

**The One-party dominant regime in the Legislature
was not built in a Day:
Institutionalization of the Japanese Diet from 1947-2000
determined using the Individual Government Bills Database**

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Abstract

According to the conventional view, based on the widely accepted theory of viscosity, the Japanese legislative process is characterized by a mode of operation known as "long deliberation without discussion". It did not, however, appear as soon as the Constitution was enacted in 1947, nor did it emerge when the ever-dominant Liberal Democratic Party (LDP) Government started in 1955. It is not until around 1970 that it was "institutionalized" with the advent of political equilibrium between the LDP and the opposition in the one-party dominant regime. I believe that some of the new quantitative tools here will contribute to improving the study of legislatures in parliamentary systems.

Introduction

The Japanese legislative process is characterized by a mode of operation known as “long deliberation without discussion”. Conventional viscosity theory attributes this to the one-party dominant regime, in which semi-permanent opposition parties delay consideration in order to kill bills and annoy the government. Others argue that this kind of “viscous” legislative custom is rooted in the Japanese political culture or legal setting, such as the Constitution and the Diet Law.

The custom of “long deliberation without discussion”, however, did *not* appear as soon as the Constitution and the Diet Law were enacted in 1947, nor did it emerge when the ever-dominant Liberal Democratic Party (LDP) Government started and the Diet Law was amended to its present form in 1955. Rather, the opposite mode of operation, “short deliberation full of discussion”, was the norm at that time. It is not until the 1950s and 1960s that the period of consideration of a law from submission to passage was prolonged, while the frequency of discussion in committees decreased. Since the 1970s, the viscous legislative custom has stabilized. That is, it was gradually formulated and finally consolidated around 1970 with the advent of political equilibrium between the LDP and the opposition.

I show this “institutionalization” of the Japanese Diet using a single, not an aggregate, database of all 8,087 government bills submitted from 1947 to 2000. I believe that some of the new quantitative tools for analysis invented and applied here will contribute to improving the study of legislatures in parliamentary systems, which lags far behind the study of legislatures in presidential systems, such as the one that operates in the U.S.

I first examine the conventional view offered by viscosity theory by way of clarifying the two hypotheses tested here and in order to identify checkpoints. Then, using an analytical tool that I have set up for the purpose, I present a quantitative analysis that shows historical change occurring in a number of measures. Finally, a

qualitative analysis backs up these findings.¹

2 The Conventional View: Viscosity Theory

“Viscosity theory” (Blondel et al., 1969) has dominated the study of legislatures in parliamentary systems thus far.² Viscosity is defined as “the legislature’s capacity to resist, change, or retard the executive branch’s legislative proposals” (Loewenberg and Patterson, 1979: 63). According to this theory, even legislatures in a parliamentary system can kill or amend a fair number of government bills by taking advantage of the “scarce time resource”.

Viscosity theory is also conventionally used to study the Japanese Diet (Mochizuki, 1982: esp. ch. 2; Iwai, 1988). As a result, an older legislative study that regards the Diet as a “rubber stamp”, a body without great influence that simply passes bills (Baeward, 1974), was criticized. The Diet, however, especially the opposition, did in fact exert influence. The question is, how? In a parliamentary system, the “executive majority” usually holds the “legislative majority” (Laver and Shepsle, 1996; Budge and Keman, 1990; Warwick, 1994; Huber, 1996). If a vote is taken, the government should always win. In Japan, the opposition parties have managed to stop and delay deliberation on bills they oppose, ultimately preventing a vote by using rules of procedure. It is useless to deliberate a bill thoroughly because there is little hope that the opposition will win an election and assume power. The scarce time resource can be used as leverage in viscosity in four ways, that is, by controlling the agenda and deliberative timetables, as well as through the time limitation in the session system, the committee system, and the bicameral nature of the Diet. There follows an explanation of these terms.

I begin with “the control of the agenda and deliberative timetable.” Important legislative steps such as referrals to committee and the passage of bills are delayed

¹ As for details of my definitions of terms and the argument here, see Fukumoto (2000, esp., ch. 4), although data from 1996 to 2000 was not included.

because the House Steering Committee in charge of the legislative schedule of the plenary sitting makes decisions by consensus rule. Parties objecting to a bill can halt its deliberation from the outset with a veto. Legally, the Chair of the House is responsible for setting the agenda of each chamber and the House Steering Committee decides the agenda on his or her behalf. In practice, however, the Chair of each party's Diet Management Committee has *de facto* power. For every bill, the Chair pays attention to the attitude (support or objections) of other parties, its intensity, and the conditions for concession. They collude with each other to make a "deal" not only for the timetable, but also for the fate of each bill, such as passage, amendment, or failure. The Diet Management Committees are at the center of the Japanese legislative process and circumvent the formal system, despite the fact that they are merely informal organizations.

Second, concerning "the time limitations of the session system," it should be noted that each parliamentary session is short, both formally and informally. One year in the Japanese Diet is divided into more than one session. The Diet Law prohibits carrying a bill over to the next session in principle, so that the amount of time available for the passage of a bill is therefore constrained by the length of the session. Moreover, there are fewer days for consideration than legally assigned. During each session, ministerial addresses and the debate following these addresses take time away from the business of the passage of bills. Plenary and committee meetings are held a few days a week. There are *de facto* adjournments, such as for the New Year's and "Golden Week" (successive holidays in May) vacations. Consequently, the discussion period does not match the deliberation period. A quick end to a session will kill a bill or get the ruling party to make a concession of amendment.

Third, the decentralized legislative process of "the committee system" is said to facilitate compromise among parties.³ Since the committee directorate, which controls the agenda as the committee-level equivalent of the House Steering Committee, is based

² Laver and Schofield (1990: 74-77) and Strom (1990: 108-13) also have similar argument.

³ Pempel (1986) is also of the same opinion. But the Japanese committee system is thought a weak system (Shaw, 1979; Baerwald, 1979; Kim, 1975).

on consensus rule, less controversial bills are deliberated before controversial ones, even if the former are referred to committee after the latter. Opposition parties require “thorough deliberation” (equivalent to a filibuster) in committee, so that a bill expires at the end of a session. Therefore, opposition parties have a veto in setting the agenda. In addition, the Director-in-Chief is a member of the Diet Management Committee of each party. Therefore, the Diet Management Committee gives directions as to the timetable for a bill and the conditions for concessions to the Chair and Director-in-Chief.

The final factor is “a bicameral legislature.” The Diet is a “medium-strength bicameralism” (Lijphart, 1999: 212) and according to viscosity theory, the opportunities for the death or amendment of bills in a bicameral system are twice those of a unicameral system because there are twice as many “veto points” (Immergut, 1992; Tsebelis, 1995). Using a positive model, Tsebelis and Money (1997: ch. 3) showed that bicameralism maintains the status quo much more than unicameralism, although this was not substantiated experientially.

To sum up, opposition parties try to kill or amend a bill by delaying deliberation, and the LDP itself makes concessions so that a bill does not fail or is not amended, but is simply delayed. During the time available for consideration, discussion is cut short because the participants’ aim is not, in fact, discussion, but delay. This collusion means that objection is rarer than might be expected. Therefore, according to viscosity theory, long deliberation, infrequent discussion, and rare objections are characteristic of the legislative process. These are the checkpoints that I operationalize and examine in the next section.

The questions this paper asks are as follows: when did the Diet start to behave in the manner depicted by viscosity theory, and can we pinpoint this phenomenon to 1947 or to 1955? Did it begin in 1947, when the new postwar Constitution was established and the Diet Law and House Rules were enacted? Three of the four factors singled out by viscosity theory, as described above, are embedded in these legal systems so that these ways of operating appear to be as old as the Diet itself. Others argue that these “viscous” legislative customs are rooted in the Japanese political culture. If this is true, then viscosity must have been operative since the Diet was created in 1947.

Alternatively, we can put the question: did the viscous Diet appear in 1955, when the LDP and Japan Socialist Party (JSP) two-party system (the so-called “1955 system”) was formed, and the LDP government monopoly began? Pempel (1990) calls this set-up a “one-party dominant regime” (which is similar to Sartori’s (1976: 192-201) “predominant-party system”). The first factor, control of the agenda and deliberative timetable, is a product of this party system. Moreover, the Diet Law was amended in 1955, consolidating the established committee system (the third factor in viscosity theory). Perhaps the change occurred a little later, in 1958, when the Diet Law was amended so that the Diet could only adjourn once in an ordinary session and twice in provisional and special sessions (the second factor of viscosity theory).

To check which hypothesis on when viscosity began is correct, I examined the historical record of the legislative process. Most quantitative studies of the Diet are based on aggregate data, such as the number of bills submitted and the rate of passage or amendment by session (Sakamoto, 1987; Mochizuki, 1982).⁴ However, such data provide insufficient information to reveal the historical dynamics of the legislative process in the Diet. Some studies do not cover the period of the 1940s and 1950s, and thus are unable to confirm when the viscosity mechanism actually began. For this study, I constructed an individual database of all 8,087 government bills submitted from the first session in 1947 to the last (147th) session before the general election in 2000.⁵ An analysis of the data follows.

⁴ Exceptions are Fukumoto (2000) and Masuyama (2000).

⁵ Data source (all in Japanese): *Shugiin Kaigiroku*; *Shugiin Linkaigiroku*; *Sangiin Kaigiroku*; *Sangiin Linkaigiroku*; *Sangiin Koho*; Shugiin Hoseikyoku, *Seiteiho Shingi Yoroku*; Shugiin and Sangiin, eds., 1990, *Gikai Seido 100 Nen Shi* (*Kokkai Shi*, *Kokkai Gian Kenmeiroku*, *In’naikaiha Hen Shugiin no Bu*), Okurasho Insatsukyoku; Sangiin Jimukyoku, *Gian Shingihyo*; Shugiin Jonin Iinkai Chosashitsu, ed., 1977-92, *Chosa*, No. 1-16; Shugiin Jonin Iinkai Chosashitsu; Shugiin Jonin Iinkai Chosashitsu, ed., 1993-96, *Shugiin no Ugoki*, No. 1-4, Shugiin Jimukyoku; Kokuritsu Kokkai Toshokan Chosa oyobi Rippo Kosa Kyoku, 1961-78, *Kokkai Kaigiroku Sosakuin*, Kokuritsu Kokkai Toshokan; Shugiin Jimukyoku ed., 1994, *Shugiin Senrei Shu* [Precedents Book in the HR plenary sitting], *Shugiin Iinkai Senreishu* [Precedents Book in the HR committees], *Shugiin Iinkai Senrei Shohyo*, Shueikai; Sangiin Jimukyoku ed., 1998, *Sangiin Senrei Roku* [Precedents Book in the HC plenary sitting], *Sangiin Iinkai Senrei Roku* [Precedents Book in the HC committees], *Sangiin Senrei Shohyo*, Okurasho Insatsu Kyoku; Naikaku Kambo, ‘Kokkai de Shingi sareta Horitsuan Joyaku no Ichiranhyo’, *Kampo Shiryoban*; Sangiin Gijibu Giinka ‘Taian Ichiran’; and materials of the HR Secretariat and Legislation Bureau and the HC Secretariat.

3 Quantitative Analysis

In this section, I describe a number of measures that are part of the legislative process and I show the historical change that has taken place respecting these indicators in the last half-century. In order to grasp the long-term trend of the deliberative process, the averages of indexes by electoral period (EP, the interval between one general election for the House of Representatives (HR) and the next) are more helpful than those by session or year, which fluctuate too much.⁶ I chose “electoral period” as a unit for two reasons. First, the state of deliberation is thought to change with the partisan composition of the Diet, which changes with election. Second, technically, a bill can be carried over to the following session or year, but not to those beyond a general election.⁷ Therefore, neither session nor year is complete as a unit, while the electoral period is.

(1) Length of Deliberation

The length of deliberation, say, from submission to passage, is usually expressed as the number of days passed (Sakamoto, 1987; Masuyama, 2000). This is invalid as a measure because the political meaning of the same number of days of deliberation will change depending on the length of the parliamentary session. For example, 80 days of deliberation in a 100-day session is long and is caused, in all likelihood, by the opposition's delaying tactics, while the same number of days of deliberation in a 200-day session does not reflect delay. As a result, past studies deal with budgetary sessions only and are not equipped to analyze both newly submitted bills and carried over bills together.

To solve this problem, I define “position in session” (PS), where PS is zero for the day before the first day of the session and one for the final day. Then, the PS of a

⁶ Since the EP that started after the 1952 and 1979 general elections lasted less than one year and ended suddenly due to political events, one must be cautious when interpreting data for these electoral periods.

⁷ Precedents 136, 137 in the HC plenary sitting and 299, 300 in the HC committees.

legislative step, such as passage, is calculated as the number of days required for that legislative step divided by the session length in days. For example, if a bill passes on the 90th day in a 150-day session, the PS of passage is $90/150 = 0.6$.⁸

Then, the length interval between two legislative steps is expressed as the difference between the PS of each step. I call this value “length in session” (LS). For instance, when a bill is submitted on the 30th day and passed on the 90th day of a 150-day session, the PS of submission and passage is 0.2 and 0.6, respectively. So, the LS of deliberation in both houses (from submission to passage) is the difference between 0.2 and 0.6, namely, 0.4. PS is early or late, while LS is longer or shorter. Delayed or prolonged deliberation in viscosity theory means a large LS value.

<Figure 1 about here>

Figure 1 shows the PS of some legislative steps.⁹ LS is the interval between PS lines. The LS of the whole deliberation (from submission to the first chamber through passage of the second chamber) was 0.2 in the 1940s and increased to 0.5 around 1970. Subsequently, it has remained between 0.4 and 0.5. The LS of the first chamber deliberation (between submission and transfer to the second chamber) parallels the LS of the whole deliberation.¹⁰ As a result, I conclude that viscosity began to work in the 1950s and reached its peak around the end of the 1960s. On the other hand, the LS of the second chamber, the interval from transfer to passage, stabilized at 0.1, which is

⁸ If a bill is carried over to the following session, let the PS of the end of the next session be two, that of the third be three, and so forth. Therefore, PS is the number of days from the first day of the current session to that legislative step divided by the length of the current session, plus the number of times a bill has been carried over. For example, if a bill is submitted in the tenth session and passes on the 50th day of the twelfth session, which is 100 days long, its PS of passage is $(12-10)+(50/100)=2.5$. However, it is important not to count sessions in which no government bills, budgets, or treaties are newly submitted and passed or carried over to the next session and none are brought from the previous session and passed. I call such sessions “dummy sessions” and neglect them when counting the number of times a bill has been carried over.

⁹ In Figure 1, submission is later than transfer and passage in the 1952 EP, which is an unnatural situation. Many bills failed then, so the average passage PS reflects only those bills that were proposed early, while the average submission PS is calculated from *all* bills.

¹⁰ In Japan, the government can submit a bill to either the House of Representatives (HR) or the House of Councilors (HC). Here, I call the house to which the government submits a bill the first chamber and the other the second chamber. A bill is only transferred to the second chamber after the first chamber passes it.

equivalent to 15 days in a budgetary session, as early as the 1950s.¹¹ Kenzo Kohno, the Chair of the House of Councilors (HC) from 1971 to 1977, claimed to have established the rule that the HR, which is the first chamber for 88 percent of all bills, must send a bill to the HC at least 20 days before the session ends to allow for sufficient consideration in the second chamber. This rule was in fact already in place; he was simply confirming an existing rule.

The PS of submission was later in the 1940s and 1950s than after the 1960s. It has become earlier and earlier, and since 1958 it has been 0.4 constantly, which means that the government proposes bills in February on average. In 1992, the Diet Law was amended so that an ordinary session started in January instead of December. As a result, the PS of submission appears to have become smaller, although the submission schedule remains the same.

(2) Frequency of Discussion

Even if it takes considerable time for a bill to go through the Diet, it does not necessarily mean that Diet members discuss the bill every day. To determine the frequency of discussion, I counted the number of times that a bill was formally on the agenda of a committee of both houses (there is little discussion on most bills in the plenary sitting).¹² This differs from the concept of deliberation length that was considered above. For example, if a bill is submitted to the Diet on March 1 and passes on April 30, it spends two months in the Diet. On the other hand, if it is discussed on April 1, 15, and 22, its frequency of discussion is three. In fact, the frequency of discussion is not related to the LS of the whole deliberation. The correlation is as low as 0.27.

¹¹ The legal original length of an ordinary session (usually budgetary sessions) was 150 days, according to the Diet Law. Fortunately, the average length of a session, weighted with the number of submitted bills, happens to be 150 days, too. So, the LS value of 0.1 is equivalent to $150 \times 0.1 = 15$ days

¹² I include hearings, subcommittees, combined meetings of committees of the same house and preliminary consideration in the second chamber. I count these separately, even if they were held on the same day. On the other hand, I exclude joint meetings of committees of both houses and informal local hearings. If a bill is never on the agenda, its frequency has the value of zero, not a missing value.

<Figure 2 about here>

According to Figure 2, there was not much discussion in the 1940s; the level peaked in the 1953 EP. Subsequently, the frequency value of discussion remained at more than seven. After the 1970s, the frequency value was less than six. This downward trend is clearly opposite to the trend in the length of the deliberation period.

(3) Optional Procedures

I call those procedures that are not applied to all bills “optional procedures”. Here, I examine four optional procedures: suspension, bill explanation, a Prime Minister’s reply, and a supplementary resolution. These options are exercised as a result of compromise on the legislative schedule between the governing party and the opposition. Therefore, they represent viscosity.

“Suspension” is a typical tactic for delaying consideration. Ordinarily, a bill is referred to a committee soon after it is proposed in the plenary sitting. The referral of contested bills can be delayed (we call this “suspended”) because the opposition parties do not agree to referral in the House Steering Committee, where decisions are made by consensus (that is, each party has a veto). Here, I define “suspension” as the interval between submission to a chamber and referral to its committee. If the LS of suspension exceeds zero, that is, a bill is not referred on the same day as it is proposed, we call it “suspended”. Suspension is not as old a procedure as many believe. Bills began to be suspended in the first chamber in the 1960s, when about 40 percent of bills were suspended for three to four weeks (Figure 1). Since the 1980s, increasing numbers of bills have been suspended for longer periods. On the other hand, suspension did not appear in the second chamber until the 1970s. Since then, the norm has been that 20 percent of bills are suspended for one week.¹³

“Bill Explanation” is a usual form of leverage used to “suspend” a bill. A responsible minister may explain the aim and essence of an “important” bill in the

¹³ Data of the second chamber’s suspension are not shown in Figure 1.

plenary sitting before referral at the opposition's request.¹⁴ More than 40 percent of such requests are met. Historically, it is a legacy of the first reading in the prewar Imperial Parliament, although nowadays it is just an excuse for suspension. The rate of the opposition's request for bill explanation to suspended bills in the HR has increased, and, after the 1969 EP, it was more than 90 percent. Moreover, the rate of actual bill explanation before referral to suspended bills in the first chamber also increased and has remained at around 40 percent since the 1963 EP (figures omitted). At most bill explanations, some parties table questions. Since the 1958 EP, the Prime Minister has answered questions on more than 90 percent of bill explanations in both houses. A Prime Minister's reply is rare in other cases, so it is a symbol of conflict between the ruling party and the opposition.

A “Supplementary Resolution” is another optional procedure. A committee may attach a resolution after a vote, which states its desire or its interpretation of concepts and terms used in the bill and asks the executive to obey them. It is not legally binding, although it has enough political force to placate the opposition. A supplementary resolution records that part of the opposition's opinion on the minute book that the governing party would not like to legislate. The government does not make concessions, but the opposition thus makes their opinion public (Kojima, 1979: 297; id. 1986-91: No. 43; Namatame, 1990; Maeda, 1990: 307-12). Therefore, a supplementary resolution is a symbolic agreement between the governing party and the opposition and is usually unanimous, although the Japanese Communist Party (JCP) objects to about 20 percent of them. Its time-trend resembles that of the LS of the whole deliberation, reflecting its viscous nature (Figure 3).¹⁵ Supplementary resolutions were first used in the 1952 EP and became more common until the 1972 EP; the rate remains stable at 50-60 percent. Since the mid-1960s, the minister in charge of a bill has expressed respect for these resolutions in formal terms (Maeda, 1990: 311-12).

<Figure 3 about here>

¹⁴ The Diet Law, Article 56-2, Precedents 248, 486 in the HR plenary sitting and 353 in the HC plenary sitting.

¹⁵ Figure 3 shows the rate of bills that have supplementary resolutions in either chamber.

(4) Transformation

To evaluate transformation (Polsby, 1975), I examine death and amendment. Originally, the failure rate of bills was consistent at between 10 to 20 percent. Since the 1980s, it has been below 10 percent. The amendment rate of proposed bills is consistently at around 20 percent, so Mochizuki's (1982: 97) statement that "no long-term trend is discernible" seems to be true (Figure 4). We should, however, keep in mind that there are two kinds of amendment: formal and substantive amendments. The former amends only the enforcement date, usually April 1 when the Japanese fiscal year starts, just because the bill passes after that day due to the opposition's viscosity. The latter is any other amendment (Mochizuki, 1982: 100-104). Figure 4 shows the trade-off between an increase in the number of formal amendments due to viscosity and a decrease in substantive amendments.

<Figure 4 about here>

(5) Party Attitude

Party attitudes are not necessarily consistent with the above findings, although many scholars are interested in them. From 1967 to 1993, there were four "relevant" opposition parties (Sartori, 1976: 121-25): the JSP (relevant during 1947-96), the Clean Government Party (CGP, 1967-93, 98-), the Democratic Socialist Party (DSP, 1959-93) and the JCP (1947-52, 60-). Before and after that period, the number of parties objecting to a bill (hereafter OP#) has been adjusted so that it has a politically equivalent meaning.¹⁶ When all opposition parties disagree with the government on a bill, OP# is four, even if there are less than four opposition parties. For example, in the Hosokawa cabinet period, the LDP and communists, the opposition at that time, objected to a bill, OP# is four, not two, because this situation is equal to that in which

¹⁶ OP# is based on attitudes in the HR plenary sitting (1947-76) and in the HR committees (1977-) because of material conditions. Other relevant parties and their relevant periods are the Japan Liberal Party (1947-55), the Democratic Party (1947-55), the National Cooperative Party (1947-55), the LDP (1955-), the Japan Renewal Party (1993-95), the New Frontier Party (1995-1997), the Liberal Party (1998-2000, Apr.), the New Conservative Party (2000, Apr.-), the Democratic Party of Japan (1996-).

all four opposition parties object to a bill in the 1980s. When the JCP was not significant in the Diet (1952-1960) and only the JSP dissent, OP# is two, not one, because the JCP also would have done so if it had been relevant..

OP# was high around 1950, the mid-1960s, and the 1980s, and lower in the 1950s, the late 1970s, and around 1990, when, paradoxically, the ruling party and the opposition had nearly the same number of seats (Figure 5). At that time, the government refrained from submitting controversial bills that would fuel the opposition, while the opposition was afraid to kill bills because they would be blamed for the bill's death. From the 1955 EP until the 1970s, 20 percent of bills had an OP# value of four, indicating unified opposition to the governing party. Since then, the incidence has decreased to 10 percent. An OP# of one, where the objecting party is usually the JCP, replaces an OP# of zero. This suggests that the JCP acts independently of the other opposition parties (figures omitted).

<Figures 5, 6 and 7 about here>

Figure 6 shows the rate of objection by each party.¹⁷ It shows that the CGP started as a “center party”, and then shifted to the left before returning to the center-right. Moreover, correlation of the attitudes of the opposition parties (Figure 7) reveals the history of the coalition strategy of the opposition parties vividly. In the 1970s, the JSP-JCP axis replaced the JSP-DSP relationship of the 1960s. In the 1970s, when the LDP had a narrow majority, all dyads involving opposition parties became entangled. Even the communists tried to match the other parties, although the correlation remained lower. Finally, in 1979, a center-right CGP-DSP (LDP) coalition defeated the JSP-led center-left coalition. This brought about the passage of controversial bills, such as the Consumption Tax Bill in 1987 and the Peace Keeping Operation Bill in 1992. This led to the formation of the New Frontier Party in 1994, which the CGP and the DSP joined.

¹⁷ After 1993, since all parties except the JCP moved in and out of the government and it is difficult to interpret the objection rate, I omit this period.

(6) Precedents

The secretariat of the Diet publishes four *Precedents Books*, one each for the HR plenary sitting, HR committees, HC plenary sitting, and HC committees. Each precedent is followed by several cases. A precedent supplements and supplants the Constitution, Diet Law, and House Rules. In some cases, the books list cases in which optional procedures were actually exercised. I distinguish the earliest case of each precedent. The initial, “creative” case established a new precedent or modified an old precedent. The later, “additional” cases just confirm the precedent. Table 1 lists their rates by book. Both kinds of cases can be interpreted as a kind of political event. They are thought to be chosen from among the many possible cases because they have significance with regard to precedents. A case that seems to be non-political at first glance often turns out to be related to a political event on investigation.¹⁸

< Table 1 and Figure 8 about here>

Figure 8 shows the distribution of creative cases for all *Precedents Books* by EP (the trends for the four books are parallel). We find few precedents after the 1960s. That is to say, the factual rules of the Diet were completed by the 1950s.¹⁹ Considering what a precedent is, this seems to be a matter of course, although this timing is *not* self-evident. The numbers of additional cases increase in the 1950s, in the 1970s, and around 1990, when the one-party dominant regime was first established, then rocked, and finally broken, respectively. The simultaneous character of these phenomena corroborates the concept of understanding additional cases as political events. It also shows that the relationship between the governing party and the opposition was unstable after the 1970s, while the Diet system itself is stable. It seems as if a fluid political game was

¹⁸ If the books divide one precedent into sub-precedents, I regard the earliest case of each sub-precedent as the creative one. Decisions by the House Steering Committee (and its directorate) are always creative cases, except explicitly reconfirming decisions. Cited cases are limited to ones before the 128th session (1993) in the HR and the 140th session (1997) in the HC. A case that lasts a few sessions is attributed to the earliest session. I exclude changes in Laws and House Rules and chapters on ceremony. Precedents are informal rules, while Laws and House Rules are formal. The two should be distinguished. Most of the “ceremonies” cited are not political events. Kawato (1992: 44) focuses on creative cases.

¹⁹ The Secretary General of the HC, Kondo (1956: 27-31) was conscious of this at that time. As for rule making in the legislature, see Binder (1997), Binder and Smith (1997), Dion (1997), and King

being played according to firm rules.

(7) Summary

To conclude, the viscosity mechanism of the Japanese legislative process as we know it now is not as old as the Diet, nor it came into existence when the LDP took power in 1955. It formed *gradually* in the 1950s and 1960s. The use of viscosity tactics by the minority to cut off the power of the majority is based on the assumption that today's minority will never win majority status. Since agendas are decided by consensus, the stabilization of the legislative process since about 1970 can be called "institutionalization".²⁰ That is, both the LDP and the opposition accept the enduring dominance of the LDP in the near future and have reached a political equilibrium in the Diet. As Duverger (1951: 308-309) has noted, "[e]ven the enemies of the dominant party...acknowledge its superior status and its influence." The LDP became "the dominant party" in this sense.

Before institutionalization, one finds cases of "short deliberation full of discussion". Deliberation was shorter, the Diet discussed a bill more frequently, and optional procedures were rare. Since institutionalization, "long deliberation without discussion" has appeared. Viscosity has been operative. That is, the legislative *modus operandi* that represents coalescence between the ruling party and the opposition has come to stay. Deliberation is prolonged, discussion is less frequent and viscous optional procedures, such as suspension, bill explanation, a Prime Minister's answer, and a supplementary resolution, are more likely to be put into practice. These viscous legislative customs have become stabilized in the Diet. The schedule of submission has become regular. No more new precedents appear. Long deliberation without discussion

(1997).

²⁰ Polsby (1968) pointed out three aspects of institutionalization: the establishment of boundaries, the growth of internal complexity, and change from particularistic and discretionary to universalistic and automated decision-making. Other scholars' definitions follow his (Gerlich, 1973; Sisson, 1973; Leonardi, Nanetti and Pasquino, 1978; Loewenberg and Patterson, 1979: 19-28; Copeland and Patterson eds., 1994: 4-6). I use this in Polsby's third sense, that is, the historical formation of *de facto*

is fruitless, though long deliberation full of discussion would be reasonable. Recently, the former has become the case in Japan, although it is not the only form the Diet can take.

In the next section, I confirm two of these quantitative findings from qualitative narratives. First, the reason why institutionalization did not start before the 1950s is related to the U.S. occupation of Japan. Second, institutionalization in the Diet from the 1950s to the 1960s was an expression of the *process* under which the LDP constructed the one-party dominant regime.

4 Qualitative Analysis

(1) The U.S. Occupation of Japan before Institutionalization (1947-1952)

Three factors hindered institutionalization before the 1950s: loss of political sovereignty, high legislative demand to enact postwar reform, and the fluidity of the new system with transformation of the constitution. All of these were brought about by the U.S. occupation.

First, neither a party nor the executive could oppose the General Headquarters of the Supreme Commander of the Allied Powers (GHQ/SCAP). Each ministry had to have intimate consultation with the corresponding division of GHQ from the early drafting stage of legislation and obtain clearance from the Government Section. Amendments in the Diet and the initiation of bills by Diet members also needed GHQ clearance (Naikaku Hoseikyokushi Henshu Iinkai, ed., 1974: 100-26; Samejima, 1996: 105-08). For example, in 1950, the amendments of the Local Tax Bill to realize the Shoup Report and three bills required to revise the Public Servants Salary Law were not allowed by GHQ because these were counter to its policy. On the other hand, GHQ informally ordered the Diet to amend bills under consideration (Takemae, 1983: 108; Amakawa, 1990: 160; Nishizawa, 1959: 66-67; Williams, 1979: ch. 13). GHQ could force the government to issue Potsdam ordinances, which had the same legal effect as

rules in the political process that all parties accept.

law, to circumvent consideration in the Diet when quick legislation was necessary or when GHQ wanted to prevent the Diet from criticizing its policy. When the Electricity Enterprise Bill and the Public Utility Bill failed in 1950 and were promulgated as Potsdam ordinances at the suggestion of General MacArthur, the Supreme Commander, the HC expressed its dissatisfaction by passing the “resolution on respect for the right of the Diet to deliberate bills”. In this situation, it was difficult and not politically effective for any party to discuss bills frequently or for a long time in the Diet.

Second, many laws had to be enacted to institute postwar reform and economic reconstruction. During this period, 300 bills were proposed per year, instead of the 100-200 bills now proposed annually. The average PS of submission in this period was later than in the following period (Figure 1) because the government submitted bill after bill, even in the late stage of a session, as soon as a bill was necessary. Some bills were urgent, so that deliberation was shorter and discussion less frequent than usual. Since there is upper limit to the total amount of deliberation the Diet can offer, the average amount of deliberation decreases in inverse proportion to the number of bills. In fact, the total discussion and deliberation periods in both houses, not the average, during this period are more frequent and longer than after 1952 (Figures 9 and 10).²¹ One factor limiting the capacity of the Diet was a shortage of organizational resources, such as committee rooms and stenographers. This factor alone, for example, facilitated the establishment of regular meeting days in the week (Maeda, 1990: 80-81).

<Figures 9 and 10 about here>

Third, under the guidance of GHQ, Japan changed its constitution in 1947 and enacted the Diet Law to replace the prewar Imperial Parliament Law. However, many politicians were not familiar with this new system and were nostalgic for the old. In addition, the legal system did not fit the political reality sufficiently well to function effectively. The most important change was that committees were to play a central role

²¹ Figures 9 and 10 show calendar year, not EP, because the number of sessions and years in each EP differ. A bill that is submitted in December in a budgetary session is attributed to the next year. Even if a bill was carried over, its data belong to the year when it was submitted. I regard budgetary session as the first session of every year. Therefore, all bills in the fifteenth session (1952-53), the 117th session

in the Diet. Plenary sittings were still held as frequently as they were before 1947, while committees did not meet as often as was planned and there was little discussion in them anyway (Ha, 2000; Nishizawa, 1959). Moreover, the repeated realignment of committees hindered institutionalization.

Some new discursive optional procedures did not work because they did not fit with Japanese political reality. Free Discussion and the Joint Legal Committee (which advised on the revision of legislative procedures concerning conflict between both houses) went out of use from the beginning. Both were abolished with the 1955 amendment. In 1951, a project had Diet members initiate bills that the government prepared in order to take an active role as legislators. But the Cabinet Secretariat disliked loss of bill control and abolished this project in 1953 (Maeda, 1990: 239-43; Takemae and Nakamura, 1996: 37; Samejima, 1996: 112; Kojima, 1979: 180-82).

Conversely, the original Diet Law did not contain provisions for other optional procedures. For example, bill explanation and interim reports (by which a plenary sitting discharges a committee and gets a bill back) crystallized into an amendment of the Diet Law in 1948. There were situations the original Diet Law had not taken into consideration. Is the Diet adjourned, for example, if the HR votes to adjourn, but the HC does not? Or, when a bill is carried over from the previous session in the second chamber, should it be sent back to the first chamber again? The 1955 amendment remedied these defects (the answers to both of these questions are "yes").

During this period, new, emergent customs were added to the Diet Law by amendment through trial and error and other obsolete procedures were removed. The legislative process had not been consolidated yet.

2) Institutionalization of the Diet and Formation of the One-Party Dominant Regime during the 1950s and 1960s

In 1952, when Japan regained independence, three characteristics contrary to

(1989-90) and the 128th session (1993-94) are classified as bills in 1952, 1989 and 1993, respectively.

those seen in the previous period appeared: active political behavior, the end of postwar reform and its “reverse course”, and, above all, institutionalization. Three forms of institutionalization developed: between the LDP and the opposition, between the LDP and the executive, and within the executive itself. In these three ways, the LDP laid the foundation of its enduring political power. This is what the one-party dominant regime means in the Diet.

First, the mechanisms for the development and resolution of conflict between the LDP and the opposition were channeled. After independence in 1952, there was no successful mechanism for resolving conflict among the parties for two decades. Two examples are “forced votes” and resignation of the Chairs. When the opposition is eager to kill a bill, it refuses to attend the Diet. Consequently, the Diet ceases to function. When there is an important bill the LDP wants to pass quickly, despite the consensus rule of agenda setting, the chairs from the LDP “force a vote”, although the opposition parties try to prevent them from taking a vote physically. If a committee chair forces a vote, then the Chairman of the House mediates between the LDP and the opposition. As a result, both parties may come to an arrangement. Alternatively, when the Chair of the House forces a vote, he may resign. During the period 1953-1969, 6 of 11 Chairs resigned to take responsibility.

<Figure 11 about here>

Figure 11 shows that the number of forced votes and mediation attempts by the Chair of the House first increased in the late 1950s, reaching a peak around 1970, and then, subsequently, decreased.²² This indicates that after 1970, conflict resolution was well managed and physical measures were not required. In fact, forced votes do not necessarily benefit the LDP, because this procedure brings with it costs such as amendment, the chair’s resignation and damage to other bills. The LDP now refrains from forcing votes to maintain the minority right of “thorough deliberation”, while the

²² Data mainly depend on *Asahi Nenkan* and *Asahi Shimbun*. I also use Shugiin and Sangiin (1990), Sakamoto (1986), Iwai (1990), *Kokumin Seiji Nenkan* 1970, p. 685 as supplement. The occupation period (1947-52) is omitted because it is difficult to judge whether forced votes and mediations occurred. Even if a vote was taken on some bills together, it is counted as once. Conversely, when a

opposition admits that the majority party chairs in both committees and the plenary sitting reserve the power to take a vote. As for the chairmanship, during the 1970s, the tradition of choosing the Chair of the plenary sitting from the LDP and the Vice Chair from the largest opposition party, the JSP, was established; the two are elected by consensus and then formally leave their parties.²³ Since 1970, the opposition has proposed a vote of no confidence in the House Chair just once and only two House Chairs have resigned for political reasons. The Chair's authority as a neutral agenda setter has been established.

Next, the LDP consolidated its system of bill review that takes place before the government proposes bills to the Diet. On February 23, 1962, Munenori Akagi, the chair of the LDP's Executive Council, sent a letter to Masayoshi Ohira, the Chief Cabinet Secretary, that stated, "We request that the government consult us on bills before the Cabinet makes a decision to submit them to the Diet; we also request that the Cabinet acknowledges that we may amend them." Simultaneously, he instructed the chairs of the LDP Policy Affairs Research Council (PARC) divisions, and all the committees in the Diet, to ask for its approval for any amendment put forth in a Diet committee because the Executive Council reserved the power to make the final decision. This was intended to strengthen the LDP's control of the legislative process both before (PARC) and after (the Diet) legislation is submitted. The Executive Council said that it was "reconfirming" this policy. Ironically, this means that this order was not followed fully until then. The LDP had claimed the right of preliminary consideration just after it was established in 1955, although it was not successful in doing so until the 1960s (Kojima, 1986-91: No. 27; Jurisuto, No. 331 (1965): 18). Since this letter was sent, the Executive Council has reviewed all bills and may disapprove or amend them in terms of both policy content and political considerations.

On December 7, 1973, the Diet Management Committee of the LDP "requested" that the Chief Secretaries of each minister (who are in charge of political matters,

²³ few chairs forced a vote on one bill, they are counted separately.

²³ Precedent 67 in the HR plenary sitting and Precedent 61 in the HC plenary sitting.

especially in the Diet) should obtain adequate approval from both the Diet Management Committee of the LDP and the chair of the relevant committee in the Diet concerning a bill's content and legislative schedule (Kojima, 1986-91: No. 27). By 1973, the Diet Management Committee of the LDP had strong ties with each ministry, which meant they did not need to go through their own cabinet and ministers. The Diet Management Committee of the LDP is the final gate of LDP review in which the legislative schedule and strategy in the Diet is considered, as opposed to a bill's content (Kojima, 1979: 108; Murakawa, 1985: 232-33). This prior review enables the LDP to have its demands met in bills without interference by the opposition. This system is based on the long experience of the LDP, the governing party, but also on the assumption that the governing party will never change in the future. That is, the executive accepts the LDP's hegemony.

Finally, the draft process in the executive was made regular. This constitutes the government's response to the viscosity tactics the opposition began to use. By bringing forward the legislative schedule, the government saves time for anticipated delays in the consideration of bills, especially budgetary bills that need to be passed by the beginning of the fiscal year, April 1. Moreover, it attempts to control expected bills so that it cuts off unnecessary bills at an early stage and reduces the total number of bills and the cost involved with passing a bill through the Diet. The executive, too, has virtually admitted the opposition's viscosity.

The Cabinet agreement of July 11, 1961, "on the Cabinet's decision to determine the budget in December and submit budgets and bills to the Diet early in an ordinary session", is still a rule. It advanced certain dates for steps in the drafting of legislation. Each ministry must submit the title, outline, and budgetary status of bills to the Cabinet Councilors' Office of the Secretariat of the Cabinet, by September 20. Moreover, the outline of bills related to the budget should also be submitted to the Ministry of Finance and the Cabinet Legislation Bureau by the end of August, after they have been altered by the ministries concerned. As for non-budgetary bills, the Cabinet Legislation Bureau must start to preview them by the middle of October. The Cabinet should decide on budgetary bills within three weeks of the submission of the budget to the Diet.

This 1961 agreement was also intended to reduce the total number of bills submitted. If each ministry does not have to legislate measures in law because of their nature, it should put them forward as an executive ordinance. When two related bills are to be revised, and the revised bills would be referred to the same committee in the Diet, the bills should be combined as one bill. Details on these measures were set forth formally in a Cabinet Decision on September 13, 1963, which was known as “On reducing government bills” (Kojima, 1979: 52-56, 85-86; Seki, 1984: 29).

5 Conclusion

Viscosity theory contends that the viscosity mechanism has been operating in the Diet as we know it either since its birth in 1947, or since the establishment of the LDP and the major amendment of the Diet Law in 1955. Other scholars divide the history of the Diet into periods based on external criteria, such as electoral results and the relationships among the parties (Watanabe, 1980: 3-41; Mochizuki, 1982: ch. 7; Krauss, 1984; Uchida, 1986; Sakata, 1994). The latter focus on the turmoil resulting from the revised Japan-U.S. Security Treaty in 1960, the opposition’s near majority during the 1970s and the end of this situation in 1980, or the collapse of LDP’s single government in 1993.

None of these views are correct. Depending on the internal dynamics of the Diet, I propose that the viscosity mechanism started in the early 1950s with the end of the American occupation and was completed by the end of the 1960s. The institutionalization of the Diet and the formation of the one-party dominant regime went hand in hand during the 1950s and 1960s. The name “the 1955 system” is misleading because this system did not come into being in 1955. The one-party dominant regime in the legislature was not built in a day. This party system had to be supported by the legal structure and the hold of *one* major party on power, as well as by the *all* parties’ and the executive’s gradual acceptance of the assumption of the LDP’s future dominance . I base my hypothesis on individual data for half a century, while past works depended on aggregate data for shorter periods. My database is more comprehensive in terms of period and items covered.

I have set up several new measurement categories in this study, including position in session, length in session, frequency of discussion, and OP#. I have shed new light on some optional procedures, and distinguished between formal and substantive amendments and between creative and additional precedent cases. I believe that these indicators can be used for the study of other legislatures, especially parliamentary systems. American studies of Congress investigate which bill reflects whose interests by way of roll call votes, bill passage and amendment, etc.²⁴ It is useless, however, to apply these approaches for examining a transformative legislature to arena legislature (Polsby, 1975). Because in the latter instance party discipline is strong and the ruling party holds a majority and supports most bills in a parliamentary system, government bills rarely fail or are amended. Nevertheless, when one examines the legislative process in detail, it is obvious that there are a variety of factors and dynamics to be examined. Although little work has been done in this area, I hope that my tools will promote further study of legislation in parliamentary systems.

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²⁴ For the recent state of these studies, Stewart (2001), Mezey (1993), Poole and Rosenthal (1997), Krehbiel (1988), Shepsle and Weingast (1995), Loewenberg, Patterson and Jewell (1985).

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Figure 1. Position in Session

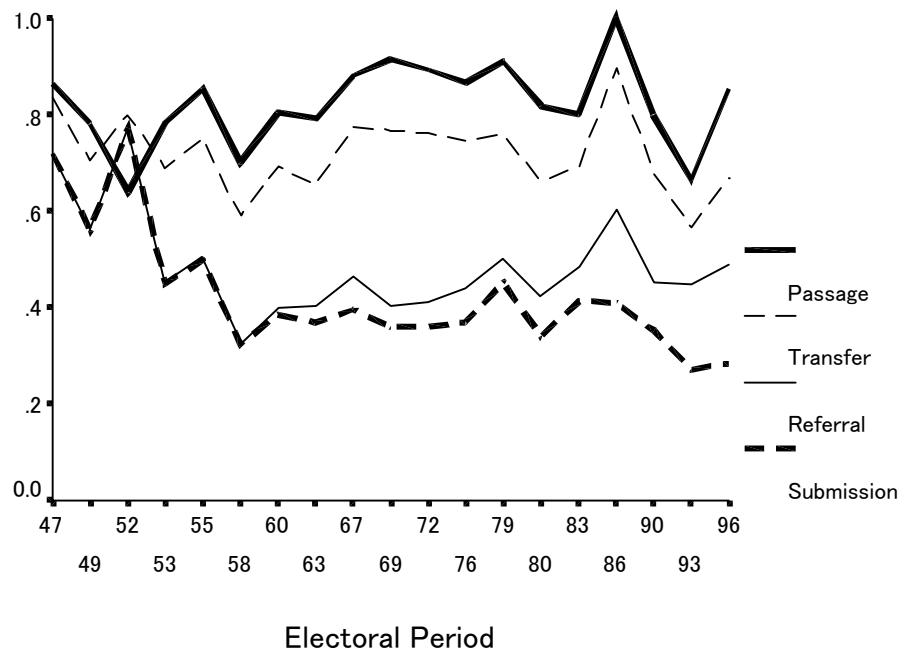


Figure 2. Frequency of Discussion

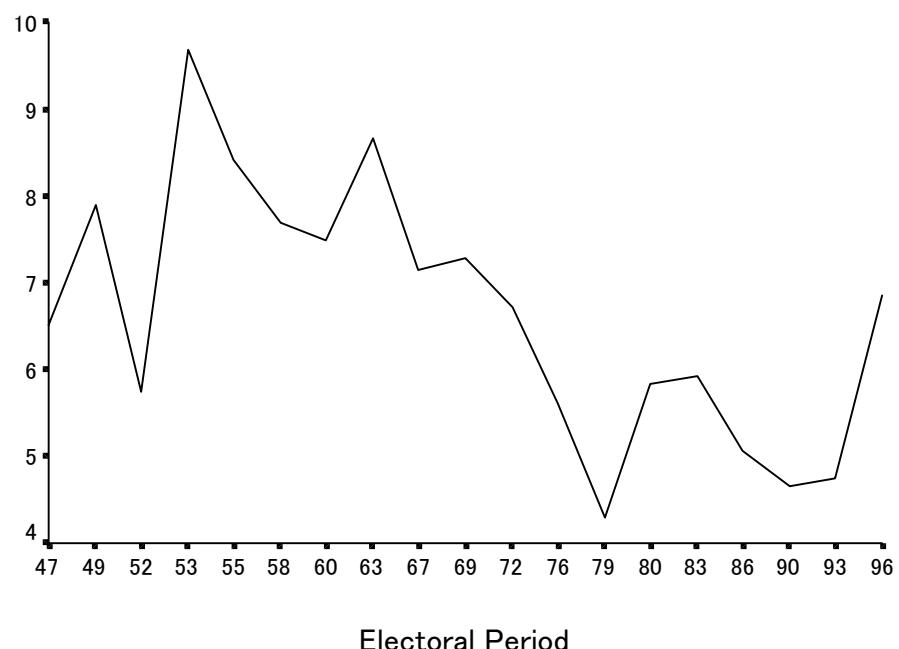


Figure 3. Supplementary Resolution

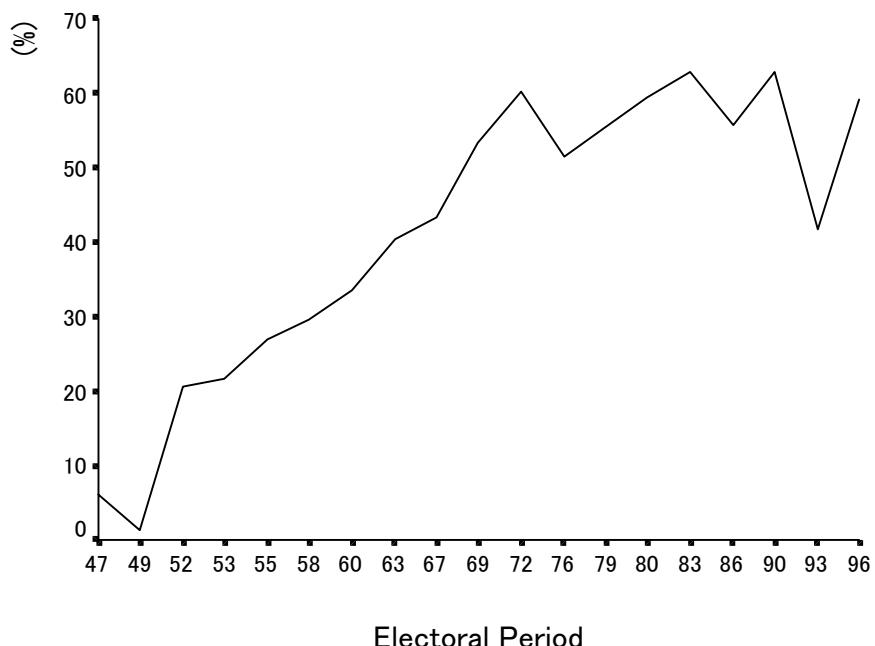


Figure 4. Amendment

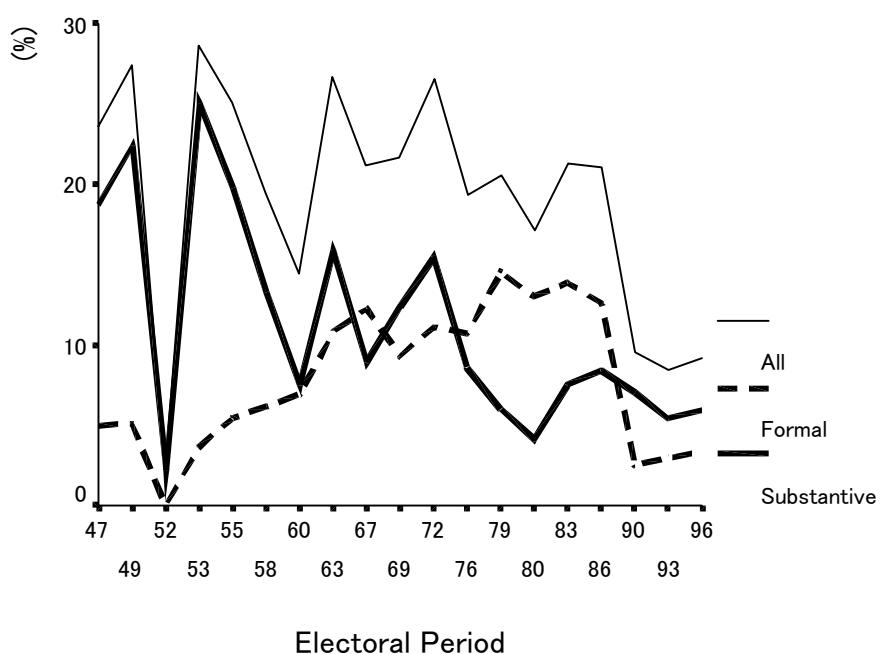


Figure 5. Objection Parties Number (OP#)

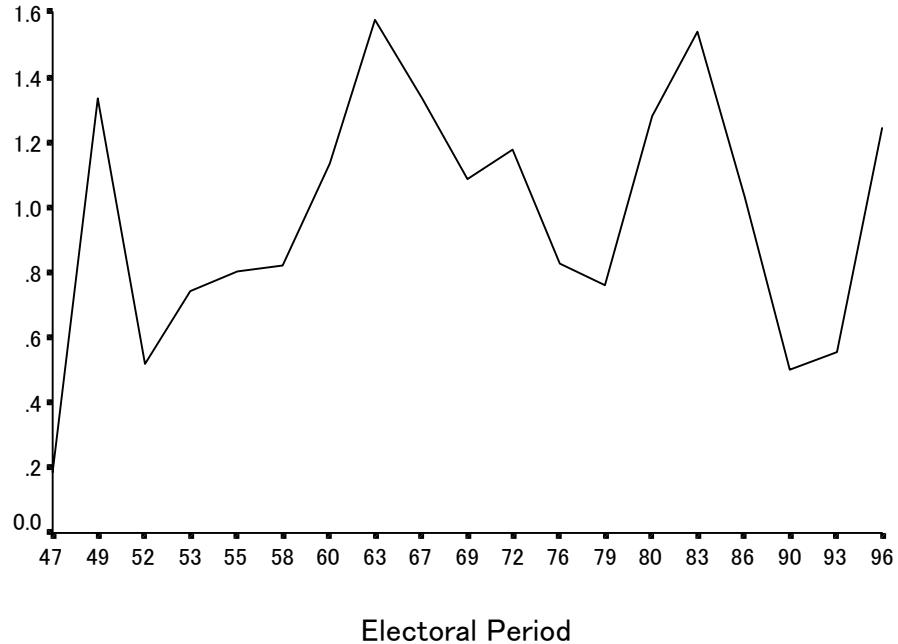


Figure 6. The Rate of Objection

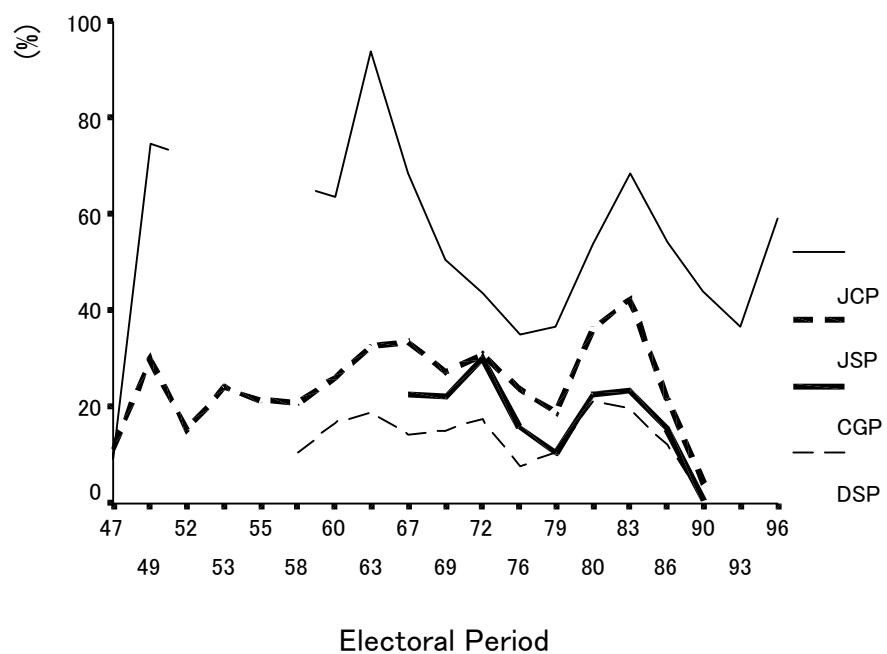


Figure 7. Correlations of Party's Attitudes

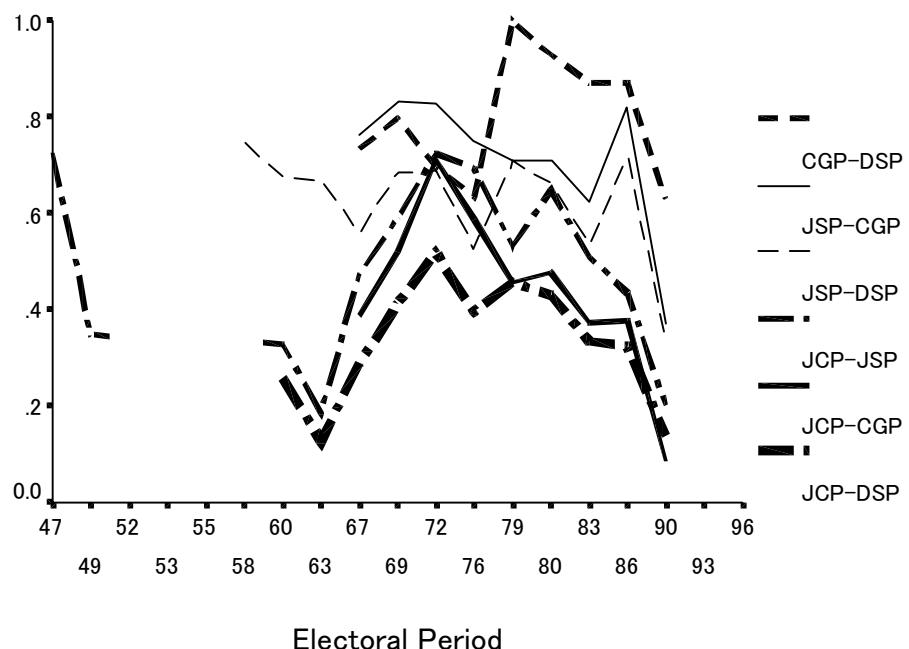
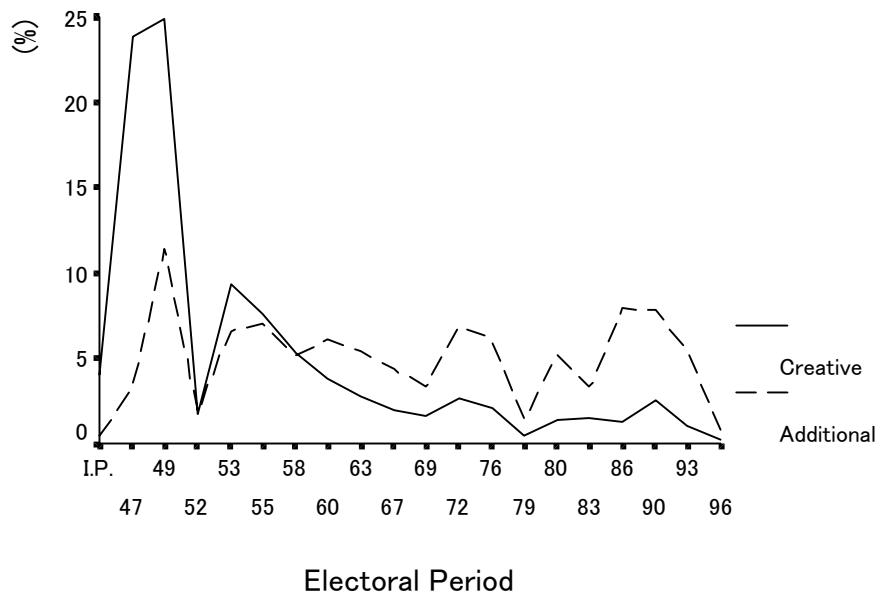


Table 1. Distribution of Cases by Precedent Book

Precedent Book	Kinds of Case (%)			
	Creative	Additional	All	N
HR Plenary	22.5	77.5	100.0	1295
Committee	37.1	62.9	100.0	501
HC Plenary	31.8	68.2	100.0	983
Committee	59.7	40.3	100.0	375

Figure 8. Cases of The Precedents



I.P. means The Imperial Parliament (1890–1947).

Figure 9. Total Amount of

Discussion Frequency

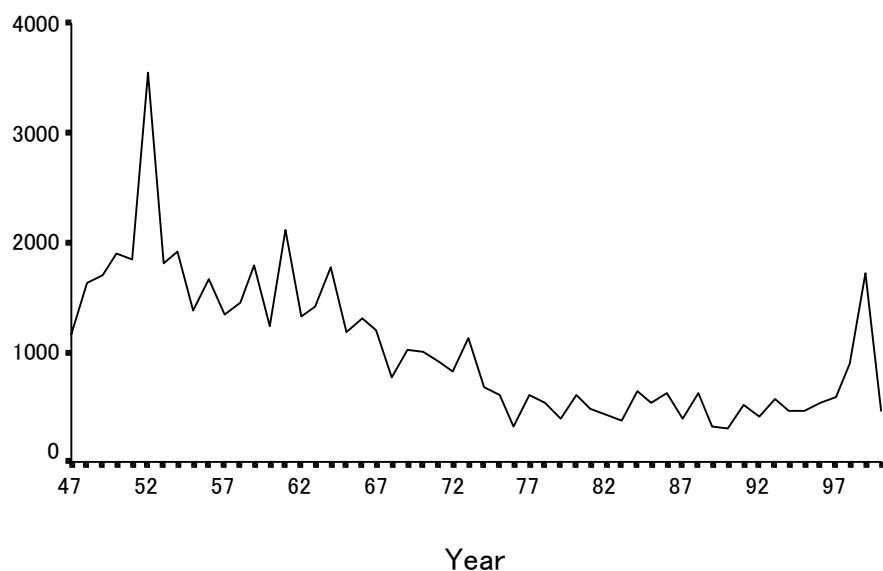


Figure 10. Total Amount of Whole Deliberation LS

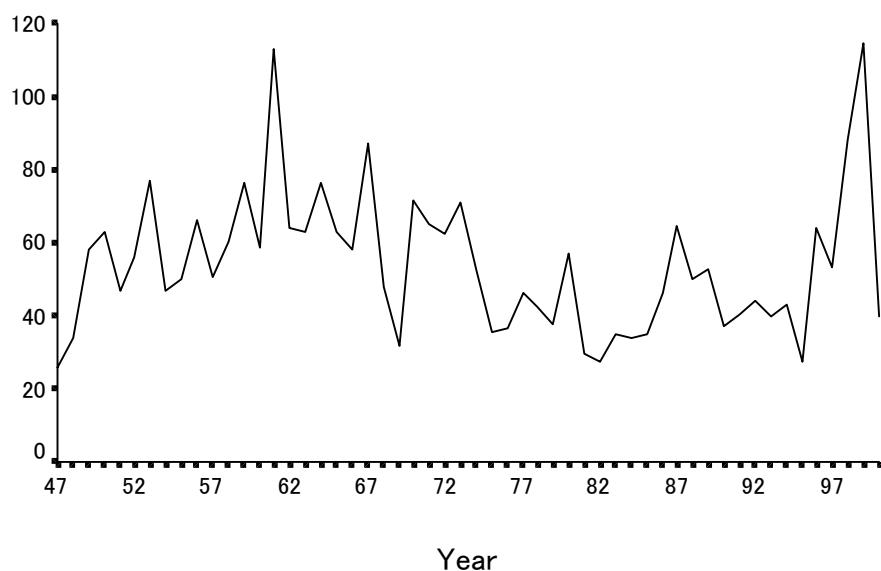


Figure 11. Forced Vote and Chair's Mediation

