

STAT

Page Denied

Digest
of

**KOREAN CIVIL and
CRIMINAL LAW**

STAT

STAT



APRIL 1, 1958

**UNITED NATIONS COMMAND
OFFICE OF THE ECONOMIC COORDINATOR FOR KOREA
PUBLIC ADMINISTRATION DIVISION**

APO 301

K-AV-155

UNITED NATIONS COMMAND
OFFICE OF THE ECONOMIC COORDINATOR FOR KOREA
APO 301, SAN FRANCISCO, CALIFORNIA

Digest
of
KOREAN CIVIL *and*
CRIMINAL LAW

APRIL 1, 1958

F O R E W O R D

Prior to 1895 Korean law consisted of the unwritten customary laws and a written penal code. There was no independent judiciary under the then existing monarchy. Justice was administered by the King's Executive staff. The first judicial reforms were made after the conclusion of the China - Japan war in 1895 and provided for the establishment of duly constituted law courts. When Korea was annexed to Japan in 1910, much of the Japanese civil and criminal law, substantive and procedural, was made applicable in Korea thus providing the foundation for the Civil Law system which exists in Korea today. Since the establishment of the Republic of Korea in 1948 a Korean criminal code and code of criminal procedure have been enacted. A new Korean civil code was recently enacted by the National Assembly and promulgated by the President on 22 February 1958. It will become effective 1 January 1960. The two remaining codes (the commercial code and the civil code of procedure) are Japanese in origin and are retained in effect together with a large number of Japanese special laws and Japanese Governor General Ordinances by Article 100 of the Constitution which provides that "existing laws and administrative orders shall be in effect to the extent that they do not conflict with this constitution". This provision of the constitution also continues in effect numerous regulations issued by the U.S. Military Government in Korea (USAMGIK) during the occupation of Korea from 1945 to 1948

and also certain provisions of the unwritten ancient Korean Customary law especially in relation to domestic matters and succession to property. The Korean National Assembly has enacted nearly 500 laws to date mostly in reference to the organization of central and local government and various administrative agencies.

The mere recitation of the heterogeneity of Korean law sources is an indication of the complexity of the problems encountered in digesting the law of Korea on over fifty law headings. This Digest is in no sense an official interpretation of the Korean law and is only intended as a preliminary step in the research of legal questions.

It is expected that the National Assembly will enact a Korean civil code of procedure in the near future and work is underway on the drafting of a commercial code which will complete the five basic codes of the civil law system.

When the recently enacted Civil Code becomes effective on 1 January 1960 many of the law headings in this Digest will require substantial revision. Until the effective date of the new Korean Civil Code, the old Japanese Civil Code (less parts of Books IV and V dealing with family affairs and Succession) remain in effect.

The editor is grateful to Mr. Sun-yup Hong of the Seoul Bar Association who contributed considerable time in the preparation of the Digest and made many valuable suggestions concerning the final form of the Articles.

FRANK G. O'NEILL, EDITOR
Public Administration Division

1 March 1958

I N D E X

	Page
Acknowledgement	1
Actions	2
Adoption	4
Affidavit	5
Aliens	6
Assignments	11
Attachments	12
Attorneys	13
Bankruptcy	14
Banks	15
Bills & Notes	16
Civil Affairs	18
Conflict of Laws & Application of Laws	20
Constitution & Government	27
Contract	29
Copyright	31
Corporations	33
Courts	35
Criminal Law	37
Criminal Procedure	40
Death	44
Deeds, Leases & Registration	45
Depositions	46

	Page
Descent & Distribution	47
Divorce	49
Execution	51
Foreign Exchange Control	52
Foreign Trade	54
Frauds, Statute of	55
Garnishments	56
Holidays	57
Husband & Wife	58
Infants & Incompetents	59
Interest	61
Judgement	62
Liens	63
Limitations	64
Local Autonomy & Taxation	66
Marriage	68
Mines & Minerals	70
Mortgage	71
Notaries Public	72
Patents	73
Partnership	74
Pledge	76
Principal & Agent	77
Sale	79

	Page
Shipping	81
Statutes	85
Torts	86
Trademarks & Tradenames	88
Treaties & Agreements	90
Trusts	92
Taxes	93

ACKNOWLEDGEMENT

Acknowledgement must be made before a notary public. Acknowledgements are not required for ordinary deeds nor are they in general use in Korea.

ACTIONS

An action is commenced by filing a written petition with the court having jurisdiction over the matter. In cases involving small amounts, the action may be commenced by oral petition.

The petition must contain the names of the parties, their legal representatives, and the gist of the claim must be stated.

An attorney representing a party must file a power of attorney with the court. After a petition is filed with court, a copy will be served on the defendant and the presiding judge must fix a date for hearing and summons the parties to appear. If the action is to be defended, the defendant must file his answer in sufficient time for reply by the plaintiff before the date of the first hearing. Cases are orally presented in open court after the pleadings have been completed. In complicated cases, preliminary proceedings may be conducted before a commissioned judge appointed specially for the purpose.

Jurisdiction attaches to any case in which the defendant has his domicile or residence in Korea or when an obligation is to be performed in Korea or when property in dispute between the parties is located in Korea.

Cases involving 500,000 Hwan or less are heard before a single judge, while cases involving more than this sum are referred to a collegiate court consisting of three (3) district court judges.

The expenses for an action are assessed against the parties. The attorney's fee is not considered a part of such costs. Appeal may be

lodged with the High Court and questions of law may be further appealed to the Supreme Court.

The High Court has original jurisdiction over matters pertaining to dispositions by Governmental administrative agencies.

ADOPTION

Aliens may adopt Koreans except the eldest son or one who is head of a household or of a family. The parents of a minor child must consent to the adoption and, if there are no parents, then the grandparents. If no grandparents, the guardian must give consent with approval of the family council. An adult to be adopted must have consent of his parents or, if none, the grandparents. An alien must furnish a certificate issued by a member of the bar or a court of his country to the effect that the adoptive parent is qualified under the laws of his country to adopt a Korean child. In the case of an American adoptive-parent, he should furnish an attorney's statement of eligibility in accordance with the law of the State of which he is a resident. Korean law does not require that the adopting person be married and neither is there any restriction as to the sex of the adopting parent. Requirements for adoption are governed by the law of the country of the adopting parents and of the child to be adopted. The adopting parent must be older than the person to be adopted.

A notification of adoption must be filed with the local administrative agency where the adoptive parent is located in Korea or at the place where the adopted child is domiciled.

(Also see Conflicts and Application of laws)

ALIENS

Attorneys

Aliens who are qualified as lawyers may be admitted to a qualified firm for the practice of the law upon approval of the Minister of Justice provided that similar courtesies are extended to Korean lawyers by the country of the alien lawyer. Such alien lawyers may only handle matters pertaining to aliens or alien laws.

Civil Rights

Aliens in the Republic of Korea enjoy all private rights except when restricted by internal laws and ordinances and international treaties. Alien corporations shall have no status in Korea unless specifically recognized or registered by law and/or in accordance with international treaties. Alien corporations so recognized shall be subject to all the limitations imposed upon non-juridical alien persons.

Customs

Customs duties are collected on goods imported from foreign countries in accordance with the law in existence at the date of import declaration.

Duties on goods stored in bonded warehouses are levied in accordance with the law as it exists on the date of delivery from such warehouses.

The rate of duty shall be in accordance with the customs tariff except for goods subject to a particular convention. Ad valorem duties

are based on the normal price of arrival (not invoice) at the time of importation. When import declarations are filed, the declarer is liable for payment of customs duties. On imported mail matters, customs duties are imposed upon the addressee according to the quantity, quality and price of goods at the time of arrival at the post of customs clearance. The usual diplomatic exemptions are granted and certain items necessary for the rehabilitation of Korea are also duty free. Articles used in trade such as samples, etc., which are usually re-exported may be admitted free of duty in accordance with regulations of the Minister of Finance. Personal effects of travelers commensurate to their status may be admitted free as well as personal effects and household articles involved in a change of residence provided such articles and effects are used ones.

When goods which were imported duty free are sold to other persons or presented as gifts, or are used in a manner other than specified, the duty shall be collected if not more than five years has passed since the goods were imported.

Entry-Exit -Registration

Aliens passing through or visiting Korea who remain in excess of 15 days must receive permission from the Minister of Foreign Affairs. Those who desire to remain in excess of 30 days must obtain a residence permit from the Minister of Foreign Affairs and must register with the municipal authority in which they reside. Exit permits must be obtained by aliens authorized to reside in Korea. These provisions do not apply

to alien diplomats, consuls and their families or to persons on official business of an alien government.

Foreign Firms

A foreign firm desiring to establish a branch office in Korea must register the firm in the same manner as provided for a Korean business of a similar nature, and must appoint a representative in Korea whose name and address shall be registered when the registration of the branch office is made. The representative member of a firm shall have authority to act on all legal and other business in connection with the operation of the firm. A foreign firm will not be recognized legally until this registration has been completed at the place of its establishment. In reference to the issuance of stocks and bonds and the pledge or transfer of stock, a newly established branch office in Korea shall be regarded as its head office.

Foreign Investments

There is no foreign investment law presently in effect in Korea. The Ministry of Finance handles matters pertaining to foreign investments on a case basis, pending the enactment of a proposed foreign investment law. The government controls the issuance of mining rights for underground resources which, in the absence of special authorization, are only granted to Korean citizens or juridical persons in which more than one half of the investment and control belongs to citizens of Korea.

Flight of Currency

Except by permission of the Korean Government, no person shall remove or cause to be removed, property located in the Republic of Korea to any foreign country or North of the 38th parallel for the purpose of flight of currency.

Land Ownership

An alien or juridical person of a foreign country which prohibits or imposes conditions or restrictions upon Korean nationals or juridical persons in acquiring rights in land may be similarly prohibited from acquiring rights in land in the Republic of Korea by executive order. Aliens and alien juridical persons are also prohibited from acquiring real rights in areas designated as vital for National security purposes, except on permission of the Minister of National Defense. Much of the land in larger cities is so designated. These restrictions do not apply to the ownership of buildings which, under Korean law, may be transferred separately from the land to which they are attached.

Medical Practitioners

An alien desiring to qualify for medical practice in Korea must be a graduate of a medical or dental college of a foreign country and have a medical license issued by the foreign country and must, in addition, pass the Korean National Medical examination.

Mining

Mining rights may be only held by Nationals of the Republic of Korea; juridical persons established under Korean law providing more than one-half of the capital investment and more than one half of the voting rights belong to Korean Nationals; and alien juridical persons specifically authorized by the Government of the Republic of Korea and consented to by the House of Representatives.

Nationality

A citizen of Korea who acquires the nationality of the alien spouse on marriage forfeits Korean citizenship. The same provision applies to a Korean citizen adopted by an alien. Birth in Korea does not confer citizenship, unless:

- a. Father is a Korean at the time of child's birth.
- b. Mother is Korean and father unknown.
- c. Child born of unknown or stateless parents.
- d. Foundling.

Trade Marks

Aliens who do not possess legal or business permits in Korea are not eligible to acquire trade mark rights unless in the absence of Treaty provisions providing to the contrary.

ASSIGNMENTS

Any right, claim, or chose in action may be assigned unless prohibited by law. A contract of assignment vests full title and interest in the assignee. Assignments of immovable properties are not valid against third parties unless registered at the Land Registration Office. Assignments of movable property are not valid against third parties until delivery is made. The assignment of a nominative debt cannot be set-up against the debtor or any third person unless the assignor has given notice thereof to the debtor or the debtor has consented thereto. The assignment of a debt payable to order cannot be set-up against the debtor or any third person unless the instrument of debt is delivered to the assignee with the assignment indorsed thereon.

(Also see Conflicts and Application of Laws, this Digest)

ATTACHMENTS

Attachments may be made by court order upon proof that satisfaction of a judgement will otherwise be extremely difficult. An attachment may be dissolved by furnishing cash security or upon showing a change of circumstances.

ATTORNEYS

JURISDICTION OVER ADMISSION

The Minister of Justice has jurisdiction over the admission of attorneys and the entry of their names in the register of lawyers. The Bar of Korea is not integrated.

ELIGIBILITY

Any adult citizen of Korea who attains the status of a probational lawyer by passing the Judicial Examination for Higher Officials may be admitted to practice law if he: (a) completes a one year apprenticeship followed by an examination given by the Ministry of Justice; or, (b) serves 2 years in the Legal Section of one of several governmental agencies; or, (c) teaches law in an authorized law school for 2 years as a professor or assistant professor. In addition, a person qualified to be a judge or prosecutor may also be admitted to practice law.

ALIENS

An attorney of a foreign country may be admitted to practice law in Korea upon application filed with the Minister of Justice provided the country of the alien grants reciprocal privileges to Korean attorneys. Foreign attorneys may only handle matters involving foreigners or foreign law.

BANKRUPTCY

An alien or alien corporation is granted the same rights in relation to bankruptcy as the country of the alien or alien corporation grants to citizens of Korea. An adjudication of bankruptcy in Korea affects only property of the bankrupt in Korea and bankruptcy in a foreign country does not affect property situated in Korea. When a debtor becomes insolvent, the court may declare him a bankrupt on application of either the creditor or the debtor. Bankruptcy is presumed where the debtor ceases to pay his debt. Corporations may also be declared bankrupt, not only for insolvency, but in case their debts exceed their assets, on application of the directors, manager or a liquidator. Secured claims are protected and certain privileged claims are recognized. After an adjudication of bankruptcy is made, trustees are appointed and claims are paid proportionately out of assets unless a compulsory settlement is proposed by the bankrupt and agreed upon.

BANKS

The Bank of Korea is designated by law as the Central Bank for the Republic of Korea. It is authorized to issue Bank notes; rediscount notes of other Banks and to establish Bank rates for loans and deposits. It acts as depositary for other banking institutions and for government funds. The Bank also maintains a Foreign department to handle Foreign Currency deposits and transactions.

The Reconstruction Bank of Korea is largely concerned with long term loans for rehabilitation purposes.

There are four commercial Banks with numerous Branches throughout the country - the Hungop Bank; the Savings Bank of Korea; the Commercial Bank; and the Cho Hung Bank.

There are no foreign Banks or Branches of foreign Banks in Korea at the present time, except a Branch of the Bank of America handling UNC personnel deposits only.

BILLS AND NOTES

BILLS OF EXCHANGE

Must contain words indicating that the instrument is a "Bill of Exchange" and must be signed by the drawer. Other essentials are:

- a. an unconditional order to pay a fixed sum of money.
- b. names of the drawee and payee.
- c. specified time and place for payment.
- d. date and place where drawn.

PROMISSORY NOTES

Must contain words indicating that the instrument is a "Promissory Note" and must be signed by the maker. Other essentials are:

- a. an unconditional order to pay a fixed sum.
- b. a specified time and place of payment
- c. name of the payee
- d. date and place of issuance.

CHECKS

Must contain words indicating that the instrument is a "Check" and must be signed by the drawer. Other essentials are:

- a. an unconditional order to pay a fixed sum
- b. name of the drawee
- c. designation of the place of payment
- d. date and place where the check is drawn.

BILLS AND NOTES (continued)

GENERAL

Unless otherwise provided by law, Bills, Notes or Checks are void unless they contain the particulars enumerated above.

Bills of exchange, promissory notes and checks are negotiable instruments and a person signing a negotiable instrument is liable in accordance with the tenor thereof.

Korean law on Bills, Notes and Checks conforms with the Geneva International Convention of Uniform Law, 1930.

CIVIL AFFAIRS

MILITARY

By invitation of the President of the sovereign Republic of Korea, the United States and other UN countries landed troops in Korea in response to the UN call for Arms on 27 June 1950. On 7 July 1950 the UN designated the United States as the Unified Command. On 13 July 1950 the ROK waived criminal jurisdiction over U.S. Forces and gave them authority to arrest Koreans known to have committed crimes against the U.S. Forces or their members on condition that such persons should be turned over to the ROK civil authorities as soon as possible. On 14 July 1950, Korea placed its army under the Command of the Unified Commander, General MacArthur. There is no overall civil affairs agreement defining the privileges and immunities to be accorded U.S. or UNC troops. In the absence of such an agreement, it appears that UNC/ROK relations have been governed by concepts of international law bearing upon the rights and privileges to be accorded friendly troops on foreign soil by invitation of the sovereign.

ECONOMIC

CINCUNC assumed control of the economic aid program in Korea when ECA phased out on 7 April 1951. Due to the uncertain military situation, CINCUNC still has responsibility for relief, rehabilitation and economic stabilization in Korea with funds supplied by the International Cooperatio

Administration (ICA), which is represented by Mr. W. E. Warne who is also designated as deputy CINCUNC and CINCREP on the Combined Economic Board. The Combined Economic Board arises out of the Meyer Agreement signed 24 May 1952 (amended 14 Dec 1953) between the United States acting for the Unified Command and the ROK. This agreement as amended constitutes the basic agreement for the coordination of economic matters between the UNC and the Republic of Korea.

The other major agency furnishing funds for the rehabilitation of Korea is the United Nations Reconstruction Agency (UNKRA) which was created by the UN on 1 December 1950 and commenced operations in Korea on 1 June 1951. On 21 September 1951 the UN negotiated an agreement with the Korean Government on privileges and Immunities to be accorded UN agencies and officers. This agreement does not extend to UNC military elements. An agreement concerning the expenditure of funds by UNKRA was negotiated with the ROK on 31 May 1954. The agent General of UNKRA is Lt. General John B. Coulter, USA (Ret)

CONFLICT OF LAWS AND APPLICATION OF LAWS

ADOPTION

The conditions of adoption are determined as to each party concerned by the law of his or her home country, and as regards the validity of adoption or dissolution of adoption, the law of the home country of the adopting parent governs.

ASSIGNMENTS

As regards the validity of an assignment of an obligation vis-a-vis third persons, the law of the place of the debtor's domicile is followed.

CAPACITY

The capacity of a person is determined by the law of his home country. An alien doing a juristic act in Korea who is of full capacity according to Korean law is regarded as a person of full capacity notwithstanding this provision. The foregoing provision does not apply to juristic acts to be done under the Law of Relatives or the Law of Succession or to juristic acts relating to immovables situated abroad.

CUSTOMS

Customs which are not contrary to public order or to good morals have the same force as law in so far as they are recognized by the provisions of laws and ordinances or relate to matters which are not provided for by laws or ordinances.

DEATH , PRESUMPTION OF

In case it is uncertain whether an alien is alive or dead, the Court may adjudge him to have disappeared according to Korean law, but only in so far as it concerns his property in Korea or his legal relations subject to Korean law.

DIVORCE

Divorce is governed by the law of the home country of the husband at the time of the occurrence of the fact forming its cause. But the Court can make no adjudication of divorce unless the fact forming its grounds also constitutes a grounds for divorce according to Korean law.

DOMICILE

In case the law of the place of the domicile of a party is to govern, if his domicile is unknown, the law of the place of his residence governs.

The provisions of paragraph a and c under NATIONALITY (supra) apply correspondingly in case the law of the place of the domicile of party is to govern.

GUARDIANSHIP

Guardianship is governed by the law of the home country of the ward. The guardianship of an alien domiciled or resident in Korea is governed by Korean law only when there is no person to undertake the functions of

a guardian or when he has been adjudged incompetent in Korea.

ILLEGITIMACY

Whether a child is legitimate or not is determined by the law of the country to which the husband of its mother belonged at the time of its birth. If the husband has died previous to the birth of the child, the law of the country to which he last belonged governs.

The conditions of acknowledgment of an illegitimate child are determined as regards its father or mother by the law of the country to which the father or mother belonged at the time of acknowledgment; and, as regards the child, by the law of the country to which it belonged at the time of acknowledgment. As regards the validity of acknowledgment, the law of the home country of the father or mother governs.

INCOMPETENCY

As regards the causes for which a person may be adjudged incompetent the law of his home country governs; and as regards the effect of such adjudication, it is determined by the law of the country where the adjudication has been made. With regard to an alien domiciled or resident in Korea, should a cause exist for which he is to be adjudged incompetent according to the law of his home country, the Court may adjudge him incompetent. This does not, however, apply if such cause is not recognized by the Korean law. These provisions apply correspondingly to quasi-incompetency.

JURISTIC ACTS

As regards the formation and effect of a juristic act, the question as to the law of which country is to govern is determined by the intention of the parties. In case the intention of the parties is uncertain, the law of the place where the act is done shall be followed.

The form of a juristic act shall be determined by the law governing the effect of such act. Formalities in accordance with the law of the place of the act are valid notwithstanding this provision. This does not, however, apply to juristic acts either creating or disposing of real rights or other rights which require registration.

As regards an expression of intention made to a person residing in a place governed by a different law, the place from which notice of the same is dispatched is regarded as the place of the act.

As regards the formation and effect of a contract, the place from which the notice of the offer is dispatched is regarded as the place of the act. In case the recipient of the offer is ignorant, at the time of his acceptance, of the place from which the offer was dispatched, the place of the offerer's domicile is regarded as the place of act.

Real rights relating to movables and immovables and other rights which require to be registered are governed by the law of the place where their subject matter exists. The acquisition or loss of rights is governed by the place where their subject matter exists at the time when the fact forming the cause of the said acquisition or loss is completed.

The formation and effect of obligations due to business management unjust enrichment or unlawful acts are governed by the law of the place where the facts forming the cause of such obligations have occurred. This provision does not apply to unlawful acts in case the facts occurring in a foreign country are not unlawful according to Korean law. Even when facts occurring in a foreign country are unlawful according to Korean law, the injured person can assert no claim for compensation for damage and other measures (remedies) except such as are recognized by Korean law.

MARRIAGE

The conditions of formation of a marriage are determined in respect to each party by the law of his or her home country, but as regards form, the law of the place of celebration of the marriage governs.

The effect of a marriage is determined by the law of the home country of the husband.

MORALS, FOREIGN LAW VIOLATES

In case the law of a foreign country is to govern, it shall not govern if its provisions are contrary to public order or good morals.

NATIONALITY

a. Dual

In the case of dual nationality when the law of the home country of a party is to govern, the law of his home country is that of the

country whose nationality he last acquired. But in case one of the several nationalities is Korean, the Korean law is followed.

b. Stateless

As regards a person who has no nationality, the law of the place of his domicile shall be regarded as the law of his home country. When his domicile is unknown the law of the place of his residence is followed.

c. Federal States

With regard to a person belonging to a country whose various districts (states) are subject to different laws, the law of the district to which he belongs governs.

PARENT AND CHILD

The legal relations between parent and child are determined by the law of the home country of the father, or in case of the father being non-existent, by the law of the home country of the mother.

The duty of support is determined by the law of the home country of the person bound to furnish support.

Apart from the matters mentioned in the preceding Articles, family relationship and the rights and duties arising therefrom are determined by the law of the home country of the parties concerned.

RENVOI

In case the law of the home country of a party is to be followed, then if Korean law is to govern according to the law of such country, the Korean law shall govern.

SUCCESSION

Succession is governed by the law of the home country of the ancestor.

WILLS

As regards the formation and effect of a will the law of the home country, at the time of its formation, governs. The revocation of a will is governed by the existing law of the home country of the testator.

The foregoing provision does not prevent the law of the place of the act to be followed as regards the form of a will.

CONSTITUTION AND GOVERNMENT

Korea was annexed to Japan on 29 August 1910, liberated on 15 August 1945 and occupied by United States Force from 6 September 1945 to 15 August 1948. Korea received its first constitution on 17 July 1948. On 20 July 1948 the National Assembly elected Mr. Syngman Rhee the first President, and on 15 August 1948 the Republic of Korea was proclaimed. The constitution provides for three separate branches of government; the Executive, Legislative and Judicial. The Constitution was first amended on 4 July 1952 to provide for direct election of the President and creation of an upper house (not yet organized) to the Legislature. The constitution was again amended on 29 November 1954 to (a) provide a national referendum on matters pertaining to national crises, (b) eliminate the office of Prime Minister, (c) limit elections of other than incumbent Presidents and Vice Presidents to two terms and, (d) limit government control over private property and to encourage free enterprise.

A National Assembly of 2 houses is the supreme law making agency of the Republic. The National Assembly may, by a vote of non-confidence, cause the removal of a member of the State Council, a policy making group appointed by the President. Heads of Ministries, of which there are twelve, are appointed from the State Council.

At present, the Ministries consist of Foreign Affairs, Home Affairs, Finance, Justice, National Defense, Education, Reconstruction, Agriculture, Commerce and Industry, Public Health and Social Affairs, Transportation, and Communication.

South Korea is divided into 9 Provinces and the Special City of Seoul. The governors of the Provinces and the Mayor of Seoul are appointed by the President, but there is some measure of self government at the provincial and city levels in the nature of elected councils which exercise limited legislative powers.

CONTRACT

A contract is a legally enforceable agreement between two or more persons to do or forebear something. An offer specifying a certain period for acceptance cannot be revoked but lapses if the offeree does not receive an acceptance within the period specified. An acceptance dispatched to arrive in normal time but unavoidably delayed will bind the offeror if he knew of such delay and failed to inform the offeree of the late arrival. Delayed acceptance or conditional acceptances are deemed to be new offers. One who advertises a reward is liable to one who performs the act. One of the parties to a bilateral contract may refuse to perform his obligation until the other has tendered performance of his obligation if due. When the transfer of a real right over a specific thing is made the object of a bilateral contract and the thing is lost or damaged by any cause for which the obligor is not responsible, such loss or damage is borne by the obligee.

A third-party beneficiary of a contract may demand performance directly from the obligor when he declares to the obligor his intention to accept the benefit of the contract.

If a party to a contract fails to perform his obligation under the contract, the other party may fix a reasonable time for performance and thereafter may rescind the contract if performance is not completed. A party entitled to rescission must, if requested by the other party, elect to rescind or forfeit his right. A contract of gift becomes effective when one party declares his intention gratuitously to transfer property of his own to another party and the other party agrees to accept it. An

executory contract of gift may be revoked by either party unless the contract is in writing.

The Civil Code provides special provisions for a number of specific forms of contracts such as gift, sale, exchange, loan for consumption, loan for use, lease, employment, contract for work, mandate, deposit, life annuity and compromise.

(Also see Conflict and Application of Laws, this digest)

COPYRIGHT

The author of works belonging to the domain of writing, speech, drawing, painting, architecture, sculpture, models, photographs, performances, songs and other forms of literature, science or art (including music) has a monopoly on the right to effect reproduction of his work. Copyright of dramatic works and musical compositions includes the right of public performances. Copyrights may be assigned.

Copyright of a work published or publicly performed lasts during the life of the author and for thirty years after death. Copyright of a work first published or publicly performed after the death of its author lasts for thirty years from the time of such publication or public performance.

Copyright of an anonymous or pseudo-anonymous author lasts for thirty years from the time of publication or public performance. Copyright of a work published or publicly performed by an author which is a government or public office, school, shrine or temple, association, company or any other organization lasts for thirty years from the date of publication or public performance. If the owner of a copyright does not publish a translation within ten years from the time of publication of the original work, his right of translation ceases to exist. The following works may not be the subject of copyright:

1. Laws, ordinances and government documents
2. Miscellaneous reports and articles reporting current events published in a newspaper or magazine.
3. Speeches made in courts, national assembly or assemblages or political meetings open to the public.

Copyright is created without registration or any other formality, but succession, assignment or pledge or copyright may not be set-up against a third person without registration thereof. A translator is deemed as an author and enjoys protection under the law of copyright. Copyright also exists on reproduction by cinema, radio, gramophone and photographs. Copyrights of aliens are similarly protected unless provided otherwise by treaty.

A person who infringes a copyright is liable for the damages caused thereby. A person who imports a pirated work for sale or circulation in this country is deemed a pirated author. When a civil action or a criminal prosecution has been filed in respect to a pirated work, the court may, on the application of the plaintiff or prosecutor, provisionally suspend sale or circulation of the work and suspend the public performance of the work which is suspected of being pirated,

CORPORATIONS
(Juridical Persons)

There are three types of juridical persons under Korean law:

1. Non-profit organizations such as Associations and Foundations, engaged in charitable enterprises, religion, and matters pertaining to science etc.

2. Profit-making companies:

- a. Incorporated Partnership (Similar to U.S. partnerships in which members are jointly and/or severally liable for obligations).
- b. Incorporated Limited Partnership (Composed of partners with limited and unlimited liability).
- c. Joint Stock Company (Similar to U.S. Stock Corporations in which liability of shareholder is limited to face value of his shares).
- d. Joint Stock Limited Company (Composed of members with unlimited liability and ordinary share holders. This type of organization is unknown in Anglo-American Law).

3. The third type of juridical persons are those organized for special purposes by special law, such as the Dai Han Coal Corporation.

All juridical persons must register and record certain general information concerning organization etc., at the seat of their principal office as well as at the seat of every Branch.

With the exception of trading companies, foreign juristic persons are recognized except as provided by law. Foreign corporations which establish branches in Korea must make the same registration as the type of Korean juridical person which they most nearly resemble.

Alien controlled corporations may not acquire mining rights or vested property unless specifically authorized and may not acquire title to land in areas designated as vital to National Defense except by permission of the Minister of National Defense. Much of the land in the larger cities is so designated. The restriction does not apply to buildings which under Korean law may be owned separately from the land. Apart from the foregoing restrictions foreign firms in general are subject to the same provisions of law as Korean firms.

There are provisions under the Civil Code for the establishment of partnerships not having the status of juridical persons. Such partnerships are based on contracts and registration is not required as in the case of partnerships having juristic status as provided in the Commercial Code.

COURTS

The courts of Korea comprise the Supreme Court consisting of 9 members including a Chief Justice, three High Courts and nine District Courts with thirty-seven branches.

The Supreme Court is the court of last appeal on questions of law and rulings in civil and criminal cases. The Supreme Court lacks the power to declare laws unconstitutional. Such power is vested by the constitution in a Constitution Committee, an extra-judiciary body, consisting of the Vice President as chairman, five members of the supreme court, three members of the House of Representatives and two members of the House of Councillors. The court also has appellate jurisdiction over Patent Bureau decisions and Court-Martials and has original jurisdiction in several cases as prescribed by law.

The High Courts have appellate jurisdiction over the District Courts and conduct trials to move on appeals against civil and criminal judgments of the District Courts. The High Courts exercise original jurisdiction over cases involving appeals from administrative rulings by governmental agencies and bureaus.

The District Courts are the Chief trial courts. The district courts ordinarily hear cases with a single judge but in serious criminal cases and certain civil cases, trials are heard by a collegiate court consisting of three district court judges. In addition to the 37 District Branch courts there are four Juvenile Branch courts which exercise jurisdiction over accused under the age of 20. The district courts also perform

certain non-judicial functions in connection with the Registration of land, family and commercial registration.

There are several other tribunals which are not part of the judicial organization:

- a. Courts-martial exercise exclusive jurisdiction over military personnel, subject to appeal to the Supreme Court.
- b. Prize Courts and Higher Prize Courts have jurisdiction over prize cases in accordance with treaties and the generally recognized rules of international law. There is no provision for appeal to the Supreme court.
- c. The Patent Bureau has jurisdiction over patent and trademark disputes. The party aggrieved may appeal to the Supreme Court only on the grounds that the decision of the Patent Bureau was against the law or regulation.

CRIMINAL LAW

The main source of Criminal Law is the Criminal Code which contains general provisions applicable to all crimes and specific provisions defining about 200 common crimes. A Minor Offense law defines about 45 petty crimes. Crimes referred to as statutory crimes in Anglo-American law are to be found in the penal provisions of various Administrative laws, decrees and ordinances such as the Customs Law (smuggling etc); Tax Laws (tax frauds etc); Foreign Exchange Control Laws (monetary violations). The Civil Code and the Commercial Code also contain some penal provisions.

The Criminal Law applies to both Koreans and aliens who, commit crimes within the territory of Korea. Aliens are also criminally liable for acts committed outside the territory of Korea concerning (a) insurrection, (b) foreign aggression, (c) national flag, (d) currency, (e) securities and postal violations, (f) false official documents, and (g) illegal use of public seals.

The acts of persons who are mentally deficient or under 14 years of age are not punishable. If the crime so requires, specific intent must be shown. Self-defense and acts of self-preservation may be used as defenses to a crime. Attempts and conspiracies to commit crimes are punishable. Special punishment is provided for repeated offenders.

Punishments range from capital punishment (hanging) down to confiscation. In between are penal servitude, imprisonment, loss of civil rights, fines, detention and minor fines. Loss of civil rights involves the right to (a) become a public official, (b) vote, (c) engage in certain public enterprises, and (d) become a director, etc., of a business corporation. The extent of punishment is governed by the (a) age and environment of the offender, (b) relation to the injured party, (c) motive for the crime, and (d) the post-crime conduct of the accused. In minor cases the pronouncement of sentence may be suspended and in more serious cases the sentence may be suspended pending good behaviour for a fixed period.

Prisoners are eligible for parole after serving 10 years of a life sentence or one third of a limited term. In case of parole, the original sentence shall be deemed to have expired after 10 years in the case of a life sentence and the remaining part of a limited term provided of course that the parole has not been nullified or revoked.

Several unusual features of the Criminal Code are to be noted. Fires caused as a result of negligence are punishable by fine and imprisonment. Adultery may only be prosecuted on complaint of the offended spouse. Both the adulterer and his partner are punishable. Gambling, except for momentary pleasure, is prohibited. Murder by request or consent of the deceased is punishable by penal servitude for not less than one year nor more than 10 years. Neither prostitution nor fornication is an offense under the Code, (Public Act #7, KILA, 14 Nov. 1947 prohibits prostitution).

One who abandons a person in need of help by reason of old age, infancy, illness, etc., when there is an obligation by law or contract to provide protection, may be sentenced to three years imprisonment. Rape is punishable by not less than three years imprisonment and one who has sexual intercourse with a female who has lost consciousness or the power to resist is guilty of quasi-rape. Sexual intercourse obtained through false promise of marriage is punishable. The statutory age for rape is 13 years. A person who gains an unjustifiable profit by taking advantage of the needy condition of another person is punishable by imprisonment up to three years.

NOTE: See Criminal Procedure

CRIMINAL PROCEDURE

The constitution of Korea guarantees that no citizen shall be arrested, detained, searched, tried, punished or subjected to compulsory labor except as provided by Law. The Constitution further provides that, except in case of flagrante delicto or where there is danger of escape or that evidence may be destroyed, a warrant shall be obtained prior to arrest, detention or search. A person arrested or detained has the right to counsel and Habeas Corpus is guaranteed. No citizen may be tried twice for the same crime and a person may not be tried for a crime unless such act constituted a crime prescribed by law at the time it was committed. A defendant found not guilty of a crime for which he has been detained shall have the right to claim compensation from the government.

A person suspected of having committed a crime may be summoned before (a) a judicial police official, (b) a public prosecutor, or (c) before the court directly. The suspect may remain silent. If the judicial police official or the public prosecutor have reason to believe that a summoned suspect has committed a crime, they may obtain a warrant for his arrest and detention. Judicial police officials may only detain a suspect for 10 days after which time the suspect must be released or turned over to the competent public prosecutor. The prosecutor must initiate public action within 10 days (a renewal period of 10 days for cause may be granted) or release the suspect. An arrested person or his representative may immediately petition a court to determine the legality of an arrest. An accused who is summoned directly by the court may be detained if he is reasonably suspected of having

committed a crime and (a) has no fixed dwelling, (b) may destroy evidence, or (c) may attempt to escape. A person produced in court must be released within 24 hours if it is not necessary to detain him. Prior to detention the court will grant such a person an opportunity to be heard. An accused may not be detained without trial for longer than two months subject to two renewals for a similar period by ruling of the court. An accused who is under detention may request bail which ordinarily will be granted after indictment unless the accused is guilty of a capital offense or an offense punishable by imprisonment for 10 years or more. Bail may also be refused if there is reason to fear the accused may escape or destroy evidence or if the accused has no fixed dwelling.

Trials are conducted in open court, without juries, before one or more judges, in the Korean language. The court will furnish an interpreter for those who do not understand Korean. The indictment must be served on the accused at least five days prior to the date set for trial. The accused has a right to counsel and to be confronted by the witnesses against him if they are available. Contrary to Anglo-American jurisprudence the judge initially examines all witnesses and the accused. A solemn oath is signed by all witnesses prior to giving testimony. An accused is not sworn.

The whole or part of the costs of trial may be charged to the defendant.

Public actions may not be instituted after a certain lapse of time depending on the nature of the crime, e.g., 15 years for a capital offense and one year for a crime punishable only by loss of civilian

rights. Any person may press for the issuance of a complaint when the public prosecutor declines to do so, and the court will appoint an advocate from among those representing the complainants to exercise, ex officio, the duties of public Prosecutor in such a case, if a complaint issues.

In the event of pronouncement of guilt, the judge must inform the accused as to the time for any appeal and the court to which appeal may be made. Either the prosecutor or the defendant may appeal. Appeal from the district court to the High Court must be made within seven days. The High Court may dismiss an appeal or after hearing the evidence may quash the judgement of the lower court and enter a new judgement. Where the appeal has been made by, or on behalf of, the accused no penalty more severe than that imposed by the district court shall be made. An appeal on questions of law may be made to the Supreme Court within seven days after judgement by a High Court or from a District Court when appeal to the High Court has been waived.

New trials may be had on the basis of newly discovered evidence, e.g., fraud, etc.

When a fine, minor fine or confiscation is to be imposed, a public prosecutor may request the court to issue a summary order without ordinary trial proceedings. An application for formal trial must be made by an accused within seven days after the court has issued the summary order or he is presumed to have waived such right.

In capital cases, the death penalty is executed by order of the Minister of Justice. Execution of penal servitude, imprisonment, detention or arrest may be suspended by the Public Prosecutor because of

the age, health or responsibilities of the accused. Penalties imposed against juridical persons may be executed against the successor corporation in the event of amalgamation.

Criminal trials under Korean procedure differ considerably from trials in Anglo-American countries. In the latter countries when a case is reached for trial it generally continues uninterrupted until all the evidence is heard at which time the judge or jury announces the finding, and sentence is pronounced. Under Korean procedure, highly involved criminal case will generally extend over several or more months with brief hearings at various intervals. No transcript of the proceedings is made, but a clerk summarizes the evidence which becomes a part of the protocol of the case. The reason for repeated delays during the taking of evidence is attributable to the fact that the judge takes an active part in conducting the trial and requires time to prepare "his" case before each witness. This system is in direct contrast to the Anglo-American system of trial procedure in which the judge plays a passive roll, allowing the prosecutor and defense counsel to conduct the entire case.

DEATH

If it is unknown for 7 years(3 years in certain calamity-associated disappearances) whether an absentee is dead or alive, the court may on application of any person interested, make a judicial declaration of disappearance effective at the expiration of the period concerned.

DEEDS, LEASES AND REGISTRATIONS

Deeds must be signed and sealed and contain a description of the matter to be transferred. A deed, when executed, is binding between the parties but must be registered to put third parties on notice. Ownership of land does not include ownership of the buildings. Land and buildings are owned, conveyed, mortgaged and leased separately and registered in separate books in the Registry Offices. The following instruments may be registered:

1. Transfer of ownership
2. A superficies
3. An emphyteusew
4. Servitudes
5. A preferential right
6. Pledges
7. Mortgages
8. Leases.

The duration of ordinary leases may not exceed 20 years and the lease may provide for renewal.

DEPOSITIONS

Depositions to be used in U.S. Courts are usually taken in Korea before U.S. Consular Officers. Witnesses must voluntarily appear for interrogation. Complete instructions should accompany the papers in regard to signatures, oaths, stenographic assistance, etc.

The present schedule of fees is \$10.00 for depositions not exceeding 500 words and .50¢ for each additional 100 words. These fees do not cover the cost of a clerk, typist or stenographer. Fees for copies are the same as for originals. Fees must be paid in advance and any excess will be returned.

Where special circumstances exist, testimony to be used in civil or criminal cases in Korea may be preserved.

DESCENT AND DISTRIBUTION

Succession to property is governed in accordance with the customary law. A multiple system of succession, depending on the status of the deceased, is presently in effect.

If the deceased is the head of the family, succession is determined as follows:

1. An only son takes the entire estate.
2. If there are two sons, the elder son takes the entire estate but the younger son may claim from him one-third of the estate.
3. If there are more than two sons, the elder son takes the entire estate, but the other sons may claim from him one-half of the estate to be divided equally among them.
4. If there are no sons or illegitimate son, an adopted son takes the entire estate.
5. If there is no adopted son, then the order of succession is (a) grandmother, (b) mother, and (c) the wife of the deceased head of the family.

If the deceased is a married male member of a family (not head of house) his property is divided equally among his children. If there are no children the estate goes to the wife of the deceased.

If the deceased is an unmarried male (not head of house), the property goes to the lineal ascendants in the following order (a) father, (b) mother, (c) grandfather, (d) grandmother, and (e) the head of the family.

In the case of the death of a married female, (not head of house) her estate goes to her children and, if no children, then to her husband. If the female is a second wife, the children from the first wife and second wife succeed jointly to the estate; but, if there are no children, then to the husband.

The eldest son of the head of a house succeeds to the position of head of house upon death of his ancestor. Younger brothers may establish their own family upon marriage and become head of the newly formed family group. Successors assume the debts of the person from whom they inherit.

(See also Conflicts and Application of Laws)

DIVORCE

There are two kinds of divorce under Korean Law - consent divorce and judicial divorce.

Consent divorces may be effected by agreement of both spouses, provided the parents of the couple and the family chiefs also approve.

Custody of children shall vest in the father unless otherwise agreed. As to aliens, divorce is governed by the law of the husband's country at the time when the facts constituting the grounds for divorce arose; but the court cannot decree a divorce unless the facts constituting the grounds for divorce are also recognized by Korean Law. An alien may only obtain a consent divorce if consent divorces are recognized by the law of his country. Consent divorces become effective by filing a notification of divorce with the registry officials.

Judicial divorce may be obtained by either spouse upon the following grounds:

1. Bigamy
2. Adultery of wife
3. Where the husband has been sentenced for a crime concerning illicit intercourse
4. Where the other spouse has been charged with more than a minor crime
5. Where a spouse has been treated with such cruelty as to make cohabitation intolerable or has been offered grave insult

6. Malicious desertion
7. Cruel treatment or grave insult by any of the lineal ascendants of the other spouse
8. Cruel treatment or grave insult to any of the lineal ascendants of a spouse by the other spouse
9. When it is unknown for three years whether the spouse is alive or dead.

(See also Conflicts and Application of Laws, this Digest)

EXECUTION

Execution upon final judgement may be had by enforcing (1) an obligation to pay money, (2) an obligation to transfer certain objects, and (3) an obligation to do or refrain from doing a certain act. In order to satisfy a judgement, any property belonging to the judgement debtor may be seized. Immovables are sold at public auctions. Fraudulent sales and conveyances may be voided. Certain necessities of life, religious objects, etc., are exempt from execution.

EXECUTION

Execution upon final judgement may be had by enforcing (1) an obligation to pay money, (2) an obligation to transfer certain objects, and (3) an obligation to do or refrain from doing a certain act. In order to satisfy a judgement, any property belonging to the judgement debtor may be seized. Immovables are sold at public auctions. Fraudulent sales and conveyances may be voided. Certain necessities of life, religious objects, etc., are exempt from execution.

FOREIGN EXCHANGE CONTROL

The legal currency is the HWAN (HW). On 15 August 1955 Korea established a single exchange rate system with the HWAN pegged at 500 to one U.S. dollar. All foreigners entering Korea must surrender foreign exchange and negotiable instruments to the Bank of Korea. Such exchange may be deposited to the general account of the Bank of Korea and withdrawals at the rate of 500 HWAN for one U.S. dollar may be made during the foreigner's stay in Korea. Sterling and Hongkong dollars are converted at their U.S. dollar value. Upon departure from Korea foreigners may withdraw in the currency of deposit any balance remaining in their account. Foreign Exchange Sales Certificates are issued for the recording of such transactions.

The following transactions are prohibited unless specifically authorized by the Ministry of Finance.

- a. Any transaction in which any person or political entity outside of Korea has any interest, direct or indirect.
- b. Any transaction which involves property of any of the following types, owned, held or controlled by any person or political entity in Korea:
 - (1) Property (or evidence thereof) located outside of Korea.
 - (2) Money not legal tender in Korea.
 - (3) Securities, negotiable instruments and other evidences of ownership or indebtedness, wherever located, expressed or payable in money not legal tender in Korea, or issued or created by, or constituting or asserted to constitute an obligation of a person or political entity outside of Korea.

(4) Claims or evidence thereof, wherever located, against any person or political entity outside of Korea, or expressed in money not legal tender in Korea

(5) Property, wherever located, in which a person or political entity outside of Korea has any interest of any nature whatsoever, direct or indirect.

c. Any transaction for the purpose, or which has the effect of, evading or avoiding any of the foregoing prohibitions.

FOREIGN TRADE

The basic principle underlying foreign trade is that exports must pay for imports. Except for a limited number of items, licenses are not required for imports or exports. Matters pertaining to imports are handled by the Bank of Korea while the Customs Bureau has administrative control over exports. Foreign exchange to finance imports is obtained from the (a) ROK Government which conducts periodic sales of foreign exchange on a "first come" basis, (b) foreign exchange realized from exports, (c) remittances from abroad (missionaries, etc.), and (d) through funds furnished by UNKRA and ICA for certain Government approved private imports.

The conduct of foreign trade has been stimulated by the conclusion of a treaty of friendship, commerce and navigation with the U.S. The lack of an adequate foreign investment law is somewhat of a hinderance to the further development of foreign trade.

FRAUDS, STATUTE OF

Korea has no specific Statute of Frauds, but certain corporate instruments must be in writing.

Executory contracts of gift may not be enforced unless reduced to writing.

GARNISHMENT

Claims of a debtor for payment of sum of money or for the delivery of corporeal things or negotiable instruments may be attached by means of a court order. Salary due or to become due to a debtor may be garnished.

HOLIDAYS

National Holidays are: *

1 March	Independence Movement Commemoration Day
17 July	Constitution Day
15 August	Liberation/Independence Day
3 October	National Origin Day

In addition, the following days are declared to be official Holidays by Presidential Decree:

1,2,3 January	National Celebration Days
5 April	Planting Day
6 June	Memorial Day
August (variable)	Thanksgiving Day (Lunar Calendar - Falls on Mid-Autumnal Full Moon)
9 October	Korean Alphabet Anniversary
24 October	United Nations Day
25 December	Christmas Day

* When the last day for the performance of a legal obligation or function falls on a National Holiday or a Sunday, the time is extended through the following day.

HUSBAND AND WIFE

A wife enters her husband's house by reason of marriage and is under a duty to live with her husband. Husband and wife are under a duty to support each other. In case a wife is a minor, her husband, if of full age, is her guardian.

Prior to marriage a husband and wife may provide for a property relationship different from that fixed by law. The husband bears all expenses of the married life; but if the wife is the head of the house she bears them. The husband or the female head of a house has the right to use and to take the profits of the property of the other spouse in conformity with its ordinary use. The husband manages the property of his wife, but if the husband is unable to manage the property, the wife manages it herself. In regard to daily household matters the wife shall be deemed to be the representative of her husband. The husband may deny or limit such power of representation, but such denial cannot be set up against a third person acting in good faith. Property belonging to a wife of a husband prior to the marriage and property acquired during the marriage in her or his own name remains the separate property of the spouse. When it is uncertain whether property belongs to the husband or the wife, it is presumed to be the property of the husband or of the female head of the house.

A contract between husband and wife may be voided by either of them during the marriage, but the rights of third persons may not be prejudiced thereby.

NOTE: See MARRIAGE

INFANTS AND INCOMPETENTS

Majority is attained on the completion of full twenty years of age. A minor must obtain the consent of his legal representative before doing any juristic act, unless it is an act merely to acquire a right or to be relieved from an obligation. An act done in contravention of preceding sentence is voidable. A person adjudged incompetent shall be placed under guardianship. The act of a person adjudged incompetent is voidable. The other party to an act done by a person under disability may, after the latter has become a person of full capacity, give a notice to him to make definite as to whether he ratifies the voidable act or not. If the person who was under disability fails to despatch a definite answer within such period, the act is deemed to have been ratified. If a person under disability has used fraudulent means to induce the belief that he is a person of full capacity, he cannot avoid his act.

Guardianship commences in any of the following cases: (a) if there is no one to exercise parental power over a minor, or if the person who exercises parental power has not right of management, and (b) if an adjudication of incompetency has been made. The person who last exercises parental power over a minor can designate a guardian by will, unless such person has no right of management. If a father who exercises parental power has no right of management, the mother exercises parental power. If a mother who exercises parental power has no right of management, the head of house becomes guardian. If there is no head of house, the guardian shall be

designated by family council. A guardian must without delay enter upon a survey of the ward's property, and must complete such survey and prepare an inventory of such property within one month; but this period may be extended by the Court. The survey of property and the preparation of the inventory thereof are of no effect unless conducted, in case there is a supervisor of the guardian, in his presence. When the duties of a guardian have terminated, the guardian or his successor must render an account of his management within two months, but such period may be extended by the Court.

Infants are nationals of Korea if: (a) the father was a Korean national at the time of the birth of the child, (b) the mother is a national of Korea and the father is unknown or has no nationality, (c) the child is born in Korea of unknown parents or parents who have no nationality, and (d) the child is a foundling.

An infant loses Korean nationality if he acquires the nationality of an alien upon adoption.

(Also see Conflicts and Application of Laws)

INTEREST

In the absence of agreement, the interest rate on Commercial loans is 6% per year and 5% per year on non-commercial loans.

The maximum legal interest rate for loans of 10 Hwan or more is 20% per year.

JUDGEMENT

The judgement of a court in a civil case takes effect by pronouncement. The judgement must be served on the parties within two weeks after pronouncement. Foreign judgements are valid upon fulfillment of the following conditions:

1. The judgement is not contrary to laws, ordinances, or treaties.
2. Service has been made by means other than publication or the defendant has accepted service.
3. The judgement is not contrary to public order or good morals in Korea.
4. Korean judgements are recognized in the courts of the foreign country concerned.
5. A Korean executory judgement based on the foreign judgement is obtained before execution.

LIENS

Under civil code a lien is created when the possessor of a thing belonging to another has an obligation in his favor relating to the thing possessed. A lien is not recognized when the obligation is not yet due, or if the possession resulted from an unlawful act. A person having a right of lien may retain the thing until the obligation is performed, and may collect the fruits produced by the thing retained or may apply them to the satisfaction of his claim in preference to other creditors. A person having a right of lien must use due care in relation to the article and cannot, without the consent of the debtor use or lease the thing retained, or give it as security. Liens are extinguished by: (a) loss of possession, (b) by furnishing adequate security, and (c) when a person having a lien misuses the article. Under the commercial code many kinds of liens are recognized. A commercial agent may retain articles or negotiable instruments which he holds in his possession on behalf of the principal for any claim which has arisen out of his having acted as agent or intermediary until he has been paid. An obligee may retain possession of an article or negotiable instrument belonging to the obligor unless there was a declaration of intention to the contrary. A forwarding agent may retain goods only in respect of remuneration and freight which he is entitled to receive, and for any disbursements, or advances made for his principal in connection with such goods.

LIMITATIONS

All rights and claims become extinguished when the parties entitled thereto fail to exercise their rights within the time limit determined by law. Except in cases where the law provides otherwise, claims under civil code lapse unless the action is brought within ten years (under the Commercial Code - five years). Peaceful, open possession of a thing belonging to another for twenty years with intention to own it, results in ownership thereof, (10 years in case of an immovable if original possession was bonafide and without negligence). Special time limits are as follows: (1) three years for claims of engineers and contractors computed from the time of the completion of the work, (2) two years for (a) fees of lawyers from the time of conclusion of the case, and (b) the price of products or merchandise sold by producers, wholesalers or retail dealers; (3) one year for salaries of employees fixed by the month or a shorter period; wages of manual workers and public performers and the price of articles supplied by them and charges for transportation. The period of prescription on a judgement is ten years.

Obligations arising out of commercial transactions, unless otherwise provided for, shall be extinguished after five years.

As a result of the special circumstance arising from the division of the country at the 38th parallel, the running of the Statute of Limitations on or after 9 August 1945 against any claim or right to institute suit against any person (natural or juridical) is suspended:

- a. During the time of absence of such person from Korea south

of 38 North Latitude, or

- b. during the time such person cannot be located in Korea south of 38 North Latitude by the exercise of due diligence, or
- c. during the time such person conceals his whereabouts.

LOCAL AUTONOMY AND TAXATION

The Republic of Korea is divided into nine Provinces and the Special City of Seoul. The Provinces are in turn divided into counties, while the city of Seoul is divided into wards. A Governor appointed by the President presides over each province while a Mayor similarly appointed presides over the Special City of Seoul. County administrators in the Provinces and ward chiefs in the City of Seoul are also appointed by the President. The Provinces and the City of Seoul have local councils.

Four types of autonomous municipal organizations are to be found in the Provinces:

- a. Class A cities having a population in excess of 500,000
- b. Class B cities (shi) having a population in excess of 50,000
- c. Towns (up) having a population in excess of 20,000
- d. Townships (myon) having a population of less than 20,000

Each municipality has an elected council which serves without pay for three years. The mayors of cities and chiefs of towns and villages are elected by residents thereof.

Class A cities are divided into wards, while class B cities, towns and townships are divided into precincts (dong or ri). Ward chiefs and precinct chiefs are elected by the residents thereof.

Provinces and the Special City of Seoul are authorized by law to impose a local surtax on certain national taxes and also impose local indigenous taxes. Cities, towns and townships impose re-surtaxes on

the aforesaid national taxes and also impose surtaxes on certain of the indigenous provincial taxes. They also impose indigenous taxes. Local taxes are imposed on residents or persons having an office or place of business in the municipality concerned.

National Tax rates are uniform throughout the Republic, but local tax rates although uniform within an autonomous unit, vary between different municipal organizations.

See attached chart.

LOCAL AUTONOMOUS ORGANIZATIONS

Autonomous Unit	Elected Council	Term (Years)	Administrative Head	How Selected	Term (Years)	Major Sub Division	Administrative Head	How Selected	Term (Years)	Local Taxes
Province "TO"	Yes	3	Governor "POCHISA" May be removed by vote of Local Coun.	Appt. by Pres.	Serves at will of president	Countries "GUN" Cities	County administrator "GUMSUN" See cities below	Appt. by Pres. See cities below	Serves at will of president	Local Taxes a. Surtax on national land tax, business tax & Mining Tax. b. Indigenous taxes; house-hold tax; building tax; special land tax; forestry tax, slaughter tax; fishery taxes, vehicle tax; immovable property tax; Same as provincial tax with additional special business tax, dog tax, boat tax, and transportation tax.
Special City of Seoul	Yes	3	Mayor "SHICHANG" May be removed by vote of Local Coun.	Appt. by Pres.	Serves at will of president	wards "KUN"	Chief "UCHUNG JANG"	Appt. by Pres.	Serves at will of president	
City (over 500,000) "SHI"	Yes	3	Mayor "SHICHANG"	Elected by re-sidents	3	wards "KUN"	Chief "AUCHUNG JANG"	Appt. by Mayor	Serves at will of mayor	a. Re-surtax on national land tax, business tax & Mining tax. b. Surtax on certain indigenous provincial taxes. c. Indigenous taxes; vehicle (Less Auto) Tax; special business tax, Dog tax, boat tax, and transportation tax. Same as for city over 500,000.
City (over 50,000) "SHI"	Yes	3	Mayor "SHICHANG"	Elected by re-sidents	3	Precincts "DONG"	Headman "DONG JANG"	Elected by re-sidents	2	Same as for city over 500,000.
Town (over 20,000) "UP"	Yes	3	Chief "UP JANG"	Elected by re-sidents	3	Precincts "DONG"	Headman "DONG JANG"	Elected by re-sidents	2	Same as for city over 500,000.
Township (less than 20,000) "TUN"	Yes	3	Chief "TUN JANG"	Elected by re-sidents	3	Precincts "RI"	Headman "RI JANG"	Elected by re-sidents	2	Same as for city over 500,000.

MARRIAGE

The marriageable age for males is 17 full years and for females, 15 full years. Consent of the parents and family heads is required prior to the marriage in accordance with the customary law. Marriages between lineal blood relatives or collateral blood relatives within the 3rd degree are prohibited. A man and a woman who have the same family name and whose families originated in the same locality are prohibited from marrying. Bigamous marriages are prohibited.

A woman may not marry for six months after dissolution or annulment of a previous marriage unless the woman has given birth to a child during said period. A person divorced because of adultery may not marry the adulterous partner.

Marriage becomes effective upon acceptance by the registry of a certificate of marriage signed by both parties and witnessed by two adult persons.

The requisites for the existence of a marriage between an alien and a Korean are governed by the law of the country of each party concerned; its form however is governed by the Law of the country where it is performed. The effect of a marriage is governed by the law of the husband's country. Property relations between husband and wife are governed by the law of the husband's country at the time of marriage.

An alien who becomes the wife of a Korean national acquires Korean nationality. A Korean who marries an alien loses Korean nationality if the nationality of the alien spouse is acquired by marriage.

In Korea it is customary for marriages between foreigners or a Korean and a foreigner to be registered with the diplomatic representative of the foreigner as a prerequisite to notification to the Korean authorities.

(Also see Conflicts and Application of Laws, this Digest)

MINES AND MINERALS

In accordance with the Constitution, the Government, through the Ministry of Commerce and Industry controls the issuance of licenses for the exploitation, development and utilization of mines and other underground resources.

Mining licenses may only be granted to Korean citizens or juridical persons in which more than one half of the investment and a majority of the control belong to Korea citizens. In exceptional cases licenses may be granted to aliens upon special authorization by the Executive Branch of the government with approval of the National Assembly.

Licenses may not exceed 25 years subject to renewal 3 months prior to the end of the period for a similar term.

MORTGAGE

A mortgage grants to a mortgagee the right to have his claim satisfied from sale of the mortgaged property furnished by the debtor or a third person as security with priority over other creditors. Except as noted below only immovables (land) may be mortgaged. A mortgage extends to all things, except buildings, which appertain to or form the part of the land mortgaged, unless otherwise provided for by the act of creation. Where several mortgages have been created on an immovable to secure two or more debts, the rank of their priority is according to the order of registration. A mortgagee may remortgage his right to secure another debt or may assign or waive his right or its rank of priority for the benefit of another creditor of the mortgagor. Vessels, railways, canals and factory and mining rights or fisheries may be mortgaged under special law. Mortgages must be registered to put 3rd parties on notice.

NOTARIES PUBLIC

Notaries prepare notarial deeds and authenticate documents relating to juristic acts, sales, gifts, leases, loans, partnership, contracts, powers of attorney, marriages, domestic relations, inheritance, and corporations or etc., upon application of the parties or other persons who have an interest therein. Because of the formalities attendant upon the execution of notarized documents, a strong presumption arises as to their validity.

PATENTS

Provision relating to Patents are provided in USAMGIK ordinance 91, promulgated 5 October 1946.

Cases involving infringements of patents rights, etc., are determined by the Patent Bureau with a right of appeal to the Supreme Court only upon the ground that the decision is against the law or regulations. The Bureau of Patents is under the Minister of Commerce and Industry. The Bureau of Patents is divided into four sections:

- a. The General Affairs Section, handling patent applications, issuance of patent letters, regulation of patent attorneys, etc.
- b. Examination Section.
- c. Judgement Section.
- d. Library Section.

The Patent law provides that a person who has filed an application for a patent outside Korea may file an application for a Korean patent within 12 months (6 months in case of a design patent) from the earliest date on which any foreign application was filed. No extension is provided for cases where the foreign patent was filed during World War II or during the Korean War.

(Information concerning Patents, Trade Marks and Copyright may be obtained by writing to the Director, Patent Bureau, Ministry of Commerce and Industry, Seoul, Korea.)

PARTNERSHIP

A Partnership under the Civil Code is created by a contract whereby each of the parties has agreed to carry on a joint undertaking by making a contribution thereto. Services may also be made the object of contribution. The contributions made by each partner and the other property of the partnership belong to all the partners in common. The management of the affairs of the partnership is decided by a majority of the partners, unless management is entrusted to one or more partners by the partnership contract, in which case it shall be decided by a majority of such persons. Such partner or partners cannot resign or be removed except for reasonable cause. In the absence of an agreement as to the sharing of profit and losses, it shall be decided in proportion to the value of the contribution of each partner. If the proportion has been fixed for the sharing of profits or losses alone, such proportion is presumed to apply both to profits and losses. Prior to liquidation, a partner cannot demand partition of the partnership property. If no period for the duration of the partnership has been fixed by the contract or, if it has been specified that it shall continue during the life of a partner, each partner may retire at any time, but except for unavoidable necessity, not at a time which would be disadvantageous to the partnership.

A partnership created under the Civil Code is not a juristic person, and cannot acquire property or rights, even where a period has been fixed for the duration of the partnership. A partner ceases to be

such by death, bankruptcy, an adjudication of incompetency, or by expulsion. Expulsion of a partner may be made only for reasonable cause and with the unanimous consent of the other partners. A partnership is dissolved upon the accomplishment of the undertaking for which the partnership was made or if such accomplishment becomes impossible. Any member can demand dissolution of the partnership because of urgent necessity.

PLEDGE

A pledgee is entitled to hold possession of an object which he has received from the debtor or a third person as security for his obligation and to obtain satisfaction out of the thing in preference to other creditors. A thing which is unassignable cannot be pledged. The Pledge is effective upon delivery and the pledgee loses his rights if the pledged object is returned to the pledgor. Immovables may also be pledged for not more than ten years, subject to renewal. Property rights and debts may be pledged but, if the right or debt is evidenced by a written document, the document must also be delivered to the pledgee.

PRINCIPAL AND AGENT

Agency and its authority is created by law and contract. A deed made by an agent within the scope of his authority and disclosing the fact that he is acting for a principal will bind his principal. An agent need not be a person of full capacity. An agent whose authority is not specified, has authority only to utilize or improve the thing or right over which he has control but only in so far as the nature of such thing or right is not altered thereby. An agent created by mandate may not appoint a subagent, except where he has obtained the consent of the principal or absolute necessity requires it. An agent may, on his own responsibility, appoint a sub-agent. A sub-agent has the same rights and duties as the agent towards the principal and third persons and represents the principal in respect of acts within the scope of his authority. A person who holds out another to a third person as his agent is bound by all acts between such agent and the third person within the scope of such apparent authority. A principal is also responsible for an agent who has exceeded his authority. If a third person had just reason to believe that the agent has proper authority to do such act. A contract made by a person without authority as agent does not bind the principal unless it is ratified by the principal. If a person who has made a contract as an agent of another can neither prove his authority nor get the principal to ratify the contract, he shall be liable to the other party at the latter's option either for performance or for damages, except in a case where the other party was aware of, or was negligent in

not knowing that such person lacked the power of representation or lacked the capacity for entering into such contract.

Agency ceases by: (1) death of the principal, (2) adjudication of incompetence or bankruptcy of the agent. Agency made by mandate lapses by limitation of the mandate.

SALE

A sale is defined as a contract by which one party to a contract agrees to transfer a property right to the other party for a price. A sale becomes effective when one of the parties agrees to transfer a property right to the other party and the other party agrees to pay the purchase-price to the former. A unilateral promise to sell or purchase becomes effective as a sale from the time when the person to whom such promise is made declares his intention to complete the sale. When the buyer has paid earnest money to the seller, the buyer may rescind the contract by giving up his earnest money and the seller may rescind by refunding double its amount so long as neither of the parties has commenced performance of the contract. The expenses relating to a contract of sale shall be borne by both parties in equal shares. Upon the completion of a sales contract, the seller is responsible for delivering the object of sale, and the buyer for paying the purchase price. The place for payment is the domicile of the seller unless otherwise specified by the parties. If a time is fixed for delivery of the thing sold, it is presumed that the same time is fixed for payment of the price. If the purchase price is to be paid simultaneously with delivery of the subject matter of the sale, the payment must be made at the place of delivery. When a right belonging to another person has been made the object of sale, the seller is bound to acquire such right and transfer it to the buyer. If in this case the seller cannot acquire the right, the buyer may rescind the contract; but if he was aware at the time of the contract that the right did not

belong to the seller, he cannot claim damages. If the seller was unaware at the time of the contract that the right he sold did not belong to him, he may rescind the contract by paying damages arising from his inability to carry out the contract. If a part of the right which forms the object of a sale belongs to another person and the seller cannot transfer it to the buyer, the buyer may demand a reduction of the purchase-price in proportion to such part. If the buyer would not have bought the remaining part, had such alone been the object of the sale, the buyer if acting in good faith may rescind the contract. A demand for reduction of the purchase-price or a rescission of the contract does not preclude a claim for damages by a bonafide buyer. The right of cancellation or reduction must be exercised within one year from the time when the buyer first becomes aware of the facts if the buyer was acting in good faith and from the time the contract was made if the buyer was acting in bad faith. If the thing sold has a concealed defect and the buyer discovers the fact, he may cancel the contract if the defect is such that he is unable to accomplish the object for which he made the contract. In other cases he can only claim damage.

SHIPPING

Korean shipping agents, ship owners, ship builders, salvage firms, and persons engaged in the Marine Transportation Business are subject to the licensing and other provisions of the Ship Control Law promulgated on 3 March 1950. General provisions relating to shipping and maritime law are to be found in Book IV of the Commercial Code, the Marine Collision Prevention Act, the Ship's Tonnage Act and other pertinent laws and regulations.

Korean ships have Korean nationality if they belong to the Korean government, a Korean citizen or commercial companies whose principal office is in Korea provided the managing directors are Koreans.

No Korean ship may be transferred, chartered, mortgaged or delivered to any person not entitled to own a Korean ship without first obtaining permission from the Korean government.

Consignors must declare money, negotiable instruments and other valuables in order to hold the shipowner for losses resulting therefrom.

No attachment or provisional attachment of ship may be made on a ship which has completed preparations for commencing a voyage.

A shipowner may relieve himself of liability for acts done by the Master within the scope of his legal authority, or for damage done to another person by the Master or other mariners in performance of their duty, by abandoning to the claimant at the end of the voyage the ship, the freight, passage money, and any claims which he may have for damages or remuneration in connection with the ship; provided,

however, that this shall not apply if the shipowner has been negligent. The rights of mariners which have arisen out of a contract for service are not subject to this provision.

A ship's husband has authority to do all acts in or out of Court relating to the employment of the ship, except the following: (a) transfer, abandonment, leasing or mortgaging of the ship, (b) effecting insurance on the ship, (c) making a new voyage, (d) major repairs of the ship, and (e) borrowing money. Limitations imposed upon the authority of a ship's husband cannot be set up against third persons acting in good faith.

The lease of a ship, if registered, shall be effective even against persons who have subsequently acquired real rights in the ship.

During a voyage the Master shall make disposition of the cargo in the manner which will be to the best advantage of the interested parties. Away from the port of registry, a Master has authority to do all acts in or out of court necessary for the voyage. Except to defray expenses for repair of ship, salvage or other expenses necessary for the continuance of the voyage, the Master shall not mortgage the ship, borrow money or sell or pledge the whole or any part of the cargo. If a ship has become unrepairable while away from her port of registry, the Master may sell her by (official) auction with the permission of the marine authority.

Damage and expenses which have arisen from a disposition made by the Master in regard to a ship or cargo in order to preserve the ship and cargo from a common peril shall constitute general average. This provision shall not prejudice claims for damages by interested parties

against the negligent party when the peril was caused by negligence.

When a collision is caused by the negligence of the mariners of both ships and it is impossible to determine the degree of negligence of both sides, the damage which has arisen from such collision shall be borne by the owners of both ships in equal shares. Claims arising from general average or from a collision between ships are extinguished by prescription upon the lapse of one (1) year. In the case of general average the period shall be computed from the time when adjustment is completed.

Persons who, with no duty to do so, have salvaged a ship or the whole or part of the cargo in distress at sea, may claim reasonable remuneration for the results.

When a contract of carriage has been made with reference to the whole or part of a ship and all preparations necessary for unloading the cargo have been completed, the Master shall dispatch notice thereof to the consignee without delay. If the period allowed for unloading the cargo has been specified, the period shall be computed from the date following that on which the notice was given. If cargo has been unloaded after the expiration of such period, the shipowner may, even in the absence of a special agreement, demand reasonable remuneration. The period mentioned in the preceding paragraph shall not include days during which it was impossible by reason of vis major to effect the unloading.

If a contract of carriage has been made with reference to specific cargo the consignee shall without delay unload such cargo in accordance with the directions of the Master.

Persons having any of the following claims have a preferential right over the ship, its appurtenance, and unpaid freight:

- a. Expenses relating to a sale of the ship and its appurtenances by (official) auction, and expenses of preservation after commencement of proceedings for sale by (official) auction.
- b. Expenses of preservation of the ship and its appurtenances at the last port of call.
- c. Public dues levied on the ship in respect of the voyage.
- d. Pilotage dues and towage dues.
- e. Salvage remuneration and the ship's contribution to general average.
- f. Claims which have arisen from a necessity for continuance of the voyage.
- g. Claims of the Master and other mariners which have arisen from their contracts of service.
- h. Claims which have arisen from the sale or construction or equipping of the ship, if the ship has not yet made a voyage after such sale or construction, and claims in respect to the equipment, food, and fuel of the ship on her last voyage.
- i. Claims in respect of which abandonment is permitted in accordance with the provisions of Article 690 of the Commercial Code, except the claims mentioned in items b, f, and h above.

Preferential rights of a ship's creditors are extinguished upon the lapse of one (1) year from the time when they have arisen.

A registered ship and its appurtenances may be mortgaged. The provisions relating to mortgages of immovables apply mutatis mutandis to mortgages on ships. Preferential rights of a ship's creditors take precedence over a mortgage.

STATUTES

Korea is a civil law country and the bulk of its law is to be found in the five Codes: the Criminal Code, the Criminal Code of Procedure, the Civil Code (less parts of Books IV and V), the Civil Code of Procedure, and the Commercial Code. The Criminal Code and Criminal Code of Procedure have been recently promulgated by the Korean Government. A Civil Code was promulgated on 22 February 1958, but will not become effective until 1 January 1960. The remaining Codes were received from the Japanese and are presently in effect pending enactment of Korean Codes. A Civil Code of Procedure is now pending before the National Assembly. A new Commercial Code is in the drafting stage. In addition, laws have been promulgated on such subjects as banking, trademarks, patents, Chamber of Commerce, extensive labor laws, nationality, taxation, mining, land reform, etc. Laws relating to companies, negotiable instruments, insurance, admiralty, land, etc., are of Japanese origin and are maintained in effect in Korea by virtue of Article 100 of the constitution. Domestic and inheritance matters are regulated in accordance with the unwritten Korean customary laws. Numerous orders and ordinances promulgated by the Japanese Governor Generals of Korea during the period Korea was annexed to Japan and about fifty ordinances published by the U.S. Military Government in Korea from 1945 to 1948 are still in effect.

TORTS

A person who intentionally or negligently violates the right of another person must respond in damages. In the event of the death of another, the wrongdoer is liable to the parents, spouse and children of the deceased. Minors are only responsible for their acts if they had sufficient intelligence to understand the responsibility for their actions.

A person who employs another to carry out an undertaking is bound to make compensation for damage done to a third person by the employee in the course of the execution of the undertaking; but this shall not apply if the employer has exercised due care in the appointment of the employee and the supervision of the undertaking or if the damage would have ensued even if due care had been exercised. A person who supervises the undertaking in place of the employer shall also assume the responsibility mentioned in the preceding paragraph. The provisions of the preceding two sentences shall not preclude the employer nor the supervisor from demanding reimbursement from the employee.

A person who, in order to protect his own right or that of a third person against the unlawful act of another, unavoidably commits a harmful act is not liable in damages; however, this shall not preclude a claim for damages by the injured party against the person who committed the unlawful act. The provisions of the preceding sentence shall apply with necessary modifications to cases where a thing belonging to another is damaged in order to avert an imminent danger which has arisen from such thing.

The doctrine of comparative negligence prevails in Korea.

The right to claim compensation must be exercised within three years from the time when the injured party or his representative became aware of such damage and the identity of the person who caused it, but in any event within twenty (20) years from the time the unlawful act was committed.

TRADEMARKS AND TRADENAMES

Trademarks

A trademark is defined as an emblem used to mark commodities in such a way that sellers, manufacturers, etc., may distinguish their goods from those of another by means of symbols, letters, shapes or other combinations thereof. Operational insignia identifying business concerns may also be the subject of trademarks. Trademarks are created by application to the Director of patents and subsequent registration and are valid for ten years subject to renewal for a similar period. Foreign trademarks may be submitted for registration in Korea. Those who infringe on trademarks are subject to civil suit and criminal prosecution.

Tradenames

A trader may adopt his surname, surname and given name, or other appellation as his tradename. Juristic persons must indicate the kind of organization as part of the tradename. A tradename registered by one person cannot be registered by another person for the same business in the same city, town or village. The registered owner of a tradename may demand discontinuance of the use of the same name by another person any place in Korea on the grounds of unfair competition.

Tradenames may only be assigned together with a sale of the business or when the business is discontinued. Unless differently agreed upon, the seller of a business cannot engage in the same type of business in

the same or adjoining city, town, or village for 20 years.

Trademarks are registered with the Patent Bureau. Further information may be obtained by writing to the Director, Bureau of Patents, Ministry of Commerce and Industry, Seoul, Korea.

TREATIES AND AGREEMENTS

The Constitution provides that the President is authorized to represent the Republic in relations with Foreign States. Proposed treaties must be first presented to the State Council for decision after which the President is authorized to conclude and ratify treaties subject to consent by the National Assembly.

A partial list of treaties and other international acts between the U.S. and Korea includes the following:

26 Sept 1948	Initial Financial and Property Settlement upon Termination of U.S. Military Government in Korea.
14 Dec. 1948	Agreement on Aid to be Furnished to Korea.
29 June 1949	Provisional Air Transport Service Agreement
1 July 1949	Parcel Post Agreement
1 July 1949	Agreement on Establishment of U.S. Military Advisory Group (KMAG) to the Republic of Korea, signed 26 Jan. 1950 and retroactive to 1 July 1949.
19 Sept. 1949	Economic Cooperation Administration (ECA) Agreement.
26 June 1950	Agreement on Mutual Defense
28 Apr. 1950	Financing of Education Exchange Program.
12 July 1950	U.S. Forces Exempted from ROK Criminal Jurisdiction.
28 July 1950	Agreement on Use of Currency and Credits by Forces Operating in Korea under UNC.
24 May 1952	Agreement on Economic Coordination (am'd 14 Dec. 1952)
1 Oct. 1953	Mutual Defense Pact signed.
17 Nov. 1954	Minute of Understanding on Military, Economic and Political matters.
17 Nov. 1957	Treaty of Friendship, Commerce and Navigation

UN Agreements with the Republic of Korea include:

- 21 Sept. 1951 Privileges and Immunities of UN Personnel.
- 31 May 1954 UNKRA Aid Agreement.

TRUSTS

A trust created in real property must be registered in order to be set up against a third person. Trusts in reference to negotiable instruments must be indicated thereon. A trustee must administer and dispose trust property in accordance with the terms of the trust. Minors or incompetents cannot be trustees. A trust for the purpose of carrying out litigation is illegal. A trust created by a debtor which prejudices a creditor's interest may be set aside by the creditor. A trustee must carry out the spirit of the trust and use the standard of care of a good manager. A trustee who causes damages to the property in trust by improper management or disposal of the property or who acts contrary to the spirit of the trust must respond in damages or return the property. A charitable trust may be created for the purpose of science, art or other public interests under the supervision of the government.

TAXES

Taxes are assessed on the national and local level and are supplemented by a rather complicated system of direct contributions especially at the local level. (See also local autonomy and taxation, this Digest). The national tax system is exceedingly complex and represents a considerable degree of sophistication. In the distribution of national taxes, the ratio of direct and indirect taxes is 40/60 for the previous fiscal year and the ratio is approximately reversed if local taxes and contributions are added.

The national tax system consists of customs duties and some fifteen particularized taxes. The taxes contributing to the national treasury in rank order of their revenue importance for the fiscal period July 1, 1955 - December 31, 1956 were customs duties, the commodity tax, the temporary land income tax, the personal income tax, the business tax, the liquor tax, the corporation income tax, the travelling tax, the electricity and gas tax, the admissions tax, the entertainment and restaurant tax, the registration tax, the stamp tax, the accession tax (death tax), the horse track tax, and the mining tax. During this period the total revenue produced amounted to approximately 118.6 billion hwan. In terms of relative revenue importance only customs duties, the commodity tax, the temporary land income tax, the personal income tax, and the business tax produced revenue in excess of 10 billion hwan.

Customs duties are relatively moderate in their ad valorem rates. The tariff as it presently exists is largely a tariff for revenue purposes rather than a tariff for industry protection.

The commodity tax which is first in revenue importance among the internal levies is collected from manufacturers and importers at differentiated rates, depending on the commodity, ranging from 2 percent to 100 percent.

The temporary land income tax which was enacted in 1951 to replace the land tax classifies income from land into three categories. Class I, category A of the temporary land income tax is a levy in kind on agricultural land engaged in the production of cereals. The base of the tax is gross yield of cereals and the tax rates, on a progressive scale, range from 6 to 15 percent. Class I, category B of the temporary land income tax graduated currency (25% - 60%) tax on the net income of agricultural land engaged in the production of fruits, vegetables, ginseng and produce other than cereals. The Class 2 land tax is a property tax based on a percentage of the assessed rental value of non-farm real property as building sites, saltern fields and the like. The rate of tax is a flat 12 percent.

The personal income tax provided 15.7 billion hwan of revenue for the 1956 fiscal period. It is a schedular tax consisting of six schedules which differentiate personal income as to source and is payable by everyone domiciled in Korea or residing in Korea, ~~for some years~~ or persons outside Korea who have income generated in Korea. Income classification under the schedular tax is as follows:

- 1) Income from non-farm real property and vessel charters.
- 2) Income from dividends and interest.
- 3) Income from enterprises.
- 4) Earned income.
- 5) Income from capital gains.
- 6) Miscellaneous income.

The differentiated income by schedules is subject to personal income tax under three schedules of progressive income tax rates. Non-farm real estate income is taxable at rates ranging from 19 to 57 percent, while earned income is subject to the lowest rates ranging from 4 percent to 40 percent. Income from dividends, interest, capital gains, etc., is taxable at rates ranging from 14 percent to 52 percent. Earned income receives the most favorable discrimination under the personal income tax with real estate income subject to the highest rates of tax.

Supplementing the schedular tax is a global income tax which is an over-riding, equalizing tax for the schedular taxes when income is over \$/ 4,000,000 and is derived from two or more schedular sources.

The tax rate schedules under the personal income tax and the temporary land income tax involve the unusual combination of a step rate schedule and a block rate schedule.

The business tax is a multiple classified gross sales tax. Applicable rates range from .2 percent to 4.2 percent.

The liquor tax is a manufacturer's excise tax with the tax rates varying with the alcoholic content of the beverage. The tax rates are relatively substantial.

The corporation income tax applies flat rates of 32 percent against the net income of commercial corporations and 27 percent against the net income of special corporations. Its statutory provisions are comparatively simple.

R O K

C O N S T I T U T I O NI N D E X

<u>Chapter</u>		<u>Page</u>
I	General Provisions	1
II	Rights and Duties of Citizens	3
III	The National Assembly	10
IV	The Executive	17
	Section 1 The President	17
	Section 2 The State Council	22
	Section 3 The Executive Ministeries	25
V	The Courts	26
VI	Economy	29
VII	Finance	31
VIII	Local Autonomy	33
IX	Amendments to the Constitution	34
X	Supplementary Rules	35

(The Constitution has been amended twice - July 7, 1952 and November 29, 1954. Articles amended or superseded are indicated at the end of the text.)

THE CONSTITUTION OF THE REPUBLIC OF KOREA
(Annotatcd)

P R E A M B L E

We, the People of Korea, possessing a glorious tradition and history from time immemorial, follow the great spirit of independence as manifested in the establishment of the Republic of Korea and by proclamation thereof to the whole world by the March 1st movement in the year of Kimi (T.N.A.D. 1919).

Now, at this time we are engaged in the re-establishment of a democratic and independent State and are determined:

To consolidate National unity through justice, humanity and fraternity;

To establish a democratic system of government eliminating evil social customs of all kinds;

To afford equal opportunities to every person and to provide for the fullest development of the capacity of each individual in all the fields of political, economic, social and cultural life;

To require each person to discharge his duties and responsibilities;

To promote the welfare of the people at home and to strive to maintain permanent international peace and thereby to ensure the security, liberty and happiness of ourselves and our posterity eternally;

Do hereby, in the National Assembly, composed of our freely and duly elected representatives, ordain and establish this constitution on the twelfth day of July in the year of Tangun four thousand two hundred and eighty-one (T.N. July 12, A. D. 1948).

C H A P T E R I

GENERAL PROVISIONS

ARTICLE 1. The Republic of Korea shall be a Democratic and Republican State.

ARTICLE 2. The Sovereignty of the Republic of Korea shall reside in the people.
All State authority shall emanate from the people.

ARTICLE 3. The requisites for Korean citizenship shall be determined by law.

Nationality Law No. 16 - Presidential Decree 567

ARTICLE 4. The territory of the Republic of Korea shall consist of the Korean peninsula and its accessory islands.

Presidential Declaration on Sovereignty over Adjacent Sea, State Council Notification No. 14.

ARTICLE 5. The Republic of Korea, in all fields of political, economic, social, and cultural life shall be responsible for respecting and guaranteeing the liberty, equality, and initiative of each individual and for protecting and adjusting these for the purpose of promoting the general welfare.

ARTICLE 6. The Republic of Korea shall renounce all aggressive wars. The mission of the National Armed Forces shall be to perform the sacred duty of protecting the country.

Naval Base Law, Law No. 102

Marine Defense Act, Law No. 104.

National Defense Law - Korean Interim Government Law.

National Armed Forces Organization Law No. 9.

ARTICLE 7. I. Duly ratified and published treaties and the generally recognized rules of international law shall have the same effect as that of the law of Korea. The status of aliens shall be guaranteed within the scope of international law and treaties.

Law on Entry, Exit and Registration of Aliens, Law No. 65 - Presidential Decree 285.

Registration of Koreans in Foreign Countries, Law No. 70 - Presidential Decree 279.

II. Legislation concerning important matters pertaining to a national crisis which might limit the sovereignty of the Republic of Korea or cause a change in its territory shall after passage by the National Assembly be referred to a National Referendum for confirmation. Such confirmation shall require the valid affirmative votes of two-thirds or more of the voters in a referendum participated in by two-thirds or more of the voters eligible to vote for the election of members of the House of Representatives.

Such National referendum shall be initiated by the petition, within one month after passage of such legislation of five hundred thousand or more of the voters qualified to vote for the election of members of the House of Representatives.

When confirmation is not obtained by such National referendum, the decision of the National Assembly in question shall become retroactively null and void.

C H A P T E R II

RIGHTS AND DUTIES OF CITIZENS

ARTICLE 8. All citizens shall be equal before the Law. No discrimination as to political, economic or social life, based upon sex, religion or social position shall exist.

No privileged castes shall be recognized, nor be ever established hereafter.

The award of decorations or marks of honor in any form shall confer upon recipients only personal honor and no privileged status shall be created thereby.

Awards and Decoration, Presidential Decree No. 89 as amended

ARTICLE 9. All citizens shall enjoy personal liberty. No citizen shall be arrested, detained, searched, tried, punished, or subjected to compulsory labor except as provided by law.

In any case of arrest, detention or search, a warrant therefor shall be necessary; except that in any case of flagrante delicto or in any case where there is danger that the criminal may escape or that the evidence of the crime may be destroyed, the detaining authorities may request an ex post facto conformity with provisions prescribed by law.

To all persons who may be arrested or detained, the right to have the prompt assistance of counsel and the right to request the Court for a review of the legality of the arrest or detention, shall be guaranteed.

Cost of Criminal Procedure, Law No. 338.

Lawyers Act, Law No. 63.

Code of Criminal Procedure, Law No. 341.

Criminal Code, Law No. 293.

ARTICLE 10.

All citizens shall be free from restrictions, except as specified by law, on domicile or the change thereof, and from trespasses on and searches of private premises.

Cost of Criminal Procedure, Law No. 338.

Code of Criminal Procedure, Law No. 293.

Civil Code.

ARTICLE 11.

The privacy of correspondence of all citizens shall remain inviolate and

shall not be infringed except in accordance with law.

Criminal Code, Law No. 293.

ARTICLE 12.

All citizens shall enjoy the freedom of religion and conscience. No State religion shall exist. Religion shall be severed from politics.

ARTICLE 13.

Citizens shall not, except as specified by law, be subjected to any restrictions on the freedom of speech, press, assembly and association.

Abrogation of Kwanju Press Law, Law No. 237.

Office of Public Information Organization, Presidential Decree No. 301,
as amended.

Newspapers and Periodicals, Licensing of, USAMGIK Ordinance No. 83.

ARTICLE 14.

All citizens shall have freedom of learning and the right to practice the sciences and arts. Rights of authors, inventors and artists shall be protected by law.

Culture Protection Law, Law No. 248.

Patent Bureau Organization, Presidential Decree No. 119.

Patent Law, USAMGIK Ordinance No. 91

Amendment to Patent Law, Law No. 238.

ARTICLE 15.

The right of property shall be guaranteed. Its nature and restrictions shall be defined by law.

The exercise of property rights shall conform to the welfare of the public. The expropriation, use or the imposition of restrictions on private property for

public purposes shall be accompanied by payment of just compensation in accordance with the provisions of law.

Grain Control Law, Law No. 97 as amended - Presidential Decree 393 as am.

Special Measure for Requisition, Presidential Emergency Decree No. 6.

Compensation for Confiscation by Government, Presidential Decree No. 381 as amended by 519.

Civil Code.

ARTICLE 16.

All citizens shall be entitled to equal opportunities of education. The attainment of at least an elementary education shall be compulsory and free of cost.

All educational institutions shall be administered under the supervision of the State and the organization of the educational system shall be determined by law.

Education Law, Law No. ~~86~~ as amended, - Presidential Decree 331 as amended.

ARTICLE 17.

All citizens shall have the right and duty to work. The standards and conditions of labor shall be determined by law. Special protection shall be accorded to the labor of women and children.

Labor Relations Board, Law No. 281.

Labor Union, Law No. 280, - Presidential Decree 782.

Labor Protection of USAMGIK Ordinance 19, Pgh. 2.

Labor Standard Law, Law No. 286. Presidential Decree 889.

ARTICLE 18.

Freedom of association, collective bargaining and collective action of laborers shall be guaranteed within the law.

Workers employed in profit-earning private enterprises shall be entitled to share in the profits of such enterprises in accordance with the provisions of law.

Labor Relations Board, Law No. 281.

Labor Union, Law No. 280. Presidential Decree 782.

Labor Dispute, Law No. 279. Presidential Decree 783.

ARTICLE 19.

Citizens who are incapable of earning their living due to old age, infirmity or such other reasons as may cause incapability to work, shall be protected by the State in accordance with the provisions of law.

ARTICLE 20.

Marriage shall be based on the equality of men and women. The purity of marriage and the health of the family shall receive the special protection of the State.

ARTICLE 21.

All citizens shall have the right to submit written petitions to any governmental agency.

The Government shall be obliged to consider such petitions.

Petition Law., Law No. 211. Presidential Decree 713.

N ational Assembly Law, Law No. 5 as amended by 38, 179, 251, 275, 352.

ARTICLE 22.

Citizens shall have the right to be tried in conformity with the law by judges authorized and directed by law.

Criminal Code, Law No. 293.

Code of Criminal Procedure, Law No. 341.

Court Organization Law, Law No. 51

Minor Offense Law, Law No. 316.

Civil Code.

Civil Code of Procedure.

ARTICLE 23.

No citizen shall be prosecuted for a criminal offense unless such act shall have constituted a crime prescribed by law at the time it was committed, nor be placed in double jeopardy.

Criminal Code, Law No. 293.

Code of Criminal Procedure, Law No. 341.

ARTICLE 24.

All defendants in criminal cases shall have the right to be tried in public without delay unless there is proper cause for not doing so.

When a defendant in a criminal case, having been detained, is thereafter found not guilty, he shall have the right to claim compensation by the Government in accordance with the provisions of law.

Code of Criminal Procedure, Law No. 341.

ARTICLE 25.

All citizens shall have the right to elect public officials in conformity with the provisions of law.

Local Autonomy Law, Law No. 32 as amended. Presidential Decree 211 as amended.

Election of National Assemblymen Law No. 121 as amended by 204.

ARTICLE 26.

All citizens shall have the right to hold Public Office in accordance with the provisions of law.

National Public Officials Law, Law No. 44 as amended by 103.
Public Officials Appointment Decree, Presidential Decree
No. 208 as amended by 436, 678, 821, 828, 938, 1013, and 1123.

ARTICLE 27.

Public Officials shall be the trustees of the sovereign people and shall at all times be responsible to the people. All citizens shall have the right to petition for the removal of public officials who have acted unlawfully.

Citizens who have suffered damages by unlawful acts of Public officials done in the exercise of their official duties shall have the right to request compensation by the Government or the Public Corporate bodies concerned; however, the civil or criminal liability of the Public Officials concerned shall not be exempted thereby.

Government Compensation Law, Law No. 231.

ARTICLE 28.

Liberties and rights of the people not enumerated in this constitution shall not be ignored.

Laws imposing restrictions upon the liberties and rights of citizens shall be enacted only when necessary for the maintenance of public order or the welfare of the community.

ARTICLE 29.

All citizens shall have the duty to pay taxes levied in accordance with the provisions of Law.

Tax Collection Law, Law No. 82 as am. P.D. 357.

Income Tax Law, Law No. 319 as am.
 Judicial Person Tax Law, Law No. 62 as am, Presidential Decree 238.
 Business Tax Law, Law No. 48 as am, Presidential Decree 447 as am.
 Mining Tax Law, Law No. 266. Presidential Decree 756.
 Inheritance Tax Law, Law No. 114 as am, Presidential Decree 343.
 Travel Tax Law, Law No. 99 as am, Presidential Decree 287.
 Temporary Land Income Tax Law, Law No. 220 as am, Presidential Decree
 539 as amended.
 Registration Tax Law, Law No. 167 as amended.
 Punishment of Tax Delinquent Law, Law No. 199 as amended, Presidential
 Decree 449 as amended.
 Procedures for Punishment of Tax Delinquents Law, Law No. 200.
 Local Tax Law, Law No. 84 as amended, Presidential Decree 511.
 Local Apportionment Tax Law, Law No. 249 as amended, Presidential Decree
 714.
 Admission Tax Law, Law No. 61 as amended, Presidential Decree 239 as am.
 Entertainment Tax Law, Law No. 52 as amended, Presidential Decree 206
 as amended.
 Commodity Tax Law, Law No. 166 as amended, Presidential Decree 409 as am,
 Liquor Tax Law, Law No. 60 as amended, Presidential Decree 213 as amended
 Stamp Tax Law, Law No. 110 as amended, Presidential Decree 292.
 Pari-Mutuel Tax Law, Law No. 92 as amended, Presidential Decree 290 as am

ARTICLE 30.

All citizens shall have the duty to defend the national territory in accord-
 ance with the provisions of law.

Military Service Law, Law No. 41 as amended, Presidential Decree 281 as
 amended.

Armed Forces Organization Law, Law No. 9.

CHAPTER III

THE NATIONAL ASSEMBLY

ARTICLE 31.

The legislative power shall be exercised by the National Assembly.

The National Assembly shall consist of the House of Representatives and the
 House of Councilors.

National Assembly Law, Law No. 5 as amended.

ARTICLE 32.

Each House shall be composed of members elected by universal, equal, direct, and secret vote.

No member of either House may serve concurrently as a member of the other House.

The details for the election of, and the number of members of the National Assembly shall be determined by law. (152 AM.)

National Assemblymen Election Law, Law No. 121 as amended. Presidential Decree 325 as amended.

ARTICLE 33.

The term of members of the House of Representatives shall be four years.

The term of the members of the House of Councilors shall be six years, but one half of the members of the House of Councilors shall be changed every three years. (154 AM.)

ARTICLE 34.

The National Assembly shall be convened once in each year in accordance with the provisions of law. (154 AM.)

National Assembly Law, Law No. 5 as amended.

ARTICLE 35.

In case of extraordinary necessity, the Chairmen of both Houses shall publicly notify the convening of a temporary session of the National Assembly upon the request of either the President, one fourth or more of the representatives duly elected and seated, or one half or more of the councilors duly elected and seated. (152 AM.)

ARTICLE 36.

The House of Representatives shall elect one speaker and two vice speakers.

The Vice President shall be the speaker of the House of Councilors and two vice speakers shall be elected by the House of Councilors.

The speaker of the House of Councilors shall preside over joint sessions of both Houses. ('52 AM.)

National Assembly Law, Law No. 5 as amended.

Remuneration of National Assembly Law No. 23 as amended.

ARTICLE 37.

Unless otherwise provided in the Constitution, or in the rules of the National Assembly the attendance of a majority of the members duly elected and seated and the votes of a majority of the members present shall be necessary for acts of each House.

In case a Bill is not adopted by one of the two Houses, or the resolutions of the two Houses adopted on a Bill are not in accord with each other, the adoption of the final Bill shall be determined by the vote of a majority of a joint session of the two Houses, attended by a majority of the members of each House duly elected and seated. In case the House of Councilors shall render decision pertaining to a budget different than that of the House of Representatives, the budget shall be referred for reconsideration to the House of Representatives, and the decision made by the House of Representatives upon such reconsideration shall be deemed to be the resolution of the National Assembly.

The Speaker of the House of Representatives shall have a vote.

The Speaker of each House shall have the right to break a tie vote. ('54 AM)

National Assembly Law, Law No. as amended.

ARTICLE 38.

The proceedings of the National Assembly shall be open to the public. However, a closed session may be held by a resolution of either House, or of a joint session of the two Houses. (152 Am)

National Assembly Law, Law No. 5 as amended.

ARTICLE 39.

Bills may be introduced by any member of the National Assembly or by the Executive.

Budgets shall be first presented to the House of Representatives.

A Bill rejected by the House of Representatives shall not be sent to the House of Councilors or to a joint session of the two Houses.

In case a Bill is not adopted within sixty days, excluding adjournments, after it has been sent by one of the two Houses to the other, the House which sent the Bill to the other House may consider the Bill rejected by the other House. (154 am).

National Assembly Law, Law No. 5 as amended.

ARTICLE 40.

Every Bill passed by the National Assembly shall be sent to the executive and the President shall, within fifteen days, promulgate it as Law.

In case of veto, the President shall return the Bill with his Veto to the National Assembly for reconsideration. If, thereafter at a joint session of the two Houses attended by two thirds or more of the members of each House duly elected and seated, the Bill shall be passed by a majority of the members present, the same shall become Law.

If any Bill has not been returned within fifteen days from the date of

presentation thereof to the executive, the same shall become law.

The President shall promulgate without delay, every law which has been enacted under the provisions of the two foregoing paragraphs.

Every Law shall be effective twenty days after the date of its promulgation unless otherwise provided by law. (154 AM.)

Method of Promulgation of PDs, Presidential Decree No. 1 as AM.

ARTICLE 41.

The National Assembly shall consider and decide upon budgets.

Fiscal Law, Law No. 217 as AM - P.D. 570 as AM.

ARTICLE 42. - I.

The National Assembly shall have power to consent to the Ratification of treaties concerning international organizations, treaties pertaining to mutual aid, peace treaties, commercial treaties, treaties financially incumbent on the state or the people, or treaties related to legislative affairs and to the declaration of war.

ARTICLE 42 - II.

The House of Councilors shall have the right to consent to the appointment of justices of the Supreme Court, Prosecutor General, the Chairman of the Board of Audit, Ambassadors and Ministers to foreign countries, and other public officials designated by law.

Any Appointment of officials referred to in the foregoing paragraph made when the National Assembly is closed or adjourned shall require the ex-post facto consent of the House of Councilors at the following session.

(154 AM.)

ARTICLE 43.

The National Assembly shall, for the purpose of inspecting the Executive Branch, have the power to compel the Production of necessary documents and the Appearance of the Witnesses in person to testify or furnish opinions.

Audit and Inspection National Administration Law, Law No. 276.
Witnesses before National Assembly, Law No. 340.

ARTICLE 44.

Members of the State Council and Representatives of the Executive shall be authorized to attend meetings of the National Assembly, to State their opinions and answer questions and, by request of the National Assembly, they shall attend any meeting of the National Assembly and answer questions.

(154 AM.)

National Assembly Law, Law No. 5 as AM.

ARTICLE 45.

Each House shall investigate the Qualifications of its members, establish rules of procedure and decide on disciplinary matters concerning its members.

The Concurrence of two-thirds or more the members of each House duly elected and seated shall be necessary for the Expulsion of any member of the National Assembly. (152 AM.)

National Assembly Law, Law No. 5 as AM.

ARTICLE 46.

In case the President, Vice-President, members of the State Council, the Chairman of the Board of Audit, Judges and other Public Officials designated by law shall have violated, in the Exercise of their duties, provisions of this Constitution or other laws, the National Assembly shall have power to resolve motions for their impeachment.

A Motion for impeachment shall be signed by not less than thirty members of the House of Representatives. The vote of a majority of the members of each House duly elected and seated shall be necessary to institute impeachment. (154 AM.)

Trial For Impeachment Law, Law No. 101 as AM.

ARTICLE 47.

The Impeachment Court shall be established by law for the purpose of Trying Impeachment cases.

The Impeachment Court shall be presided over by the Vice-President. Five Justices of the Supreme Court and five members of the House of Councilors shall serve as associate judges. When the president or the vice-president is to be tried, the Chief Justice shall preside over the Court.

The Concurrence of two-thirds or more of the Judges shall be required for impeachment.

Any Decree of Impeachment shall not extend further than removal from office; but the Person Convicted shall not thereby be exempted from Civil or Criminal Liability. (152 AM)

Trial For Impeachment Law, Law No. 101 as AM.

ARTICLE 48.

No Member of the National Assembly shall concurrently hold office in any Local Council.

Local autonomy Law, Law No. 32 as AM - I.D. 158 as AM.

ARTICLE 49.

During Sessions of the National Assembly, no member of the National Assembly shall be arrested or detained without the consent of the House of

which he is a member except in cases of flagrante delicto. In cases of the Apprehension of a member before the opening of the Session, such member shall be released during the Session upon the request of the House of which he is a member. (152 AM.)

ARTICLE 50.

Members of the National Assembly shall be held responsible only by the Assembly for Statements or votes made within the Assembly.

CHAPTER IV THE EXECUTIVE
SECTION I THE PRESIDENT

ARTICLE 51.

The President of the Republic shall be the head of the Executive Branch of the Government and shall represent the Republic in relations with Foreign States.

Government Organization Law, Law No. 354 as AM.

ARTICLE 52.

In case of the Inability of the President to execute the duties of his office for any reason, the Vice-President shall act as the President and in case of Inability of both the President and the Vice-President to execute the duties of their offices, a member of the State Council selected in the order determined by law, shall act as the President. (154 AM.)

Government Organization Law, Law No. 354 as amended by 384. (See Art. 13).

ARTICLE 53.

The President and Vice-President respectively shall be elected by universal, equal, direct, and secret vote of the people.

In case the President or the Vice-President shall have been elected when the National Assembly is not in session, the speakers of both Houses, shall by public notice, convene the National Assembly for the purpose of hearing the election returns. A sealed report of the count of votes of Presidential and Vice-Presidential elections, listing the number of votes for each candidate shall be transmitted by the election committee of each special city and province to the speaker of the House of Councilors.

The Speaker of the House of Councilors shall immediately count the number of votes referred to in the foregoing paragraph at an open, joint session of the two Houses attended by a majority of the members of each House and shall announce the president and vice-president elected. The Candidates having the greatest number of the votes shall be the President and Vice-President.

If there are two or more Candidates having an equal number of votes, the successful Candidate shall be determined by a majority vote of the joint session of the two Houses as prescribed in the preceding paragraph.

The details for the election of the President and Vice-President shall be specified by law.

The President and Vice-President shall not hold additional offices as members of the National Assembly. (154 AM.)

President and Vice-President Election Law, Law No. 247.

ARTICLE 54.

Before the President assumes office, he shall take the following affirmation at a joint session of the two Houses:

"I do solemnly affirm to the people that I shall faithfully execute the office of President by observing the Constitution, promoting the welfare of the people and protecting the State." (152 AM.)

ARTICLE 55.

The President and Vice-President shall hold office for a term of four years. However, re-election to Consecutive Terms shall be permissible for one time only.

In case a vacancy exists in the office of the President, the Vice-President shall succeed the President during the remaining period of the term.

A vacancy in the office of the Vice-President shall be filled without delay by a by-election for a successor to serve the remaining period of the term.

In case of vacancies in both the office of the President and the office of the Vice-President, a member of the State Council selected in the order specified by law and in accordance with the provisions of Article 52 shall act as President. Within three months after the date on which such vacancies occurred, an election for President and Vice-President shall be held. (154 AM.)

Government Organization Law, Law No. 354 as AM.
National Assembly Law, Law No. 5 as AM.
President and Vice-President Election Law, Law No. 247.

ARTICLE 56.

The Election for President and Vice-President shall be held not later than thirty days prior to the expiration of the terms of the preceding President and Vice-President. (154 AM.)

President and Vice-President Election Law, Law No. 247.

ARTICLE 57.

When, in time of civil war, in a dangerous situation arising from foreign relations, in case of natural calamity or on account of a grave economic or financial crisis, it is necessary to take urgent measures for the maintenance of public order and security, the President shall have power to issue orders having the effect of law or to take necessary financial disposition, provided, however, that the President shall exclusively exercise such power only if time is lacking for convening of the National Assembly.

Such orders or dispositions shall be reported without delay to the National Assembly for confirmation. If confirmation of the National Assembly is not obtained, such orders or dispositions shall lose their effect thereafter and the President shall promulgate such non-confirmation without delay.

Presidential Emergency Decree No. 1,2,3,4,5,6,7,8,9,10,11,12,13,14.

ARTICLE 58.

The President may within the framework of the powers delegated to him by law issue orders and decrees necessary for the enforcement of laws.

ARTICLE 59.

The President shall conclude and ratify treaties, declare war, conclude peace, and receive and accredit diplomatic envoys.

ARTICLE 60.

The President may attend and address the National Assembly or present his views thereto by written message on important state matters.

ARTICLE 61.

The President shall be the commander-in-chief of the National Armed Forces.

The Organization and formation of the National Armed Forces shall be determined by Law.

National Armed Forces Organization Law, Law No. 9.
Army Headquarters Organization P.D. 1129.
Navy Headquarters Organization P.D. 1130
Air Force Headquarters Organization P.D. 1131.

ARTICLE 62.

The President shall appoint and remove government officials in accordance with the Constitution and the Law.

Government Officials Law, Law No. 44 as AM.
Education Officials Law, Law No. 285.
Court Organization Law, Law No. 51 as AM.
Public Prosecutors Office Law, Law No. 81.
Bank of Korea, Law No. 138. P.D. 350 and 359.
Korean Reconstruction Bank, Law No. 302. P.D. 303.
Korean Coal Corporation, Law No. 137 as AM.
Korean Ship Construction Corporation, Law No. 54. P.D. 626 as AM.
Korean Printing and Minting Corporation, Law No. 215 as amended by
228 - P.D. 536.

ARTICLE 63.

The President shall have power to grant pardons, commute sentences and restore civil rights in accordance with the provisions of law.

The granting of a general pardon shall require the consent of the National Assembly.

Amnesty Law, Law No. 2.
Mitigation of Punishment, Presidential Decree No. 426.

ARTICLE 64.

The President shall have power to proclaim a state of siege in accordance

with the provisions of law.

Martial Law No. 69 - P.D. 498 as AM.

ARTICLE 65.

The President shall be authorized to award decorations and honors.

Awards and Decoration, Presidential Decree No. 82 as AM.

National Flower Decoration P.D. 164.

Medal of White Star Decoration P.D. 586.

Decoration for Distinguished Military Service P.D. 385 as AM.

Cultural Medal P.D. 582.

Medal for Merit P.D. 128 as AM.

ARTICLE 66.

The acts of the President pertaining to state affairs shall be executed by written documents, and all such documents shall be countersigned by the concerned members of the State Council. The same shall equally apply to military affairs. (154 AM.)

Method of Formulation of P.D.'s, Presidential Decree No. 1 as AM.

ARTICLE 67.

The President shall not be charged with the commission of criminal offenses during his tenure of office except in cases of treason and rebellion.

SECTION 2 THE STATE COUNCIL

ARTICLE 68.

The State Council shall be a collegiate body composed of the President and the members of the State Council and shall decide important state policy on matters within the scope of the powers of the President. (154 AM.)

Government Organization Law No. 354 as AM.

ARTICLE 69.

The members of the State Council shall be appointed by the President.

The total number of the members of the State Council shall not be more than fifteen nor less than eight.

No military person shall be appointed as a member of the State Council unless he has previously resigned from active service. (154 AM.)

Government Organization Law, Law No. 354 as amended by 384.

ARTICLE 70 - I.

The Meetings of the State Council shall be convened and presided over by the President.

The President may, if necessary, delegate his powers and duties as the chairman of the State Council to a member of the State Council selected in the order specified by law and in accordance with the provisions of Article 52.

ARTICLE 70 - II.

Any member of the State Council shall forthwith resign when a resolution of non-confidence shall have been adopted against him by the House of Representatives.

Resolutions of non-confidence under the foregoing paragraph to be effective shall be voted subsequent to twenty-four hours after the introduction of the motion by a majority of the members duly elected and seated. (154 AM.)

Government Organization Law, Law No. 354 as amended by 384.

ARTICLE 71.

Decisions of the State Council shall be made by majority vote.

The President shall have the right to vote and to break a tie vote.

ARTICLE 72.

The following matters shall be referred to the State Council for decision.

- (1) Fundamental plans and policies concerning State Affairs;
- (2) Proposed treaties, declarations of war, conclusions of peace, and other important matters pertaining to foreign policy;
- (3) Proposed Amendments to the Constitution, legislative bills and Presidential Decrees;

- (4) Proposed Budgets, closing of accounts, urgent financial dispositions and the Defrayment of the Reserve Fund;
- (5) Matters pertaining to requests for convening the National Assembly for Extraordinary Sessions;
- (6) Proclamations and Terminations of a State of Siege;
- (7) Important Military Affairs;
- (8) Awarding of honors and granting of pardons, commutation and restoration of civil rights;
- (9) Matters referring to the liaison between ministries of the Executive and Determination of their Jurisdiction;
- (10) Examination of petitions submitted or referred to the Government;
- (11) Appointment and removal of justices of the Supreme Court, the Prosecutor General, the Chairman of the Board of Audit, the President of National Universities, Ambassadors and Ministers to Foreign Countries, the Chiefs of Staff of Each Armed Force, other Public Officials Designated by Law; and the Managers of Important State-Operated Enterprises.
- (12) Adoption and Execution of Important Policies of the Various Ministries of the Executive;
- (13) And other matters presented by the Members of the State Council.

(154 AM.)

Government Organization Law, Law No. 354 as AM.

SECTION 3 THE EXECUTIVE MINISTERIES

ARTICLE 73.

The heads of the Ministries of the Executive shall be appointed by the President from among the Members of the State Council.

Government Organization Law, Law No. 354 as AM.

ARTICLE 74.

Each Minister may, ex officio or by special delegation of authority issue "Ministry Orders" concerning matters within the scope of his powers and duties. (154 AM.)

ARTICLE 75.

The Organization and functions of each ministry shall be determined by law.

Government Organization Law, Law No. 354 as AM.

Penal Administration Law, Law No. 105. - P.D. 1125.

CHAPTER V THE COURTS

ARTICLE 76.

The Judicial power shall be vested in Courts composed of Judges.

The Organization of the Supreme Court, the highest Court of the State, and of the Lower Courts shall be determined by law.

The Qualification for Judges shall be determined by Law.

Court Organization Law, Law No. 51 as AM.

Judicial Scriveners Law, Law No. 317.

Establishment of KWANGJU High Court, Law No. 227.

Fixed Number of Judges in the KWANGJU High Court.

Judges and Prosecutors Special Appointment Law, Law No. 170.

ARTICLE 77.

The Judges of the Courts shall judge independently and in accordance with the Constitution and the Law.

Judges and Prosecutors Special Appointment Law, Law No. 170.

Court Organization Law, Law No. 51 as AM.

Temporary Disposition of Court Cases When Records are Destroyed,
Law No. 113.

Costs of Civil Procedure, Law No. 336.
Revenue Stamps in Civil Procedure, Law No. 337.
Criminal Expense Law, Law No. 338.
Code of Criminal Procedure, Law No. 341.
Minor Offense Law, Law No. 316.
Administrative Litigation Law, Law No. 213, as AM.
Criminal Code, Law No. 293.

ARTICLE 78.

The Chief Justice of the Supreme Court shall be appointed by the President with the Consent of the National Assembly.

ARTICLE 79.

The Tenure of the Judges shall be ten years and the judges may be reappointed in accordance with the provisions of Law.

Court Organization Law, Law No. 51 as amended by 278 and 378.

ARTICLE 80.

Judges shall not be dismissed, suspended from office or have their salaries reduced except by impeachment or pursuant to criminal or disciplinary punishment.

Trial For Impeachment Law, Law No. 101 as AM.
Court Organization Law, Law No. 51 as AM.
Justice Discipline Law, Law No. 381.
Judges and Prosecutors Special Appointment Law, Law No. 170.
Prosecutors Discipline Law No. 438.

ARTICLE 81.

The Supreme Court shall have the Jurisdiction to finally decide whether Administrative Orders, Regulations, and Administrative Acts are consistent with the Constitution and Law.

When the Judgement in any case is premised on the Constitutionality of a law, the court shall refer such question to the Constitution committee and shall render judgement in accordance with the decision thereof.

The Vice-President shall be the Chairman of the Constitution Committee, and five justices of the Supreme Court, three members of the House of Representatives and two members of the House of Councilors shall serve as members of the Constitution Committee.

A decision holding a law Unconstitutional shall require a two-thirds majority vote of the Constitution Committee.

The Organization and the Rules of procedure of the Constitution Committee shall be determined by law. (152 AM.)

Constitutional Committee Law, Law No. 100 - F.D. 607.

ARTICLE 82.

The Supreme Court shall have power to establish the internal regulations of the Courts and Rules pertaining to routine matters thereof.

Court Organization Law, Law No. 51 as AM.

ARTICLE 83 - I.

Trials and the Pronouncement of Judgements shall be open to the public; however, a trial may be closed to the public by an order of the Court when it finds that the holding of a public trial would be likely to disturb the public peace and order or be dangerous to public morals.

Court Organization Law, Law No. 51 as AM.

ARTICLE 83 - II.

Court martial having jurisdiction of military offenses may be established. However, appeals from kinds of judgement designated by law shall be within the jurisdiction of the Supreme Court.

The Organization and powers of courts martial and qualifications for members thereof shall be determined by Law. (154 AM.)

Military Judicial Officer Appointment Law, Law No. 243.

CHAPTER VI ECONOMIC

ARTICLE 84.

The Principle of the Economic Order of the Republic of Korea shall be to attain social justice, to fulfill the basic requirements of all citizens and to encourage the development of a balanced National Economy;

The Economic Freedom of each individual shall be guaranteed within these limits.

Temporary Law On Forest Conservation, Law No. 218. - F.D. 587 as AM.
Livestock Protection, Law No. 306.
Temporary Disposition of Gold, Law No. 233. - F.D. 615.

ARTICLE 85.

License to exploit, develop or utilize mines and other important underground resources, marine resources, water power and all other economically available natural powers may be granted for limited periods in accordance with the provisions of law. (154 AM.)

Mining Law, Law No. 234. - P.D. 654 as AM.
Fishery Industry Law, Law No. 295 as AM. - F.D. 851.
Korean Coal Corporation, Law No. 137. - P.D. 376 and 852.
Marine Products Inspection Law, Law No. 116.

ARTICLE 86.

Farmland shall be distributed to farmers. The method of distribution, the extent of possession, and the nature of restrictions of ownership shall be determined by law.

Land Reform Act, Law No. 31 as AM - P.D. 294.
Special accounts for Land Reform Work, Law No. 241.

ARTICLE 87.

Foreign trade shall be controlled by the Government in accordance with the provisions of law. (154 AM.)

Customs Law, Law No. 67 as AM.
Foreign Exchange Control, USAMGIK Ordinance No. 93.
Foreign Trade Regulation, USAMGIK Ordinance No. 82.
Regulation of Foreign Commerce, USAMGIK Ordinance No. 149.

ARTICLE 88.

Private enterprises shall not be transferred to state or public ownership, except in cases specifically designated by law to meet urgent necessities of national defense or national life, nor shall their management or operation be controlled by the State or by Juridical persons organized by public law. (154 AM.)

Martial Law, Law No. 69 - P.D. 598 as AM.
Special Measure for Requisition, Presidential Emergency Decree No. 6.

ARTICLE 89.

Article 15, paragraph 3 of this Constitution shall be applicable to the Expropriation of farmland as provided in article 86, and shall also be applicable to the transfer of private enterprises to the state or to public ownership as provided in the foregoing Article. (154 AM.)

Special Measure for Requisition, Presidential Emergency Decree No. 6.

CHAPTER VII FINANCE

ARTICLE 90.

The Items and Rates of all Taxes shall be determined by law.

Tax Collection Law, Law No. 82 as AM.
Income Tax Law, Law No. 319 as amended by 343
Judicial Person Tax Law, Law No. 62 as - P.D. 238 as AM.
Business Tax Law, Law No. 48 as - P.D. 355 as AM.
Mining Tax Law, Law No. - P.D. 756 as AM.
Inheritance Tax Law, Law No. 114 as AM.
Travel Tax Law, Law No. 99 as AM.
Temporary Land Income Tax Law, Law No. 220 as AM.
Registration Tax Law, Law No. 167 as AM - P.D. 449 as AM.
Local Tax Law, Law No. 84 as AM - P.D. 297 as AM.
Local Tax Apportionment Tax Law, Law No. 249 as AM - P.D. 714 as AM.
Admission Tax Law, Law No. 61 as AM - P.D. 239 as AM.
Entertainment Tax Law, Law No. 52 as AM - P.D. 206 as AM.
Commodity Tax Law, Law No. 166 as AM - P.D. 409 as AM.
Liquor Tax Law, Law No. 60 as AM. - P.D. 213 as AM.
Stamp Tax Law, Law No. 110 as AM - P.D. 292
Pari-Mutual Tax Law, Law No. 92 as AM.
Tonnage Law, Law No. 212. - P.D. 713.
Customs Law, Law No. 67 as AM - P.D. 222 as AM.
Electricity and Gas Tax Law, Law No. 111 as AM - P.D. 293 as AM.

ARTICLE 91.

The Executive at the beginning of each regular session shall submit to the National Assembly for its decision a budget covering all revenues and expenditures for the fiscal year.

In case any disbursement is necessary to cover a period of more than one year, such disbursement shall be deemed a continual fund covering a fixed term and shall be so submitted to the National Assembly for its decision.

The National Assembly shall neither increase the sum of any item of expenditure, nor establish new items of expenditure without the consent of the Executive.

Fiscal Law, Law No. 217 as AM - P.D. 570.
Economic Coordination Special Account Law, Law No. 273 as AM.
Transportation Enterprise, Special account Law, Law No. 94 - P.D. 746.
Communication Enterprise, Special account Law, Law No. 95 as AM.
Monopoly Enterprise, Special Account Law No. 90.
Vested Property Disposition, Special Account Law, Law No. 98.
Land Reform affairs, Special Account Law, Law No. 241.
Special Accounts Foreign Materials, Law No. 189 as AM.
Counterpart Fund, Special account Law, Law No. 311.
Special Accounts For Grain Administration, Law No. 140 as AM.

ARTICLE 91. (continued)

Special accounts For National Life Insurance and Postal Annuity,
Law No. 96.
Computation of Fractions in National Treasury Currency, Law No. 141
as amended by 253 - P.D. 363 and 364.
Economic Reconstruction Special account Law, Law No. 312.

ARTICLE 92.

Any plan to raise funds by national loans or any conclusion of a contract creating liability for debt incumbent upon the state or unprovided for in the budget shall be submitted to the National Assembly for its decision.

Special Accounts For Industrial National Bond Law, Law No. 255.

ARTICLE 93.

The decision of a reserve fund for unforeseen expenditure unprovided for in or in excess of the budget shall be decided in advance by the National Assembly.

Disbursement from the reserve fund shall be confirmed by the National Assembly at the session subsequent thereto.

ARTICLE 94.

The National Assembly shall enact the annual budget prior to the beginning of the fiscal year.

In case the budget cannot because of unavoidable reasons be enacted in time the National Assembly shall adopt a provisional budget for a period not extending beyond the first month of the fiscal year; and the regular budget shall be enacted within the same period.

ARTICLE 95.

The accounts of revenue and disbursement of the state shall be investigated annually by the board of audit. 32.

The Executive shall submit to the National Assembly, during its session in the following year, a statement of accounts together with the auditing report of the board of audit.

The organization and functions of the board of audit shall be determined by law.

auditing Law, Law No. 12.

CHAPTER VIII LOCAL AUTONOMY

ARTICLE 96.

Local autonomous bodies shall, within the framework of laws and orders, perform their administration and such additional acts as are delegated to them by the State, and shall manage their property within the same framework.

Local autonomous bodies may establish self-governing regulations within the framework of laws and orders.

Local Autonomy Law, Law No. 32 as AM - P.D. 158 as AM.

ARTICLE 97. The Organization and operation of local autonomous bodies shall be determined by law.

There shall be a council set up in each local autonomous community.

The Organization and authority of the local councils and the method of election of their members shall be determined by law.

Local Autonomy Law Law No. 32 as AM - P.D. 158 as AM.

Law On Establishment of Towns, Law No. 359.

Law Concerning changes in Jurisdiction of Local Autonomy in
Kyongsang Namdo Province.

Law Concerning Changes in Jurisdiction of Local Autonomy in Cholla Namdo
Province.

CHAPTER IX AMENDMENTS TO THE CONSTITUTION

ARTICLE 98.

A motion to amend the Constitution shall be introduced either by the president; by one-third or more of the members of either the House of Representatives or the House of Councilors duly elected and seated; or by the concurrence of 500,000 or more of the eligible voters for the election of representatives.

Proposed amendments to the Constitution shall be announced by the President to the Public.

A decision on a proposed amendment to the Constitution shall be announced by the President to the public.

The period for an announcement as prescribed in the foregoing paragraph shall be not less than thirty days duration.

A decision on a proposed amendment to the Constitution shall require the concurrence of two-thirds or more of the members of each House duly elected and seated.

When an amendment to the Constitution has been adopted, the President shall promulgate it immediately. However, in case a decision on a proposed amendment to the Constitution is rejected by popular vote, as provided in Article 7 - II, the President shall promulgate such rejection as soon as the result of such vote is known and announce the decision has become retroactively null and void.

The provisions of Article 1, 2 and 7 - II shall not be changed or abolished. ('54 AM.)

CHAPTER X SUPPLEMENTARY RULES

ARTICLE 99.

This Constitution shall be in effect on and after the date of its promulgation as declared by the Speaker of the National Assembly which enacted this Constitution. However, those provisions which can be made effective only by the enactment of Supplementary Laws shall become effective on and after the date on which such Supplementary Laws become effective.

ARTICLE 100.

Existing Laws and Administrative Orders shall be in effect to the extent that they do not conflict with this Constitution.

ARTICLE 101.

The National Assembly which enacted this Constitution may establish a Special Law providing for the punishment of malicious Anti-National Acts committed prior to August 15, 1945.

ARTICLE 102.

The National Assembly which enacted this Constitution shall exercise the powers of the National Assembly as prescribed in this Constitution. The tenure of its members shall be two years from the date of the convocation of the National Assembly.

ARTICLE 103.

Government officials holding positions at the effective date of this Constitution shall continue in office until such time as their successors shall be elected or appointed as provided in this Constitution.

CHAPTER X SUPPLEMENTARY RULES

ARTICLE 99.

This Constitution shall be in effect on and after the date of its promulgation as declared by the Speaker of the National Assembly which enacted this Constitution. However, those provisions which can be made effective only by the enactment of Supplementary Laws shall become effective on and after the date on which such Supplementary Laws become effective.

ARTICLE 100.

Existing Laws and Administrative Orders shall be in effect to the extent that they do not conflict with this Constitution.

ARTICLE 101.

The National Assembly which enacted this Constitution may establish a Special Law providing for the punishment of malicious Anti-National Acts committed prior to August 15, 1945.

ARTICLE 102.

The National Assembly which enacted this Constitution shall exercise the powers of the National Assembly as prescribed in this Constitution. The tenure of its members shall be two years from the date of the convocation of the National Assembly.

ARTICLE 103.

Government officials holding positions at the effective date of this Constitution shall continue in office until such time as their successors shall be elected or appointed as provided in this Constitution.

The Speaker of the National Assembly of the Republic of Korea hereby promulgates this Constitution of the Republic of Korea ordained and established by the National Assembly of the Republic of Korea.

On this seventeenth day of July in the year of Tangun four thousand two hundred and eighty-one (T.N. July 17, A.D. 1948).

The Speaker of the National Assembly
of the Republic of Korea
Syngman Rhee

Supplementary Rules
(Amendment of July 4, 1952)

These amendments shall be in effect from the date of promulgation.

However, these provisions for the House of Councilors and the Rules which can be effective only after the formation of the House of Councilors shall become effective from the date of formation of the House of Councilors.

Until the formation of the House of Councilors after this Constitution has become effective, matters to be determined at a joint session of the Two Houses shall be determined by the House of Representatives and the matters to be conducted by the Speaker of the House of Councilors shall be conducted by the Speaker of the House of Representatives.

Those who hold office as members of the National Assembly at the time when this Constitution comes into effect shall become the members of the House of Representatives and their term of office shall terminate when they

The Speaker of the National Assembly of the Republic of Korea hereby promulgates this Constitution of the Republic of Korea ordained and established by the National Assembly of the Republic of Korea.

On this seventeenth day of July in the year of Tangun four thousand two hundred and eighty-one (T.N. July 17, A.D. 1948).

The Speaker of the National Assembly
of the Republic of Korea
Syngman Rhee

Supplementary Rules

(Amendment of July 4, 1952)

These amendments shall be in effect from the date of promulgation.

However, these provisions for the House of Councilors and the Rules which can be effective only after the formation of the House of Councilors shall become effective from the date of formation of the House of Councilors.

Until the formation of the House of Councilors after this Constitution has become effective, matters to be determined at a joint session of the Two Houses shall be determined by the House of Representatives and the matters to be conducted by the Speaker of the House of Councilors shall be conducted by the Speaker of the House of Representatives.

Those who hold office as members of the National Assembly at the time when this Constitution comes into effect shall become the members of the House of Representatives and their term of office shall terminate when they

have served out their remaining tenure of office, and the resolution of the House of Representatives shall be regarded as that of National Assembly.

The member of the House of Councilors elected for the first time after this Constitution comes into effect shall be classified into three categories according to the number of votes they have obtained. The term of office of those under the first category shall be six years; that of those under the second category four years; and that of those under the third category two years. When two or more have obtained the same number of votes, they shall be classified according to their ages.

Supplementary Rules

(Amendment of November 27, 1954)

These Amendments shall be in effect on and after the date of promulgation.

The Councilors from each electoral district elected for the first time after the enforcement of this Constitution shall be assigned equally to two classes, the first class and the second class, according to the order of the numbers of votes they have received. The term of Councilors of the first class shall be six years and that of the second class shall be three years. If two or more Councilors shall receive an equal number of votes, they shall be assigned to such classes in accordance with the order of their respective ages.

The proviso of paragraph 1 of article 55 of this Constitution shall not apply to the incumbent of the office of President at the time of promulgation of these amendments.