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Outline of Court Struggle

法廷闘争の概略

日本における、法廷闘争は、主として特殊の思想的傾向を有する被告人及び傍聴人によつて、集団的に行われるところに顕著な特徴がある。これらの者によつて行われる法廷闘争の主たる目的は、民主々義国家における裁判の権威を失墜せしめることそれ自体にある。具体的な事件において、被告人側に有利な主張又は立証をし、自己に有利な判決を取得しようとすることは、寧ろ従たる目的のように見受けられる。彼等は、どんなに法廷で騒ぎ、裁判所に対して侮辱的態度を示しても、裁判所法七三条さえくぐれば、裁判官は彼等を処罰し得ることを良く知つている。また日本の裁判官は、彼等が法廷で侮辱的態度をとつたことを理由として、その本来の罪一也訴に係る非一につき刑を重くするようなことをしないということも、彼等は良く知つている。[illegible]彼等としては、民主々義国家の権威の下に、彼等のいわゆる反動裁判官によつて裁判されることは、忍び得ない屈辱である。この屈辱

感をまのがれるためには、彼等としては、彼等なりに権威なき反動的暴力によつて処断されるのだということを示さなければならない。このような立場において、法廷で騒ぐか又は事案の解決に関係のないような事項を主張して裁判官に喰い下ることによつて、法廷を混乱に陥れ裁判所の権威を失墜させれば、それで成功である。法廷を混乱に陥れることができないとしても、裁判官を神経衰弱にするか、裁判官に精神的ショックを与えることができれば、それは彼等の思うつぼに入つたことになるのである。以下に各事例を簡単に掲げるが、これらは右のような思想の表現であることに注意して頂きたい。

一、法廷闘争の実例

実例として鳥取地方裁判所米子支部の事例及び最近の福島地裁平支部の事例をあげる。米子支部の事例は昭和二十三年に発生したものであるが、法廷闘争の実状を最も詳細且つ具体的に報告しているので、多少旧聞に属するが、敢て引用したのである。

最近における法廷闘争の状況は米子支部の事例とくらべて大同小異であるが、最高裁判所に対する現地裁判所からの報告は「いずれも簡単であるため引用しない。」旨通知してきた。

(1) (A) 鳥取地裁米子支部の事例

昭和二十三年十月一日佐野川事件第一回公判期日の「九月十八日開廷不能のため延期せられた第一回公判期日は昭和二十三年十月一日開廷せられた。当日の状況については岡田判事が同年十月四日附の報告書で次の様にのべている。前同の公判期日の経緯に鑑みて正門横門及裏門を閉ちて同日は午前八時から裁判所正面の小門において傍聴券百枚(一枚は被告人家族用として弁護人団に手交)を先着順に渡して傍聴券所持の者一列七十名余は共産党員及日農関係者ではないが公衆控室に待たしめ、傍聴券のない者は公用ある者を除き爾後の入廷を禁じた。午前八時半頃から傍聴券のない者は公用ある者を除き爾後の入廷を禁じた。午前八時半頃から傍聴券のない者は公用ある者を除き爾後の入廷を禁じた。午前八時半頃から傍聴券のない者は公用ある者を除き爾後の入廷を禁じた。午前八時半頃から傍聴券の民衆は列々増加し赤旗三本を立てた多数共産党員を先頭にした

民衆は「通入らせろ」「こんな掲示は一方的で不当だ」と十
掲示の時間未尾記載十三号するが応ぜず。「弁護人五名は
構内に居り入廷催告に拘らず定刻九時になるのに入廷せ
それで裁判所は裁判長岡田建治上席判事野尻第一同若原哲視
列席の下に検事角田正太郎立会して入廷、傍聴席はほぼ
て平静でないが裁判長は冒頭傍聴人等に対し審判妨害につ
ての訴告を与え被告人小塩暁より刑訴第一三三条の訊問を開
始した。

被告人小塩は答弁したが其の余の被告人は答弁をしな
裁判所は面識ある若原判事の指示により被告人の出頭を確認
し公判開廷、裁判長は被告事件について併合分離の決定を宣
告した上次いで検事が公訴事実を述べていたところ弁護人
五名が入廷し原田弁護人（自由法曹団所属）から「弁護人の
出頭なくして開廷したのは憲法違反である」旨の抗議があつ
たが裁判長は「開廷時刻は予め通知済である」旨告げて審理

を進めんとしたところ梶原弁護人（自由法曹団所属）から「岡田裁判長の船木、岡本及村上の各被告人に対する裁判を忌避する」旨申立て理由として「マイクロホン取付方について言を左右にしたり多数の武装警官を配置して不当に圧して公判を開廷するのは、裁判官としての良心を疑うもの」であり、弁護権を不当に侵害するものである」従つて公正な裁判を望むことが出来ない」旨述べた。此の時法廷内から拍手が起つたので裁判長は斯る行為は審理の妨げになるから禁止する旨宣告した。然し尚ほ喧騒者があつたので裁判長は傍聴者一名に対して退廷を命じて退廷せしめた。此の時から廷内は余程平静になつた、裁判長は別室で合議の上忌避の申立は訴訟を遅延する目的のみを以て為したと明白であるから却下する旨決定宣告して被告人小堰暁に対して事実調べの訊問を始め同人に対する事実調を午前十一時四十五分終了し午

後一時迄休憩を宣して退廷、午後一時十分再開の上、被告人から訊問を始めたところ原田弁護人から「法廷附近に居る警官隊を立退いて貰い度い」旨の要求があつたが裁判長は応じない儘審理を続行し、次いで岡本、村上被告人の事実調に入り同人等は事実について陳述し審理は午後三時四十分に終了、一旦休憩の上午後三時五十分再開、弁護人側から午後五時又は六時頃迄も審理を続行ありたい旨の要求があつたが審理が遅くなるときは庁舎附近の民衆の秩序維持に困難を生ずるので次回期日を弁護人の希望も参酌して十月十四日午前九時と指定して午後四時十分に閉廷した。

三「方法廷外の民衆は開廷後も益々増加し午前九時三十分頃には数百名の群衆となり彼等は小門の出入口に殺到して口々に「通入らせろ」「裁判長を出せ」「階級裁判である」「法弾圧だ」等と怒号して押入らんとし受付警備員との間に不穏な情勢を生ずるので遂に午前七時その小門も閉ちた。暫くす

と彼等は赤旗を振つて革命歌を高唱した。十時半頃には
マイクロホンを掲示場附近に取付けて盛々喧騒を極めたので
裁判長名義を以て「裁判所の構内及び工作物にマイクロホン
を設置する事を禁止する」旨の掲示をして之が撤去を求めた
ところ彼等は午前十一時頃に至り横門に廻りことで高唱し
且怒鳴つたり喧騒を極めたそれは法廷丈も近く審理の妨害と
なるので裁判長名義で「法廷外と雖も道路其の他において
騒を極める行為は審理の妨害となるおそれがあるに付
めあれたい」旨の警告書を掲示した。法廷内に傍聴
共産党員は屢々法廷を出て刻々の法廷の様子を構外の
伝えていたが十一時三十分頃に至り共産党員吉志川某
ら出て群衆に向い「吾々は法廷において圧制命令を
るから構外の人達は静かに願いたい」旨要望したと
静かになつた赤々喧騒を極め時に門を
て侵入せんとし或は
るなど終始その状態を繰返
し。その都

度警備員に押し出されて午後四時に至つた。其の間群集に向つて被等発行の新聞を売つたり或は闘争資金の寄附を仰ぐ旨を叫んでいた模様であつた。午後四時公判は閉廷となつたが原田弁護人が被告人の頭を挙骨で一つ殴つたと称して被告人と警備員が同弁護人の謝罪を求めて立去らずの一方法廷より出た傍聴人も裁判長に対して右の謝罪を求めたので岡田上席判事は閉廷を宣して引揚げたのであつたが傍聴人の一部は時逃去を要求した。彼等は遂に委員を選任して検察庁及び警察署長に対して右の謝罪を求めたが遂に拒絶せられ漸く午後五時三十分に退散した。

（其の他の各地の模様は次号に譲る）

(B)

昭和二十三年十月六日午前十時開廷、先ず被疑者の神尾茂、岩田衛、末吉義人、石持卓の四名を入廷させたところ傍聴者は之を拍手で迎え「頑張れ〳〵」と声援し、被告人並傍聴人に対し拍手を禁ずる旨を告げ、被疑者及び被告人等（以下単に被疑者と略称）に対する勾留理由開示手続における状況を審問し終つて、被疑者及び被告人達でないかの有無を確めた上被疑者等に対する勾留理由を告げ、被疑事実を告げて本件犯罪被疑事実の要旨を告げ、被疑者に対し弁論の制限ではないが、簡単明瞭に述べて貰いたい旨告げたところ傍聴者の中から「それは一人五分間、代表者で発表する場合は十分間程度ならよいではないか」と叫んだ者があつた。被疑者等は

(B)

此の際並に昂奮し之に呼応して原告に「しっかりやれ」と声援し法廷内は騒然として開廷は午前九時三十五分に開廷したがそれ等被疑者が退廷するや否や傍聴者は拍手で送り、歌を唱つて激励していた。

次いで午前九時三十分被疑者赤本力哉を入廷させた。傍聴者は前回と同様に拍手で迎え「元気でやれ」「しっかりやれ」と激励し、判事岡田建治出廷して人違いなきやの有無を確めんとしたところ同被疑者は「基本的人権の尊厳下の今日吾々は裁判官と同席であるし」と述べて、これに対する回答を求めたが、裁判官は回答せず被疑者に対して人違いなきやを確めて被疑事実及び勾留理由を右同様に告げてそれに対する意見があれば聞かせ、意見の有無を問いかつ意見があれば簡単に述べて貰いたい旨告げた。同被疑者は「本件は不当弾圧であるから吾々はハンストのデモをやるのを許

に入つている、それで気力がないから私が書いているのを許

かけて話まんが然し香月は正義のために生きるの光が放つて
いてくれや俺は最後まで頑張るぞと云い倒れてもかまわぬ
叫び声が傍聴者の米村春枝(二五)米子市在住)共産党員であるが
んなそんなことを云わないでもつと力をおおおてある事を
と忠告していたが法廷が冷静では無理を感じているので岡田裁判
九時五十分に再び出廷して被疑者に退廷を命じたが傍聴者
前廷は人民の公僕であるべきはずなのに裁判を妨害する
ないか等と発言して暫時を休廷した
して岡田判事は再開を宣したが本日は弁論では無いので拘留通知
示である旨を告げ赤本にその事については無い旨述べ傍聴人の中
ては無いかと発言し公平な裁判でない
事を許したが傍聴人の中
事は退廷せよと由命ずるや傍聴者一
退廷
傍聴者は

本、山根晉夫を入廷させたところ、被告者等が入廷前から傍聴人等は廷吏の制止も聞き容れずインターナショナルの歌を唱っていたが、入廷後は被告者もこれに和して唱っていた。若原判事出廷して被告者等及び傍聴人に対して歌を禁止する旨宣言したが被告者中一本のみはこれに従わず尚も歌い続けていた。判事は各被告者に対して人事亦匆留理由を告げているのに対して静粛にすべき旨注意するが判事の言に従わないでなおも歌を続けた上前回同様被告者に対して即時退廷を命じた。然るに同人等は同被告者に対してその退廷命令に従わず、依って若原判事は被告者に対して告発した。同被告者は看守により退廷させた。傍聴席からは「吾々の生活権を守るの声だ」「頑張れ」と激励して午前十一時から午前十時五分閉廷した。被告者は福間彦太郎、芝田小吉、宮本小山猿の順で意見を述べ、「吾々の生活権を守るの声だ」「頑張れ」と激励して午前十時五分閉廷した。被告者は福井正夫、大止良夫、前水華雄、

田悌吉を入廷せしめた。傍聴者は「乗下頭垂れ、森下は入廷後一帰が遅いな、検事と対等であるも弁護人一帰に腰をかけさせた。山若原判事出廷して他の四名にも着席を命じた上前回同様審理を進めた。仲田、乗下の順で意見を述べた。乗下は「吾々共産党員を弾圧したのや検事は声田内閣の番犬だ」と指摘し「審判が出来難いから退廷を命ずる」と二名の傍聴人に対し一時十分頃」「吾々共産党員を弾圧したのや検事は声田内閣の番犬だ」と指摘し「審判が出来難いから退廷を命ずる」と二名の傍聴人に対し一時五十分頃」「吾々共産党員を弾圧したのや検事は声田内閣の番犬だ」と指摘し「審判が出来難いから退廷を命ずる」と二名の傍聴人に対し「審判が出来難いから退廷を命ずる」と二名の傍聴者に退廷を命じた。開廷は頭々発言し騒然としているので判事は「静粛にしていない時傍聴席は

発した。然し同人は尚も退廷について強力に抵抗するので裁判長は看守に命じて退廷させた、此の時森下及び傍聴者は「何故連出するか」と云うて押問答をしていたが警察官は右被告発人を法廷外に連行した。これをみて森下は「刑事や検事は大酒呑だ」とか傍聴者は「居眠り検事」「刑事は東条と同じような顔だ」などと罵声を浴せていた。此の開示は午前十二時五分終了、一旦休憩し、午後一時から再開被疑者木村幸雄、山照男、山崎康男、川本繁樹、富沢修平を入廷させ岩原裁判長は「何故連出されないか」と述べ他の者は順次退廷して人違いにあらざるや否を確めた上第一回同様に被疑者及び勾留理由を告げた。此の頃傍聴者は約七十名位に減り比較的平静になつた。被疑者に対して意見の有無を聞いたところ牛尾は「ストライキ行中だから答えない」と述べ他の者は順次退廷を入廷させたところ牛尾はパンを喰いながら入廷した、開廷が午後一時四十分終了し、次いで午後一時四十五分被疑者牛尾は「腹が減つてパンを食べているから

聞け」と言うて判事に対して身体を揺にして傍聴人に尚も叫んでいるので判事は「自分へ述べないで傍聴人に対して演説していると認めるから閉廷する」旨告げると同人は傲慢な態度で傍聴人に対し訴えるので判事は退廷を命じた。牛尾は「もう殆ど述べたからこれで止める」と言うて退廷したが退廷の手が身体に触れたから「暴行だ」と怒鳴つたところ傍聴者の中から「やれ」と声援していたがその儘退廷した、これが午後二時五分であつた。

次いで最後の開示に移り午後二時十分に被疑者田栗延喜男、原田良寿、中村正彦を入廷させたところ傍聴者は同様に拍手で迎えた。若原判事出廷して各被疑者に対いでないか否を確め次いで第一回同様被疑事実並び勾留理由を告げて意見の有無を聞うたところ田栗、川越、原田、中村の順で簡単に意見を述べて閉廷した、時に午後二時三十五分であつた。

又同手続に立会つた裁判所書記松下光男は次のように述べた。

でいる「乗下は検事と同等であるから弁護人席に坐ると言う
の四名の被疑者等にも弁護人
椅子には坐れんと称して弁護人用
に置いて係判事の尋問に答
に対する答弁は主として判
対する政治批判、不当弾圧等と延々約一時間に亘つて
見を陳述し、傍聴席ではその
と合槌の気合をかける者も居り法廷内は恰も何処かの
たい」たので判事は、「つたようで」ありました。乗下は自分の意見開陳
り終ると被告人用机を一つ
前一人傍聴席に向つて「静かに」と注意をされました
然見てその男が何をしたのか私は公判調書を書いて居たので
対して「判事はその者を指さ」して「退廷」と言つて退去を命ぜられたのですが件々人
な「いから弁護人席に坐るよう
椅子に坐り被告人用の
に坐らせ且つ自分は被告人
対する答弁は主として判
ば」声高に「そうだ」

にもないので臨席警官が二名程立つて退廷させようとしたのですがその男の前に居た者が（後で松山和夫だという事が判つた）「傍聴券を持つて居るのに出なくても良いてはないか」とか或いは「俺はここに立つて居るのは自由だ」とか言つて警官の前に立ちふさがり最前の男を退廷させようとする警官を妨害しましたので若原判事は松山に対して指さして「退去しなさい」と言つて退去を要求されたのですが松山は之に従わないので角田検事は警官四名を指揮して松山を逮捕させたのであります。松山は警官に抱きかかえられる様な格好で裁判官、検察官入口の方から法廷外に出されました。丁度その時は午前十一時五十分でした。」

(8)

(A) 日

(B)

旨を告げる本裁判所の判
事三井彪号再び混乱し裁判
長の制止し肯かない為その
ま十分開廷となる一、
第二回目
受付ける
弁護人
申出ア
裁判長
」
金隆文
時彪号
非法
言と
裁判
光明
被告
人
定調
の通
弟書
の後
人に対
裁判
発言
を禁止
佐藤
告人
年令
導か
問に
る回
答
(C)
(D)
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廷、法廷外えマイクの設置等を交々要求しその回答を強要する抔凡ゆる機会を捉えて発言し審理の進行を妨げ結局午前中は職安所問題に絡んで被告人弁護人等が間断なく発問して裁判長と応酬を繰返したのみで人定尋問に入ることができず十一時十五分休廷するに至つた。

午後一時十分再開

丹保被告人から公判分離についての意見及び要求あり、之に対して他の被告人等よりの反ばく、罵詈怒号をあびせかけて応酬する抔混乱を呈した、裁判長公判を分離すべきか、併合すべきかについて検察官、弁護人の意見を求めたところ多数の被告人分離反対を絶叫して騒然となり鈴木光雄被告は発言を禁止されたが之に応じない為退廷を命ぜられた、高橋検事より審理促進等について意見の開陳及び真本、門伝、大槻各国選弁護人より分離請求ありい裁判長は公判分離か、併合かについて社会部の上法廷外において決定する旨を告げたところ被告人等交々発言

二、裁判所法第七十三条の春重動者界は、裁判長又は開廷をした一人の裁判官を含む。）が、裁判所の職務を執行又は不当な行状をする者に対し、退廷命令、その他秩序維持についての命令を発し、その命令に従わない場合において、はじめて成立するの（従って裁判長が命令を出す前提となる職務者行為乃至不当行状については、それが当初から計画的に裁判所の威信を傷つけ、法廷の秩序をみだす目的をもつて実行され且つ現実にそのような結果を発生するに至った場合であっても、それ自体が刑法等に規定された他の犯罪（例えば公務執行動害罪）を構成しない限りいかんともなし得ないの夢現であるの（式部弁護人の弁論要旨に付る東京地裁（裁判長裁判官）事件（昭和二五年政令第三二五号違反）の勾留理由開示公判、大分地裁の建造物侵入並びに電信法違反事件の公判では、多数の被告人が一時に拍手や野次や声援をなどワイワイ騒ぎ、蜂の巣をつついたようになり、二人を制すればこれを理由として他の者が騒ぎ出し少くも二人を

退廷させても訴訟手続延期時の維持に全く効果がないという基礎を
表わしているやうである。

(2) 当大分地方裁判所における建造物侵入並びに電信法違反事件の公
判で並べ、被告人の一部は裁判長に対し「反動裁判長弁護人と
高声で罵倒した。(傍聴席等騒然)

(3) ア千葉地方裁判所における業務妨害(国電発車妨害)事件では、
被告人が被告事件に関する顕述の際検事の個人攻撃をなし、
公判に関連のない事項に亘る発言をするので、裁判長が之を制止
すると「裁判長は検察官とグルになつて裁判をしている、やめて
しまえ」と放言した。(傍聴席騒然)

(4) ア高知地方裁判所における地方税法違反(入場税逃脱)事件
の公判では判決言渡中「公平に裁判しろ」「検事の論告のとおり
ならいかん」と言つた者があつた。(傍聴席騒然)

三、人事管理を著しく困難ならしめる場合

(1) 裁判官を著しく困難ならしめる場合には、拍手、怒号、罵詈
嘲笑し又は

革命歌を高唱するような例がある。

かにも秩序がないように見えるが、これに対しても裁判所法第七十三条により処置することは困難である。

(1) 東京地方裁判官の選挙応援演説事件（前述）では裁判官が閉廷を宣するや、傍聴人が腕を組んで被疑者とともに革命歌を高唱し、次いで傍聴人が被疑者と握手せんとして法廷の前方へ押しかけ、果ては検察官、弁護人の机の上に土足で飛び上る者も出て、被疑者を法廷外に連れ出そうとする刑務所看守と揉み合うという混乱を呈するに至つた。

(2) 東京地方裁判所における愛光堂生産管理事件（建造物侵入、住居侵入）では、裁判官が退廷する際に、被告人又は傍聴人が裁判官に対して、「資本家の御用裁判」或いは「反動判事」という罵声を浴びせた。

四

福島地方裁判所の松川事件の法廷及び大分地方裁判所における電信法違反事件の法廷における喧騒の状態は、その一部が録音され、

Political Crimes

COPY

TO: GENERAL HEADQUARTERS OF THE SUPREME COMMANDER FOR THE ALLIED POWERS

FROM: Central Liaison Office, Tokyo.

SUBJECT: Request for Protection of Lives and Property of Japanese Residing in Southern Korea

C.L.O. 655(5.2) 20 November 1945

There are about 140,000 Japanese still remaining in Southern Korea which is under the occupation of the Allied Forces. According to information obtained from a large number of the Japanese who have repatriated from Korea, there are among those remaining in South Korea a considerable number of Japanese who wish to stay in Korea permanently. Following the termination of hostilities, there was undoubtedly much uncertainty in their attitude, but after the occupation by the Allied Forces, they have been informed that their property rights will be protected and that they will be allowed to carry on normal life as before under the Military Government. They have accordingly changed their intentions and desire to settle down permanently there.

Notwithstanding this assurance of the Military Government, the unlawful acts to the Japanese by Koreans have become increasingly rampant, placing the Japanese in an extremely hazardous position, expecially in such remote places where the influence of the Allied Forces is practically absent. Moreover, a large number of the Japanese who, on the termination of the hostilities, have come to Southern Korea from Manchuria and Northern Korea to seek refuge, are in acute need of clothing, food and housing. Thus it is necessary to extend material as well as moral relief to them as soon as possible.

In view of such situations as mentioned above, the Japanese Government wishes to request the good offices of the General Headquarters for the Allied Powers to influence the Allied Military Authorities in Korea to give favorable

consideration to the undermentioned requests which are aimed at enabling those Japanese who desire to stay in Southern Korea to have security of abode and safeguard lives and property.

(1) Permission desired to send a relief fund for the Japanese nationals in Southern Korea: -

The Japanese nationals staying in Southern Korea are now in great straits barely sustaining their life on account of deficiency of funds and the heavy rise of commodity prices. Therefore the Japanese Covernment would like to remit provisionally ten million yen to the Nippon-Jin Sewa-ki (Japanese Relief Association) at Keigo.

(2) Protection of the lives and property of the Japanese nationals from unlawful acts of Koreans: -

Violence, looting and duress by Koreans to the person, life, and property of Japanese and circulation of malicious and unfounded reports directed against Japanese are rampent. Intensification of proper measures on the part of the Military Authorities to suppress these unlawful acts is earnestly requested.

(3) Protection of Japanese property left in Korea: -

The money and personal effects which the Japanese repatriating from Southern Korea are allowed to carry withthem being limited to a very small amount, they are compelled to leave in Korea the majority of their property. For the preservation and custody of such property left by the Japanese, the assurance of the Allied Military Authorities is requested.

With regard to the above matter, a proposal is put for their kind consideration, as follows:

(a) As regards immovable property, the owner will appoint a custodian and delegate the custody to him, and the name of both parties and the contents of the contract will be informed to the Military Authorities.

(b) In case where there is no suitable custodian to appoint, the owner will prepare an inventory of his property and ask the Military Authorities to take charge of the custody.

(c) In the case as mentioned in the preceding paragraph, taxes and other public rates levied on the property are to be paid out of the incomes on the property (such as rents or farm-rents). When such incomes are insufficient to pay the taxes and other expenses, the Military Authorities will immediately inform the owner thereof.

FOR THE PRESIDENT.

(S. Iguchi),
Director of General Affairs,
Central Liaison Office

26 March 1947

MEMORANDUM FOR THE CHIEF, GOVERNMENT SECTION.

SUBJECT: Special Pardons to Japanese Convicted of Political Crimes; C.L.O. No. 1199 (PJ)

Circ.

I. A Central Liaison Office request was forwarded to this Section by the Adjutant General on the 28th of February and additional material information was obtained from the C.L.O. subsequent to that date. (Tab A) According to this request, the Minister of Justice is considering the propriety of granting special pardons to certain convicts and desires directions from this Section in the matter. For purposes of discussion, it is advisable to classify the so called political convicts into two categories: a seven-man group of ultra-nationalists; two communists.

II. Group 1, The Ultra-Nationalists:

1. Facts. Four men--KATAOKA, NISHIYAMA, HAKAMURA, DOI--all ultra-nationalists of the right-wing radical stamp and proponents of what is essentially a national socialist type of idealogy were active participants in the movement for bringing about the tri-partite alliance of Japan, Germany and Italy. They believed this necessary in order to prepare for the forth-coming war which they desired with America and Britain. In connection with this, they were active propagandists for the adoption of an agressive expansionist policy in the South Pacific and of totalitarian "reforms" in the national structure of Japan. In 1941, these four men conspired to assassinate Baron Hiranuma, at that time the Minister of Home Affairs in the second Konoye Cabinet. Their reasons were that in 1939, when he had been Prime Minister, he had been a major deterrent factor to the successful conclusion of such a tri-partite alliance as heretofore mentioned, and that as Home Minister, after the conclusion of the Tri-Partite Pact, he also tried to suppress the movement for the adoption of an agressive policy in the South Seas. In August 1941, NISHIYAMA attempted to carry out the projected assassination of Hiranuma, succeeding only in wounding the Baron severely. While awaiting a public trial, all four men were released on bail. While out on bail, in May, 1943, NISHIYAMA demonstrated his retention of these political ideas by entering into a conspiracy with ONO, TAKII, and USUI to assassinate Ikeda, Seihin--who was a supporter of Hiranuma and closely connected with the Mitsui interests. Ikeda apparently represented Parliamentarianism and Capitalism to the Conspirators and hence they desired to remove him from the scene. The following table shows the sentences

and time served by these men:

	Sentenced	Duration	Release Date
KATAOKA	8 Nov. 1944	5 yrs, 6 mos, 22 Days	1 June 1950
NISHIYAMA	8 Nov. 1944	5 yrs, 6 mos, 22 Days (plus 1 yr. 8 mo., 27 days for 2nd offense.)	28 Feb. 1952
NAKAMURA	8 Nov. 1944	4 yrs. 9 mos, 21 days	30 Sept 1949
DOI	8 Nov. 1944	9 months	8 Aug. 1945
ONO	7 March 1945	6 months	7 Sept. 1945
TAKI	7 March 1945	6 months	7 Sept 1945
USUI	7 March 1945	1 yr, 1 mo, 15 days	22 Apr. 1946

2. Discussion:

a. Legal Situation - Legally this case is governed by the provisions for Special Amnesty, paragraph 2, (2) (b) which states that Special Amnesty will be granted, considering the circumstances of their offenses, to persons who committed offenses "from political motives and not from personal feelings." In this connection, it should be mentioned that the General Amnesty Ordinance only excludes from its provisions, offenders against the Occupation, and that, under the terms of the Special Amnesty Provisions, it is legally possible that the seven named criminals benefit from the Amnesty should the Japanese Government decide to make use of its amnesty power.

b. Political Situation - A rather difficult political problem is presented by this case. On the one hand, it is to be remembered that we have allowed the Japanese Government to give the benefit of General Amnesty even to persons who have committed common crimes of a very grave nature; that we have allowed them to retain the right to grant Special Amnesty in the case of individuals who committed offenses from political motives rather than from personal feelings. Four of these individuals completed their prison terms some time ago and await only restoration of their citizenship rights. Since they have served their sentences and are out of jail, the opinion may be advanced that they can cause as much danger without citizenship rights as with them. So far as the remaining three

individuals are concerned, they have served approximately one-half of their terms and about two-and one-half more years remain for completion. It could be argued that there are at large today in Japan many Japanese of undoubted ultra-nationalist background, and whose ideas are far from agreement with the objectives of the Occupation, who may have and who have played a far more important part in Japan's march of aggrandizement by conquest than these three named criminals. Since the Japanese Government feels that it is appropriate to release these men on the ground that they have repented of their ideas and have served a sufficient part of their prison terms, it appears possible to argue from a purely legal point of view, that SCAP should not interfere.

On the other hand, we have to deal with right-wing radical Ideologists, actionists who sought war with United States and Britain in 1937, almost in advance of the ideas of many top ranking military leaders of that day. After their attempt to assassinate Hiranuma, they gave indication of their lack of penitence, by conspiring to assassinate Ikeda. There is reason, therefore, for some doubt that their terms in prison have changed their ideological attitude and consequently, there is strong possibility that they may serve as focal points for obstruction of the attempts of the Occupation Forces to change the factors in the Japanese system which produced men of this stamp. Moreover, it is to be remembered that men of the same ideas and ideological background are being tried as War Criminals by the International Tribunal here in Tokyo. These War Criminals are charged, among other crimes, with having propagandized for an alliance with Germany and Italy for the purpose of waging war against ABCD Powers; with having insisted on the necessity of adopting an aggressive policy in the South Pacific and of occupying the strategic points in that area; with having advocated totalitarian reforms in Japan's political and economic structure in order to be better able to wage an agressive war of territorial and political expansion. It is true that the War Criminals are men who exercised more immediate and powerful influence on the course of Japanese policy than the seven named criminals in the case at hand. But, these seven criminals were guilty of the very crimes for which the major War Criminals are being tried. It is submitted that it is inconsistent to try one group and acquiesce in the request of the Japanese Government to allow the other group to be freed and restored to full rights of citizenship.

III. Group 2, <u>The Communists</u>.

1. <u>Facts</u>:- MIYAMOTO, Kenji, and HAKAMADA, Satomi were members of the Central Committee of the Communist Party and in 1932-1933 suspected that the Japanese Government had a spy in the central organization of the party, inasmuch as the leaders of the party were being arrested in rapid succession by the authorities. These two individuals believed that the

evidence pointed to two other members of the Central Committee and in December 1933 beat and tortured these two suspected spies in an attempt to obtain a confession. One of the suspected spies died as a result of injury and shock. MIYAMOTO and HAKAMADA were charged with violation of the Public Peace Maintenance Law and illegal detention causing death and sentenced to life imprisonment and to thirteen years imprisonment, respectively. They were released by the Japanese Government in October 1945 under the terms of SCAPIN 93, the CIS "Civil Liberties" directive. These two men have petitioned for restoration of citizenship rights and the Ministry of Justice is considering it appropriate to grant this petition.

2. Discussion

a. Legal Situation - File AG 014.4 (19 Dec. 45) CIS, (SCAPIN - 458), Subject: "Restoration of Electorial Rights to Released Political Prisoners", states that the Japanese Government "shall immediately take such legal or administrative action as may be required to: a. Restore the right to vote and the right to hold public office" to all persons who were ordered to be released from detention, imprisonment, or protection and surveillance under the provisions of SCAPIN 93. This is a mandatory directive. The Japanese Government has to grant restoration of citizenship rights to individuals released under the provisions of SCAPIN 93. It would have been possible for these men to have been held in prison under charges for the common crime which they committed, while the sentences of imprisonment for the political crimes were wiped out. In such case, a request for amnesty would have created a very difficult problem. However, in this matter, the Japanese Government has no alternative but to restore citizenship rights to these individuals after they were released under the provisions of SCAPIN 93. The undersigned carried on informal discussions with Lt. Col. J. B. Schindel, Chief of General Activities Branch, CIS, and Miss M. Taylor, Legal Adviser of that branch, concerning this case. Inasmuch as the application of two CIS directives is involved, it was deemed advisable to obtain the reaction of the branch concerned with enforcement of CIS directives. Colonel Schindel and Miss Taylor agreed that SCAPIN 458 made it mandatory for the Japanese Government to restore citizenship rights to individuals released, as those involved here were, under the terms of SCAPIN 93.

IV. RECOMMENDATIONS.

a. With respect to the seven ultra-nationalists, it is recommended that the Central Liaison Office be informed verbally that, while the power to grant Special Amnesty may be within the discretion of the Japanese Government, SCAP would regard the exercise of such discretionary power in this case as highly undesirable and unwise.

b. With respect to the two communists, it is recommended that the Central Liaison Office be informed verbally that this matter is not one governed by the terms of the provisions for Special Amnesty but is covered by the provisions of SCAP directives which require the restoration of rights of citizenship in this case under the terms of SCAPINS 93 and 458.

Howard Meyers
Legal Division

File Under Courts Page

NO.	FROM	DATE	TO	S Y N O P I S
22	AG	23 Mar 50	CG's	Military Occupation Courts
23	Oppler	18 Apr 50	Rizzo	Case of Nippon Typewriter Cp. Ltd. against Fujiyama, Yuki
24	LS	10 Jun 50	CAS	District Court Decision - Dissolution of Ikina-mura Assembly

File under no. COURTS Page No-

	FROM	DATE	TO	SYNOPIS
		1949		
19.	Oppler	29 Jan.		Cabinet Order Concerning the Securing of School Facilities
20	Judgement			Judgement : ISHII, Kiyoshi
21	Judgement			Judgement : OKUBO, Tomejiro

File under no. COURTS Page No- IV

	FROM	DATE	TO	SYNOPIS
		1948		
17	COURTS AND L	22 July	KADES	Rules of the Supreme Court.
18	KADES	12 Aug		Mearsures to be taken Against Interference with the Coubt Trials
18a				Circulars to Liaison Section Judges o of Osaka High Court and District Court from Chiefs of Criminal Affáár and Liaison Sections concerning the Osaka Arsenal Case.

File under no. COURTS Page No- III

FROM	DATE	TO	SYNOPIS
	1947		
10	1947		Alphabetical listing by p refecture (Ken)
11	1947		Alphabetical listing by name of Court
11a. Oppler	21 Feb.	Chief PAD	**Information on the President of the Tokyo Appellate Court-SAKANO**
12	1947		Location and Jurisdiction of District Courts and local Courts
13	1947		Local Courts - Japan Proper-1943
14	1947		US army Forces, Pacific Military Government Section(Instruction for Supervision of Japanese Courts.)
15	1947		The Japanese Judicial System(1) Court Structure - Civil and Criminal Procedure.
16 SCHAFER	4 Dec	SCAP	Shortage of Judges and Procurators in Japanese Courts.

File under no. COURTS Page No- II

FROM	DATE	TO	SYNOPIS
	1946		
7 Whitney	24 Feb	8th Army	240615
7A Alfred Oppler	15 Mar.46	Comdr Hussey)	Establishment of provost Courts.
7B " "	"	"	Meeting with Japanese Women Lawyers.
7C " "	25 Mar 46	"	Comment on Court Organization.
7A OPPLER	15 Mar	Hussey	Establishement of Provost Courts
7B OPPLER	15 Mar	Hussey	Meeting with Japanese Women Layers
7C OPPLER	25 Mar	Husse7	Comments on Court Organization Survey
8 G-1	29 Jul	C/S	Comments on WD Study re Occupation Courts
9 BLAKEMORE	18 Sept		Administrative Litigation

File under no. COURTS Page No- I

	FROM	DATE	TO	SYNOPIS
		1945		
A	Justice of Min 1945			List of Judges and Courts
1	FITCH	18 Sept	CG XXIV	Establishment of Military Occupation Courts
2				Establishement of Military Courts
	Joint C/S Wash	19 Dec	CINCAFPAC	WX 89117
		1946		
4		21 Jan	C/S	Establishement of Military Occupation
5	GS	13 Feb	C/S	Occupation Courts
6		19 Feb	CG 8th	Establishement of Military Occupation courts

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Courts

Re District Court Decision --

Dissolution of Ikina-mura Assembly

From: LS To: Civil Affairs Section A C Oppler - 2635-582
Date: 10 June 1950

2 1. In the opinion of Legal Section, the judgment of the Matsuyama District Court appears to be correct on the basis of the existing law. Article 45 of the Code of Civil Procedure provides:

> "Unless otherwise specially provided in this Code, the capacity for being parties, capacity for acts of procedure and the legal representation of persons without capacity for acts of procedure, are governed by the provisions of the Civil Code and other laws and ordinances. The same applies to the investment of powers necessary for doing acts of procedure."

The reference to the Civil Code means that, as a rule, the capacity of being a party rests with a natural or juristic person. A certain exception is made in Article 46 with regard to an association or foundation which is not a juristic person. However, this exception is irrelevant to the case at issue. The Local Autonomy Law which in certain instances provides that civil action may be brought against the assembly of an ordinary local public body (seeparticularly Article 118, para 5) does not permit such action by the assembly as plaintiff in case of the idssolution of the assembly by the chief of an ordinary local public body pursuant to a vote of non-confidence according to Article 178. Under these circumstances, the District Court was right in denying the capacity of the Ikima-mura Village Assembly to challenge as plaintiff the dissolution order of the Village Headman.

2. The Law for Special Regulations concerning the Procedure of Administrative Litigations (Law 81 of 1948) admits an action before the court "for annulment or alteration of illegal disposition made by an administrative office as well as other actions concerning public legal relations". It might appear that under this Law any individual member of the dissolved Village Assembly could sue the headman and challenge the legality of the dissolution order. However, it should be noted that this view, to the best of Legal Section's knowledge, has never been confirmed by a judicial precedent and may not be beyond doubt. It may be argued that The

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Administrative Litigation Law does not apply to the case at issue but rather aims at safeguarding individual rights against arbitrary administrative disposition. The dissolution of the Assembly of a local public body could be characterized as a purely political act which escapes judicial review and is subject only to popular check in the form of a new election. The United States Supreme Court has frequently exercised deliberate self-restraint in reviewing acts in the political realm. The question becomes even more delicate, as the Constitution of Japan lacks a provision for challenging the dissolution of the Diet. The controversy which arose under the minority Yoshida Cabinet in November, 1948, namely, whether such dissolution may only be based on Article 69 of the Constitution, and therefore be ordered only in the case of a non-confidence resolution or whether the Emperor, with the advice and approval of the Cabinet, may dissolve the Diet according to Article 7 for any other reason is still in fresh memory. This controversy was not settled by judicial decision either. As a matter of course, any solution of the problem in the local field would essentially affect as a precedent the more important national issue.

3. In the light of this situation, Legal Section would deem it inadvisable to suggest legislation on the part of the Occupation with respect to this highly political question. It remains to be seen how the Japanese Supreme Court will interpret The Administrative Litigation Law. If the need for legislation is recognized by the public pursuant to such interpretation, remedial action should be left to Japanese initiative within the democratic process.

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GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

CHECK SHEET

(Do not remove from attached sheets)

27-4478
51-2890

File No.:

Subject: Typewriter Case
Case of NIPPON TYPEWRITER CO. LTD
against Fujiyama, Yuki

Note No.

From: A. C. Oppler To: Frank Rizzo Date: 18 April 1950

1. The attached report was submitted yesterday by the Secretariat of the Supreme Court.

2. The method of organizing and timing this civil procedure case is abominable. The defense of the piecemeal disposition is fully unconvincing.

3. According to the report, the plaintiff never objected to adjourning. Repeatedly, he even requested it. When both parties agree upon adjourning the court adjourns. In addition, the court is inclined to postpone decision in the hope that parties will arrive at compromise and judges will not have to make up their minds. Because of this traditional attitude the parties usually do not object to postponement.

4. A radical change is necessary in the practical handling of these civil cases by the courts. In the next regular meeting with the Supreme Court I shall make a frontal attack on the system. I do not believe that legislation is necessary, but I shall strongly advise the new Chief Justice who is fully aware of the problem to have instructions issued by virtue of the Supreme Court's rule-making power.

5. As far as the individual case is concerned, it appears that according to the written contract between parties the lease was not tied up with the use of the rooms as Occupation Club. That use might have been the motive, but plaintiff must prove that it was an essential part of the contract.

6. I raised the question whether the use of the rooms for immoral purposes did not constitute a breach of the contract. Answer: "that is doubtful".

7. The District Court did not know that an American firm was behind plaintiff.

8. The outcome was that the District Court will now give priority to the case. I asked whether the next date (20 June) could not be changed to an earlier date for the hearing. The answer was that the courts do not do so ex officio. If, however, the plaintiff makes a strong case, he might obtain an earlier date on application. I have been assured that the court will concentrate on the case and come to a decision as soon as possible.

1 Incl:
report

A.C.O.

Suggest that Nippon Typewriter Co
applies for earlier date.

23

4441—FEC Printing Plant—2/49—25M

INQUIRY REPORT

The result of this court's inquiry into the eviction suit involving the building, etc. filed by the Nippon Typewriter Co. Ltd. against FUJIYAMA Yuki and another person is as follows:

1. Contents and Progress of Suit

(Contents)

(1) Title of Suit;

The Suit Demanding the Delivery of the Building, etc., (Wa) No. 3,927, 1948, Tokyo District Court.

(2) Parties Concerned;

Plaintiff: The Nippon Typewriter Co. Ltd.
No. 2-3, 1-chome, Takara-machi, Chuo-ku, Tokyo-to.

Representative of the above: SHIROMORI Shozo,
President and Director.

Process-attorney: MATSUURA Kenichi,
Lawyer.

Defendant: FUJIYAMA Yuki

" : FUJIYAMA Takehiko

Process-attorney: NOMURA Sensoku, Lawyer.

" : NAKANO Yoshisada, Ditto.

" : ITO Toshio, Ditto.

(3) Purport of Demand;

As for such building and attachments thereof located at No. 2-3 and 4, 1-chome, Takara-machi, Chuo-ku, Tokyo-to as .....

a) the 7th floor covering a total of 85 tsubo (1 tsubo ≒ 3.9 Sq. Yd.) in the 7-storied ferro-concrete shop building with a flat-roof,

b) a balcony covering 34 tsubo 6 go 6 shaku adjacent to the 7th floor of 85 tsubo, a tea-room covering a floor space of 5 tsubo 2 go and a waiting room covering a floor space of 2 tsubo 5 go 2 shaku on the said balcony,

c) the west part covering 54 tsubo of 62 tsubo 2 go 9 sai of the mezzanine of the 7th floor of(a) building,

d) a large-sized escritoire and a clothed swivel chair attached to the 7th floor of(a) building,

e) all equipments in mats-laid and wooden-floored room covering approximately 2 tsubo on(c),

f) the whole of the roof covering 93 tsubo of(a) building and

g) all advertizement plants and a set of parts and materials thereof,

the defendants are to withdraw (e) and (g), to deliver (a),(b), (c) and(f) from which they shall retire to the plaintiff and deliver (d) to the plaintiff.

(4) Cause for the Demand;

a) Based upon the late Mr. FUJIYAMA Teruhiko's (husband of Yuki, the defendant and father of Takehiko, the defendant) proposal in Dec., 1945 to rent the 7th floor covering 85 tsubo of the ferro-concrete building located at No. 2-3 and 4, 1-chome, Takara-machi, Kyobashi-ku, Tokyo-to owned by the plaintiff for the purpose of applying toward the club of the Occupation Forces military personnel ranking not lower than the field officer for the international Friendship, the lease was concluded on Dec. 20, 1945 between the plaintiff and the late FUJIYAMA for ¥2,125. a month on terms that the term of lease should be 3 years from the date of conclusion of lease and either party should be able to make a proposal for cancellation of the lease even before the day of

expiry in case of the other party's violation of lease or the existence of due reason.

b) The plaintiff, at the same time of the lease, lent free things in categories of(b), (c) and(d) of 'Purport of Demand' for the temporary use to his adversary under an agreement to return it upon the expiry of the lease.

c) The aforesaid FUJIYAMA began to use the building about May, 1946 as the cabaret exclusively for foreigners with permission.

Being a violation of the object of the lease, this was tolerated by the plaintiff.

d) Thereafter, the aforesaid FUJIYAMA did not only build and use the thing in category(c) of 'Purport of Demand' without the plaintiff's permission, but change the object of use of the building to the dance-hall for Japanese only during Feb. 1947

e) On the ground that the aforesaid act was in violation of the lease and moreover the plaintiff had a need to use the building himself, he made a proposal in letter for cancellation of the lease on Feb. 27, 1947.

The aforesaid FUJIYAMA rejecting it, the plaintiff filed this suit.

(Progress)

(1) Oct. 27, 1948 action was instituted.

(2) Dec. 7, 1948 the 1st date for oral proceedings; FUJIYAMA Teruhiko, who died on Nov. 15, 1948, had been designated as defendant in the original petition, so the plaintiff's process-attorney made an application for taking over the proceedings and calling up the successor to the designated defendant in the action in accordance with Art. 216 of the Code of Civil Procedure. According to that the court postponed the said session for oral proceedings ex officio.

(3) Feb. 1, 1949 the 2nd date for oral proceedings; after the conduct of oral proceedings, the court adjourned the session to the next on application of the ~~plaintiff's~~ defendant's process-attorney.

Plaintiff did not object

(4) Mar. 8, 1949 the 3rd date for oral proceedings; after the conduct of oral proceedings the court adjourned the session to the next on application of the ~~defendant's~~ plaintiff's process-attorney.

def. did not object

(5) Apr. 14, 1949 the 4th date for oral proceedings; the plaintiff's process-attorney presented a documentary evidence and moved that 5 witnesses be examined; the defendant's process-attorney moved that two witnesses be examined. After the taking of the documentary evidence the court decided to examine respectively one witness from among the witnesses whom the plaintiff and the defendant moved to be examined at the next date.

(6) Jun. 28, 1949 the 5th date for oral proceedings; on application of process-attorneys of both the plaintiff and the defendant, the court postponed the session to the next.

(7) Sep. 30, 1949 the 6th date for oral proceedings; one(moved by the plaintiff's process-attorney) of two witnesses previously decided was examined.
Another (moved by the defendant's process-attorney) did not appear in court due to illness, of which medical certificate was received.

the court decided to examine both him and another witness (moved by the plaintiff's process-attorney).

(8) Dec. 20, 1949 the 7th date for oral proceedings; both witnesses previously decided were examined.
the court decided to examine one witness moved by the plaintiff's process-attorney and one moved by the defendant's process-attorney at the next session.

(9) Apr. 11, 1950 the 4th date for oral proceedings; the witness moved by the plaintiff's process-attorney was examined;
the witness moved by the defendant's process-attorney was absent.
The court decided to examine two witnesses on Jun. 20.

2. Circumstances Many Days are Required for the Trial

In a general view of the progress of the proceedings of this case, the oral proceedings or the witness examination has been conducted at every fixed date during the course of oral proceedings except at the 1st date therefor the session was postpond ex officio due to the succession of the proceedings caused by the death of the defendant, followed by the summons of the successor to the suit (the new defendant), and at the 5th date the session was postponed on application of both process-attorneys of the plaintiff and the defendant.

Accordingly, the main reason for the taking of so many days for this trial is thought to be that there has been a considerably long interval between the one session and the other. As for this point we wish it would be understood that there have been a lot of pending cases, therefore it is difficult to conduct the trial continuously cetering around one case only just as in the U.K or the U.S. and in reality we can scarcely do so in present Japan.

That is to say, the 4th Civil Dept. of the Tokyo District Court in which this case is pending has 530 cases in number at present. If they want to examine every case concentrically (to open court continuously every day centering around one case only to conduct the oral proceedings and the examination of evidence), most of cases must require too much time for awaiting their turn. And the trial of the 530 weeks, provided the average number of days for trial per case is one week.

530 % case will be held very after

Therefore, the Japan's court takes a way to handle ten or more cases a day, examining one or two witnesses a case.

(to be continued on next page)

In taking that way, there is an advantage to settle the case during trial by an effected compromise as compared with the way to complete the case one by one, but at the same time there is an unavoidably result that there occurrs a considerably long interval between the one session and the other.

Speaking on this case, the 4th Civil Dept. of the Tokyo District Court that has 530 pending cases in total as aforesaid opens the court, and conducts the trial by 4 days a week.

(Other days are spent for the preparation for or the investigation on the trial and the judgment, and for the drafting of the judgment.)

It follows that even if they handle 15 cases on every court-opening day, the next trial day of a case can't but be after 9 weeks ($\frac{530}{15} \div 4 = 8.8$), and in further considering the conveniences of both parties' process-attorneys and the public holidays it may be after more days.

A main cause for being a long interval between the one session and the other is to our great regret as mentioned above.

3. Additional Remarks

As for this case there is no fact that the court has ever wavered in carrying out the trial on the understanding that the dance-hall managed by the defendant has something to do with the Occupation Forces, and any duress or intimidation has bothered the progress of the trial.

Hereafter the Court concerned will give further careful consideration to the impartial and speedy proceeding of the trial.

GS

Courts

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
APO 500

AG 015 (23 Mar 50)GA

23 March 1950

SUBJECT: Military Occupation Courts

TO: Commanding General, Eighth Army, APO 343
Commanding General, Headquarters and Service Group, General Headquarters, Far East Command, APO 500
Commander, United States Naval Forces, Far East, Navy No. 1165

1. Pending revision of Circular 8, Supreme Commander for the Allied Powers, 31 March 1949, it is desired that, in cases of Occupation court sentences adjudged after the date of this letter, the complete record of each case resulting in an approved sentence to -

a. Confinement of one year or more, or

b. Pay fines of five hundred dollars or more, or

c. Confinement and pay fines which with authorized substitutions, would in the aggregate require confinement of one year or more, or

d. Confiscation of property in the value of five hundred dollars or more, or

e. Suspension or revocation of privileges or licenses or padlocking of property for one year or more, or

f. Deportation from Japan,

be forwarded through channels to the Supreme Commander for the Allied Powers.

2. The above requirement is not to be construed as altering in any way the action of the reviewing authority as outlined in paragraph 51 b of the cited circular.

BY COMMAND OF GENERAL MacARTHUR:

MAILED 23 MAR 23'50 AG.

K. B. BUSH,
Brigadier General, USA,
Adjutant General.

22

1 Counts for THEFTS

"Ro" No. 2339, 1949.

Right

JUDGMENT

OKUBO, Tomejiro,

Permanent Address : 5, Daikyocho,
Shinjuku Ward, Tokyo.

Present Address : 164, Mita, Meguro Ward,
Tokyo.

Occupation : Officer of a company.

Age : 63.

Regarding the case of violation of Imperial Ordinance No. 1, 1947, for which the aforesaid person was indicted, a Jōkoku appeal has been lodged with this Court by Superintending Procurator SATO, Hiroshi, of the Tokyo High Public Procurator's Office, against the judgment rendered on August 17, 1949, by the Tokyo High Court. In accordance with Article 2 of the Law for the Enforcement of the Code of Criminal Procedure, this Court has now decided as follows:

The Formal Adjudication in the Judgment:

The Jōkoku appeal is dismissed.

REASONS

On the statement of reasons for the Jōkoku appeal submitted by Superintending Procurator SATO, Hiroshi, of the Tokyo High Public Procurator's Office:

The Procurator contends that the original judgment is illegal in that it has failed appropriately to apply the law to the facts which the said judgment has authenticated, and argues as follows:

The fact concerning the conversation held between the accused

21

OKUBO and SHIMOZAWA and its contents, as well as the actual atmosphere and circumstances in which the conversation took place, as authenticated in the trial of first instance, may be analyzed as follows:

(1) OKUBO's career as an executive official or a politician in the past was as authenticated in the trial of original instance, and his real ability, influence, and intelligence may be surmited through this to have been extraordinary.

(2) The fact was that OKUBO, who was a man of such a caliber, while he was on his way, in his own car driven by his own chauffeur, to the Takinogawa Ward Office to pay taxes, although he had at the same time an intention also to attend to some other business elsewhere, called at the house of TSUJI, Karoku, a man of such a standing as described in the records of the trial.

(3) At TSUJI's house, SHIMOZAWA was in, although TSUJI was absent, staying for recuperation at Zushi.

(4) SHIMOZAWA was said to have been acting as secretary of TSUJI. However, he was a man with a political career as indicated in the records, and was not one who might be termed as a lackey.

(5) The said SHIMOZAWA was a person who had shortly to call on TSUJI at Zushi and report to him all that happened at TSUJI's house during his absence.

(6) It was this SHIMOZAWA to whom the accused OKUBO, as has been authenticated in the court of original instance, expressed his feeling that "If they remained in the present situation, Mr. OTAKI's group would in the end find nowhere to go." ..... The contents of this expression of feeling on the part of OKUBO were sure to be transmitted to TSUJI through SHIMOZAWA, irrespective of OKUBO's intention, either ipsissima verba or in an altered form, and would have served, dependent on circumstances, as motive power

"to influence actual politics in one way or another," although this might not take the simple form of the return of the Members of Parliament belonging to OKUBO's group to the Democratic Liberal Party, to whom reference was made during the conversation in question.... Hence, in view of the purpose and the process of the enactment of Imperial Ordinance No. 1, 1947, in particular Article 15 thereof. this act should have meant a "political activity" which was forbidden to OKUBO as a person falling under the Memorandum, and he should have been punished under this Article. As this was not the case, there is a misteke in the application of the Law.

However, in the trial of original instance, results of the examinations carried out direct by the court, and numerous items of evidence in all the records were very meticulously compared, and the truth or falsehood of the contents of the evidence was carefully examined. Thus with a sincere attitude from beginning to end the court tried to find out material truth, and scrupulously authenticated the facts. As to the facts mentioned in (1) to (6) in the Procurator's arguments, the two points that the accused's "Real ability, influence, and intelligence may be surmised through this to have been extraordinary," and that "The said SHIMOZAWA was a person who had shortly to call on TSUJI at Zushi and report to him all that happened at TSUJI's house during his absence," were not clearly authenticated in the original judgment. As to the other points, the facts were authenticated in general as the acutal atmosphere and circumstances of the conversation which took place between the accused and SHIMOZAWA. However, the original judgment more scrupulously authenticated the following facts as the circumstances at the time in question:

(a) "On March 15, 1948, the Japan Liberal Party was dissolved and the Democratic Liberal Party was organized anew, and on that occasion OTAKI, Kiyoshi, and about seven other members of Parliament abstained from joining

this Party, forming by themselves a new Japan Liberal Party; and "It cannot be recognized that OTAKI and his group who had organized the Japan Liberal Party with an aim at the formation of a large conservative league, and encouraged by the so-called anti-leadership trend, expecting a change in the leaders of the former Japan Liberal Party and democratic management of Party affairs, were inclined to return to the Democratic Liberal Party on or about April 2, 1948, when hardly one month had elapsed since the formation of the new Japan Liberal Party, unless a sudden change of the political situation was imminent; " (b) "It cannot be recognized that they would promptly define their attitude at the suggestion of TSUJI alone; " (c) " As for TSUJI, it can be recognized that, having approved the action of the so-called intransigent group at the time of the formation of the new Japan Liberal party, he had no intention to use his good offices for their return to the Democratic Liberal Party;" (d) " It can be surmised that the policy agreed upon among the leaders of the Democratic Liberal Party at the time of this affair not to admit OTAKI's group back into the Party became almost its policy, and the situation was unfavorable for the realization of the return of OTAKI's group to the Party;" (e) "As for TSUJI's voice in the Democratic Liberal Party, it has become considerably weaker than in the period when HATOYAMA was President of the former Japan Liberal Party, and KONO its Secretary General. His voice, as has already been mentioned, was refused by the leaders of the Democratic Liberal Party;" (f) "It should be recognized that even though TSUJI had used his good offices, the return in question to the Party would have been difficult; (g) "No evidence whatsoever has been found to prove that, at the time this case occurred, necessity or circumstances existed so that, as SHIMOZAWA insists, the accused should have spoked or made a representation;" (h) "The accused was aware that any person falling under the

Memorandum was forbidden to be engaged in political activities;" and "Since his exclusion from public offices, the accused has lived up to the Potsdam Declaration, severed connections with the political world, and has been concentrating himself in business activities." Taking all these circumstances and milieu into consideration, the original judgment authenticated that it could not but infer that during the desultory conversation which lasted only for about thirty minutes between the accused and SHIMOZAWA the whereabouts of OTAKI's group w re by chance brought into the conversation, and that the accused merely expressed his feeling that "Mr. Otaki and others would find in the end nowhere to go, if they remained in the present situation." Furthermore, the original judgment indicated that "In the above-mentioned circumstances, the accused's impression concerning the action of OTAKI et al. was expressed in connection with a topic in the desultory conversation with SHIMOZAWA. As it is not recognizable that this was done with any political intention on the part of the accused, it is appropriate to recognize that the expression of such impression, even though it involved political matters, does not fall under the "political activities," as provided for in Article 15 of the Imperial Ordinance relating to the Exclusion, Retirement, Resignation, etc., in respect to Public Offices. Evidently any person falling under the Memorandum is forbidden, by virtue of the said Article, to be engaged in "political activities," and it is appropriate to understand the "political activities" mentioned in the said Article as meaning principally such sets of persons in the Government, local public bodies, political parties and other political organizations, or public offices, as may influence actual politics by participation in the planning or decision of political principles, platforms, measures, or any other activities, by promotion or support thereof, or opposition therto, by recommending, supporting, or opposing candidates for public offices, by discussing Japan's relations with foreign countries, etc. The propriety of this interpretation has been shown in a previous judgment of this Court (Judgment "Re2 No. 1862, 1948, rendered on June 13, 1949, at the Grand Bench).

It is also clearly indicated in the said Judgment that, contrary to the case of an offense with intention, the existence of any political object or political intention is not required as a factor forming an offense when any persons falling under the Memorandum should be punished for their political activities. Instances should naturally exist where it is doubtful whether or not a certain act corresponds to a political activity, if it is observed merely objectively, while such act may appropriately be recognized as a political activity through a subjective study of the will of its perpetrator, which may clarify that the act in question was committed with a political object or intention. The original judgment did not adjudge the present case, like that of an offense with intention, as not corresponding to a political activity because of the absence of any political intention in the act in question. On the contrary, as a result of an objective as well as subjective study of the case, as has been mentioned above, taking the various actual circumstances and milieu of the case into consideration, the original judgment adjudged that the act of the accused did not correspond to any political activity. Hence the judgment of the court is appropriate, and is not in conflict with the purport of the aforesaid Judgment previously rendered by this Court, or contrary to any laws or ordinances. The arguments submitted for the Jokoku appeal after all amount to contending the authentication of facts, which is within the scope of the discretion of the court of original instance, and cannot be held as legal reasons for the appeal in this instance where legality of a case can be contended.

For these reasons this Court, in accordance with Article 446 of the old Code of Criminal Procedure, has now decided as the Formal Adjudication in the Judgment.

This Judgment is the unanimous opinion of the Judges Public Procurator OSABE, Kingo, has assisted at the trial.

First Petty Bench,
Supreme Court,
Presiding Judge, Judge MANO Tsuyoshi.
Judge SAWADA Takejiro.
Judge SAITO Yusuke.

November 17, 1949.

JUDGMENT

ISHII Kiyoshi

Permanent and present addresses:

74, Kawamukō-chō, Minato-Kita-ku,
Yokohama-shi.

Occupation: Reporter

Age: 26

Regarding the case of violation of Art. 161 of the Code of Criminal Procedure, for which the aforesaid person was indicted, this Court has upon conducting examination in the presence of Procurator ISHIAI Shigeshirō now come to decide as follows:

Formal Adjudication of Judgment

The Accused is sentenced to a fine of ¥ 3,000 (three thousand yen).

In case of the Accused's inability to make full payment of the fine imposed, he is liable to an alternative in a prison workshop for a period computed at the rate of a day of labour to two hundred of fine.

All the costs of the suit shall be borne by the Accused.

Reasons

The Accused who had been in the service of the Matsumoto Branch of the Asahi Press Co. as a reporter was summoned to the Nagano District Court on May 16, 1949 as a witness in connection with the suspected case of violation of the National Public Service Law of which suspect is unknown in accordance with the request made by the public procurator concerned of the Nagano District Public Procurator's Office in conformity to the provisions of Art. 226 of the Code of Criminal Procedure, and was

ordered, upon having been informed of the gist of the said suspected facts by the judge in charge of the case, to take oath as a witness. However, he, without any due reasons, refused immediately both to take oath and to make any testimony.

(Evidences are omitted to be mentioned herein).

Though the Defense Counsel maintained that the acts in point taken by the Accused as a reporter observing the eithcs of journalists to keep strictly secret their news source in conformity to the freedom of speech and expression prescribed by Art. 21 of the Constitution come under "good reason" stipulated in Para. 1, Art. 161 of the Code of Criminal Procedure, it must be said to be reasonable to construe that the existing laws in this country do not admit the special right of newsmen to decline to make testimony on the witness stand in a court of justice,Moreover considering that the Accused in this case did decline not only to testify the news source but also, as pointed out in the above, both to take oath and to make any testimony as a witness, and that the writ of report submitted by the Accused was, contrary to the above construction, founded on the special right of pressmen to refuse to testify, it can not but be concluded that the above refusal was not based upon good reason and that the said assertion held by the Defense Counsel is inadmissible.

Further the Defense Counsel pleaded the Accused's innocence saying that the acts in point taken by the Accused in carrying on his lawful and proper business prescribed by Art. 35 of the Criminal Code are legal and that, considering the fact that to demand to make the statement revealing the news source of the Accused who is a reporter as a witness can not be expected from the social common idea, this comes under the case where there is no the so-called possibility to expect the legal acts from the accused and the accused is excluded from his responsibility. However,

though the act of newsmen to select the subject of news may, in its nature, be said to be the one taken to carry on his lawful and proper business as such, their act to decline both to take oath and testify as a witness can not be admitted to be the one based upon his lawful and proper business, not only that, it should be construed that the laws in this country expect to make testimony also of newsmen and the newsmen too are under obligation to abide by such laws. Hence this assertion held by the Defense Counsel is also inadmissible.

In the light of law, the act in point taken by the Accusad comes under Para. 1, Art. 161 of the Code of Criminal Procedure, and so this Court, selecting fine from among penalties prescribed therein, decided to sentence the Accused to a fine of ¥ 3,000 (three thousand yen) within the limits of amount of fines, to detain, in case when the Accused fails to pay the whole amount of the fine imposed, in a prison workshop for a period computed at the rate of a day of labour to two hundred yen in accordance with Art. 18 of the Criminal Code, and to get the Accused to bear all the costs of suit in conformity to Para. 1, Art. 181 of the Code of Criminal Procedure.

Thus the judgment was rendered as mentioned in the Formal Ajudication of Judgment.

The Nagano Summary Court
Judge YOSHIKAWA Yukio

Oct. 5, 1949.

FILE UNDER: **COURTS**

INDEX SHEET

DATE: **29 January, 1949**

FROM: **OPPLER** TO:

SUBJECT: **Cabinet Order Concerning the Securing of School Facilities**

DOCUMENT FILED UNDER:
Memos for REcord
(Cabinet # 21
drawer # 2)

CLASSIFIED FILE:

19

Courts

Circulars to Liaison Section Judges of Osaka High Court and District Court from Chiefs of Criminal Affair and Liaison Sections concerning the Osaka Arsenal Case

As you already know the matters concerning the Osaka Arsenal case has been, for the present, brought to a close, but, as provided in Paragraph 12 of General Order No. 1, summary disposition of cases is necessary. Such being the case, it is our wish that the Osaka Arsenal cases pending at High Court as a matter of course, but also cases pending in the District Court be disposed of in accordance with the above mentioned intentions. In the District Court especially to examine as many as 60 accusseds by one division requires, we think, considerable number of days. How would it do to transfer at this time some of these cases to other divisions for hearing?

We wish to urge upon you to take the matter up at the judicial assembly of High Court and District Court respectively and seriously deliberate and take necessary and proper steps.

We desire that the above mentioned deliberations be applied to the cases pending at High Court.

A.K.M.

18a

Col Kades

for info.

This is an intermediate ruling issued on own initiative of Supr. Court until the contempt legislation is enacted

pco 18

"So Ichi" No. 139

August 12, 1948.

General Affairs Division, Secretariat, Supreme Court.

On the Measures to be taken against
Interference with the Court Trials

In view of the several recent occurrences, and in order to enhance the prestige and increase the efficiency of the courts, the Supreme Court wishes to call the attention of the judges to the following matter:

Lately there were at some courts during session instances of improper speaking regardless of courts' orders, of gathering in large numbers inside the court-room and out and making noise and shouting and thus disturbing the court proceedings and, in some extreme instances, they tried to bring pressure on the judges, backed by the might of a multitude of people. Such and other instances, we thought, might perhaps reflect on the prestige of the courts.

We, the Supreme Court, expect that proper legislative measures will be taken to combat these tendencies at public trials. In the meantime we expect the judges, in order to speed up trials, even under the existing law, to resort without flinching to every possible measure allowed by law against those who try to delay the hearing. Again, as to those who attempt to disturb hearings, the judges should, before such things occur, not neglect ~~even~~ the most ~~brief~~ careful measures,

18

such as arranging matters with the public procurators and the defence counsels and stationing of police and other measures.

We think, when specially necessary, the powers provided in Article 71 of the Court Organization Law should be exercised and the offenders be prosecuted for crimes mentioned in Article 73 of the same law.

To summarize, in order to enhance the prestige and increase efficiency of the courts, we desire that the judges be always selfpossessed and keep cool and be prepared to resort to decisive measures whenever occasion demands and to maintain unswerving attitude in such cases. We shope that the judges will make up their mind anew toward this end.

GENERAL HEADQUARTERS
SUPREME COMMAND FOR THE ALLIED POWERS
AND
FAR EAST COMMAND

ROUTING SLIP

FROM: LoJ Div - LS DATE: 22 July 1948

To:

Commander-in-Chief	Prov Marshal
Aide-de-Camp	Pub Info
Chief of Staff	Quartermaster
Deputy C of S FEC	Signal
Deputy C of S SCAP	Sp Services
Secy, General Staff	Transp
G-1	T I & E
G-2	Civ Comm
G-3	Civ I & E
G-4	Civ Int
JSPOG	Civ Prop Cust
Adjutant General	Civ Transp
Antiaircraft	Diplomatic
Cent Purch	E & S
Chaplain	Gen Acct'g
Chemical	Gen Proc
Civ Personnel	Government ✓
Engineer	IMTFE
Fiscal	Int'l Pros
Hq Comdt	Legal
Inspector General	Nat Resources
Judge Advocate	Public H & W
Medical	Reparations
Ordnance	Stat & Rpts

FOR: Attention: Mr Kades

Approval	Note and Return
Comment or Concurrence	Dist'n Desired
Information ✓	Signature
Initials	Dispatch
Issuance of Orders	Attachment of Reference
Necessary Action	File

17

FEC AGO Form No. 14 (1 Jan 48)

CDE. Kades

This is a copy
of the very
gratifying rules
of the Supreme
Court

Dec 23.

In regard to the Judges mental attitude in the New Constitution, up to now by the Chief Justice's Address of instruction at the Judges conference, and in the instructions that the Supreme Court sent out the other day, the opinion of the Supreme Court has been expressed on many occasions, however, in connection with the Osaka Arsenal criminal cases, the judgement rendered by the Osaka District Court, has raised the suspicion of the country, and this is because the above instructions have not been fully understood or observed, and is extremely regretable. Therefore, the Supreme Court, hereby sends out another instruction, to draw the grave attention of the judges throughout the country.

The courts in this new democratic country must truly be a court for the people, and manifest their function as the stabilizing power of society.

As pointed out previously, the judge of this new era, in carrying out their duties, are desired to dispose of their old shell, not be restricted by tradition and thus blinded to this new era, widen their views, and culture a fresh sense of the times and a high intelligence, moreover even for a moment they must not fall into bureaucratic monopolism.

Only having such a high education, can the true meaning and contents of laws be grasped, and correct judgement can be rendered in the problem.

In the carrying out of every day duty, if satisfied with only the formal interpretation of the law, and the deep social sygnificance of the problem is lost sight of, the courts will drift away from society, and not only cannot escape the criticism that the courts are monopolistic and petrified, but also will be committing the mistake of moving against the reconstruction of a new democratic Japan.

The use of brute force to settle the difference in political opinion, and actions with the "Oyabun-Kobun" system in the back-

ground, disregarding the law and persecuting honest citizens, are only given the criminal name of wounding, blackmail etc. but, in the same way that these crimes are regarded as serious crimes that obstruct the attaining of the democratization of our country, likew the illegal disposal of goods released through the kindness of the Allied Forces, even if legally they are only called theft, embezzle ment, etc. are in regard to the present situation of our country, acts, which for personal gain, obstruct the fair distribution of these goods to the people, and obstruct the reconstruction of our country, and they must be said to be comparable to an act destroyin public order, and on top of this, when these actions violate memora dum of the Allied Powers, or are against the spirit of these, they can only be damned as extremely grave malicious acts.

In regard to such problems, minute care and determination must be used in their disposal, and by over-estimation of the accused's personal circumstances, the objective social significance of the problem must not be overlooked, thus, losing the correct balance of value.

The Supreme Court, sincerely believes that the judges of the inferior courts always carry out their duties in accord to the law and their conscience, furthermore, intensely hopes and expects, that deeply reflecting on the points before stated on the mental attitude of the judges of this new era, renewing their realization, they will strive even more in the operation of just trials, in accord with the great object of the reconstruction of our country.

GHQ, SCAP
DEC 4 1947
013.2
RECORDS

HEADQUARTERS EIGHTH ARMY
United States Army
Office of the Commanding General
APO 343

AG 091(Japan)(MG-L)

4 DEC 1947

SUBJECT: Shortage of Judges and Procurators in Japanese Courts.

TO : Supreme Commander for the Allied Powers, APO 500.

1. Monthly military government activities reports from various military government teams indicate that there continues to be a serious shortage of judges and procurators in the Japanese courts. This headquarters recently forwarded a letter reporting this condition and recommending that the Ministry of Justice be directed to take corrective action.

2. The inclosed copy of a memorandum from the 1st Economic Section, Criminal Affairs Bureau, of the Ministry of Justice is forwarded as indicative of the attitude of the Justice of Ministry. While it apparently intends to increase the number of judges and summary courts at some unstated future time the deficiencies are serious now, and this headquarters believes that no indecision or undue delay in putting the Japanese court system on at least a reasonably effective basis should be permitted.

2 DEC 1947

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FOR THE COMMANDING GENERAL:

R. Schafer
R SCHAFER
Lt Col, AGD
Asst Adj Gen

1 Incl:
As indicated.

16

- COPY -

Date : November 10, 1947

To : Agricultural Production Section, Department of Agriculture, Natural Resources Bureau, GHQ.

From : 1st Economic Section, Criminal Affairs Bureau, Ministry of Justice.

Subject : About lightening the burden of work of judges.

The delay in the progress of the judicial procedure and the prolongation of detention as a result of an excessive work put upon judges are not only a problem in economic cases (black market transaction cases) but also a serious problem of criminal cases in general.

It is plain from statistice that criminal cases have remarkably increased recently. At the same time it is consensus opinion of all the judges that the judicial procedure has become more complicated since the enforcement of the new Constitutional Law. In face of these matters, that there have been no new courts established nor no increase of judges realized is the fundamental reason of an excessive amount of work put upon judges.

Under the new Constitutional Law, it is difficult to lighten the burden of work put upon judges by means of some modification of the judicial procedure itself. For instance, a disposition that will bring about an effect similar to a penalty or confiscation without the due process of judicial trial is liable to be considered as a violation of the provisions of the Constitutional Law.

The new Constitutional Law confers upon the people, right to get speedy trial at a fair court of justice, to appoint a lawyer and many other rights. No court can speed up its judicial

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procedure in disregard of these rights. Consequently in our effort to lighten the burden of work put upon judges, effort shall be made not in the direction of some modification of the judicial procedure itself, but of speeding up the latter by some other means.

The Ministry of justice is therefore considering the following measures to lighten the burden of work put upon the judges, speed up the judicial procedure and shorten the period of detention:-

1. Fundamental Measures

a) To increase the courts of justice and the number of judges.

Following the enforcement of the new Constitutional Law, many summary courts have been decided for establishment, but none has yet been realized. An increase of judges has also been decided, but as a matter of fact no appointment has yet been made. When all the summary courts projected are established, and to these an adequate number of judges are installed, the cases of minor importance will be speedily dealt with at these courts, and so there is no doubt that the work put upon the judges will generally be made lighter.

b) To increase Public Procurators.

Since judges can not carry on judicial procedure without Public Procurators, an increase of judges alone will not necessarily make judicial procedure easier, it is indispensable that the number of Public Procurators be increased in conjunction with that of judges.

2. Temporary Measures

a) The efficiency of judicial courts is to be increased b starting the movement for "An Efficiency Week."

b) As the number of courts are deficients, provisional courts shall be established.

c) Since judges taking charge of civil cases are comparatively at leisure they shall be asked to assist in the judicial cases.

d) In order to speed up the judicial rpocedure the right of superintendence shall be rigorouslys exercised.

e) Priority shall be given to the investigation of the accused under detention.

f) To the accused under detention to whom bail may be allowed, as much bail as possible shall be allowed.

Courts

THE JAPANESE JUDICIAL SYSTEM (1)
Court Structure - Civil and Criminal Procedure

J.W. Masland

The judicial system of Japan is European in form but Japanese in substance. The American observer will find many features with which he is familar but in this case as in many others he will find that western institutions are operated according to long established Japanese custom, producing seeming peculiarities and contradictions.

I. Influence of Western Judicial Systems in Japan

When Japan began to develop international contacts following the termination of her exclusion policy, her system of jurisprudence was inadequate to deal effectively with the problems of international intercourse and too strange for effective application to the nationals of other countries unfamiliar with Japanese customs and ideals. In order to meet this situation and to terminate extraterritoriality, which she had been obliged to accept in the early treaties, Japan revised her judicial system along western lines.

The court structure was modeled chiefly upon the French. The codes of law were in part modeledupon French, in part upon German, law. Occidental legal agencies and principles have been difficult of operation and application because of conflict with traditional Japanese practice. For this reason it has been necessary to retain those principles of Japanese law applicable to conditions peculiar to Japan, such as the law governing the relationship between sovereign and subject, marriage and divorce, the family system, and ownership of property. In the Civil and Commercial Codes German law predominates, although some principles of English law are embodied. The Criminal Code and Criminal Code of Procedure are based largely upon French law. The law of trusts is a restatement of the principles of English law governing fiduciary relationships. Many other special laws were borrowed from western legal systems, but contain modifications necessary to bring them into harmony with Japanese conditions.

II. Court System

The ordinary Courts of Law for the adjudication of civil and criminal cases consist of four grades:

a. local courts (ku-saibansho)
b. district courts (chiho - saibansho)
c. appellate courts (koso-in)
d. Supreme Court (Daishin-in)

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(1) Abstracted from:
Harold S. Quigley, Japanese Government and Politics (New York, 1932) Ch. XIV
J.L. Kauffman, "Some Unique Aspects of Japanese Law," Report of the 36th Annual Meeting of the Penna. Bar Assoc. (1930), pp. 295-310.
Japan Year Book, 1940-41 (Tokyo, 1941) Ch. XXVII
John Morris, Traveler From Tokyo (New York, Sheridan House, 1944), pp. 173-83.

15

Number of Courts, October 15, 1939 (1)

Supreme Court	Courts of Appeal	District Courts	Branch Courts	Local Courts	Branch Offices
1	Tokyo	12	17	64	418
	Osaka	9	12	43	281
	Nagoya	6	9	30	207
	Hiroshima	6	13	36	256
	Nagasaki	8	17	53	292
	Miyagi	6	16	36	233
	Sapporo	5	3	21	103
Total 1	7	52	87	283	1,790

As a general rule the court of first instance is determined by the place of domicile of the defendant, though there are many exceptions to this rule.

1. Local Courts (283). The local courts, like all other Japanese courts, have both civil and criminal jurisdiction. They are presided over by single judges.

(1) In civil cases the local courts have the following jurisdiction:

a. Cases involving amounts not exceeding ¥ 1,000.

b. Legal actions brought by lessors against lessees, or vice versa, for the receipt, vacation, use, occupation, or repair of houses or other buildings or parts thereof, or for the seizure of furniture, fixtures or belongings of lessors or lessees.

c. Legal actions concerning real estate boundaries.

d. Legal actions concerning occupations

e. Legal actions brought by employers against employees, or vice versa, for contracts of employment, the terms of which do not exceed one year.

f. Legal actions brought by travelers against hotel or inn keepers, or vice versa, for matters concerning board or lodging.

g. Legal actions brought by travelers against water or land forwarding companies.

h. Bankruptcy cases.

(2) In criminal cases the local courts have jurisdiction over the the following matters, provided they do not require a preliminary examination:

a. Offenses punishable with detention or fine.

b. Offenses punishable with penal servitude of one year or less.

2. District Courts (52). These courts are courts of first and second instance. They are composed of a panal of judges who carry on their work in divisions. Three judges comprise a division.

(1) In civil and criminal cases the district courts have the following

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(1) Japan Year Book, 1940-41, p. 629. Branch courts and offices are not defined in the source; presumably they are branches of the district and local courts.

a. Cases in the first instance other than those within the jurisdiction of the local courts or of the Courts of Appeal.

b. Appeals lodged against judgments rendered by local courts.

c. Demands or complaints determined by law against decisions or orders rendered by the local courts, except those falling under the jurisdiction of the Supreme Court.

3. Courts of Appeal (7) The courts of appeal are courts of second instance, having the following jurisdiction:

a. Appeals lodged against judgments rendered in first instance by district courts.

b. Complaints determined by law against decisions or orders rendered in the first instance by district courts, excepting those within the jurisdiction of the Supreme Court.

c. Civil actions in the first and second instance against members of the imperial family come within the competency of the Tokyo court of appeal. They may be brought without prior notice to, and receipt of consent from, the Emperor.

The courts of appeal try cases on the facts as well as the law. They sit in divisions of three judges which vary in number with the extent of litigation.

4. Supreme Court. The Supreme Court is the highest court of law and has the following jurisdiction:

a. Appeals against judgments rendered by lower courts. The supreme court is not bound by the decisions of the appellate courts on issues of fact, though it may accept them. Jury cases are appealed directly from the district courts to the supreme court and in such cases the supreme court does not review the facts.

b. Complaints determined by law against decisions or orders rendered in the second instance by district courts or by courts of appeal.

c. Complaints against decisions to reject appeals made by local or district courts.

d. Exclusive jurisdiction over cases of treason and serious offenses against the imperial family; also over offenses committed by members of the imperial family such as are punishable with imprisonment or a heavier penalty. These actions may not be brought without the Emperor's consent. The court also conducts preliminary examinations in cases over which it exercises original jurisdiction.

The Supreme Court sits in nine sections of five judges each.

5. Administrative Jurisdiction. The ordinary courts exercise also a limited jurisdiction over cases of an administrative character. These include damage suits brought by private persons against the government or its officess, which are handled like private damage suits; appeals from the decisions of administrative authorities concerning patents, heard by the Court of Accounts; election disputes; and certain other cases provided for by statute.

III. Judges

All judges are appointive, holding office during good behavior until they reach the age limit, which is 63 except for the president of the Supreme Court, who retires at 65. The president of the Supreme Court and the presidents of the courts of appeal are appointed nominally by the Emperor, the remaining judges in the ordinary courts by the Minister of Justice. Five years' experience is required for appointment to a court of appeal, 10 years ' for appointment to the Supreme Court. By permission of the supreme bench or a court of appeals a judge may sit for three years beyond the normal age limit.

The constitution requires that judges shall possess the proper qualifications as prescribed by law, and provides that "no judge shall be deprived of his position unless by way of criminal sentence or disciplinary punishment." It further stipulates that rules for disciplinary punishment shall be determined by law.

Judges are legally forbidden to take a public interest in politics, to become members of a political party or of a prefectural or local assembly, to occupy any public office from which financial gain may accrue, or to carry on certain types of business. In practice, judges are free from suspicion of political ambition.

IV. Procurators

Procurators are attached to all ordinary courts and are closely integrated with the judicial system. Offices of the civil or military police may act as procurators in local courts and in cases of necessity judges are designated to serve as procurators by the presidents of courts of all grades. The functions of procurators are in part judicial, but principally those of prosecuting attorneys. They conduct preliminary investigations, prosecute or defend criminal cases on behalf of the state, and supervise the execution of judgments in such cases In civil cases the procurators have the right to ask for a report whenever they believe there is a public interest and to present their opinions . to the court. They have no concern with civil actions against the state, since such cases are heard in the Court of Administrative Litigation. Procurators may not arrest, but it is upon their findings that a judge's order to arrest usually is based.

Procurators are appointed by the Minister of Justice and enjoy life tenure and the same protections against removal as the judges. They are, however subject to the orders of the Minister and may not undertake prosecutions without his approval. Their functioning is, consequently, subject to political influence. It is usual for procurators to advance into the ranks of the judges.

V. Character of Judicial Personnel

Judges and procurators are men of university training and they are appointed under civil service regulations upon examinations. Before appointment they serve for 18 months as probationers in courts and procuratorates, after which they must pass a second examination. Lawyers who have practiced more than three years and professors of law in the imperial universities who

have held their posts for three years may, however, be appointed judge or procurator without examination.

The personnel of the judiciary is notable as a whole for its knowledge of the law, but suffers from lack of experience at the bar and from insufficient acquaintance with social and economic conditions such as naturally comes to practising lawyers. Very few judges have been practising lawyers, for successful lawyers have a larger income than judges, who are paid comparatively poorly in a civil service in which all salaries are low.

VI. Police Courts

Police courts, i.e., police officers, have summary jurisdiction over offenses classified as police offenses, involving not more than 20 days' detention or fines not exceeding ¥ 20. Any person brought before a police officer may obtain a hearing in a local court by entering a protest against the officers' decision. Offenses listed as cognizable by the police are many, including vagrancy, prostitution, intimidation, mendicancy, obstruction of traffic, indecent display and maltreatment of animals.

VII. Juvenile Courts

Juvenile Courts are in operation in Tokyo, Osaka, Nagoya and Fukuoka. The organization of these courts is different from that of ordinary courts. The procedure and personnel are somewhat similar to those of the American juvenile court system, from which the Japanese system was derived. A single judge hears the trial, but is assisted by probation officers in gathering evidence and investigating the case. Probation officers are usually private individuals commissioned by the Ministry of Justice because of their interest in and experience with juveniles. The punishment meted out to the offender varies from a simple admonition to imprisonment in a reformatory. A very common device is to put the juvenile offender in the custody of relatives, friends, temples, churches, or other organizations.

VIII. Procedure.

Trials are public unless a court decides, for reasons which it must make public, to conduct the hearing in camera. Proceedings in local courts are conducted in small rooms and tend to be informal. Judges, procurators, and counsel wear black caps and gowns. In the district and higher courts proceedings are strict and formal. The judges occupy chairs on a platform fronted by a semi-circular desk and flanked on one side by the procurator, on the other by the clerk. Counsel occupies a place on the floor in front of the presiding judge. On one side is the witness box, on the other the prisoners' box. Spectators' benches occupy about half of the room. Policemen are posted at various points.

"The system of trial," reports B.H. Chamberlain, a well known observer of the Japanese, "as well in civil as in criminal cases, is inquisitorial." This was the practice in feudal Japan. Formerly no convictions were made except on confession by the prisoner. Hence there has been an abundant use of torture, and a tendency, even in civil cases, to find against the defendant, although in theory the defendant must be presumed to be in the right until actually proved to the contrary.

Counsel do not so much defend their clients as represent them. Their statement or admissions stand for those of their clients. Witnesses are sworn though not exactly in the American or European manner. The oath is a solemn affirmation and is entirely unconnected with any religious sanctions. It is in the form of a written document to which the person sworn affixes his seal or signature. The defendant is not placed under oath and is not amenable for perjury. Witnesses related to the defendant or believed to be parties in interest with him also are not sworn.

The proceedings of a trial are all committed to writing, but not always in the actual words used, as the Japanese custom is averse to the Employment of the colloquial for literary purposes. The general practice is to translate the gist of the questions and answers into more formal style.

All courts, including police courts, are courts of record, but there are no official court reporters, and nooffical reports are published. A quasi-official volume of Supreme Court reports is published each month by the Hosokai (Jurists' Society), an incorporated body of judges and procurators. Certain law journals publish reports of the Supreme Court and other Courts, which, though brief, present an understandable summary of the facts, issues and opinions.

1. Civil Procedure. A civil action is commenced by means of a complaint to which revenue stamps to the amount of the court costs are affixed. If the plaintiff is successful the costs thus paid in advance are added to the judgment against the defendant. Following the filing of the complaint the defendant is allowed two weeks from the service of papers in which to file an answer. The trial may begin 20 days after the service of papers, and it is likely to be held within three or four months after a complaint is filed. In the revised code of 1926 (effective 1929) provision was made for a preliminary amination similar to that employed under criminal procedure. In the local courts the parties may appear without previous service of papers.

Civil actions are likely to continue for unduly long periods. It is not unusual for witnesses to be called singly with intervals of a month or six weeks between sessions. A case may drag on for a year before a decision is rendered. The code of 1926 prohibits postponement of trials by mutual agreement of the parties concerned.

Witnesses are furnished in advance with an outline of questions to be asked of them. Examination and cross-examination of witnesses is conducted by first submitting to the judge the questions to be asked of the witness. If the judge approves he will himself put the question, or if he does not approve he may refuse it or revise it and put it to the witness in his own words. All persons must testify unless the law otherwise stipulates. Relatives and certain other classes of witnesses may evade testifying except in certain specified cases.

Judgment must be given within seven days after the last oral proceedings and must be pronounced in open court, the judge stating his reasons if he so desires. Judgments by default have been prohibited since 1926.

Under summary civil procedure a claimant for a fixed sum of money, securities, or other goods may apply to a local court for an order of payment.

The debtor may object within two weeks after the order is served upon him. If he fails to do so, an order is issued for execution.

2. Conciliation Procedure. A method of procedure by arbitration or conciliation, derived from a practice of Tokugawa times, is employed in local courts in cases involving disputes over rent or commercial obligations. Each party is assisted by a layman, designated by the court, the two laymen and the judge forming a conciliation committee. This method is used in cases between landlords and tenants in the large cities, between landlords and farm tenants, and in commercial disputes. The contemporary employment of this procedure was prompted by dissatisfaction with western procedure in certain types of actions.

3. Criminal Procedure. Criminal cases begin with the filing of a complaint, followed by inquiries by the procurator of the court having jurisdiction over the suspected offense. Before the police can make an arrest they must first obtain the permission of the procurator, who issues the necessary warrant if there are sufficient grounds for suspicion. The law requires that the warrant be shown to the accused upon his request, but this is not always done. Japanese warrants are couched in extremely vague terms. They authorize arrest in order that the appropriate authorities may have an opportunity of investigating whether there is a suspicion that the accused person has infringed such and such a law. It is not necessary that they should contain a specified charge.

Examination must begin within two months of arrest. Within this period the police, who conduct the preparatory examination, are required to report to the procurator's office whether, in their opinion, there are or are not grounds for suspicion. This requirement, however, is not always followed and there are known cases in which persons were held for more than two months without examination. During the first period of two months the accused person may not see anybody other than prison or police officials without the permission of the procurator's office. In actual practice this permission is not granted.

By the end of the two month period if it is the opinion of the police that there is no suspicion of guilt the procurator's office will order release of the accused, upon their recommendation. Most frequently this is not done, however, since a person may be held up to 120 days without being handed over for trial, either in a public court or by a preliminary judge, and the police are generally unwilling to come to a decision before the end of this period. After the expiration of the first sixty days of detention it is necessary for the procurator's office to inform the suspected person that good reason has been found for further detention. These notices must be renewed monthly until the person is handed over for public trial.

After the preliminary examination by the police, the accused is turned over to the procurator, who proceeds with further examination. The procurator, taking into consideration the age, character, and behavior of the offender and the circumstances under which the offense was committed, may at his own discretion dispense with prosecution even if the accused confesses his crime. Customarily about a third of the procurator's investigations end in this manner.

The Minister of Justice also may intervene to quash a case.

If the offense alleged is found to be within the jurisdiction of the local court it is tried there without further preliminaries. If the offense is more serious a hearing is conducted by a "preliminary" judge from the district bench. This takes the place of investigation by a grand jury, and it may consume months or even years if the accused is obdurate in maintaining his innocence of the offenses charged, since it is the object of the state, represented by the procurator, to obtain a confession before the case is tried.

In the absence of habeas corpus procedure the accused person is helpless and frequently is kept in jail for a lengthy period, being subjected to questioning at intervals. He has no right of communicating with persons outside of prison until the procurator has decided, as a result of the preliminary police examination, that he is guilty. Only at that time is he permitted to be interviewed by his counsel. All interviews with counsel are held in the presence of police officials, and the interviews are frequently spaced at long intervals.

The accused may be released on bail only after it has been determined that he is guilty. An alternative for bail is the institution known as sekifu, under which an examining judge may entrust an accused person to the care of friends or relatives. During the examination of the accused the procurator is not required to give him any information other than the plain fact that he is charged with violation of such and such a law. He is not toldin what way he has transgressed. The accused has no right to ask questions of his examiner, but he may be interrogated as much as his examiners wish. He has no right to demand proof of any statement made by his examiners, nor to see any written evidence stated to be held against him. He is not permitted to see any other prisoner, even in cases whether the prisoner in question has made a confession, the contents of which have a bearing on his own case. It is not uncommon for the police examiner to state that a fellow prisoner has confssed when such is not the case.

An accused may be examined night or day, for many hours at a time with few intervals and no breaks for meals. Third degree methods of intimidation in order to force confessions are frequently used.

The preliminary hearing may terminate in the release of the accused, his transfer to a local court, a declaration of absence of jurisdiction, or the reporting of the case for "public trial." The last named constitutes indictment. The trial, proper, though entitled the "public trial", need not be, but usually is, kept open to the public.

The presiding judge takes a prominent part in the public trial. He has the evidence previously obtained before him, and he personally conducts the examination of the defendant and the witnesses. The defendant is examined minutely. None of the witnesses is permitted to be in the court room except when giving testimony. There are few rules of evidence, and an accused person has no right to refuse to testify, though he may in fact refuse. The presiding judge in criminal trials appears to become in effect a prosecutor. Since upon him falls the responsibility of eliciting every item of evidence unfavora

to the defendant. The defendant's counsel may cross-examine only through the judge, and in practice the amount of questioning by counsel is almost negligible. Defendant and witnesses stand while giving testimony, the atmosphere of the court-room is unfavorable to the defendant.

IX. The Jury System.

The Japanese jury system is much restricted as compared with American practice. It is confined to criminal cases within the jurisdiction of the district courts. Jury trial is mandatory unless waived by the accused in "all cases in which the accused is liable to the death penalty, perpetual penal servitude, or life imprisonment." Persons accused of crimes involving liability to limited penal servitude or a prison term not exceeding three years are entitled to jury trial upon demand.

Juries are composed of 12 male citizens 30 years old or more who have been domiciled in one place for at least two years, who can read and write, and who pay at least three yen in direct taxes. They are selected in secret by the court, procurator and defense counsel from a panel of eligible persons. Although both state and defense have an unlimited right of challenge, the selection of a jury usually is accomplished within an hour. Two emergency jurors are selected also to replace any who may fall ill. Jurymen may and do ask questions of witnesses and accused persons. A simple majority vote is sufficient to decide a jury's verdict. Jurymen act under oath. Food, lodging and a small fee are provided for jurymen.

The verdict, which is confined to questions of fact, is not binding upon the court, which may throw it out and empanel another jury, may reject the second jury's verdict and empanel a third, and so forth.

Jury cases may be appealed on points of law to the Supreme Court. There is no appeal on the facts. In practice, very few appeals are taken and these few are taken by the state.

Jury trial has not been popular and most frequently has been waived by the accused. The principal reasons given for this situation: (1) the objection to losing an opportunity for a second trial on the facts; (2) the greater confidence in judges than in juries; and (3) the increased cost. Only in cases extremely difficult of proof by eye-witnesses, notably arson cases, is a jury trial likely to be desired.

1. Judgments. Judgments are reached by majority vote. The preparation of the opinion is delegated to one of the judges. In practice the courts follow precedent rather closely and a departure from it is taken only after consideration by the full criminal or civil bench of the Supreme Court. No dissenting opinions are recorded.

X. The Court of Administrative Litigation

The Court of Administrative Litigation is a single bench, consisting of a president and a varying number of "counselors." It sits in Tokyo in its own building. Members of the court are appointed by the premier in the name

of the Emperor, from persons thirty years or over who have had at least five years' experience as judges or administrative officers, most frequently former governors, home office officials and others of administrative experience. They hold office for good behavior until they reach the retirement age. The court sits in three sections which act independently of each other. Each consists of five judges as a rule, and come to a decision by majority vote.

The court's jurisdiction, which is defined by statute, includes every action in which the question to be decided is the validity or invalidity of an administrative act. It consists of the following types of actions:

1. Cases arising out of the levying of taxes and administrative fees (exclusive of cases arising out of the tariff)
2. Cases arising out of the recovery of taxes.
3. Cases arising out of the refusal of a license or the revocation of a license already issued.
4. Cases arising out of public works.
5. Disputes concerning boundaries between public and private lands.
6. Cases arising out of local police administration.
7. Miscellaneous cases provided for a large number of statutes and ordinances; for example, the law regulating the organization of prefectures, which authorizes a prefectural assembly to sue a governor if he revokes one of its resolutions; another act enables a voter to sue electoral officials in cases of disputed election.

The jurisdiction of the administrative court does not include matters of administrative discretion. The court has no jurisdiction over civil or criminal actions, all of which go into the ordinary courts. The same is true of suits for damages save in circumstances for which the law especially provides. Criminal actions against officers are tried in ordinary courts.

Cases come to the administrative court after prior consideration by administrative agencies, but its jurisdiction is regarded as original. Its judgment is final and may be far reaching. It may declare administrative acts invalid, may annul such acts, may substitute its own judgment for an administrative decision, and issue a writ of Mandamus to compel the authorities to perform specific acts.

GENERAL HEADQUARTERS
UNITED STATES ARMY FORCES, PACIFIC
Military Government Section

Instructions for Supervision of Japanese Courts.

Changes in the conditions of occupation may require a direct supervision of the Japanese Local Courts. In the event this direct supervision is required the proposed instructions for supervision of Japanese Courts and the forms for reports by Japanese Courts will be utilized. Under the foregoing conditions it is not anticipated that the basic plan of operation of the other functions of the Legal Sub-Division will be changed.

14

PROPOSED INSTRUCTIONS FOR SUPERVISION OF JAPANESE COURTS.

SUPERVISION.

1. Ordinary and Juvenile Courts.

General control and supervision of the Japanese ordinary courts and the Japanese Juvenile courts will be exercised through the ordinary existing structure. Immediate supervision of district courts, local courts, and juvenile courts will be exercised by the Legal Officers assigned to the respective prefectural teams.

2. Courts of Appeal.

Immediate supervision of the seven Courts of Appeal will be exercised through additional legal officers to be assigned to prefectural teams located at the situs of these courts.

3. Supreme Court, and Court of Administrative Litigation.

The Supreme Court, and the court of Administrative Litigation will be supervised by personnel assigned from the Military Government Section, General Headquarters.

OBJECTIVES.

The Japanese courts will be controlled and supervised in order to insure the following:

a. That the Japanese courts do not assume jurisdiction over any case reserved to the jurisdiction of Military Occupation Courts.

b. That proceedings in any pending case and any class of case not hitherto reserved to the jurisdiction of Military Occupation Courts are transferred to such jurisdiction if the disposition of such case or class of case is likely to be affected by hostility toward, or be prejudicial to, the interests of Military Occupation.

c. That the Japanese courts are not used as a vehicle for open or covert propaganda against or disrespectful references to Military Occupation.

d. That the Japanese courts do not apply any laws or concepts of jurisprudence, the application of which has been forbidden by Military Government.

e. That judgments and sentences passed by the Japanese Courts are not influenced by bias in favor of or prejudice against any individual because of his political opinions, race, religion or colour, or by pressure from any special interests or national or local organization.

f. That no one holds an appointment as judge, procurator, or other court official except by permission of Military Government.

g. Generally, that the Japanese courts conduct their proceedings in conformity with all instructions issued by the Military Government.

SUPERVISING OFFICERS.

The appropriate Military Government authority will issue instructions assigning Legal Officers and defining their responsibilities and powers in relation to such matters as: suspension of court officials found to be unsatisfactory, transfer of cases to Military Occupation Courts and review of cases.

REPORTS OF JAPANESE COURTS.

The reports (for which forms are attached) will be prepared at bi-weekly intervals and will include all criminal business through Saturday of the period covered. Those prepared by the local courts will be forwarded to the District Court having jurisdiction of such courts and will be delivered by the District Court, along with its own report, to the Military Government units assigned to each prefecture.

Each of the seven courts of Appeal will deliver their bi-weekly reports to the Military Government units located at the situs of these courts.

The Supreme Court will deliver its bi-weekly report to the Military Government Section, General Headquarters.

Any court imposing the death sentence will report within twenty-four (24) hours the details of such case to the Military Government Section, General Headquarters, and will stay the execution of such sentence pending the receipt of instructions from Military Government.

The Court of Administrative Litigation and other courts not specifically mentioned will make only such special reports as may be required.

MANNER AND EXTENT OF SUPERVISION.
(Criminal Cases)

The manner and extent of supervision will in large measure depend on existing local conditions. In general, the duties of legal officers will include the following:

a. In conjunction with Public Safety Officers to study the list of cases awaiting trial and note and watch the progress of cases which are of interest to the Military Government.

b. From time to time visit the court without previous warning and watch the conduct of the proceedings, examining such papers as may be necessary to familiarize themselves with the cases, but taking no part in the proceedings.

c. At regular intervals, to inspect the Register of Criminal Cases and carry out spot checks of the Register against the reports furnished Military Government, the court's records of judgments, and against the original case files in order to test whether the record has been accurately kept. All cases in which Military Government is interested will be examined in order to determine whether cases are being disposed of properly.

d. From time to time to check cases reported to have been investigated but not brought to trial, and determine their status.

e. To study the summary of criminal cases to obtain information and indications as to the state and trends of crime in the area, the effect of Military Government on the population, the efficiency of the local Japanese administration, etc.

f. To insure that sufficient publicity is given in appropriate cases of interest to Military Government to the sentences imposed by the courts.

g. When necessary, to take such action within their competence and submit to higher authority through appropriate channels such reports, recommendations, and requests for directions as may be appropriate in respect to:

(1) suspension or trial by military occupation courts of any judge, procurator, or other court official;

(2) stay or transfer of any case to the jurisdiction of the Military Occupation Courts.

(3) review of any concluded case with a view to re-trial by a Military Occupation Court or mitigation of the sentence (including death sentence);

(4) any other matter arising out of the supervision of the Japanese courts.

Legal officers will make no attempt to dictate the action to be taken by the court in any particular case.

(Civil Cases)

Legal officers will carry out periodic inspections of judgments rendered in civil cases in the Japanese courts of the various levels, making a particular study of cases of interest to the Military Government. In a proper case, they will make appropriate reports, recommendations and requests for directions as in the case of criminal proceedings.

SHOKUIN ROKU 1943
OSS TRANSLATION

LOCAL COURTS -- JAPAN PROPER -- 1943

TOKYO	Tokyo local court - 2 sections.	Kojimachi-ku, Kasumigaseki-cho Koishikawa -ku, Kasuga-cho
TOKYO	Hachioji local court	Hachioji-shi
KANAGAWA	Yokohama local court	Yokohama-shi, Nakaku, Nihon-o-dori.
"	Yokosuka local court	Yokosuka-shi , Fukada-cho
"	Odawara	Odawara-shi,
SAITAMA	Urawa- local court,	Urawa-shi
SAITAMA	Kawagoe local court,	Kawagoe-shi
"	Kumagaya local court	Kumagaya-shi
CHIBA	Chiba local court	Chiba-shi, Agatsuma-cho
"	Matsudo local court	Matsudo-shi
"	Kisarazu local court	Kisarazu-shi
"	Yokkaichiba local court	Chiba-ken, Sosa-gun Yokkaichiba-machi
IBARAKI	Mito local court	Mito-shi Oki-cho
"	Tsuchiura local court	Tsuchiura-shi
"	Shimodate local court Shimotsuma	Ibaraki-ken, Makabe-gun, Shimotsuma-machi
TOCHIGI-	Utsunomiya local court	Utsunomiya-shi
"	Odawara local court	Tochigi-ken, Nasu-gun, Odawara- machi
"	Tochigi local court,	Tochigi-shi Asahi-cho
	Aba-	
"	Ashikaga local court	Ashikaga-shi, Maruyama-cho
GUNMA	Maebashi local court	Maebashi-shi
"	Shinden local court	Gunma-ken, Shinden-gun, Oda-machi
"	Takasaki local court	Takasaki-shi, Miyamoto-cho
SHIZUOKA	Shizuoka local court	Shizuoka-shi
"	Numazu local court Numazu	Numazu -shi

13

SHIZUOKA	Hamamatsu local court	Hamamatsu-shi	
YAMANASHI	Kofu local court	Kofu-shi	
"	Yamamura local court Yamura	Yamanashi-ken,	Minamitsuru-gun Yamura-machi
NAGANO (6)	Nagano local court,	Nagano-shi	
" (7)	Ueda local court	Ueda-shi	
" (3)	Iwamurada local court	Nagano-ken,	Kitasaku-gun, Iwamurada-machi
" (5)	Matsumoto local court	Matsumoto-shi	
" (4)	Kamisuwa local court	Kamisuwa-shi	Suwa-shi
" (1) (8)	Iida local court	Iida-shi,	Edo-chō
" (2)	Ina local court	Nagano-ken,	Kamiina-gun Ina-machi
NIIGATA (9)	Niigata local court	Niigata-shi	Gakko-cho
" (4)	Shibata local court	Niigata-ken,	Kitakambara-gun, Shibata-machi
" (2)	Nagaoka local court	Nagaoka-shi	
" (5)	Takada local court	Takada-shi	O-chō
	[illegible]		
" (1)	Aikawa local court	Niigata-ken,	Sado-gun, Aikawa-machi
KYOTO	Kyoto local court,	Kyoto-shi,	Chukyo-ku (Nakakyo-ku?)
"	Miyazu local court	Kyoto-fu	Yosa-gun, Miyazu-machi
"	[illegible] Maizuru local court	Maizuru-shi	
"	Fukuchiyama local court	Fukuchiyama-shi	
OSAKA	Osaka local court	Osaka-shi,	Kita-ku
"	Sakai local court	Sakai-shi	
HYŌGO (2)	Kobe local court	Kobe-shi	Minatohigashi-ku
" (3)	Mineyama local court Sasayama	Hyogo-ken,	Take-gun, Sasayama-machi
" (1)	Himeji local court	Himeji-shi	Oka-cho
" (5)	Toyooka local court	Hyogo-ken,	Shiozaki-gun Toyooka-machi
? (4)	Shimoto local court	Shimoto-shi,	Yamanoshita-cho
NARA	Nara local court	Nara-shi	

NARA	Gojo local court	Nara-ken , Uji-gun, Gojo-machi
SHIGA	Otsu local court	Otsu-shi
"	Hikone " "	Hikone-shi
WAKAYAMA	Wakayama " "	Wakayama-shi
"	Tanabe " "	Tanabe-shi
"	Shingu " "	Shingu-shi
TOKUSHIMA	Tokushima " "	Tokushima-shi
"	~~Naki~~ local court	Tokushima-ken, Miba-gun Neki-machi Nekimachi
KAGAWA	Takamatsu local court	Takamatsu-shi
"	Marugame local court	Marugame-shi
KOCHI	Kochi local court	Kochi-shi Maruuouchi
"	Nakamura local court	Kochi-ken ~~Hata~~ Hatata-gun, Nakamura-machi
AICHI	Nagoya local court	Nagoya-shi Higashi-ku
"	~~Ichinomiya~~ Ichinomiya local court	Ichinomiya-shi
"	Okazaki local court	Okazaki-shi
"	Toyohashi local court	Toyohashi-shi
MIE	Anotsu local court	Tsu-shi
"	Ueno local court	Ueno-shi
"	Yokkaichi local court	Yokkaichi-shi, Nishi-cho
"	Yamada local court	Ujiyamada-shi Okamoto-cho
"	Kinomoto local court	Mie-ken, Minamimuro-gun, Kinomoto-machi
GIFU	Gifu local court	Gifu-shi Imasawa-chô
"	Ogaki local court	Ogaki-shi
"	Mitake local court	Gifu-ken, Kani-gun, Mitake-machi 75
"	Takayama local court	Takayama-shi
FUKUI	Fukui local court	Fukui-shi
"	Ono local court	Fukui-ken, Ono-gun, Ono-machi
"	Tsuruga local court	Tsuruga-shi

ISHIKAWA	Kanazawa local court	Kanazawa-shi	
"	Nanao local court	Nanao-shi	
TOYAMA	Toyama	Toyama-shi	
"	Takaoka	Takaoka-shi	
HIROSHIMA	Hiroshima	Hiroshima-shi	Mikawa-chō
"	③Kure	Kure-shi	
"	⑤Onomichi	Onomichi-shi	Kubo-cho
"	①Fukuyama	Fukuyama-shi	Moto-chō
"	⑨Miyoshi	Hiroshima-ken	Futame-gun, Miyoshi-machi
YAMAGUCHI	④Yamaguchi	Yamaguchi-shi	
"	③Tokuyama	Tokuyama-shi	
"	①Iwakuni	Iwakuni-shi	
"	②Shimonoseki	Shimonoseki-shi	
OKAYAMA	Okayama	Okayama-shi	
"	Takahashi	Okayama-ken, Shimobo-gun, Takahashi-machi	
"	Tsuyama	Tsuyama-shi	
TOTTORI	Tottori	Tottori-shi, Higashi-cho	
"	Yonago	Yonago-shi	Nishi-cho
SHIMANE	Matsue	Matsue-shi	
"	Izumi	Izumo-shi	100
"	Hamada	Hamada-shi	
EHIME	④Matsuyama	Matsuyama-shi,	Ichiban-cho
"	⑤Yawatahama	Yawatahama-shi	
"	②Saijo	Saijo-shi	
"	①Imabari	Imabari-shi	
"	④Uwajima	Uwajima-shi	
NAGASAKI	④Nagasaki	Nagasaki-shi	

" (6)	Shimabaru local court	Shimaberu-shi
" (5)	Sasebo	Sasebo-shi
" (2)	Hirado	[illegible] Nagasaki-ken, Kitamatsuura-gun, Hirado-machi
" (1)	Fukue	[illegible] " " [illegible] " " , Fukue-machi Minamimatsuura-gun
" (5)	Izuhara	Nagasaki-ken, Shimoagata-gun, Izuhara-machi
SAGA	Saga	Saga-shi, Matsubara-cho
"	Karatsu	Karatsu-shi
FUKUOKA (1)	Fukuoka	Fukuoka-shi
" (7)	Iizuka	Iizuka-shi, Nishi-cho
" (3)	Nogata	Nogata-shi, Shin-chó
" (4)	Kurume	Kurume-shi, Sasayama-cho
	[illegible]	
" (3)	Kokura	Kokura-shi
OITA	Oita	Oita-shi Nanshin- cho
"	Takeda	Oita-ken, Nacri-gun, Takeda-machi
"	Nakatsu	Nakatsu -shi
"	Hida	Hida-shi, Maruyama-cho
KUMAMOTO	Kumamoto	Kumamoto-shi, Kyo-cho
"	Yatsushiro	Yatsushiro-shi, Higashimoto-cho
"	Hitoyoshi	Hitoyoshi-shi, Tera-cho
"	Amakusa	Kumamoto-ken, Amakusa-gun, Motowa-machi
KAGOSHIMA	Kagoshima	Kagoshima-shi, Yamanoshito-cho
"	Sendai (Kagoshima-ken)	[illegible] Sendai-shi, Miyanouchi-cho
"	Kanoya	Kanoya-shi
"	Oshima	Kagoshima-ken, Oshima-gun, Nase-machi
MIYAZAKI (2)	Miyazaki	Miyazaki-shi, Miyata-cho
(4) "	Obi	Miyazaki-ken, Minaminaka-gun, Obi-machi
	[illegible]	

(1)	〃	Miyakonojo local ecurt	Miyakonojo-shi
(3)	〃	Nobeoka	Nobeoka-shi
OKINAWA		Naha	Naha-shi , Matsuyama-sho
	〃	Hirara	Okinawa-ken, Miyako-gun, Hirara-machi
MIYAGI		Sendai	Sendai-shi (Miyagi-ken)
	〃	Furukawa	Miyagi-ken, Shita-gun, Furukawa-machi
	〃	Ishinomaki	Ishinomaki-shi
	〃	Kesennuma	Miyagi-ken, Motoyoshi-gun, Kesennuma-machi
FUKUSHIMA		Fukushima	Fukushima-shi
	〃	Koriyama	Koriyama-shi
	〃	Shirikawa	Fukushimaken, Nishishirakawa-gun, Shirakawa-machi
	〃	Wakamatsu	Wakamatsu-shi
	〃	Taira	Taira -shi
YAMAGATA		Yamagata	Yamagata-shi
	〃	Yonezawa	Yonezawa-shi
	〃	Tsuruoka	Tsuruoka-shi
?	〃	Sakèda	Sakèda-shi
IWATE		Morioka	Morioka-shi
	〃	Tohono	Iwate-ken, Kamihei-gun, Tohono-machi
	〃	Miyako	Miyako-shi
	〃	Ichinoseki	Iwate-ken, Nishiiwai-gun, Ichinoseki-machi
AKITA		Akita	Akita-shi
	〃	Honjo	Akita-ken, Uri-gun, Honjo-machi
	〃	Odate	〃 Kitaakita-gun, Odate-machi
	〃	Yokote	〃 Hiraka-gun, Yokote-machi
	〃	Omaguri	〃 Senboku-gun, Omaguri-machi
AOMORI		Aomori	Aomori-shi
	〃	Hirosaki	Hirosaki-shi

	" Hachinohe local court	Hachinohe-shi
HOKKAIDO	⑤ Sapporo	Sapporo-shi
④	" Iwamisawa	Iwamisawa-shi
⑦	" Muroran	Muroran-shi
⑫	" Otaru	Otaru-shi
⑤	" Iwanai	Hokkaido, Iwanai-gun, Iwanai-machi
③	" Hakodate	Hakodate-shi
②	" 旭川 Asahigawa	旭川市 Asahigawa-shi
⑧	" Nayoro	Hokkaido, Kamikawa-gun, Nayoro-machi
⑭	" Wakkanai	Hokkaido, Soya-gun, Wakkanai-machi
⑯	" Kushiro	釧路市 Kushiro-shi, Urami-cho
⑬	" Obihiro	Obihiro-shi
①	" Abashiri	Abashiri-gun, Abashiri-machi, Hokkaido
⑩	" Nokkeushi	Hokkaido, Kitami-shi
⑨	" Nemuro	Hokkaido, 根室市 Nemuro-gun, Nemuro-machi, Tokiwa-cho

175

LOCATION AND JURISDICTION OF DISTRICT COURTS AND LOCAL COURTS

TOKYO APPELLATE COURT DISTRICT

TOKYO FU

	Location	Jurisdiction
District Court:	Tokyo	Tokyo Fu
Local Courts :	Tokyo	Tokyo-si
	Hatiozi	Hatiozi-si, Nisitama-gun Minamitama-gun, Kitatama-gun

KANAGAWA KEN

	Location	Jurisdiction
District Court:	Yokohama	Kanagawa Ken
Local Courts:	Yokohama	Yokohama-si Kawasaki-si Kuraki-gun Tuzuki-gun Tatibana-gun Kamakura-gun Koza-gun Tokui-gun
	Yokosuka	Yokosuka-si Miura-gun
	Odawara	Hiratuka-si Asigarasimo-gun, Naka-gun, Asigarakami-gun, Aiko-gun.

SAITAMA KEN

	Location	Jurisdiction
District Court:	Urawa	Saitama Ken
Local Courts:	Urawa	Kitaadati-gun, Iruma-gun (Turuse, Nambata, Mizutani, Munecka, Miyosi) Kitasaitama-gun (Kazo, Kisai, Sitami, Tagaya, Kasahara, Tanedare, Takayanagi, Raiha, Fudooka, Hiyarikawa, Mitagaya, Murakimi, Ogoe, Tosima, Kawabe, Higasi, Haramiti, Genna, Toyono, Mitumata, Okuwa, Mizuhuka, Koguki) Minami-Saitama-gun(Suge, Ota, Kurki, Wasinomiya, Kiyoku, Ezuru, Hirano, Momma, Kobayasi, Syobu, Sanga, Sinozu, Oyama)

12

	Location	Jurisdiction
Local Courts:	Urawa	Kitakatusika-gun (Kurihasi, Sizuka, Toyoda, Sakurada, Miyuki, Satte, Kamaitakano, Takano, Gongendogawa, Yosida, Yasiro, Tamiya, Sugito, Tooyooka, Sakurai).
	Kosigaya	Minamisaitama-gun, Kitasadati-gun (Singo, Yatuka, Soka, Sinden, Angyo, Totuka, Daimon, Haruoka). Kitakatusika-gun.
	Kawagoe	Kawagoe-si, Iruma-gun, Hiki-gun (Imazyuku, Nakayama, Igusa, Mihoncya, Demaru, Yatuho, Omino)
	Kumagaya	Titibu-gun (Okamugi, Tukikawa, Okawara) Kitasaitama-gun
	Titibu	Titibu-gun.

TIBA KEN

	Location	Jurisdiction
District Court:	Tiba	Tiba Ken
Local Courts:	Tiba	Tiba-si Tiba-gun Itihara-gun.
	Sakura	Imba-gun
	Itinomiya Hongo	Tyosei-gun Isumi-gun
	Matuko	Higasikatusika-gun
	Kisarazu	Kimitu-gun Itihara-gun (Satomi, Siratori)
	Hozyo	Awa-gun
	Yokkaitiba	Tyosi-si, Sosa-gun, Kaizyo-gun Sambu-gun, Katori-gun (Tokiwa, Kuga, Tako, Tozyo, Hiyosi, Yosida, Naka, Iidaka, Toyowa, Kozyo, Tyuwa)
	Sahara	Katori-gun.

IBARAGI KEN

	Location	Jurisdiction
District Court:	Mito	Ibaragi Ken
Local Courts:	Mito	Mito-si, Higasiibaragi-gun Nisiibaragi-gun Taga-gun Naka-gun (Minatomasti, Hirai-so, Maewatari, Nakano, Katuta, Kawata, Sano, Muramatu, Isigami, Kanzaki, Sugaya, Godai, Yanagawa, Kunita, Toda, Yosino, Kizaki)