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Reading material  
English Hills, Ginza

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## **The meaning of existence of a bicameral legislature under the Constitution of Japan of 1946**

“Rational law” is rationally expected to be established by “the sole law-making organ of the State” as the embodiment of rationality meaningfully given.

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I Toshiyuki Namai would like you to jurisprudentially enjoy experiencing what is called “intellectual voyage” through studying one of the most fundamental systems of the Constitution of Japan in the way hereinafter described.

Article 41 of the Constitution of Japan established in 1946 solemnly provides that “the Diet shall be the highest organ of state power, and shall be the sole law-making organ of the State.” As it is written in the constitution, the Diet is the highest national organ, but it doesn’t mean that the Diet is legally granted to freely use (abuse) the state power at all. Needless to say, the abuse of state power cannot be permissible without exception.

It is a well-known fact in the world that Japan constitutionally possesses the “separation of powers” as a sovereign state under the constitution of Japan established in 1946 after the Pacific War (1941-1945).

There are three powers constitutionally separated. Those three separated powers are (1) “the Diet” as the legislative power, (2) “the Cabinet” as the administrative power (Article 65 of the same provides that “Executive power shall be vested in the Cabinet.”) and (3) “the Judiciary” as the judicial power (Article 76 of the same provides that “the whole judicial power is vested in a Supreme Court and in such inferior courts as are established by law”).

I shall constitutionally continue lecturing upon some more details of the Japanese Diet. Article 42 of the same concretely provides that “the Diet shall consist of two Houses, namely the House of Representatives and the House of Councillors.”

As the very matter of the realization of democracy which is fortunately modernized in Japan, the Members of both houses are firmly elected by “direct vote” of the Japanese people. As to their terms of service, “four years” is given to the members of the House of Representatives (Article 45 of the same), similarly, “six years” is given to the members of the House of Councillors (Article 46 of the same) as well.

Regarding “the state organ,” the Diet, it is indispensably important to grasp the meaning of existence of the Diet as follows:

As the embodiment of democracy for the sake of all of Japanese nationals, the Diet shall be

- 1) “the highest organ of state power,” and
- 2) “the sole law-making organ of the State.”

This means that the Japanese people have “the sole way” to firmly establish laws through the Diet members of the two Houses fairly voted and equally elected by the Japanese people.

It goes without saying that this constitutionally keeps the real democracy for the sake of the people in this country. Obviously, this is “a matter of indispensability” Japanese people need to think of at any cost. Otherwise, it would be very difficult to realize the ideal of this country now and in the future.

The Diet members are rigidly expected to constitutionally grasp some of the important meanings of law such as the following basic legal questions, 1) the most important role law (statute law) jurisprudentially possesses in consideration of the history of humankind on earth, 2) the significance of the concept, “rule of law” in comparison with “rule by law,” 3) the meaning and the quintessence of “a citizen” and 4) what kind of responsibility they have as the Diet members.

Are the Diet members humbly working for the sake of realizing the ideal of democracy for the Japanese people? This is a crucial political (and of course legal) question the people should not forget from generation to generation at all times.

All we know now is that “there is no perfect ideal law-making state organ in the world.” This is an absolutely unavoidable destiny all human beings inevitably face here on earth.

There is no perfect law in the world. But, “rational law” (human-made rational law) is absolutely necessary not only here in Japan but also in other countries, too. Anthropologically speaking, I Toshiyuki Namai tell you that human beings are sapientially privileged to make sense as “Homo sapiens” differentiated from other animals here on earth. History diaphanously proves that.