

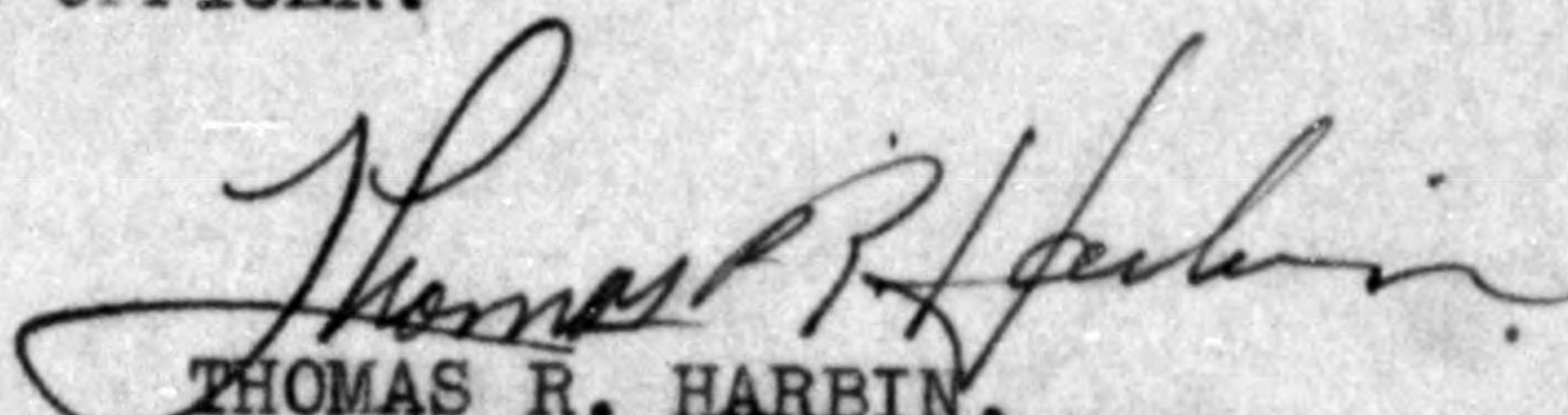
BASIC: Ltr Hq Kyoto Mil Govt Team, Subj: "Blackmarket Operations in Silk", dtd 13 January 1947.

Based on the above mentioned theory the decision was made, and the defendants were found guilty of violations of the wartime General Mobilization Law.

4. Prior to the trial the Kyoto Procurator's office consulted the Osaka Court of Appeal's prosecutor, who took a negative attitude and referred the case to the Ministry of Justice. Information directly obtained from the latter indicated the policy set forth in the preceding paragraph.

5. SCAPIN 1465, Subj: "Release of Raw Silk", dated 14 Jan 47, did not affect the outcome of these cases.

FOR THE COMMANDING OFFICER:


THOMAS R. HARBIN,
1st Lt, Inf.
Adjutant.

3 Incls:

1. Ltr, Hq I Corps, subj: "Blackmarket Operations in Silk", dtd 24 Oct 46 w/1st Ind.
2. SCAPIN 1465
3. Copy of Art 1, Imp Ord #511 (added).

C 26 1946

HEADQUARTERS I CORPS
APO 301 (Kyoto, Honshu)

CHT/jyn

24 OCT 1946

AG 000.5 - BA

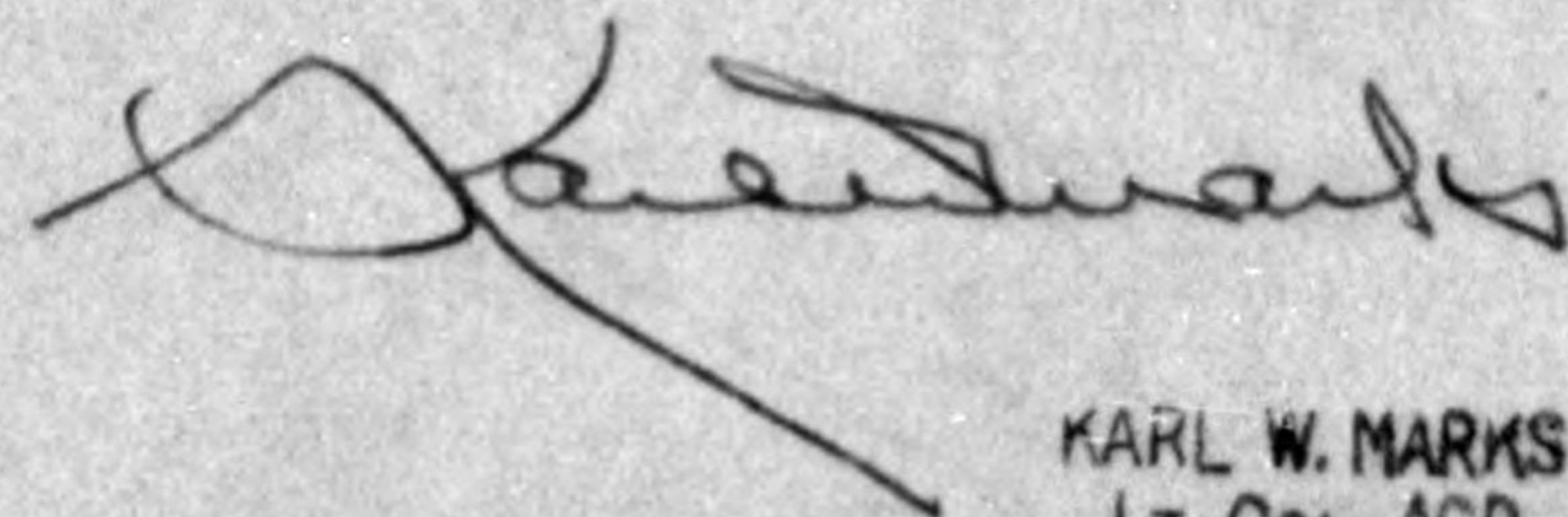
SUBJECT: Black Market Operations in Silk

TO : Commanding Officer
Kyoto Military Government Team
APO 713

1. Reference: letter, this headquarters, AG 000.5-BA, subject: "Illegal Silk Manufacture," dated 4 October 1946, and 1st indorsement, your headquarters, dated 11 October 1946.

2. A report of progress made by Japanese police and courts in the investigation and trial of the persons mentioned in reference 1st indorsement, will be submitted to this headquarters, before 30 November 1946.

BY COMMAND OF MAJOR GENERAL WOODRUFF:

KARL W. MARKS
LT COL, AGO
ASST ADJ GEN

NOV 29 1946

BASIC: Ltr, Hq I Corps AG 000.5-BA, dated 24 October 1946,
Subject: "Blackmarket Operations in Silk."

1st Ind.

Hq, Kyoto Military Government Team, APO 713, 29 November 46.

TO: Commanding General I Corps, APO 301.
Att: Military Government Section.

1. According to a report submitted to this office by the Japanese Police, a total of 58 persons have been arrested, and held for trial for illegal transactions in silk goods. These transactions involved some 5,239 bolts of silk and silk products, currently valued at 3,201,873 yen. This number is not the entire group of violators in connection with this case, as the police are still investigating other possible violators involved in this case, and if the information obtained warrants they will be arrested and brought to trial.

2. The Japanese police and the procurators office has been having some difficulty in the preparation of the charges on which these persons are to be tried as a result of new laws and ordinances the Imperial Japanese Government has recently effected in conjunction with the promulgation of the new constitution. Initially, all of these persons in this case were charged with violations of the "Fibrous Goods Supply and Consumption Regulations", a Commerce and Industry Ministry regulation based on the Commodities Control Ordinance promulgated upon the authority of the National Mobilization Act; and also for violations of "Regulation Concerning Report on the Amount of Raw Silk in Stock", an order issued concurrently by the Commerce and Industry Ministry and the Agricultural Ministry in accordance with the provisions of the Potsdam Declaration. On 3 November 46, the Imperial Japanese Government in harmony with the new constitution enacted the Amnesty Ordinance for those criminals prosecuted for the violations of the various wartime laws, which precludes from execution the sentences which would be passed upon all of those persons charged with the violations of "Fibrous Goods Supply and Consumption Regulations". Since most of the crimes had been committed during a period extending from January 46 to September 46, it became doubtful whether the "Regulations concerning Report on the Amount of Raw Silk in Stock" would be applicable to all the violators in this case. The Kyoto Procurators Office is of the opinion that the afore mentioned regulation enacted on 27 December 1945, which required a report of and prohibited the removal of the silk in stock as of 31 December 45, is not applicable to silk acquired since 1 January 1946, however illegally it may have been obtained. There *8-114*

HQ. I CORPS

AG 000.5

CA 29358

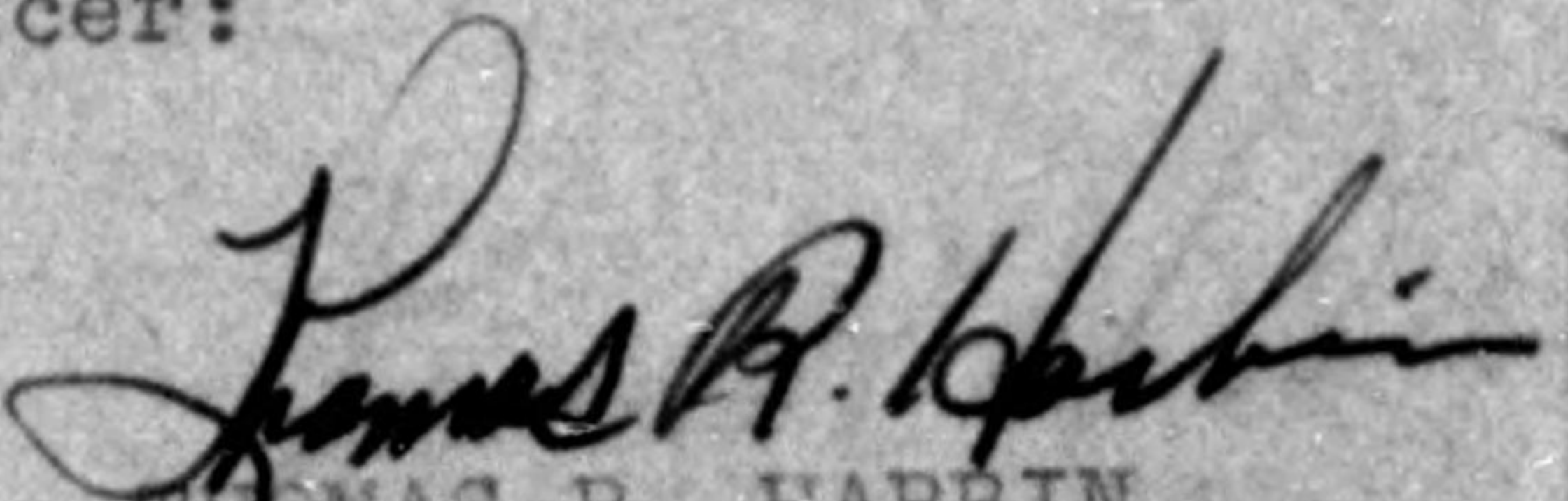
BASIC: Ltr, Hq I Corps AG 000.5-BA, dated 24 October 1946,
Subject: "Blackmarket Operations in Silk."

are certain regulations based on the Potsdam Declaration designed to control woven silk cloth, this would apply only to a small group of weavers, leaving all big brokers free.

3. The Procurators Office of the Kyoto District Court has referred this case to its next higher office, the Osaka Court of Appeals for their opinion, and also, the Kyoto Prefectural Police Department has requested the Police Affairs Bureau of the Home Ministry for further information regarding regulations and ordinances applicable to the crimes committed. As a last resort, the Japanese authorities are planning to prosecute all these persons on charges of violations of "Imperial Ordinance Concerning Harmful Acts committed Against Occupation Objectives of the Allied Powers". This would include only those crimes committed subsequent to 15 July 46, as the said ordinance came into effect on that day.

4. This office will submit a further report on the progress of this case by 31 December 1946.

For the Commanding Officer:


THOMAS R. HARBIN,
1st Lt, Infantry,
Public Safety Officer.

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERSAG 423(14 Jan 47)ESS/TD
(SCAPIN 1465)APO 500
14 January 1947

MEMORANDUM FOR: THE IMPERIAL JAPANESE GOVERNMENT

THROUGH: Central Liaison Office, Tokyo

SUBJECT: Release of Raw Silk

1. Reference is made to paragraph four SCAPIN 1802-A, dated 23 July 1946, which is as follows: "4. The conditioning houses will arrange to re-test, visually and mechanically, all raw silk that is held by weavers, knitters, and other manufacturers. Priority will be given to the testing of newly reeled silk." This paragraph is hereby rescinded.

2. Reference is made to SCAPIN 878, dated 14 April 1946, subject: Raw Silk of Exportable Grades in Possession of Weavers and Manufacturers. This directive is hereby rescinded.

3. It is directed that the following stocks and future production of raw silk be released in accordance with instructions contained herein:

a. All raw silk and raw silk in the process of weaving and knitting, in the possession of weavers, knitters, and other manufacturers.

b. All raw silk of "F" Grade and below.

c. All damaged raw silk and raw silk with bad winding that is not exportable.

d. All grades of 28 denier raw silk.

e. All raw silk "out of size" 13/15 and 20/22.

f. All raw silk 42 denier and coarser.

g. All douppions and hand reeled silk of all grades and deniers.

h. All raw silk in open bales in the possession of control agencies and silk companies and/or in skein or book form.

i. All single filament raw silk, also known as "Woolen Silk".

Incl 2.

BASIC: Memo from SCAP to the I.J.G., File No. 423(14 Jan 47)
ESS/TD, subject: Release of Raw Silk

4. Such raw silk is to be released to an authorized agency, designated by the Imperial Japanese Government. This agency will allocate the available raw silk supply to the weavers, knitters, and other manufacturers, for processing into end items.

5. This government designated agency will be responsible for the production of end items manufactured from released raw silk. On completion of manufacture, this agency will also be responsible for and control distribution, in accordance with plans approved by or directives issued by the Price Control and Rationing Division of the Economic and Scientific Section, General Headquarters, Supreme Commander for the Allied Powers.

6. All products manufactured from the released raw silk will be distributed pursuant to the Japanese Government rationing system, and will be sold at no higher than Japanese Government official ceiling prices. The agency designated by the Imperial Japanese Government to distribute the raw silk and allocate the end products will maintain such checks as to insure the accounting for by manufacturers of all raw silk received for manufacture, and all end products produced.

7. Direct communication between the Textile Bureau, Ministry of Commerce and Industry, and General Headquarters, Supreme Commander for the Allied Powers, Economic and Scientific Section, Textile Division, is authorized to implement the provisions of this memorandum.

FOR THE SUPREME COMMANDER:

/s/ R. Y. Hersey
for JOHN B. COOLEY,
Colonel, AGD,
Adjutant General.

COPY OF

Art 1. Imperial Ordinance No 511 (in parts)

General Amnesty Ordinance

Article 1.

Those persons shall be amnestied, who committed, before November 3, 1946 the following offences, but this shall not apply in cases where acts which constitute the following offences are acts against the Allied occupation, particularly those mentioned in the Imperial Ordinance No 311, 1946, Article 1, items 2 to 8 inclusive or Article 2, paragraph 3;

1. (Etc.)

775013

MILITARY GOVERNMENT ROUTING SLIP

SMGO	Y S	GEN AFFAIRS	RES & IND	3	SM
EXECUTIVE	1	LABOR	AGRI & FISH		DM
ADM OFF		REPATRIATION	IMP & EXP		
ADM ASST		PUB WELFARE			
ASST ADM OFF		PUB HEALTH	GOVT & LEGAL		
CHIEF CLERK		ENEMY PROP	PUBLIC SAFETY		
CORES CLERK					
SECRETARY		CI & E	PROCUREMENT		
SUPPLY		ASST CI & E	ASST PROCUREMENT		
ASST SUPPLY					
REPORTS			CIVIL PROP		

FILE INFO INITIALS ACTION BY

REMARKS: Home Ministry has apparently ruled that these cases are strictly under laws under "Foreign Goods Supply and Consumption Regulations". JA has been advised. JAG

27. Col. Atwood, please prepare note on inclosure to JA. 3.7.52

20 Jan 47

Col Portridge -

This correspondence was discussed personally with SA when first seen of, at which time he retained a copy for his files.

If back slip is still desired I will prepare same.

This whole matter of trial of silk violators may be changed when we receive copy of SCAPIN 1465 which I understand ^{will} remove present restrictions on movement and sale of silk. Subject SCAPIN should be released in near future.

W. J. [Signature] TWR

775013

HEADQUARTERS I CORPS

FILE: SUBJECT: Blackmarket operations in silk

TO:
(Number each note)

JA

Forwarded for your information *and comment.*

Office, Initials,
and Date

Mil Govt
J. W. S.
F H P
21 Jun 47

#####

MG

This merely verifies my original opinion. However, the expression of Japanese reasoning to reach the conclusion is rather unusual. There is no question in my mind that the decision as to jurisdiction is sound. I am not familiar with the detailed cases and therefore cannot comment on the adequacy of punishment given.

[Signature]
JA - H.C.C.
24 June 47

51618

775013

HEADQUARTERS I CORPS

FILE: _____ SOURCE: Judge Advocate Section

DATE: 18 Dec 46 SUBJECT: Black Market Operations in Silk

TO:

CG _____	AECPO _____	JA _____	Red Cross _____
C/S _____	Chap _____	Lang Det _____	Sig _____
DC/S _____	Cml _____	Mil Gov't <u>XXXX</u>	Sp Sv _____
G-1 _____	Engr _____	Ord _____	Surg _____
G-2 _____	Fin _____	PM _____	Kyoto P. C. _____
G-3 _____	Hq Co _____	PRO _____	_____
G-4 _____	Hq Cmdt _____	Prov Ct _____	_____
AG _____	I & E _____	QM _____	_____
AG Pers _____	IG _____	Rectg _____	_____

I. No raw silk, silk yarn, silk thread, silk or silk mixture woven goods, or silk or silk mixture finished garments will be released except upon the specific approval of the Supreme Commander. (par. 2 a SCAPIN #58 dtd 25 Sept 45.)

Date & Initials

II. Most of the alleged illegal transactions in silk goods occurred during the period January 1946 to September 1946. (1st Ind to Basic Letter, 29 Nov 46.)

III. It is unnecessary to consider the effect of the various Japanese enactments for the control of silk transactions or the effect of the amnesty for violations of war time measures.

IV. A violation of any SCAP directive is an "act prejudicial" (Operational Directive 29/2, Eighth Army, dtd 17 Aug 46). An act prejudicial may be tried by (1) Provost Court, (2) by reference to Japanese courts by occupation force commanders, or (3) by Japanese courts under provisions of Art. 2, Imperial Ordinance #311 dated 15 July 46. (Operational Directive 29/2, Eighth Army, Paragraph 5.) The Japanese courts have jurisdiction of these alleged offenses under Imperial Ordinance #311.

V. The fact that the alleged offenses occurred prior to the promulgation of Imperial Ordinance #311 has no bearing. Unauthorized transactions in silk goods were made offenses on 25 September 45 by the promulgation of SCAPIN #58. Operational Directive #29, Eighth Army, dtd 11 Mar 46 and Imperial Ordinance #311, dtd 15 July 46 refer to procedure and jurisdiction only. They are not ex post facto enactments. Japanese courts have jurisdictions for violations of SCAP directives under provisions of Operational

(If additional space is required, use reverse side, BOTTOM end up)

28358

2-6497

Directive #29 cited above.

VI. The exact nature of the alleged 58 illegal silk transactions should be carefully examined to insure that they constitute "releases" of silk goods within the meaning of SCAPIN #58.

VII. It is noted that the Procurator's Office of the Kyoto District Court has referred this case to the Osaka Court of Appeals for their opinion. It is the opinion of this office that the Japanese courts have jurisdiction.

VIII. Recommended that these cases be referred to the Japanese Courts for trial and that Military Government maintain proper surveillance thereof.

J.P.C.
JA 18 Dec 46

TO: JA

1. This section is not in agreement with statement appearing in par 5 above.

2. Operational Directive No. 29/2, par 8, states that "violations of SCAP directives... are punishable by Japanese courts under the provisions of Imperial Ordinance No. 311 only when the acts constituting the violations were committed after 15 July 1946."

3. In view of this, it is recommended that those cases that occurred prior to 15 July 1946 be referred to Provost Courts for trial and those that occurred after 15 July 1946 be referred to Japanese courts.

4. If you concur, we will refer this matter to the Kyoto MG Team for handling on the basis outlined above.

S.W.P.
F.H.P., Col
28 Dec 46

TO: Military Government.

1. Do not concur in recommendations of paragraph 4 above indorsement at this time.

2. It is desired that the opinion of the Japanese court and procurators be obtained without delay, as indicated in basic communication. Further request a complete analysis of the Japanese laws by the Japanese on this subject on which this office can base a decision or forward such information to higher headquarters for further interpretation.

3. It is unconscionable to think that the Japanese amity

amnesty?

775013

HEADQUARTERS I CORPS

FILE: _____ SOURCE: Judge Advocate Section

DATE: 31 Dec 1946. SUBJECT: _____

TO:

CG _____	AECPO _____	JA _____	Red Cross _____
C/S _____	Chap _____	Lang Det _____	Sig _____
DC/S _____	Cml _____	Mil Gov't <u>XXXX</u>	Sp Sv _____
G-1 _____	Engr _____	Ord _____	Surg _____
G-2 _____	Fin _____	PM _____	Kyoto P. C. _____
G-3 _____	Hq Co _____	PRO _____	_____
G-4 _____	Hq Cmdt _____	Prov Ct _____	_____
AG _____	I & E _____	QM _____	_____
AG Pers _____	IG _____	Rectg _____	_____

Date & Initials

for war time regulations also relieves Japanese from the responsibility from following SCAP directives issued after the occupation and before 15 July 1946. If this is so it should be corrected. The Judge Advocate does not consider it so but has not the benefit of a full statement of the Japanese law so that he may make the analysis.

4. If a course of criminal action continues past 15 July and acts occur thereafter, then the entire series of transactions become a part of the facts on which to base criminality. The fact that the series of acts committed in the execution of a common purpose was initiated before 15 July and continued thereafter does not vitiate their criminality. Paragraph 5 in the initial opinion of the Judge Advocate definitely states the opinion of this office at this time.

5. As a general observation it may well be that the Japanese procurators and Japanese courts do not wish to punish Japanese for violation of directives of SCAP especially when they do not constitute either inherently criminal acts or happen to assist them in obtaining their political objectives. It is therefore quite possible that they would in informal arguments try to evade the point by spurious legal interpretations.

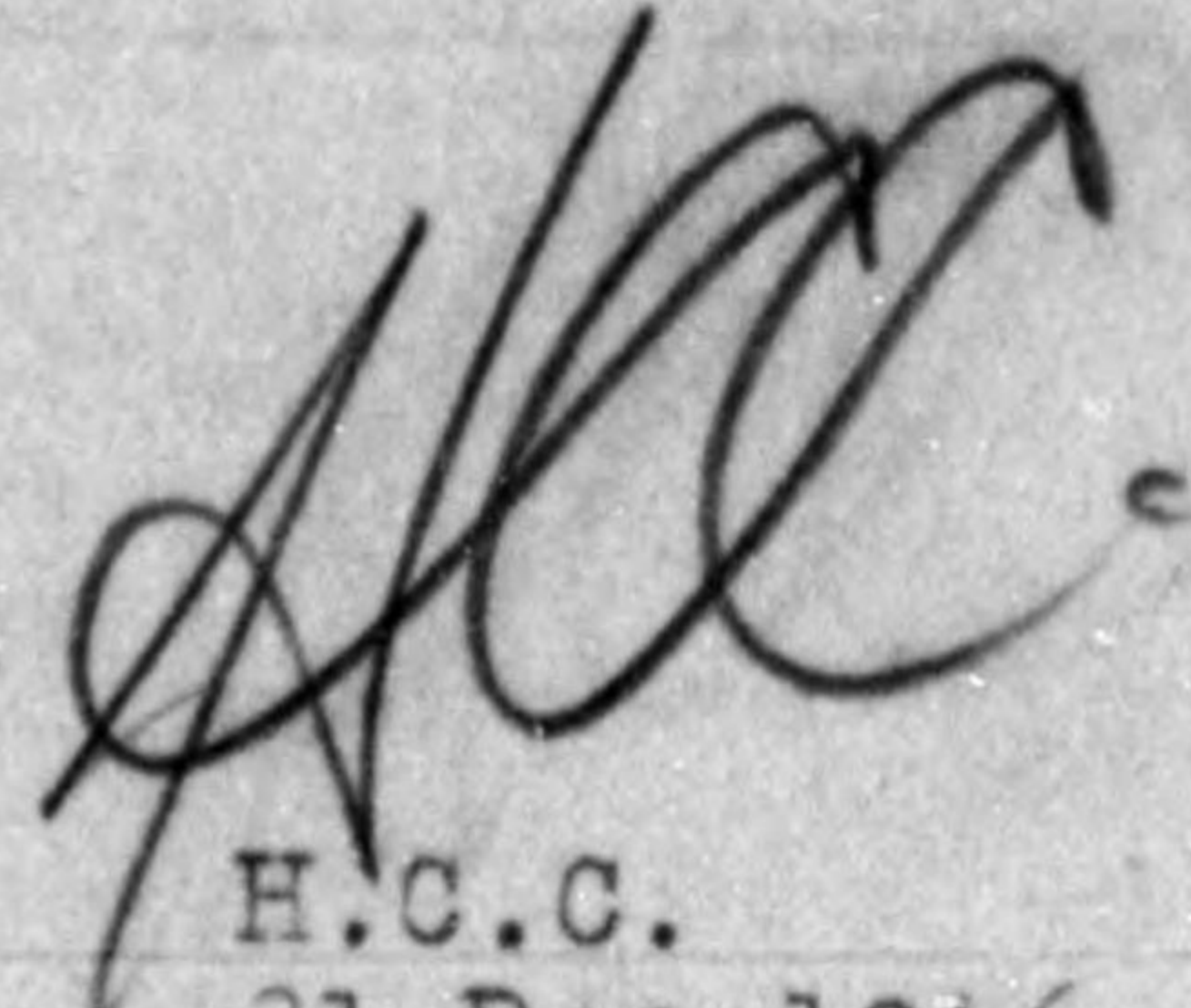
6. The Japanese must be made to enforce the laws on the Japanese people. The military courts should not and in the long run cannot assume the responsibility for the judiciary for the Japanese people. If judges and courts are recalcitrant then they should be warned and if they still recalcitrate

(over)

(If additional space is required, use reverse side, BOTTOM end up)

be removed.

7. This opinion is based solely on the papers attached as to facts. The individual cases have not been presented or studied.



H.C.C.
31 Dec 1946.
