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8. *Equality of Opportunity for Foreign Enterprise within Japan*

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NEW ROLES FOR THE EMPEROR

When the war ended, the Russian and British allies sought the indictment of Emperor Hirohito as a war criminal, which was strenuously opposed by General MacArthur. When Washington seemed to be veering toward the British point of view, MacArthur sent a telegram to General Dwight D. Eisenhower, then the chief of staff, advising that the Emperor's presence was vital to the success of the occupation. This telegram, reproduced as Document 3, was transmitted to the secretary of state, who in turn instructed the London Embassy to take any action "appropriate in order to forestall such development," namely, publicity on the Emperor as a war-criminal suspect.

The Emperor, who was credited by MacArthur to have "a more thorough grasp of the democratic concept than almost any Japanese," on New Year's Day, 1946, issued a rescript disavowing his own divinity (Document 2). It was a necessary step in effecting the transition of Japan into a democratic society and paved the way for making the Emperor a symbol of the state and of the unity of the people in the new constitution.

2 Emperor Hirohito's Rescript Disavowing His Own Divinity, 1946³ In greeting the New Year, we recall to mind that the Emperor Meiji proclaimed as the basis of our national policy the five clauses of the Charter at the beginning of the Meiji era . . . (see Chapter XI, Document 2).

The proclamation is evident in its significance and high in its ideals. We wish to make this oath anew and restore the country to stand on its own feet again. We have to reaffirm the principles embodied in the Charter and proceed unflinchingly toward elimination of misguided practices of the past; and keeping in close

³Text as reported in the *New York Times*, January 1, 1946. The rescript was drafted by Maeda Tamon (1884-1962), who was then serving as education minister. He credits the Emperor for making reference to the five clauses of the Charter Oath. See Maeda Tamon, "Ningen sengen no uchi-soito" (An Inside Story of the Rescript Disavowing Divinity), in the *Bungei Shunju*, March 1962. Reprinted in "Bungei Shunju" ni Miru Shōwashi (A History of the Shōwa Era as Seen from the Pages of the Bungei Shunju) (Tokyo: Bungei Shunjuisha, 1988), pp. 18-25.

touch with the desires of the people, we will construct a new Japan through thoroughly being pacific, the officials and the people alike obtaining rich culture and advancing the standard of living of the people.

The devastation of the war inflicted upon our cities, the miseries of the destitute, the stagnation of trade, shortage of food, and the great and growing number of the unemployed are indeed heart-rending, but if the nation is firmly united in its resolve to face the present ordeal and to see civilization consistently in peace, a bright future will undoubtedly be ours, not only for our country but for the whole of humanity.

Love of the family and love of country are especially strong in this country. With more of this devotion should we now work toward love of mankind.

We feel deeply concerned to note that consequent upon the protracted war ending in our defeat our people are liable to grow restless and to fall into the slough of despond. Radical tendencies in excess are gradually spreading and the sense of morality tends to lose its hold on the people with the result that there are signs of confusion of thoughts.

We stand by the people and we wish always to share with them in their moment of joys and sorrows. The ties between us and our people have always stood upon mutual trust and affection. They do not depend upon mere legends and myths. They are not predicated on the false conception that the Emperor is divine and that the Japanese people are superior to other races and fated to rule the world.

Our Government should make every effort to alleviate their trials and tribulations. At the same time, we trust that the people will rise to the occasion and will strive courageously for the solution of their outstanding difficulties and for the development of industry and culture. Acting upon a consciousness of solidarity and of mutual aid and broad tolerance in their civic life, they will prove themselves worthy of their best tradition. By their supreme endeavors in that direction they will be able to render their substantial contribution to the welfare and advancement of mankind.

The resolution for the year should be made at the beginning of the year. We expect our people to join us in all exertions looking to accomplishment of this great undertaking with an indomitable spirit.

3 Emperor Not Guilty of War Crimes, 1946⁴ Investigation has been conducted here under the limitation set forth with reference to possible criminal actions against the Emperor. No specific and tangible evidence has been uncov-

⁴MacArthur's telegram to Chief of Staff Eisenhower, dated January 25, 1946, marked "Secret, Priority." U. S. Department of State, *Foreign Relations of the United States, 1945*, vol. 8, *The Far East* (Washington, D. C.: Government Printing Office, 1971), pp. 395-97. Words in brackets were supplied by the Department of Defense.

ered with regard to his exact activities, which might connect him in varying degree with the political decisions of the Japanese Empire during the last decade. I have gained the definite impression from as complete a research as was possible to me that his connection with affairs of state up to the time of the end of the war was largely ministerial and automatically responsive to the advice of his counselors. There are those who believe that even had he positive ideas it would have been quite possible that any effort on his part to thwart the current of public opinion controlled and represented by the dominant military clique would have placed him in actual jeopardy.

If he is to be tried, great changes must be made in occupational plans and due preparation therefore should be accomplished in preparedness before actual action is initiated. His indictment will unquestionably cause a tremendous convulsion among the Japanese people, the repercussions of which cannot be overestimated. He is a symbol that unites all Japanese. Destroy him and the nation will disintegrate. Practically all Japanese venerate him as the social head of the state and believe rightly or wrongly that the Potsdam Agreements were intended to maintain him as the Emperor of Japan. They will regard Allied action [to the contrary as the greatest] . . . betrayal in their history and the hatreds and resentments engendered by this thought will unquestionably last for all measurable time. A vendetta for revenge will thereby be initiated whose cycle may well not be complete for centuries if ever.

The whole of Japan can be expected, in my opinion, to resist the action either by passive or semiactive means. They are disarmed and therefore represent no special menace to trained and equipped troops; but it is not inconceivable that all government agencies will break down, the civilized practices will largely cease, and a condition of underground chaos and disorder amounting to guerrilla warfare in the mountainous and outlying regions result. I believe all hope of introducing modern democratic methods would disappear and that when military control finally ceased some form of intense regimentation probably along communistic lines would arise from the mutilated masses. This would represent an entirely different problem of occupation from those now prevalent. It would be absolutely essential to greatly increase the occupational forces. It is quite possible that a minimum of a million troops would be required, which would have to be maintained for an indefinite number of years. In addition a complete civil service might have to be recruited and imported, possibly running into a size of several hundred thousand. An overseas supply service under such conditions would have to be set up on practically a war basis embracing an indigent civil population of many millions. Many other most drastic results, which I will not attempt to discuss, should be anticipated and complete new plans should be carefully prepared by the Allied powers along all lines to meet the new eventualities. Most careful consideration as to the national forces composing the occupation force is essential. Certainly the United States should not be called upon to bear unilaterally the terrific burden of manpower, economics, and other resultant responsibilities.

The decision as to whether the Emperor should be tried as a war criminal involves a policy determination upon such a high level that I would not feel it appropriate for me to make a recommendation; but if the decision by the heads of states is in the affirmative, I recommend the above measures as imperative.

THE SHŌWA CONSTITUTION

It was clearly recognized by SCAP that if the occupation were to bring about the strengthening of a democratic process, there had to be sweeping changes in the fundamental law of the land. In spite of the many attempts for the rewriting of the Japanese constitution by the Japanese, the final version as emerged was strongly influenced by the guidance given by SCAP. The process as seen by General Courtney Whitney, who was chief of the government section under MacArthur, is given in Document 5.

The new Japanese constitution (Document 4) came into being on November 3, 1946, and went into effect on May 3, 1947. It made the Emperor the "symbol of the State," not "sacred and inviolable" as he was under the Meiji constitution. The Diet became the highest organ of state powers, and enjoyed full budget-making power, among others. The executive branch was made responsible to the Diet, whereas previously under the Meiji constitution it was not.

In addition to the basic human rights contained in the American Bill of Rights, Chapter III of the Shōwa constitution guaranteed such rights as the right and obligation to work, the right of workers to organize and the right to maintain the minimum standards of wholesome and cultured living. The equality of women was also assured under the new constitution.

The unique feature of the new constitution, however, can be found in its Article 9, the renunciation of war clause. General MacArthur gave credit to Prime Minister Shidehara Kijuro (1872-1951) for the inspiration of incorporating this clause into the constitution (Document 6a). However, it must be noted that many Japanese authorities still claim that it was the general himself who was the author of this clause.⁵

⁵Among those witnesses who appeared before the Constitution Investigatory Commission (Kempō Chōsakai), which held 131 meetings between 1947 and 1964, was former Prime Minister Yoshida Shigeru, who testified that in his opinion the initiative did not come from Prime Minister Shidehara. Another witness went as far as to say that Shidehara had nothing to do with Article 9 and never discussed the matter in his Cabinet meetings. For further details, see Kempō Chōsakai, *Kempō Seitei no Keika ni kansuru Shōinkai Hōkokusho (Subcommittee Reports on the Processes Leading to the Enactment of the Constitution)* (Tokyo: Ministry of Finance, 1967), pp. 323-38. Professor Theodore McNelly speculates that the renunciation of war provision originally stemmed from the MacArthur-Shidehara meeting in January 1946, and it was largely due to the enthusiastic support of MacArthur that the provision was incorporated in the Japanese constitution. See Theodore McNelly, "The Renunciation of War in the Japanese Constitution," *Political Science Quarterly*, 77, no. 3 (September 1962): pp. 350-78.