
MAJOR LEGISLATION

Jan. — Dec., 1994

1. Constitutional and Administrative Law

a. Constitutional Law

1994 Revision of the Public Offices Election Law.

Promulgated on February 4, 1994. Ch. 2. Effective as of the date prescribed by other law.

Law Amending 1994 Revision of the Public Offices Election Law.

Promulgated on March 11, 1994. Ch. 10. Effective as of March 11, 1994.

[Background of the Legislation]

Since the 1988 Recruit Co. bribery scandal, a series of arguments over the so-called political reforms have been contended heatedly both inside and outside of the Diet. The Hosokawa Coalition Government, which had taken the place of the long-ruling Liberal Democratic Party (LDP) Government after the general election the previous summer, wrestled with the political reforms as its most urgent problem. In October, 1993, both the government bills (consisting of four bills) and the counterproposals by the LDP (consisting of five bills) were

submitted to the Diet. Of course there were several differences between the two sets of bills, but they had some important points in common: both sets proposed the introduction of a single-seat and proportional representation constituency system into the election of members of the House of Representatives; a certain limit on political donations by corporations or organizations; the strengthening of an involvement system in elective irregularities; and the establishment of public subsidies to political parties. After much deliberation, particularly over the distribution of the quorum between single-seat districts and proportional representation, the size of each unit in a proportional representation election, procedures for voting, and the problems of political donations by corporations or organizations and public subsidies to political parties, the government bills, which incorporated some compromises, were passed in the House of Representatives in November, 1993. However, these political reform-related bills, which consisted of four bills, that is, the Bill Revising the Public Offices Election Law, the Bill Establishing the Council Determining Electoral Districts of the Members of the House of Representatives, the Bill Revising the Political Fund Control Law, and the Political Party Support Fund Bill, were rejected by a large margin in the House of Councillors in January, 1994, because some members of the coalition government refused to follow the government decision. As a result, according to the Constitution, the government chose to open a Joint Committee of Both Houses for the first time under the present Constitution in order to get a definite plan. The Committee, which consisted of ten members from the House of Representatives for the bills and ten members from the House of Councillors against the bills, was not able to get any definite plan, and the consultation was almost broken off. However, after the Speaker of the House of Representatives Takako Doi mediated, Prime Minister Morihiro Hosokawa and President of the LDP Yohei Kono had a chance to talk together and reached an agreement to pass the government's bills for the moment on the condition that the bills would be amended immediately in the next Diet basically along the lines of the LDP bills. Thus, the Joint Committee of Both Houses finally concluded that they should make the

resolution of the House of Representatives the definite plan, and the plan was approved in both Houses and became law on the very last day of the session. Thereafter, in March, 1994, after only four days' discussion in the Diet, these political reform-related laws were again amended as scheduled on the basis of the prior political deal.

[Main Points of the Act]

The Law Amending 1994 Revision of the Public Offices Election Law

The quorum of the House of Representatives is 500 (511 at present), in which 300 are elected from single-seat districts and 200 based on proportional representation (Article 4(1)).

The members elected on the basis of proportional representation are from 11 constituencies (Article 13(2), the attached table II).

The electors have two separate votes, one for a single-seat district election and one for a proportional representation election. Voting is done by marking (Article 46(1), (2)).

Door-to-door visits to prospective voters are prohibited, as before (Article 138).

A person who was punished for the crime of bribery committed during his or her tenure of public office cannot vote or be eligible for election for five years after the end of the period of imprisonment (Article 11(1)).

The involvement system was strengthened (Article 251-2(1)).

[Comment]

As the background of the laws shows, the aim of the enactment of the so-called political reform-related laws should have been to counter corruption in government, sweep away money politics, and establish political ethics. At least a great number of the Japanese expected that. However, the term "political reform" seemed to have had a different connotation in political circles. The goal of passing political reform legislation was changed into reform of the election system. In addition, that reform was accomplished without any consistent policy nor consensus among the people. Above all, the fact that the bills were passed as the result of political deals and lacked

full discussion in the Diet was critically important. Some doubted that not a few members of the Diet were concerned only with their own possibility of re-election. Thus, it cannot be denied that the process of passing the legislation is not in itself safe from criticism.

The most important aspect of the revision of the Public Offices Election Law is to introduce a single-seat and proportional representation constituency system into the election of the members of the House of Representatives. The original government bills contained a quorum of 250 members elected from single-seat districts and 250 members elected from one national constituency based on proportional representation. The introduction of this new system was explained by the government to overcome the evils of the previous medium-sized electoral district system. According to this theory, the medium-sized electoral district system may inevitably invite contention among candidates from the same political party and easily lead to a service competition aimed at their constituents. Therefore, the government argues, in order to manage a policy-centered, political party-centered election, a single-seat district election and a proportional representation election respectively needs to be carried out in the same election of the House of Representatives. However, there seems to be a jump in logic in this approach. In addition, as is commonly known, a single-seat district system is hard to reflect the popular will precisely. While the government also emphasizes that the new system may have the merit of enhancing the possibility of a change of government, this theory is also questionable. Rather, the new system has the great danger of cutting off the various will of people, and leaving the political power to the relative, but proportionally excessive majority of the election at one time. In this sense, it seems to be no wonder that there is still strong opposition to the new election system.

As to the election improprieties, while the strengthening of the involvement system or the suspension of civil rights should be naturally welcomed, it goes without saying that it is more important to enforce these new mechanisms strictly. The appreciation of revisions on this point will be left to the future application of the law.