

and legitimate children was not dealt with at this time.

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## 4. Criminal Law and Procedure

### 1. Central to the trends in criminal legislation was the new development seen in the work of revising the Criminal Code

The preparatory work for the revision of the Criminal Code was virtually completed in May, 1974 when the Legislative Council submitted to the Justice Minister a “Draft of the Revision of the Criminal Code” winding up its 11 years of deliberations.

Criticism ran high against the draft, however, even while the Council was deliberating on it. Some criminalists, the Japan Bar Associations, the Psychoneurosis Society of Japan and others leveled scathing attacks on the draft, and their criticism remained unabated even after the draft was submitted.

Against such a background, there was no move to submit to the Diet a legislative bill calling for a revision of the Criminal Code until 1980 and it appeared that action for a revision was deadlocked.

In the meantime, the Justice Ministry announced in July, 1979 the “Results of the Study of the Overall Revision of the Criminal Code and Their Interpretation,” partly adopting the dissenting opinion. This too was subjected to criticism from many quarters.

The indiscriminate killing of a number of bus passengers by an arsonist and several other serious crimes committed by mentally deranged persons and drug addicts occurred one after the other following the summer of 1980, keenly impressing upon society the need for measures of security discussions on the revision of the Criminal Code centering on measures of security were actively revived. Then and there, the Justice Ministry stepped up its activities to promote the submission of the bill to the Diet.

In the first round of their activities, they endeavored to exchange views with the opposition groups by holding meetings with the Japan Bar Associations four times — July 25, Sept. 16, Nov. 4 and Dec. 26, 1981. Other meetings were expected to be held in 1981.

In the second round, the Justice Ministry on Dec. 26, 1981 announced papers on “Immediate Policies for Work on Revising the Criminal Act” and “The Gist of Measures of Security (drafted by the Criminal Bureau)” indicating a large-scale change from the existing position.

In its “Immediate Policies,” the Justice Ministry laid down the following guidelines: 1) of the provisions contained in the draft those with the same content as in the existing Criminal Code and those that are minimally controversial although different from the existing Criminal Code shall be adopted. 2) The penalties shall be, as a matter of principle, the same as the existing Criminal Code, but the application of the death penalty shall be reduced. Other penalties needing revision shall be amended within the necessary scope. 3) Measures of security shall be introduced by restricting cases. 4) Further study shall be made on the various provisions concerning criminal theory, the crime of revelation of state secrets by officials, and homicide of a lineal ascendant.

In the “Gist,” the Justice Ministry made it clear that the scope of the subject would be limited to those who commit such specific crimes as arson, homicide, assault and battery, rape, obscenity by violence or threat, and robbery.

Such changes in the policy of the Justice Ministry can be considered a concession to the dissenting opinions in an attempt to pave the way for early introduction of measures of security and other necessary provisions.

The positive approach of the Justice Ministry to the problem is highly evaluated as having facilitated the formation of a consensus on a revision of the Criminal Code and, as a result, moving one step further toward realization of a revision.

On the other hand, it must be noted that opinions opposing a revision of the Criminal Code including the introduction of mea-

tures of security still remain deeply rooted. In this regard, it is strongly hoped that further careful study will be made on the basis of the policies newly announced by the Justice Ministry.

## **2. On a Revision of the Prison Act**

The Legislative Council on Nov. 25, 1980 submitted a recommendation entitled “Outline Draft of the Gist of a Revision of the Prison Act” to the Justice Minister. (On this issue, see p. 37, Volume 1). As of 1981, the Justice Ministry was drafting a bill on the basis of the “Outline Draft.” The bill was to be submitted to the Diet in the spring of 1982.

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## **5. Commercial Law**

The “Act of Amendment to Parts of the Commercial Code” was proclaimed in June 1981, on the basis of the “Outline of a Draft Bill for Partial Amendment of the Commercial Code” introduced already in Volume 2, 1982, of this Bulletin.

The Act of Amendment is, in gist, made up of 1) the scope of large corporations under the Act Providing Exceptions to the Commercial Code for Auditing Stock Corporations (Stock Corporations Special Audit Act), 2) shares, 3) organizations, 4) accounting and disclosure, 5) prohibition of granting benefits concerning the exercise of shareholder’s rights, and 6) debentures accompanied by preemptive rights to new shares. Each item is explained herewith.

### **1. The Scope of Large Corporations under the Stock Corporations Special Audit Act:**