

respondents Club, a foreign correspondent commented that Japanese politicians did not get votes by their policy proposals but literally bought the votes (the *Asahi Shimbun*, December 17, 1988). Furthermore, the ruling Liberal Democratic Party and most of the LDP politicians are funded by big business. In the long run, big business buys the politics, and buys the votes.

Indicating the width and depth of “money politics,” the *Recruit Co.* bribery scandal has triggered serious criticism and public distrust of Japanese politicians. Politicians have been forced to respond to this protest; the 1989 revision of the Public Office Election Act is one of the responses. Article 199 of the Public Office Election Act has prohibited politicians’ gifts with criminal sanction. But so far this provision has never been invoked and there has been not a single case of indictment. Thus, the effectiveness of the 1989 revision, the expansion of the prohibition and the reinforcement of the criminal sanction, is uncertain.

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b. Administrative Law

The Basic Land Law Act.

Promulgated on December 22, 1989. Ch. 84. Effective as of December 22, 1989.

[Background of the Legislation]

The Government began to prepare measures in response to skyrocketing land prices in Tokyo, and in 1989 submitted the Basic Land Law Bill to the Diet. After substantial debate and several revisions by the Oppositions, the Bill passed both Houses of the Diet. It can be said that the Bill is the embodiment of the national consensus on land policies.

[Main Points of the Act]

The purpose of the Act is to establish basic principles on land policies and identify the responsibilities of national and local governments in order to preserve fair and reasonable land prices, formulate plans of sound land use, and thus promote the public welfare (Article 1).

The public welfare shall be the first consideration in respect of land (Article 2).

Land use shall be in accordance with the natural, social, economic, and cultural conditions of its location, and the land use shall be based on land use plans (Article 3).

No land shall be speculatively traded (Article 4).

A land owner shall compensate the interests he or she enjoys accompanied by circumstantial value-adding of the land (Article 5).

[Comment]

Like other eleven Basic Acts in various fields of administration, the Basic Land Law Act is declaratory legislation without substantive provisions which establish legal rights and obligations of private citizens or governments. Although Basic Acts do not differ from other statutes in their legal force, they set forth the long-term, basic principles on respective areas of administration and virtually direct specific government policies.

The Constitution of 1946 provides in Article 29 that property rights shall be defined by law, in conformity with the public welfare. The priority of the public welfare over private property rights in Article 2 of the Act is a paraphrasing of Article 29 of the Constitution. The requirement of the public welfare plays a much greater part in the field of land ownership because of the highly public and social nature of land. It means that not a *laissez-faire* policy but planning should be the major means in land administration.

Article 1 of the Act is the statement of purpose; Article 2 states the fundamental principle; Articles 3 through 5 are a paraphrasing of Article 2. Specific, house-keeping provisions (Articles 6 through

20) follow this principle-stating section.

Since the Act is only the declaration of governmental principle, its effect in land policies depends on the future specific legislation realizing the Act.

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2. Law of Property and Obligations

The Basic Land Law Act.

Promulgated on December 22, 1989. Ch. 84. Effective as of December 22, 1989.

[Background of the Legislation]

Since 1985, land prices in the center of Tokyo have risen and the increases of land prices have gradually spread major cities in Japan. After 1987, it became nearly impossible for ordinary people in big cities like Tokyo or Osaka to buy an apartment house, still less a detached house. This rapid increase of land price has caused many difficulties. For example, national and local governments have to spend quite huge amounts of money to buy small plots of land in order to carry out social overhead capital programmes. People also have realized the vast differences of wealth between those who own property and those who do not. Land and housing policy became one of the most important political issues for the first time in Japanese history. Because of the fear of creating social unrest, the Japanese government set up a special committee for reconsidering land and housing policies (*Tochi-Rincho*). This committee published a final report in June 1988, and at the same time the government made up an outline of comprehensive land policies. During 1988 and 1989 many land Acts were enacted. The parliamentary session in 1988