working of the government on lines laid down by Itō in the Instructions to Ministers issued on the 26th of December, 1885.\(^{(14)}\) These Instructions were under five headings; the definition of official responsibilities, appointments, the superabundance of documents, the reduction of superfluous expenditure, and discipline. Besides the need for economy in government finance, there was the need to free the Council from the mass of business sent up for ratification by the Executive Departments.

On the subject of the superabundance of official documents, Itō declared that at the time of the Restoration when the old was constantly giving way to the new, inferior officials had to apply to their superiors for instruction in their duties, no matter how trifling. This had become

\[^{(11)}\text{HRZS. Naikaku No.75 Tasshi.}\]
\[^{(12)}\text{HRZS. Naikaku No.76 Tasshi.}\]
\[^{(13)}\text{HRZS. Naikaku No.83 Tasshi.}\]
\[^{(14)}\text{HRZS. 1885. p.1053-60.}\]
a habit, and whenever an order was issued a hundred questions were instantly asked as to its meaning. Such was the mass of correspondence thus necessitated that sometimes six or twelve months were devoted to the settlement of a single subject. To this Ito attributed the accumulation of business and the vast increase in superfluous officials in the Council Secretariat and in the Executive Departments. The remedy was to be sought in transmitting regulations to government offices with explanations attached. Local Governors and Heads of Bureaux and Sections were to be forbidden to ask for guidance in executing orders when these were accompanied by an explicit statement of their intention. When no such statement was given, the spirit of the instructions was to be taken as a guide.

The respective offices of President and Ministers, Council and Executive Departments were clarified in the regulations for Official Documents issued on the 24th of February, 1886. Laws (Horitsu) and Ordinances (Chokurei) were to be issued by the Emperor. Laws requiring the previous deliberation of the Genro-In were to follow the practice of the past. All Laws and Ordinances were to be drafted in the Council, or presented to the Council by the Department Ministers. In all cases, they were  

15. HRZS. Chokurei No.1.
presented to the throne by the President for the Imperial assent. After Imperial assent, all Laws and Ordinances received the Imperial seal and were dated and countersigned by the President. If the Law or Ordinance related to a particular matter under the charge of a Department Minister, it was countersigned by the President and the Minister concerned. The President and the Department Ministers within the limits of the powers delegated to them by Laws and Ordinances could respectively issue Council Instructions (Kakurei) or Department Instructions (Shōrei) for the purpose of regulating details connected with the enforcement of Laws and Ordinances and for maintaining public peace and order. Regulations (Kisoku) applicable to all government offices were to be issued by the President; regulations for individual offices for the conduct of their business were issued by the Department Minister concerned. All Laws and Ordinances were to be published in the Official Gazette (Kampō). The State Seal and the Imperial Seal were kept by the Household Minister (NaiDaijin), and were applied by him to Laws and Ordinances after the Emperor had signed them. Laws and Ordinances, appointments of Chokunin and Sōnin received the Imperial seal; Treaties, Letters of Authorisation and honours received the State seal.

Regulations were issued for the Executive Departments
on the 26th of February, 1886. (16) Ministers were empowered to issue Department Instructions and to draw up detailed regulations for the conduct of business within the Bureaux and Sections of the Department. But they were forbidden to create, abolish, subdivide or amalgamate the Bureaux and Sections within the Department, or to increase the number of executives (Chokunin) and secretaries (Sōnin) within the Department unless by Imperial sanction after the discussion of the Council. (17)

In these same regulations, the structure of the Executive Departments was closely modelled upon that of the Council Secretariat. In response to the delegation of legislative power to draw up Instructions and regulations for the conduct of business in the Department, a number of officials of secretarial rank were to be appointed as Sanjikan in parallel to the Sanjikan of the Legislation Bureau of the Council Secretariat.

The new system was avowedly an attempt to make Ministers directly responsible to the Emperor. The principle of the joint responsibility of the Cabinet could not be admitted for fear of invading the Imperial prerogative. But the powers of the President in the new system were extensive, and he retained a firm control of the Legislature. The true object of the reform of

16. HRZS. Chokurei No.2.
17. ibid. Clauses 6, 8, 14.
December, 1885 was not to free the Executive Departments from Council control, but to free the Council from an excessive burden of enquiries on minor administrative matters sent up from the Executive Departments for approval.

With the near prospect of constitutional government, the President and Ministers devoted themselves in their several capacities to the general improvement of the administration. It was the efforts of Inoue as Foreign Minister to secure Treaty revision that brought about the next crisis in the Council.

From May 1st, 1886, until April 22nd, 1887, Inoue conducted negotiations with the representatives of the major treaty powers in Tōkyō. On June 24th, 1887, a newspaper leader reported a rumour that Inoue had agreed to the employment of foreign judges as procurators in courts trying cases involving foreigners as a condition for the abolition of extra-territoriality. An immediate outcry was raised by the political party opponents of the government; but within the Council itself there had been disquiet for some time at the way in which Inoue was conducting the negotiations. Inoue considered that treaty revision could not be obtained unless the Powers were convinced of the social as well as of the political "europeanisation" of Japan, and treated the diplomatic
representatives in Tōkyō to entertainments and fancy-dress balls in the Rokumeikan, a building specially erected for the purpose.

Kuroda returned from a visit to Europe in the spring of 1887, and taking offence at the "Europeanisation" policy of Itō and Inoue secretly approached Itagaki and Gotō, the principal leaders of the political party opposition. At the same time, Ōkuma was also approaching Itagaki and Gotō, and the three of them met at Gotō's residence on the 13th of July, 1887. Meanwhile, Tani Kanjō, the Minister of Agriculture and Commerce, had resumed his duties on the 24th of June after an overseas tour and began a fierce attack upon Inoue's policies in negotiating treaty revision. In a memorial to the Council, Tani insisted that foreign interference in the internal affairs of Japan should not be tolerated and urged that a strong attitude was more likely to bring success than an over-conciliatory one. But he also objected to treaty revision being secretly negotiated in the Foreign Department, pointing out that he himself as Minister of Agriculture and Commerce had a great interest in treaty revision from the customs angle. An affair like treaty revision which concerns the country as a whole ought to be discussed by the

18. Ōtsu. DNHKSS. 3. p. 69.
whole Council. In Europe and America when any great event occurs, the Minister of each Department was called upon to state his views and the Foreign Department authorised to act after their deliberations. (19)

It was a fact that members of the Council were working on projects on which the other Council Ministers were not necessarily fully informed. Yamagata's work on local self-government, for example, was largely his private affair and he had embarked upon it in the face of opposition from Itō. (20)

On June 7th, 1887, a Council meeting was held in which Tani presented his memorial. Several meetings were held to discuss the matter in the next fortnight, and the Genrō-In was also consulted. Those opposed to Inoue's proposals were Kuroda, Council Adviser (Naikaku Komon), Katsu, Palace Adviser (Kyūchū Komon), Tani, Minister of Agriculture and Commerce, and Saigō, Navy Minister. Boissonade, the legal adviser to the government, also opposed the appointment of foreign judges and procurators to the courts. (21) Tani's memorial had called for the suspension of treaty revision negotiations until 1890, when the Assembly had been opened and the government could confront the treaty powers with a united public opinion to reinforce its demands; the other Council

Ministers did not agree, and in an interview with the Emperor on the 20th of July, Tani asked to be allowed to resign. On the 24th of July, his resignation was accepted and Hijikata replaced him as Minister of Agriculture and Commerce. (22)

Faced with opposition within the Council and mounting indignation outside, Itō planned a strategic withdrawal. On the 16th of September, Inoue resigned from Foreign Minister and was appointed to a retired post as Palace Adviser (Kyūchū Komon); Itō took over the Foreign Department as an additional post and relinquished the Palace Department to Hijikata. Kuroda entered the Cabinet as Minister of Agriculture and Commerce. Itō was now planning for Kuroda to succeed him as President, and Itō and Inoue assisted Kuroda to persuade Ōkuma to serve under him as Foreign Minister. Ōkuma attempted to get a promise from Itō and Kuroda that political party cabinets should be formed in ten years time as a condition for his re-entry to the government. But Itō adamantly refused, and Ōkuma finally agreed to join the Cabinet without conditions. (23) Accordingly, on the 1st of February, 1888, Itō resigned his additional post as Foreign Minister, and Ōkuma replaced him.

Before resigning the Presidency of the Council to

23. Ōtsu. DNHKSS. 3. p.70.
Kuroda, Itō created a new body called the Sumitsu-In. On the 28th of April, 1888, an Ordinance was issued setting up the new body.\(^{(24)}\) The preamble stated that the Sumitsu-In was the supreme organ for advising the Emperor (Shikō Komon no Fu), in which the Emperor consulted persons who have rendered distinguished services to the state (Genkun) and men learned in state affairs. The regulations for the Sumitsu-In state that it was the place in which the Emperor held consultations on important matters of state. It was composed of one Chairman, one Vice-Chairman and 12 or more Advisers (Komonkan) who were all directly appointed by the Emperor (Shinnin). Its function was to hold deliberations and to present opinions to the Emperor on the following matters.

1. Differences of opinion as to the interpretation of the Constitution or of Laws appertaining thereto; and questions relating to the Estimates or other financial matters.

2. Drafts of amendments to the Constitution or to the Laws appertaining thereto.

3. Important Ordinances (Chokurei).

4. Drafts of new Laws and drafts for the abolition or amendment of existing Laws; Treaties with Foreign powers; the planning of administrative organisations.

\(^{(24)}\) HRZS. Chokurei No.22.
5. Any other matters touching important administrative or financial measures upon which the opinion of the Sümitsu-In is specially required by the order of the Emperor, and matters upon which the opinion of the Sümitsu-In has to be taken by reason of some special Law or Ordinance. (Clause 6)

Although the Sümitsu-In was the Emperor's supreme advisory body on legislative and executive matters, it was not to be directly concerned with the executive. (Clause 8) Department Ministers by virtue of their office were entitled to sit in the Sümitsu-In as Advisers (Komonkan) and had the right to vote. (Clause 11) The Chairman exercised supreme control over all the business of the Sümitsu-In and signed every document that proceeded from it. (Clause 12)

The detailed regulations for the business of the Sümitsu-In state that it was forbidden to receive petitions or other communications from the National Assembly, from either House of the same, or from any of the Emperor's subjects. (Clause 2) The Sümitsu-In was to have official relations only with the Council and the Department Ministers. (Clause 3) The decisions of the Sümitsu-In were presented to the Emperor, and a copy sent to the President of the Cabinet. (Naikaku Sōri Daijin). (Clause 13)

On the 30th of April, 1888 Itō resigned the Presidency
of the Cabinet (Naikaku) to Kuroda, and was appointed Chairman (Gichō) of the Privy Council (Sūmitsu-In). Under him as Privy Council Advisers were Ōki from his post as Chairman of the Genrō-In, Higashikuze as an additional post to Vice-Chairman of the Genrō-In, Yoshii as an additional post to Vice-Minister of the Palace Department, Shinagawa, Soejima, Fukuoka, Sasaki, Terashima and Sano from posts as Palace Advisers, and Katsu and Kawano.

The creation of this body marks the final definition of Council and Executive, and was the sum of twenty years of continuous constitutional development. Since the abolition of the Sanji-In as part of the reform of 1885, the legislature had centred on the Legislation Bureau (HōseiKyoku) of the Council Secretariat with a staff of secretarial officials. This Bureau was under the direction of the Cabinet President; but on relinquishing this post, Itō became Chairman of the Privy Council which was clearly to be the final authority in matters of legislation. This final authority was not to rest with the Cabinet President who henceforth became the director of the Executive, nor with the Upper and Lower Houses of the National Assembly which was to remain largely a consultative organ, as all Assemblies had been since the Restoration. It rested with the Privy Council which stood above both Cabinet and Assembly.
But the purpose of the **Sūmitsu-In** was not simply to act as the final authority of the legislature. Itō considered it essential that an advisory body should be created to give support to the Emperor in the solution of difficult questions and to support the Cabinet in clashes with the political party opposition in the Lower House of the National Assembly.\(^{(25)}\) In the Sūmitsu-In the Emperor was provided with a permanent Privy Council which was not engrossed in administrative details and which stood above Departmental rivalries and political party opposition.

The composition of the Sūmitsu-In is also instructive. The post of Palace Adviser (Kyūchū Komon) had been set up in 1885 as a resting-place for potential Ministers, but its duties were limited to advice on Court ceremonies. In the new Privy Council, ex-Ministers and potential Ministers could be usefully employed in higher Council functions. Later in 1888, Motoda Nagasane was appointed to the Privy Council from a post as Palace Adviser, Yoshida and Torio from posts as members of the Genrō-In and Nomura from a post as Vice-Minister of the Communications Department. The new Privy Council thus became a body comprising the principal figures of the Palace Department and the Genrō-In as well as men drawn from

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Cabinet and Executive Department posts, and the differing pretensions of all these bodies were thus united into a single whole. Also, it is interesting to note that the balance of power within the government was accurately reflected in the Privy Council. Itō of Chōshū was Chairman, Terashima of Satsuma Vice-Chairman. Under them, Satsuma, Chōshū, Tosa and Hizen had three members each, with one Court noble, one ex-Bakufu retainer and one man from Kumamoto.

The true significance of the Sūmitsu-In as in effect a new super-Council was disguised for the moment by its first task of debating the Constitution. It was opened by the Emperor on the 8th of May, 1888; under Clause 11 of its regulations Department Ministers were entitled to take part in its deliberations and to vote in its decisions, and on the 18th of May, Imperial princes resident in Tōkyō were required to attend its sessions. Sanjō as Household Minister was also required to attend. The final drafts for the Constitution, the Law of the Imperial Household and the Election Law of the Lower House of the National Assembly were debated in the Privy Council in the presence of the Emperor by a full quorum of high officials reminiscent of the conferences by which all major changes in the government had been ratified since the Restoration. But thereafter in actual practice
Cabinet Ministers were regarded as not permitted to sit in the Privy Council. (26)

On the 11th of February, 1889, the Constitution was promulgated by the Emperor. Article 5 stated that "the Emperor exercises the legislative power with the consent of the Imperial Diet." Itō's commentary (27) adds that the legislative power belongs to the sovereign power of the Emperor, but this power shall always be exercised with the consent of the Diet. The Emperor will cause the Cabinet to make drafts of laws, or the Diet may initiate projects of laws; and after the concurrence of both Houses of the Diet has been obtained thereto, the Emperor will give them his sanction, and then such drafts or projects shall become law. Thus the Emperor is not only the centre of the executive, but is also the source and fountain-head of the legislative power...The legislative power is ultimately under the control of the Emperor, while the duty of the Diet is to give advice and consent. Thus between the Emperor and the Diet, a distinction is strictly to be maintained as to their relative positions. Article 6 of the Constitution continues "the Emperor gives sanction to laws, and orders them to be promulgated and executed"; Itō's commentary adding that if the Emperor can sanction, he can also refuse.

From these two articles, it is quite clear that legislative authority would continue to reside in the Privy Council and Cabinet. In Itō's original draft of the Constitution, the Diet was not even permitted to initiate debates or to memorialise the Emperor. It was only on the strong objections of Terashima and Torio in the Sōmitsu-In that in Articles 38 and 49 of the Constitution both Houses of the Diet were enabled to initiate projects of law (Horitsuan) and to present addresses to the Emperor (Jōshin). But of course the Emperor was no more bound to accept such drafts or addresses than he was in the case of similar powers granted to the Genrō-In.

Apart from the power of the Emperor to issue Emergency Ordinances in the place of law while the Diet was not in session (Article 8), the Emperor was also empowered to issue, or cause to be issued, Ordinances necessary for the carrying out of Laws, or for the maintenance of public peace and order, and for the promotion of the welfare of the subjects (Article 9). Although this article goes on to stipulate that no Ordinance shall in any way alter any of the existing laws, the power of the Emperor to issue Ordinances which applied the laws secured the government with wide powers to interpret and apply the laws as it saw fit.

Itō's commentary on Article 9 states that a law requires the consent of the Diet, while an ordinance holds good solely by decision of the Emperor. There are two occasions for the issuing of an ordinance: the first is, when it is required to regulate measures and details for the carrying out of any particular law; the second, when it is required to meet the necessity of maintaining the public peace and order and of promoting the welfare of the subjects. All these matters may, without having been passed through the regular course of legislation, form the subjects of legal enactments having binding effect upon the people at large by virtue of the executive power of the Emperor. As to a binding effect upon the people, there should not be the slightest difference between a law and an ordinance, save that a law can make alterations in any of the existing ordinances, whereas no ordinance can alter any of the existing laws. In case of a conflict between law and ordinance, the law will always have the preponderance over ordinance.

Article 37 of the Constitution states that every law requires the consent of the Imperial Diet. Itō's commentary continues that as to the question, what sort of matters ought to be settled by law, no general enumeration of them can be comprehensive enough to cover the whole ground. What comes within the sphere of law and
what within that of ordinance, differ according to the political development of each country. These limits ought to be ascertained for each country by reference to its constitutional history. But there are two definite cases of limitation: first, when a given matter is required to be embodied in a law by an express provision of the constitution; and secondly, in the case of the modification of a law, in which case nothing but law can effect the modification. Such is the universal practice of constitutional countries.

The Constitution thus did not bring about any great change in the operation of the Legislature. Before the Constitution came into effect, the government had drawn up the basic laws of the realm by which it consented to be bound. For the future, it reserved to itself the right of determining what a law was, and by what means it should be specifically applied.

The powers of the Cabinet and the Privy Council are the subject of Chapter 4 of the Constitution. Article 55 states that the respective Ministers of State shall give their advice to the Emperor and be responsible for it. All Laws, Imperial Ordinances and Imperial Rescripts of whatever kind, that relate to the affairs of the State, require the countersignature of a Minister of State. Itō's commentary declares that every Minister
of State shall, on the one hand, take part in the deliberations of the Cabinet, while, on the other, he shall have charge of the affairs of some Department of State, and shall have to bear his responsibility in the affairs of State...the Ministers of State have towards the Emperor the duty of encouraging all that is proper and discountenancing all that is improper; and when they fail to discharge this duty, they will not be able to release themselves from responsibility by pleading an Order of the Sovereign...After the Restoration, modifications were successively introduced until the Cabinet was organised by Imperial Rescript in the 18th year of Meiji (1885). By the said reorganization, the Ministers of State were each made separately to bear his (sic) share of responsibility to the Emperor directly. Over them was placed the Minister President of State. The object of this change was, on the one hand, to give weight to the functions of the Ministers of State and to impress upon them a higher sense of their responsibility, and, on the other, to maintain the unity of the Cabinet and to avoid all complications and variances therein...If Ministers of State were not responsible, the executive power could easily overstep the limits of law, which would thus become a mere collection of nominal enactments. When a Minister errs in the discharge of his functions, the
power of deciding upon his responsibility belongs to the Sovereign of the State: he alone can dismiss a Minister, who has appointed him...it is only a legitimate consequence, that the power of deciding as to the responsibility of Ministers, is withheld from the Diet. But the Diet may put questions to the Ministers and demand open answers from them before the public, and it may also present addresses to the sovereign setting forth its opinions. Moreover, although the Emperor reserves to himself in the Constitution the right of appointing his ministers at his pleasure, in making an appointment the susceptibilities of the public mind must also be taken into consideration. This may be regarded as an indirect method of controlling the responsibility of Ministers.

...The Minister President of State is to make representations to the Emperor, on matters of State, and to indicate, according to his (i.e. the Emperor's) pleasure, the general course of the policy of the State, every branch of the administrative being under the control of the said Minister. The compass of his duties is large, and his responsibility cannot but be proportionally great. As to the other Ministers of State, they are severally held responsible for the matters within their respective competency: there is no joint responsibility among them
in regard to such matters. For, the Minister President
and the other Ministers of State, being alike personally
appointed by the Emperor, the proceedings of each of
them are, in every respect, controlled by the will of
the Emperor, and the Minister President himself has no
power of control over the posts occupied by other
Ministers, while the latter ought not to be dependent
upon the former. In some countries, the Cabinet is
regarded as constituting a corporate body, the Ministers
are not held to take part in the conduct of the govern­
ment each one in an individual capacity, but joint res­
ponsibility is the rule. The evil of such a system is,
that the power of party combination will ultimately over­
rule the supreme power of the Sovereign. Such a state
of things can never be approved of according to our
Constitution. But with regard to important internal
and external matters of state, the whole Government is
concerned, and no single Department can, therefore, be
exclusively charged with the conduct of them. As to the
expediency of such matters and as to the mode of carrying
them out, all the Ministers of State shall take united
counsel, and none of them is allowed to leave his share
of the business a burden upon his colleagues. In such
matters, it would of course be proper for the Cabinet
to assume joint responsibility.
The countersignature of a Minister or of Ministers of State has the two following effects: First, laws, Imperial Ordinances and Imperial Rescripts that relate to affairs of the State can be put into force only by virtue of the countersignature of a Minister or of Ministers of State. Without it, they can take no effect; and when issued through any other than a Ministerial channel, none can be carried out by the functionaries charged with its execution. Secondly, the countersignature of a Minister or Minister of State attests the right of the said Minister or Ministers to carry out the law, Imperial Ordinance or Imperial Rescript in question, and also his or their responsibility for the same. The Ministers of State are the channels, through which the Sovereign's Orders are to flow, both at home and abroad. This is made clear by their countersignatures. But the political responsibility of Ministers can not be regarded only from a legal point of view: moral considerations must also enter into the question...when a mistake has been committed by the Government, responsibility should not be confined to the countersigning Minister or Ministers, but those Ministers also, who though not countersigners, have been consulted about the matter, ought to be held responsible for the mistake.

Article 56 of the Constitution declared that the
Privy Councillors shall, in accordance with the provisions for the organisation of the Privy Council, deliberate upon important matters of State, when they have been consulted by the Emperor. Itō's commentary continues... The Emperor, on the one hand, maintains the supreme control of administrative affairs through the medium of the Cabinet, while, on the other, he has established the Privy Council, so that in his wisdom he may have at command its assistance, and that the information he obtains may be thorough and impartial. Ministers of State have to be acute of mind, quick and active in the dispatch of internal and external affairs. But the task of planning far-sighted schemes of statecraft and of effectuating new enactments, by leisurely meditation and calm reflection, by thorough investigations into ancient and modern history, and by consulting scientific principles, must be entrusted to a special institution made up of men of wide experience and of profound scholarship... If the Privy Council is competent to lend assistance to the wisdom of the Emperor, to be impartial, with no leaning to this or that party, and to solve difficult problems, it will certainly prove an important piece of constitutional mechanism. Moreover, when an Emergency Ordinance is to be issued or a state of siege is to be declared, or when some extraordinary financial measure is deemed necessary to be taken, the
opinion of the Privy Council is to be sought before the measure is carried out, thereby giving weight to the measures of the administrative in the matter. In this way, the Privy Council is the palladium of the Constitution and of the law. Such being the importance attached to the functions of the Privy Council, it is the established rule that every Imperial Ordinance on which the advice of the Privy Council has been asked shall contain a statement of that fact in the preamble to it. The Privy Council is to hold deliberations only when its opinion has been asked for by the Emperor; and it is entirely for him to accept or reject any opinion given. As to a matter about which the opinion of that body has been furnished to the Emperor, no publicity can be given to it, however trifling it may be, without his special permission.

Besides giving consent to laws, the Diet was also to give consent to all new taxes and national loans (Article 62) and to state expenditure and revenue by means of an annual Budget (Article 64). The final account of state expenditure and revenue was to be verified and confirmed by the Board of Audit, and submitted by the government to the Diet (Article 72). Itō regarded these provisions as essential to check waste and extravagance in government finance. But the Diet was unable to
obstruct the working of the government by refusing to consent to the Budget, since by Article 71 the government was empowered to carry out the Budget of the preceding year when one or both Houses of the Diet would not vote the Budget submitted to them.

On the 9th of May, 1889, revised regulations were issued for the Board of Audit to ensure its independence from the Council.\(^{(29)}\) The Board of Audit was henceforth to be under the direct control of the Emperor, and to occupy an independent status towards the Cabinet.

Article 61 of the Constitution required that suits of law relating to rights alleged to have been infringed by the illegal measures of the administrative authorities should come within the competence of the Court of Administrative Litigation(Gyōsei Saibansho) specially established by law. Accordingly, on the 28th of June, 1890,\(^{(30)}\) this Court was set up in Tōkyō. The Head(Chōkan) and Assessors(Hyōjōkan) were appointed by the Emperor on the recommendation of the Cabinet President. They were forbidden to have government, political party or commercial connections. Once appointed, they were only to be dismissed by the action of the Criminal Code or for the breach of disciplinary regulations; unless by a decision of the general assembly of the Court itself they were

\[^{29}\text{HRZS. Hōritsu No.15.}\]
\[^{30}\text{HRZS. Hōritsu No.48.}\]
found unable to perform their office by reason of weakness of body or mind, which decision was reported to the Emperor by the Cabinet President. This was another function previously controlled by the Cabinet which was henceforth to be exercised by an independent body, though the Cabinet President made the recommendations for appointments to it.

Meanwhile, the Kuroda Cabinet was expected to be the first to meet the Diet, and Kuroda sought to attract the leading figures both within and without the government to serve as Cabinet Ministers. Thus Inoue was appointed Minister of Agriculture and Commerce on the 25th of July, 1888, and Goto was appointed Minister of Communications on the 22nd of March, 1889.

Ökuma since his appointment as Foreign Minister vigorously pursued his plans for treaty revision, which promised to be a great personal triumph for both himself and Kuroda if it could be achieved before the first assembly of the Diet. The contents of the treaties were of course secret; but Komura Toshitarō, then a minor official in the Translations Bureau of the Foreign Department, was angered at what he considered to be humiliating conditions in the Treaties and indicated his disapproval to a friend in the "Nihon Shimbun".  

friend kept silent for the moment since to publish an account of the Treaties would bring trouble to Komura for the leakage. But on the 19th of April, 1889, an account of Ōkuma's treaty proposals was published in the London "Times." In the following month, all the Tōkyō newspapers published translations of this article and at once a great public outcry was raised against Ōkuma. At this time, Ito believed that the naturalisation law proposed by Ōkuma for the foreign judges would enable a breach of the Constitution to be avoided; and none of the other Cabinet Ministers were opposed to Ōkuma's proposals since they felt that the appointment of foreign judges was inevitable and that the treaty revision programme had to go through. (32) On the 2nd of August, 1889, a meeting was held in Kuroda's residence of all the Cabinet Ministers, and Ito also attended as Chairman of the Privy Council. In this meeting general agreement was given to Ōkuma's proposal that the foreign judges should be naturalised; Ito did not share Ōkuma's confidence that the objections of Britain and France to his proposals could be overcome, but he did not think that the negotiations should be broken off, and was still anxious for Ōkuma to continue his efforts. (33) However, outside the government opposition to Ōkuma's proposals

33. ibid. p.308-10.
continued to grow fiercer, and he was soon faced with opposition from within the Cabinet and the Privy Council.

When Sasaki returned to Tōkyō on the 3rd of September, he was met by Hijikata, now Palace Minister, who told him that within the Cabinet Kuroda and Ōkuma were supported by Yamada and Enomoto, but opposed by Goto and Matsukata. Saigō and Ōyama were silent, and Itō and Inoue were assuming an air of indifference. (34) Within the Privy Council, Ōki and Kawano supported Ōkuma's proposals, (35) but Torio and Soejima were strongly opposed and were demanding that the negotiations be suspended. They were supported in their opposition by Tani, who still retained his commission as a Major-General, by Kaieda, Harada and Kusuda of the Genrō-In, and by Nishimura, Miura and Asano from Palace posts. Torio presented his views in a memorial to Kuroda, and joined with the others in calling upon Ōkuma and remonstrating with him. (36)

On the 23rd of September, the Emperor called a joint meeting of the Privy Council and the Cabinet to discuss the matter. Itō wanted the Cabinet alone to settle the problem, but the Emperor was anxious for Itō, Kuroda and Ōkuma to reach a joint decision. (37) But no decision could be reached, and within the Privy Council Itō,

36. Ōtsu. DNHKSS.3. p.288–89.
Terashima, Sasaki and Motoda were inclining to the opposition. The situation had by now reached a complete deadlock, for although Ito and Inoue were opposed to Ōkuma's proposals, they could not openly express their opposition for fear of causing a split in the Privy Council and the Cabinet.

At this point, Yamagata was due to return to Japan from an overseas tour. His attitude was likely to be decisive, and both sides were eager to canvass him in their support. Kuroda and Ōkuma went down to Yokohama to meet him on his arrival on the 2nd of October; but Matsukata, Saigō and Ōyama, who as Satsuma men could not express too open an opposition to Kuroda, had also got together to form a plan to meet Yamagata, to inform him of their doubts about the treaty revision proposals and to urge him to oppose Kuroda. On the morning of October 2nd, Ōyama met face to face with Kuroda at the station, and knowing of Matsukata's plan to get in the first word with Yamagata, he managed to delay Kuroda by a clever piece of impromptu strategy. It is not known whether the Satsuma opposition managed to get word to Yamagata, but the Chōshū men who opposed Ōkuma's proposals, such as Miura, had arranged a similar plan to get word to Yamagata through Shinagawa, a Chōshū Privy Councillor.

Shinagawa managed to get a long letter to Yamagata while he was still on board ship, explaining that only the obstinacy of Kuroda and Ōkuma was sustaining the treaty revision proposals in spite of general opposition. Shinagawa was confident that Yamagata would read this letter first, and called on him after the welcoming ceremony to put his views to Yamagata for several hours. The next day, Nomura Yasushi, another Chōshū Privy Councillor, called on Yamagata to oppose the proposals; and three or four days later, Inoue Ki also called to express his opposition. (39) By this time, Yamagata's mind was made up. Sensing this, Ito suddenly announced his intention to resign from his post as Chairman of the Privy Council on the 11th of October. Ito explained to Ōkuma that since Yamagata was opposed to treaty revision, success was now impossible and that he was bound to resign. Ōkuma, knowing nothing of Yamagata's opposition, denied that this was so; Ito and Ōkuma therefore went together to see Yamagata. Ōkuma put his views to Yamagata, who agreed that Ito should not resign but does not seem to have made his own views clear. On the 14th of October, Yamagata returned to Tōkyō. On the 15th, a Cabinet meeting was called. The argument for wither was stated by Ōkuma and Gōtō; Yamagata himself merely stated that he had not had enough time to study the

question and that he would send a memorial with his views later. On the 18th of October, Yamagata sent in a memorial which made no mention of the current objection that the appointment of foreign judges would be a breach of the Constitution; it simply declared that the legal preparations for the abolition of extra-territoriality were not complete and that the question ought to be postponed.\(^{(40)}\) By this time, Terashima, Soejima, Sasaki, Kawamura, Sano, Torio and Motoda in the Privy Council advocated the suspension of negotiations; and on the 16th of October, Terashima the Vice-Chairman with Soejima and Sasaki as representatives of the whole body had an audience with the Emperor in which they expressed the general opposition of the Privy Council to treaty revision, only Ōki and Kawano being still in favour.\(^{(41)}\) At this time, Miura took advantage of the direct access to the Emperor which his position as Head of the Gakushū-In allowed him to present a memorial to the Emperor against the employment of foreigners as judges. Miura returned home after confessing that in speaking of national affairs he had perpetrated a great crime, worthy of a thousand deaths. While he waited at home for the Imperial orders, ready to commit suicide, Motoda came to congratulate him on his action. Motoda told him that

the Emperor had shown him his memorial, and that they had discussed it together. It was by no means untimely or improper to have done what he did; Motoda himself had been doing the same.\(^{(42)}\)

Ōkuma was aware that the opposition was too strong for him; and was pleased to find in Yamagata's memorial an objection which saved him loss of face. He finally prevailed upon Kuroda to agree to suspend the negotiations for treaty revision indefinitely. On the afternoon of the 18th of October, just after this decision had been made, Ōkuma was severely wounded by a bomb thrown into his carriage by an ultra-nationalist fanatic.

On the 24th of October, 1889, Kuroda as Cabinet President and all the Cabinet Ministers, with the exception of Ōkuma who was lying desperately wounded, presented their resignations. On the following day, Kuroda was appointed to the Privy Council and Sanjō was appointed temporary President over the previous Ministers whose resignations were all refused. On his resignation, Kuroda had suggested Yamagata as his successor, but Yamagata would not accept. Yamagata did not want to appear responsible for the overthrow of the Kuroda Cabinet, and did not wish to inherit the aftermath of the suspension of treaty revision negotiations. The unpleasant task of

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42. Kanju Shōgun Kaikoroku. p.271-78.
calling on the ambassadors of countries which had already
signed treaties to explain that these must now be post-
poned therefore fell to Sanjō. (43)

On announcing his intention to resign on the 11th of October, Itō had taken no further part in the dispute over treaty revision. His resignation was finally ac­cepted on the 30th of October, when he relinquished the Chairmanship of the Privy Council to Ōki and was appoint­ed to a retired post as Palace Adviser.

On the 12th of December, 1889, Sanjō requested that he should be allowed to resign, but the question of the next Council President remained to be solved. It was generally agreed that since Itō had drawn up the Con­stitution, he should form the Cabinet to meet the first Diet. But Kuroda had regarded Itō's conduct in resigning at the height of the treaty revision dispute as very mean and was extremely angry with him (44). Itō was then able to use the excuse that to succeed Kuroda immediately would be very bad for Satsuma and Chōshū harmony. But his refusal was interpreted by some as a desire to avoid being the target for the inevitable onslaught of the political parties against the government in the Lower House of the Diet. (45)

44. ibid. p. 311.
Since Itō would not come forward, Yamagata was the next choice. Saigō advocated that Yamagata should be Council President, Aoki Foreign Minister and Yoshikawa Minister of Agriculture and Commerce in a predominantly Chōshū Cabinet; but there were many conflicting opinions. Latent Satsuma and Chōshū hostility broke forth dramatically when on the 15th of December Kuroda broke into Inoue's residence in a drunken state to abuse him as a traitor to the country. Fortunately Inoue was not at home, and Kuroda was persuaded to leave the house before he returned. Next day it was Inoue's turn to call at Kuroda's residence in a fury, and an unpleasant incident was only avoided by Kuroda's discreet refusal to meet him. Saigō and Yamada managed to pacify Inoue, and Kuroda apologised. (46) But Inoue took the occasion to resign from his post as Minister of Agriculture and Commerce on the 23rd of December.

Finally, on the 24th of December, 1889, Sanjō resigned and Yamagata was appointed Cabinet President. But just before this change, Sanjō and all the Cabinet Ministers sent a joint Opinion to the Emperor requesting reforms in the Cabinet regulations. (47) This Opinion stated that

46. Tsuda. Meiji Seijō to omi Takayuki. p.676-67. Also, Sawada. Segai Kō Jireki Ishin Zaisei Dan. p.461-64. Inoue states that Kuroda's antipathy towards him arose out of reforms he made in Hokkaidō, when after a tour of inspection with Yamagata several hundred Satsuma officials were dismissed.
47. Ōtsu. DNHKSS. 3. p.310-11.
should the organisation of the Cabinet be weak, its responsibilities indistinct and its administrative methods inexact, then the whole government must be unsound. According to the Constitution, the responsibility for discharging administrative functions rests with the Ministers of State. The Cabinet President acts as Chief Minister, and countersigns all Laws and Ordinances together with the Minister whose Department they directly concern. But this is an excessive extension of the jurisdiction of the Cabinet President, and the regulations for the Cabinet ought to be revised to make each Minister solely responsible for countersigning the documents relating to the business of his Department. For personal responsibility is the duty of the Cabinet under the Constitution.

Under the Constitution, Ministers of State are consulted by the Emperor; but whether their views are adopted or rejected, they are not permitted to disclose them privately to the Diet or to other persons without the special permission of the Emperor. Failure to observe this restriction makes the offender not only incompetent to hold the important position of advising the Emperor, but also guilty of a breach of moral probity. The foundation of Cabinet organisation is that the Cabinet should consist of Ministers who think alike and are united.
Though each member in discussions within the Cabinet itself may express opinions more or less diverse, they must necessarily be careful to preserve unity in communications to the public and in the programme of the government. It is essential that a rigid secrecy be preserved in Cabinet matters. Publicity is a leading feature of the constitutional form of government, and the debates of the Diet are open to the world. But in Cabinet discussions privacy is of prime importance; the opinions of individual Ministers must not in any way be disclosed or made subject to public criticism. If a Minister resigns because his views on an important subject are rejected by the Emperor, or because he differs from the majority of his colleagues, his duty to remain silent is even more imperative than when in office. This is the moral duty of members of the Cabinet. The morality of the Cabinet exercises an important influence on the Diet and the people. If this principle could not be maintained in the Cabinet, trouble could be expected in the future.

Thus, while the Cabinet President was held to exercise too sweeping a control over the other Cabinet Ministers, it was also felt that the corporate loyalty of the Cabinet needed to be strengthened. In the light of recent disputes, it was clear that the functioning of
the Cabinet left much to be desired.

On the same day, the 24th of December, 1889, revised regulations were issued for the Cabinet. The Cabinet President now "preserved the unity of the Cabinet" (Tōitsu o Hoji) in place of "exercising a general supervision" (Tōtoku). Ordinances affecting the business of a single Department were to be countersigned by its Minister alone. Matters to be submitted to the Cabinet conference were defined as follows; drafts of Laws, estimates and final accounts; treaties with foreign countries and important national affairs; Ordinances affecting the official system, or the carrying out of Laws and regulations; disputes of jurisdiction arising between Executive Departments; petitions of the people sent down by the Emperor or forwarded from the Diet; expenditures outside the estimates; the appointment, promotion and demotion of Chokunin officials and Local Governors; all important matters of high administration connected with the business of the Executive Departments. Department Ministers were able to lay any matter whatsoever before the Cabinet President and to request a Cabinet conference (Kakugi). In addition to the Department Ministers, other persons could be authorised by the special instructions of the Emperor to be a member

48. HRZS. Chokurei No.135.
of the Cabinet.

On the 27th of December, 1889, the Legislation Bureau (HōseiKyoku) in the Cabinet Secretariat issued a notification defining the handling of official documents under the revised regulations. It stated that Ordinances which concern administration in general, or which concern the business of two or more Departments were of three kinds. Firstly, Ordinances on the form of official documents and general regulations for the official system; these were to be signed by the Cabinet President and all the Cabinet Ministers. Secondly, Public Peace Regulations which were to be signed by the Cabinet President and the Home and Justice Ministers. Thirdly, regulations for the official system of the Departments; which were to be signed by the Cabinet President and the Minister of the Department concerned. Matters of grave import not clearly defined in the Laws and Ordinances which must of necessity be submitted to the Cabinet conference (Kakugi) were also of three kinds: matters which although within the jurisdiction of an Executive Department would determine or alter government policy if handled by the Department; elemental catastrophes; and popular disturbances.

Outside these provisions, Department Ministers were empowered to issue Ordinances under their own signature.

to enforce the Laws in relation to business for which their Department was solely responsible. The Cabinet President was thus reduced in status to the President of the Cabinet conference, rather than the over-all director of the administration. In contrast to the regulations of 1885, the Cabinet President was not now empowered to demand explanations and particulars from the Executive Departments in respect to their conduct of affairs.

On the 28th of December, 1889 article 3 of the Official Documents Ordinance was revised to enable Department Ministers to issue Ordinances relating solely to the business of their Departments without the countersignature of the Cabinet President. (50) On the 25th of February, 1890, the Executive Departments were jointly ordered to draw up regulations on a unified pattern; (51) and on the 27th of March, 1890, simplified regulations were issued for all Departments of the government. (52) In the course of June, 1890 each Department issued separate regulations specifying the Bureaux within the Department and the number of Secretaries, probationers and clerks to be employed. On this, the definition of the scope of the Executive Departments was complete.

On the 11th of June, 1890, regulations were issued for

50. HRZS. Chokurei No.139.
52. HRZS. Chokurei No.50.
the Legislation Bureau (Hōseikyoku). \(^{(53)}\) It was placed under a single Head of Chokunin rank, with 3 Section Heads (BuChō) of Chokunin or 1st class secretarial rank. Under them, 15 officials (Sanjikan) of secretarial rank drafted Legal Orders (Hōritsu Meirei) under the instructions of the Cabinet President, supplied the Cabinet with opinions on the enactment, abolition or amendment of Laws and Ordinances, and gave opinions upon or amended drafts of Laws and Ordinances put up by Department Ministers for discussion in the Cabinet conference. These officials were divided into 3 Sections: Home, Foreign, Military and Educational Affairs; Financial, Industrial, Transport and Communications Affairs; Legal Codes, Amnesties and Judicial Affairs. Department Ministers could attend the General Meetings of the Bureau, or send a responsible official to explain matters concerning the Department.

On the 7th of October, 1890, revised regulations were issued for the Privy Council. \(^{(54)}\) It was to consist of one Chairman, one Vice-Chairman and 25 members (Komonkan). Its agenda comprised matters within the scope of the Imperial Household Code, drafts affecting and doubtful points arising out of the articles of the Constitution, Laws and Ordinances connected with the Constitution,

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53. HRZS. Chokurei No.91.  
54. HRZS. Chokurei No.216.
treaties and engagements with foreign countries, the official system and regulations for the business of the Privy Council itself, and advice to the Emperor on emergency matters.

On the resignation of Sanjō on the 24th of December, 1889, Yamagata became Cabinet President in conjunction with his post as Home Minister. Saigō, Yamada, Matsukata, Ōyama, Enomoto, Gotō, Aoki and Iwamura served under him as Ministers. Ōki replaced Itō as Chairman of the Privy Council, Terashima remained Vice-Chairman; Higashikuze, Kawamura, Yoshii, Shinagawa, Katsu, Kawano, Soejima, Fukuoka, Sasaki, Sano, Motoda, Yoshida, Torio, Nomura, Kuroda and Ōkuma served as members (Komonkan). Between them, these two bodies formed the Council of the Emperor in its active and advisory capacities. In spite of the regulations, the precise relation of the two arms of the Council to each other was beyond definition. But at any rate, there could be little risk of the Emperor being dominated by a single faction.

On the 20th of October, 1890, the Genrō-In was abolished. Itō emerged from retirement on the 24th of October to become the Chairman of the Upper House of the Diet. With this, the final arrangements for the new era of constitutional government were complete.
CONCLUSION.

By 1890, the Council had thus taken final shape. The Privy Council had a corporate duty to advise the Emperor on important affairs or when consulted in an emergency; the Cabinet Ministers directed the working of the Executive Departments and were individually responsible to the Emperor. The danger of both corporate and individual responsibility to the Emperor were thus avoided, and the preponderance of the Council-Executive at last remedied.

The preponderance of the government as a whole in relation to its political party opponents in the Lower House of the National Assembly was, however, by no means diminished. The problem of the separation of the Legislature and the Executive was a problem for the government within itself; even after the opening of the National Assembly, the government maintained its habitual tight grasp of the Legislature.

The basic problem of the early Meiji period was to create a body of sufficient diversity to avoid preponderance, but of sufficient unity to maintain the Imperial sovereignty intact and to direct the Executive efficiently.
Once such a body had been formed, the future of the regime was secure.

The history of the Council between 1868 and 1890 is the record of the formation of such a body. Special tributes must be paid to the tact and energy of Iwakura in the first desperate years, to the fortitude of Ôkubo in the middle years, and to the legislative skill of Ito in embodying the new regime in a durable Constitution.

The Constitution was the end of a process rather than the beginning of a new one. The symbol of the new regime was perhaps Yamagata, whose qualities as a soldier, administrator and patron of men made him at once the finest flower of Meiji statesmanship and the greatest obstacle to further constitutional progress.
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Kijiku...........機軸
KirokuKuoku...記録局
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   " Kōsei... " 考生
Kōan...........考察
Kōbushō........工務省
Kochō...........小長
Kōgi...........公議
Kōginin........... " 人
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Kōgi Yoron... " 與論
Kokka Rikken no
   Seitai... " 國家立憲政體
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Kōshi......... " 義士
   " Taisakusho. " 對策所
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Kyūchū Komon. 宮中顧問

Mimbushō..... " 民部省
Mimpō......... " 民法
Minsen Gi-in. " 民選議員
Nagon......... " 納言 " NaiDaiju... " 大臣
Naikaku....... " 内閣
   " " Gikan... " 議官
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\(^{1}\) " " Ka... " " 課局 |

" " Kyoku... " " 局 |

Sōtoku... 總督 |

Suimon... 重聞 |

Sūki Hippō no Kan... 機関立法官 |

Sūmitsu-In... 機関院 |

" " Shikan... " " 史官