

On June 18, 1996, one of the leading figures in the framing of the Japanese constitution died peacefully at his home in Heath, Massachusetts. For more than 50 years, Colonel Charles L. Kades vividly remembered what happened when General Douglas MacArthur ordered American Occupation officials to produce a draft of what an acceptable constitution might look like.¹ Characteristically modest but also proud of what the Occupation accomplished, Colonel Kades recently gave what turned out to be his last interview with Associate Editor Peter K. Frost. The Editors hope that what follows gives some sense of Colonel Kades's intense interest in helping historians understand this fascinating event.

FRAMING JAPAN'S CONSTITUTION



Photo courtesy of Mrs. Charles Kades

Colonel Charles L. Kades holding a copy of the Japanese Constitution. New York City, 1950

FROST

Why do you think that General MacArthur asked the Government Section to produce an initial draft constitution in just 10 days (February 3-12, 1946)?

COLONEL KADES

A meeting had been scheduled for February 12 at which General Whitney, chief of the Government Section at GHQ, was going to hand Foreign Minister Yoshida and State Minister Matsumoto, the head of the Constitutional Revision Committee, a memorandum explaining why the Japanese proposals were unacceptable. MacArthur stated that instead of such a memo, it would be more productive if Whitney gave them a model containing constitutional principles.

FROST

Were you under pressure to produce a new constitution quickly? For example, was General MacArthur afraid that the Allies might simply impose a new constitution on Japan?

COLONEL KADES

Not as far as I knew. Some people now think that General MacArthur worried that the Allies might not be able to agree about what sort of constitution Japan should have, but General MacArthur never said that to me. It's pure conjecture.² He did announce publicly that he wanted a constitu-

tion finished in time for the elections scheduled in the spring to be a plebiscite. I was surprised when we were told that we had a week to produce a constitution, but we always understood that the main point was to make a more effective criticism of the existing Japanese drafts before the February meeting.

FROST

Would it have helped if you had more time to complete your first draft?

COLONEL KADES

Only marginally. We had from March until the end of October, 1946, to suggest changes and did in fact suggest 30 or 40, but I never counted them. Some were made by GHQ, some by the Japanese, and a few by Far East Commission.

FROST

Is there any part of that draft that you wish that you had done differently?

COLONEL KADES

Yes. For example, in Article 12 (which opens "The freedoms and rights guaranteed by the people shall be maintained by the constant endeavor of the people"), I would have omitted the clause at the end which provides that the people "shall always be responsible for utilizing them for the public welfare" which I understand has been used to qualify intended absolute freedom and rights in some cases.

FROST

When General Whitney handed your draft constitution to the Japanese on February 13, 1946, he said that while General MacArthur was under "increasing pressure" to try the Emperor as a war criminal, "acceptance of the provisions of this new constitution would render the Emperor practically unassailable." Didn't that force the Japanese to accept at least the main elements of the U.S. draft?³

COLONEL KADES

General Whitney emphasized that the draft presented was

EAA Interview with Colonel Charles L. Kades

not being forced on the Japanese and that they could come up with their own draft which, if it embodied the basic principles of the draft being presented, would be acceptable. As far as the “main elements” of the U.S. draft are concerned, the Japanese had, after all, accepted the Potsdam Declaration.

FROST

What, indeed, would you say to critics who argue that the Occupation imposed alien concepts on a reluctant Japanese people?⁴

COLONEL KADES

I would say that while there is no doubt but that a military occupation by a foreign power is inherently coercive, nevertheless, the revised constitution was the product of a joint enterprise between Americans and Japanese carried on in difficult circumstances, and that it reflected the spirit and aspirations of the Japanese people in general. The Japanese have freely expressed their will not to alter it. What MacArthur did was to rectify, if not remove, an earlier imposition of power by oligarchs working behind a totalitarian police state structure. No one imposed power on the Japanese people except the regime from which they were liberated. Making it possible for them to be free requires getting rid of the obstruction to freedom. Not being a Japanese expert, I cannot say for sure, but I believe that it would be hard to demonstrate that democracy and freedom are alien concepts to the Japanese.

FROST

How about those who claim just the opposite—that the Americans wound up being too lenient because they missed some of the differences between Japanese and English political terminology?⁵

COLONEL KADES

While I am not qualified to comment on the linguistics involved in your question, I do

think that we had qualified translators and interpreters who *did* catch important shades of meanings; I refer to Professors Kenneth Colgrove of Northwestern and Cyrus Peake of Columbia, Beate Sirota (who had lived in Japan from childhood), her future husband Joseph Gordon, Lt. Raymond Akai, a Nisei from Hawaii, and Mako Matsukata, the grandson of a former Prime Minister. There were also friendly Japanese outside GHQ who monitored all drafts. When Professor Inoue speaks of the different practical effects (“illo-cutionary force”) of certain otherwise similar sounding English and Japanese words, she may well be right, but I was told in Japan that reviews by Japanese scholars did not in all instances support her position.

FROST

Does this seem to you to be a unique moment in history, or could you see the same process happening again in another occupied country?

COLONEL KADES

I think that this was a unique moment, created by the MacArthur /Whitney leadership. They made it occur, and there was never any doubt but that they preferred an imperfect constitution more than requiring changes which, while possibly perfecting it, would destroy its character as a Japanese instrument created jointly by the occupiers and the occupied.

FROST

What, finally, would you like EAA teachers to stress when we talk about the origins of Japan’s present constitution?

COLONEL KADES

While I would not presume to say what EAA teachers should stress, I would hope that they would place more emphasis on the democratic movement in Japan that began in the 1880s

and 1890s under people like Ozaki Yukio, who served in every Diet elected under the Meiji and Showa constitutions until his death in 1954, and Mrs. Kato Kanju, [formerly Baroness Ishimoto Shizue, author of *Facing Two Ways*, 1935] who was still active at 98. That movement continues to this day. I want to emphasize that the Potsdam Declaration required the Japanese Government to “remove all obstacles to the revival and strengthening of democratic tendencies among the Japanese people.” The potential was always there, and I am happy that Generals MacArthur and Whitney encouraged us to help the Japanese restore it. n

Readers wishing to view a 1991 interview are encouraged to write to:

Five College Center for
East Asian Studies
8 College Lane
Smith College
Northampton, MA 01063

Ask for video tape JV185, “The Influence of the American Constitution on the Framing of the Japanese Constitution.”

The tape is 60 minutes long.

You need pay only postage costs and may copy the tape if you wish.

NOTES

1. On February 4, 1946, General Courtney Whitney, head of the Government Section of SCAP (Supreme Commander of the Allied Powers, a term used both for the largely American Occupation government and General Douglas MacArthur) asked Colonel Kades and others to prepare a draft constitution. The draft was written between February 3 and 12, 1946, and presented to the Japanese on February 13. Technically an amendment to the Meiji Constitution of 1889, the draft was modified in subsequent negotiations, approved by the Privy Council and the Diet, promulgated on November 3, 1946, and put into effect on May 3, 1947. Two good English language sources are Charles L. Kades, “The American Role in Revising Japan’s Imperial Constitution,” *Political*

“Not being a Japanese expert, I cannot say for sure, but I believe that it would be hard to demonstrate that democracy and freedom are alien concepts to the Japanese.”

Science Quarterly (summer 1989), and Robert E. Ward and Sakamoto Yoshikazu, eds., *Democratizing Japan: The Allied Occupation* (Honolulu: University of Hawaii Press, 1987).

2. Theodore H. McNelly notes that on February 1, 1946, General Whitney urged MacArthur to act before the newly formed Far Eastern Commission started. See his article in the Ward and Sakamoto book, 79.
3. Kades, *Political Science Quarterly*, 228.
4. Some of these criticisms are discussed in Ward and Sakamoto.
5. See in particular Kyoko Inoue, *MacArthur’s Japanese Constitution: A Linguistic and Cultural Study of Its Making* (Chicago: University of Chicago Press, 1991).