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Indictment Committee

Dec. 8th, 1948.

To: General Headquarters.
Supreme Commander for the Allied Powers.

From: NAKAMURA, Mataichi,
Chairman of the Indictment Committee.

Subject: Indictment for Dismissal of Judge Teraseko of Otsuki Summary Court.

As a result of detailed investigations into the matter concerning Mr. Teraseko, Michitaka, Judge of the Otsuki Summary Court in Yamanashi Prefecture, of whom the Chief Judge of the Supreme Court demanded an indictment for dismissal on the 19th of October, 1948, the Indictment Committee decided to indict the Judge for dismissal at the Committee meeting held on the 7th of December, 1948, and forwarded a written indictment on the same day to the Impeachment Court, as per separate sheet.

ANNEX

Dec. ~~10~~ 7, 1948

To: ONIMARU Gisai
The Chief Judge, The Court for Impeachment of Judges.

From: NAKAMURA, Mataichi, Chairman of the Indictment Committee.

Subject: INDICTMENT.

The Committee deemed that reasons existed for the following judge to be dismissed and examined him in compliance with Article 11 of the Law for Impeachment of Judges, as a result of which the Committee presents the indictment in compliance with Article 14 of the said Law.

Address; No.2592, Kuzuno, Nanaho-mura, Kita-Tsuru-gun, Yamanashi Prefecture.

Position: Judge of the Ōtsuki Summary Court (Now serving at the Tanimura Summary Court)

The Accused: TERASEKO, Michitaka,

Age: 54

Reasons for Dismissal

The accused was a judge of the Ōtsuki Summary Court at the time and now serves at the Tanimura Summary Court.

The Facts

(1) On June 6, 1948, textile trader INA Akira (age 34), of No.983 Komabashi Ōtsuki-machi Kitatsuru-gun Yamanashi Prefecture, conveyed, for blackmarketing purposes, 11 hiki of bed clothing materials and 4 "hiki" of common silk cloth without authorization to the house of KANEDA Yoshimitsu at No.109 1-chome Kitazawa, Setagaya-ku, Tokyo Metropolis, where the goods were robbed.

The burglary putting the police on the scent, INA was suspected of storing a considerable amount of fabric at his own address for the purpose of blackmarket dealings.

Upon obtaining a search warrant on October 12 from MATSUSHITA Yuzaburo, Judge of the Tanimura branch of the Kofu District Court, Assistant Procurator MUMAGAMI Tokichi visited INA's house under the guidance of officers of the Otsuki Police Station at around 4:40 p.m. of the same day, together with Procuratorial Secretaries SAKAMOTO Yoshihiro and MAKIHARA Yoshiyasu.

In the meantime, the accused (Judge TERASEKO), having learned of this inspection visit, called on INA Toshiko, wife of INA, at her home before the procurator and his party came to the scene, and told the wife: "Akira was arrested today. Your house will be searched. If you have any fabrics, you had better conceal them".

The accused thus had the wife and YAMAGUCHI Hifumi, an employee, remove to the four-flats tenement-house behind the house, 2 tan of clothing materials, 15 shaku in length of clothing materials, 60 yards of silver lining cloth, 907 momme

of black-colored raw silk, 62 momme of red-colored raw silk 97 momme of yellow-colored raw silk, 39 momme of "hanachi" raw silk with a variety of colors and 2 sheets of "furoshiki" of black-colored satain, all of which were the objects of seizure in this search.

(2) Concerning a case on violation of the Price Control Ordinance, committed by AMANO, Shūji, No.2,117, Manaki, Otsuki-cho, Kita-Tsuru-gun, Yamanashi-ken, and one other person, the said AMANO received a summary order for a 25,000 yen fine, issued on May 23, 1948, by INOKARI, Eizo, A Summary Court Judge of Tanimura Summary Court.

Then AMANO consulted with INA, Akira, mentioned above, about the measures to be taken. INA called on the accused's (Judge TERASEKO's) house and consulted with him on this matter. At that time, the accused advised INA to request a formal trial, without delay. Then he asked Judge INOKARI to transfer the jurisdiction of the case to himself, although the case was placed under the jurisdiction of Judge INOKARI, in accordance with the Court Regulations concerning the Distribution of Business. He took charge of the case and held a trial in the Tanimura Summary Court, on June 29 of the same year.

He took charge of the case and held a trial in the Tanimura Summary Court, on June 29 of the same year. The testimony of Amano Takayuki who was present in court, was heard ex officio. In contradiction, however, to Amano Shuji's previous statement in the Procurators' Office that he bought 4 kan of raw silk on blackmarket dealings, Amano Takayuki testified, on taking an oath, that 3 kan out of the above raw silk was what Amano Shuji borrowed from the house of the witness. But when Amano Takayuki was examined at the Procurators' Office on this testimony, he confessed that the above testimony had been false. In the meanwhile Amano Shuji withdrew the formal law-suit, and indictment was delayed for the above perjury case.

The 1st fact above shows that, by intentionally notifying a person in advance of a domiciliary visit to a house, of which it is difficult to achieve the purpose unless it is made with utmost secrecy, the accused tried to hinder the search from obtaining good results.

The 2nd fact above shows that the accused voluntarily tried to have transferred to himself the case on which he had been consulted, without taking proper measures, and that he actually took charge of it. He is suspected of instigation to perjury also.

The Committee sat in careful deliberation on the accused, taking into consideration the facts that he is a priest, that he is wanting in training as a judge as he was

practising law for many years, and that he divulged the secret of the search to the person with whom he was intimate. However, the Committee has come to a conclusion that his conduct, which concerns his official duty, does not deserve the delay of his indictment. In conclusion, the Committee considers that his misconduct, which greatly prejudices the dignity of the judge, and which falls under the provision of Item 2, Article 2 of the Law for Impeachment of Judges, deserves his dismissal from the judgeship by impeachment.

kk

DECLASSIFIED E.O. 11652 SEC. 5(E) AND 5(D) OR (E) NNDG # 795 072

To Dr. Williams.

file

Indictment Committee

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DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775 072

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DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NND # 775 072

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DECLASSIFIED E.O. 12065 SEC. 3(E) AND 3(D) OR (E) NNDG # 775 092

practising law for many years, and that he divulged the secret of the search to the person with whom he was intimate. However, the Committee has come to a conclusion that his conduct, which concerns his official duty, does not deserve the delay of his indictment. In conclusion, the Committee considers that his misconduct, which greatly prejudices the dignity of the judge, and which falls under the provision of Item 2, Article 2 of the Law for Impeachment of Judges, deserves his dismissal from the judgeship by impeachment.

kk

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 795 072

To Dr. Williams.

file

Impeachment Court

December 10, 1948

To: the General Headquarters of the Supreme Commander for the Allied Powers

From: the Impeachment Court

Subject: Matter pertaining to the legal proceedings against Judge Toshiichi Amano of the Hamamatsu Branch of the Shizuoka District Court

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The suit against Judge Amano for dismissal was brought before the Impeachment Court on July 1 this year. The case was put on trial ten times; 30 witnesses were subpoenaed; and 22 exhibits were examined.

On November 27, the Impeachment Court made the ruling that "the respondent shall not be dismissed" on the following grounds:

1. Ruling on the travelling-without-notice of the respondent
   A. It was in the first decade of January when the respondent went to Akita. During that time, his travelling interfered nothing with the performance of his duties. He intended to express to his neighbors and the employees of the Akita District Court his appreciation for their tending him ~~who~~ when he was suffering from insomnia while holding office there.

   B. The respondent obtained, before starting, the understanding of his senior official in the Hamamatsu Branch and asked his colleague to send in the report of absence and concurrently of travelling. Inasmuch as his colleague failed to give that report to the Court, the travelling of the respondent took the form of absence without due notice.

   C. No trouble was found in his duties during his absence.

   The Impeachment Court ruled, therefore, that there were no reasons to remove the respondent.

2.(i) Ruling on the respondent's services for transactions of dried cuttlefishes etc. between the Hamana Nogyo Kai (Agricultural Association) in Shizuoka and the Suisangyo Kai (Aquatic Industry Association) in Akita

DECLASSIFIED E.O. 11652 SEC. 5(E) AND 5(D) OR (E) NNDG # 773 072

The respondent was not the party of that transactions, though he introduced Hiroyoshi Tanaka to Ryokichi Nagasawa, President of the Akita Suisangyo Kai, and Yukichi Hirayama, Chief of the General Affairs Section of that association.

(ii) Ruling on the matter that the respondent sent and received in his own name a few telegrams concerning the transactions in the office

A. It was only one telegram that the respondent sent. The other ones were sent by Hiroyoshi Tanaka or Tetsuo Takeuchi in the name of Amano. The respondent, however, gave to Tanaka a telegram every time he was in receipt of it.

B. The above transactions were executed in the office. In this regard the respondent went beyond the compass of the duties of judge.

(iii) Ruling on the matter that the respondent compelled Hirayama, who made the contract with the other agricultural association for selling the dried cuttlefishes which could not be delivered to the Hamana Agricultural Association, to sell to the latter as arranged

The respondent did not force Hirayama to fulfil the contract, but requested him to stay in Shimizu City until the cuttlefishes would be delivered on the regular route.

(iv) Ruling on the matter that the respondent constrained the seller's agent to give him the shipment certificate

The respondent did not force him, but received it after consultation.

(v) Ruling on the matter that the respondent asked the chief policeman, who exposed the said cuttlefishes which were in violation of the regulations concerning transportation certificate,to shut his eyes, and said that the action taken by the policeman was ultra vires.

A. The respondent was excited and had the harsh way of speaking to the chief of police under the influence of liquior which he drunk at the opening ceremony of the Shizuoka Summary Court.

B. The respondent said that the police took actions beyond its limits, as he heard from an expert of the Fisheries Section of the Shizuoka Prefectural Office.

C. There was not the fact that the respondent tried to make the chief policeman ignore the violation of the regulations. It was improper for a judge that the respondent excited himself at that time.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 3(D) OR (E) NNDG # 775 072

On the basis of the facts mentioned under the above items 2 - i to 2 - v, the Impeachment Court ruled that no sufficient reason could be found for the removal of Judge Amano.

With reference to this case, the Impeachment Court expressed the following opinion:

Realizing the problem of a social failure in the complicated life or the delicate disputes about the rights and duties, the judge is to make a just and reasonable decision thereon. It is of the greatest necessity for that purpose that the judge is learned in the various laws and at the same time is a man of social common sense, having full knowledge of the phenomenal and real sides of the social circumstances.

Some judges in this country, however, desire to administer conscientious justice, taking nothing but justice into consideration, in order to discharge his duties equitably. They extremely shrink from joining the people at large; devote themselves to learning only; stand aloof from the social life; look at [redacted] companionship as corruption; strive to conduct themselves in the right manner; and thus miss unwittingly the chance to cultivate the social common sense. Falling into dogmatism and bureaucratism, those judges will be called [redacted] fossil judges.

Under the new Constitution, however, the fundamental remedy for such attitudes of judges is required. The judge should not, since he is also among the society, be subject to restrictions other than those imposed upon a member of society, so far as his duties are satisfactorily performed. It is of prime importance that he faces positively the actual aspect of society and give a realistic and appropriate decision on the complicated and delicate case on the basis of immense social common sense and exuberant legal knowledge.

The respondent sent and received the telegrams in the Hamamatsu Branch Court for the purpose of transactions; and was somewhat excited in his speech and behaviour towards the Chief Policeman Mitsuma of the Ihara District Police Station and Assistant Police Inspector Iketani. It is needless to say that these actions lowered the dignity of a judge. The records indicate, however, that the respondent behaved himself mostly as a member of society. By this reason, the Impeachment Court has not come to the conclusion that the actions taken by the respondent correspond to the misdeameanor which compromises conspicuously the dignity of judge as provided for in Article 2 Item 2 of the Judge Impeachment Law.

Gisai Onimaru.

Gisai Onimaru,
Presiding Judge,
Impeachment Court.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 3(D) OR (E) NNDG # 775 072

To the General Headquarters of the Allied Powers

From the Impeachment Court

22 September 1948.

Report

on

Judge AMANO Toshikazu

in the Hamamatsu Branch of the Shizuoka District Court

46 years of age

The substance of reply of the above mentioned accused to the to the questions put by the presiding judge in the trial held on September 6 and 7 relative to the indictment for dismissal of the said judge.

Educational career:

I graduated from the Law Course of the Law Department of Keio University in 1927.

I passed the higher civil service examination for judicial service in 1927.

Occupational career:

In 1928 I was appointed to probationary judge.

In 1929 I was appointed to judge.

Later I was posted at Tokyo, Takada, Aikawa and Utsunomiya. In September 1945 I was posted at the Akita Local Court as a judge in charge of preliminary examination till March 1947. Since April 1947 I have

been

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 795 072

been holding a post at the Hamamatsu Branch Court.

Family Circumstances:

I married a daughter of a millionaire, who was once a high tax payer in Tomioka Town, Gunma Prefecture. I have four children. My life is not much pinched for money.

Health:

While I held a post in Akita, what with the business, oppressive and unfavourable weather and what with the bad food situation, I suffered from insomnia of the worst kind from January 1947, and could not get a wink of sleep. Accordingly I underwent medical examination and was in hospital for two weeks. My physician in charge, Dr. Kaneda, said that it would take at least a year for my complete recovery.

However, after I took up my post in Hamamatsu near my home, I began to feel easier and gradually recovered, and in the middle of last November I came to feel nearly all right.

Character:

I think that I am apt to give myself up to anything I undertake. So when I am asked to do something by another, I feel inclined to accomplish it in some way or another.

The substance of the reply of the accused relative to grounds for his dismissal.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 3(D) OR (E) NNDG # 775 072

Reasons for his dismissal:

〔I.〕 TANAKA Kazue, lawyer living in Hamamatsu City, with whom the accused was familiar, and another, told him in the said Hamamatsu Branch Court around January 4, 1948, that they were going to take a trip to the Akita City area on the business of the Agricultural Association, Hamana County, Shizuoka Prefecture, with the object of inspecting industrial conditions and of purchasing herring meals etc. and asked for his co-operation as he formally held a post in Akita. He consented to their request. In taking a trip to Akita with them on January 6 and absenting himself from the said court, he did not take the necessary procedures of presenting a report on his absense or an application for his leave, thus leaving his post without permission during the period from January 6 to 13. The accused's great offence against his duty and negligence as a judge, falls under Paragraph 1, Article 2 of the Judge's Impeachment Law, and deserves his dismissal.

The following is the accused's reply to the chief judge's questions relative to the reasons for his dismissal.

(1.) Around January 4, 1948, TANAKA Kazue, who is now a lawyer and was once a judge at the Hamamatsu branch court visited me at the branch court.

(2.) Then he asked me to introduce to him my aquaintances whom I knew during my service in Akita as he wanted to go to Akita on the business of the Hamana branch of the Agricultural Association of Shizuoka Prefecture.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 3(D) OR (E) NNDG # 775 072

(3.) I think that he told me then that he would send vegetables produced in the Hamana area, Shizuoka Prefecture, to Akita in exchange for fish meals from Akita. It is not clear how I presumed so, viewed from the consequences or not.

(4.) Then I told him that I did not mind going there too if circumstances allowed as I wanted to show my friends who were kind to me when I was sick in Akita, that I was quite well now and I wanted also to go and express my thanks to them. I told him that I would give him a definite reply on the 6th as to whether I would accompany him to Akita or not.

(5.) On January 5 he rang me up at my home over the telephone, and asked me to accompany him to Akita by all means, so I promised him to give him a definite reply anyhow at the office (the court) on the following 6th. After having a talk with him.

(6.) On January 6 I met TANAKA at the court, and promised him to go with him. But having decided already to go to Akita, I had left home after making preparations for the trip.

(7.) On January 6 NAGAI, the senior judge of the Hamamatsu Court was away as he had left for Ichikawa, Chiba Prefecture, where his family lived. But IIDA, the associate judge and HARIMOTO, the probationary judge, were there. So I told them that I was going to take a trip, and asked them to look after my affairs during my absence. Judge IIDA wished me good luck.

DECLASSIFIED E.O. 11652 SEC. 5(E) AND 5(D) OR (E) NNDG # 775 072

(8.) Then I wrote a report on my absence addressed to the Chief Judge of the Shizuoka Local Court asking him for my leave of absence. I intended to get permissions for a twenty days' paid leave which is granted to officials each year.

(9.) When I wrote the report on my absence, Judge IIDA had already left the court. So I asked Probationary Judge HARIMOTO to present it to Senior Judge NAGAI. He told me that it was not necessary to present such a report, and did not accept it saying that a verbal report on my trip was sufficient. I was in a hurry and I left court leaving the report on my desk, if I remember rightly, asking him to look after it.

(10.) At that time the trial of the case in my charge was neither to be held till around the 17th, nor was I on night-duty. So I left the affairs during my absence to the kindness of Judge IIDA and Probationary Judge HARIMOTO, and I started on my trip at ease.

(11.) I know Article 6 of the Government Service Regulations, reading that no official shall leave his post arbitrarily without permission of the competent chief. But in those days it was customary to get an ex-post facto permission of leave of absence. And it was quite seldom that a prior permission was obtained. For fear of trouble which may occur afterwards I drew up a report of my absence and asked Assistant Judge Harimoto to present it to the Court Authorities. I also talked to Senior Judge INOUE about my trip on my return by way of asking for an informal permission, I think.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 3(D) OR (E) NNDG # 795 072

(12) I was thinking all along that the report had duly been presented to the Court Authorities. About April this year to my surprise there arose a problem concerning the trip I made in connection with the dried cuttlefish case without obtaining permission for my absence. Out of surprise I looked into the drawers of my desk and found against my expectations the report in question lying unpresented beneath other documents.

(13) As for me, I asked assistant Judge HARIMOTO to present the report to the Court Authorities on my behalf and thus duly followed the procedure at any rate, but viewed from the result I have no excuse to offer even if one asserts that I purposely absented myself with out permission.

(14) Taking the above points into consideration, I don't think I committed a great breach of my official responsibility or a gross negligence of my official duties, and therefore I negate the first item of the charges against me.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 795 072

(II.) Concerning Business Transaction aimed at by the above mentioned Tanaka Toyoe and another person.

1. It is said that about the 10th of the same month in the office of the Akita Prefecture, Aquatic Products Industry Association in Akita City the accused used his good offices for introducing the above Tanaka and others to Nagazawa Ryokichi, President of the above Association, and Hirayama Yukichi, Chief of the General Affairs Division of the Association, and endeavored for conclusion of business transaction concerning the sales, purchase, transportation, etc. of herring meals or dried cuttlefish between these two parties.

The purport of the accused's answer to interrogation by the Chief Judge and others on this reason for dismissal.

(1.) On January 10, accompanied by Tanaka Toyoe, I went to the Akita Prefecture Aquatic Products Industry Association to see Nagazawa Ryokichi, Presidnet of the Association. I think I probably introduced Tanaka to Nagazawa at that time.

(2.) At that time Nagazawa said that the Taihei Maru in the possession of the Akita Prefecture Aquatic Products Industry Association was to go to the port of Shimizu in Shizuoka Prefecture for repairs.

(3.) On hearing that, Tanaka requested Nagazawa to load the Taihei Maru with herring meals and to send the ship ("to Shizuoka Prefecture" was understood) if the ship had no cargo to be loaded with as herring meals might be bought at Hakodate in Hokkaido. Nagazawa said in reply that Tanaka

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDC # 75-072

should apply to Hirayama, Yukichi, Chief of the General Affairs Division of the Association for matters concerning ships.

(4.) As there happened a necessity for Tanaka to see Hirayama again and the former asked me to accompany him to Hirayama's, I, in compliance with that request went with him to see Hirayama at his home. Then Tanaka asked Hirayama for the same favor as he asked Nagazawa. Hirayama complied therewith.

(5.) Hirayama in his turn asked Tanaka to see to it that the Hamana branch of the Shizuoka Prefecutre Agricultural Association would purchase 1,500 kan of"allotted dried cuttlefish" which Tanaka would take on his visit to Shimizu. The "allotted dried cuttlefish" in question were only talked about as "regular" or "allotted" and I never heard that it was the "dried cuttlefish allotted" to Tokyo Metropolis, and so we were under the impression that it was the "dried cuttlefish allotted" to Shizuoka Prefecture, for we should have declined it if it had not been "allotted" to Shizuoka.

(6.) Tanaka said in answer to the above proposal of Hirayama that he would probably be able to accept it.

(7.) In this business transaction I was entirely in a position of an "observer" and had no finger in it.

(3) In the sense that I was acquainted and could be trusted, future enquiries, etc. Were decided to be made in my name. Agreement was roughly reached on the whole on the transportation of the "herring meals" and the transaction of the "alloted dried cuttlefish".

(4) After all I said nothing either to Tanaka or Hirayama on the sale and purchase transaction above referred to and acted all the time as a by stander, for it was a matter of no interest to me.

(What the accused said means that he intended to negate the above charge brought against him.)

2. It is said that several times between the 13th of that month on which the accused returned to Hamamatsu City and the middle of February the same year commercial telegrams were dispatched to or received from Hirayama in the name of the accused in the branch office, etc. of the above mentioned Court in order to conclude business transaction of above mentioned Tamaka, Hirayama, etc. and thus he behaved as if ~~he~~ he had been the very person engaged in that business transaction.

The purport of the accused's answer to interrogation by the Chief Judge on the above charge.

(1) About January 14th or 15th a telegram came from Hirayama Yukichi to me in the office of the Hamamatsu Court. The content was to the effect that the telegram dispatched by someone on our side was not understandable.

(2) When I showed TANAKA that telegram, I found that it was an inquiry about the telegram sent by TANAKA under the name of AMANO.

(3) On that occasion, TANAKA explained that he sent the telegram to cancel the transportation because, when he came back from Akita after having asked HIRAYAMA to ship the herring meal stocked in Hakodate aboard the Taihei-maru from Hakodate to Shimizu, Shizuoka Prefecture, he found a telegram directed to the Hamamatsu Agricultural Association from Hakodate that the stocked herring meal had already been sold to another party, adding that at the same time a telegram was dispatched under the name of AMANO asking to increase the amount of cuttle fish to be shipped from 1,500 kan to 2,000 kan.

(4) Then I scolded TANAKA for fear that the increase of 500 kan might signify a blackmarket transaction, and further sent a telegram for myself to HIRAYAMA, inquiring the price of the cuttle-fish. Only after I received a reply by wire that the transaction would be conducted at officially fixed prices, could I feel reassured.

(5) Under these circumstances I only once wired to HIRAYAMA.

This was the only one I wired to him. And, in this case, I wired to him because I feared that this matter might bring trouble to HIRAYAMA, a subordinate of President NAGASAWA with whom I was closely acquainted in Akita, and that the cuttle-fish might be transacted at blackmarket prices.

(6) I don't know how many times telegrams were exchanged under my name between the Hamana Agricultural Association or TANAKA and the Akita Marine Product Association or HIRAYAMA.

(7) As afore-mentioned, I was never connected with this transaction as directly as the dealers were .

3. On around February 15th of this year, HIRAYAMA under the afore-mentioned contract shipped 2,000 kan of cuttle-fish originally intended for Tokyo to Shimizu Port, Shizuoka Prefecture, but failed to unload them because of the difference of the ports of discharge. Being impatient of the failure, HIRAYAMA then wanted to sell the cuttle-fish to the Abe County Agricultural Association through the good offices of Kijuro MOCHIZUKI, and acquantance of HIRAYAMA, and made a private contract, cancelling the former contract.

The accused, having got wind of the new contract, met HIRAYAMA on around 22nd of that month at Takeya Hotel in Shimizu City and pressed him to reconsider the contract. But as the accused failed to obtain HIRAYAMA's assertion after several hours' meeting, the former further phoned the latter, twice, in the middle of the night and early next morning, urging him to deliver the cuttle-fish to the Hamana Agricultural Association.

The accused replied as follows to the above inquiry by the judges on the reason for dismissal.

(1) I received the telegram from HIRAYAMA that the Taihei-maru arrived at Shimizu on February 13th behind scheduled time.

I showed that telegram to TANAKA, but I myself did not call on HIRAYAMA right away.

(2) After meeting HIRAYAMA, TANAKA came to me and told that as the cuttle-fish aboard the Taihei-maru was part of rations "framed" for Tokyo he was considering to let Kyuichiro HIRAMATSU, President of the Hamana Agricultural Association, obtain the

sanction for transferring the "frame" from Tokyo Metropolis, on the understanding of the Shizuoka Prefectural Office in order to enable unloading.

(3) On a later occasion TANAKA once said: "Despite President HIRAMATSU's effort for changing the 'frame', SUZUKI, whom I entrusted with the negotiations with HIRAYAMA on account of pressure of my own business concerning a lawsuit, has broken the contract without consulting me for the reason that the Hamana Agricultural Association could not receive the cuttle-fish".

At that time, TANAKA seemed to be angry with SUZUKI for having done so.

(4) Meanwhile, I received a telegram from HIRAYAMA that he was wanting my cooperation because the transaction was going wrong.

Since it is against my nature to leave anything half done, I called on HIRAYAMA on Feb. 22, at Takeya Hotel where he had been staying.

(5) On that occasion, he asked me to understand that he was going to sell the cuttle-fish to the Abe Agricultural Association through Kajuro MOCHIZUKI because SUZUKI had refused consignment as proxy for TANAKA, complaining of the action of the Hamana Agricultural Association as too unkind since a changing of the "frame" would have been quite simple.

(6) On hearing this I was indignant. After the telegram asking for my assistance, his attitude on his arrival was quite contrary to it, which displeased me. So, I complained to Hirayama questioning why he did not approach Tanaka or the Hamana Agricultural Association when Suzuki refused and why he didn't come to me even once if he really were in such difficulty. Hirayama answered insisting he had no fault about the matter and added that the shipment was fixed to be taken by the Abe Agricultural Association on Feb. 23 and he was going back to Akita the following day.

(7) Then, I insisted that this was contrary to the arrangement, and asked him to deliver the goods to the Hamana Agricultural Association as originally arranged if the Abe Agricultural Association failed to accept them the following day, to which Hirayama agreed.

(8) Thereupon, I asked Hirayama to introduce Kajuro Mochizuki to me. And Hirayama called him and requested him in my presence to deliver the dried cuttlefish to the Hamana Agricultural Association if the Abe Agricultural Association could not take it, to which Mochizuki agreed.

(9) At that time, as I feared trouble might occur about the different destination of the cuttlefish from its originally arranged destination, I asked Hirayama to stay in Shimizu City until the case be settled. But he insisted he would start for Akita anyway.

(10) As I was still worrying about the matter even after I got home, I asked him ~~it~~ in the middle of the night and again early next morning to stay in Shimizu till things were settled. However, Hirayama did not agree and left for Akita.

(11) As the transfer of the dried cuttlefish from the Abe Association to the Hamana Association in case of the former's faflure to accept it, was an unquestionable arrangement (refer item 8) between Hirayama, Mochizuki and myself (Amano), my two telephone calls afterward were not for confirming that arrangement but only just to ask him to stay in Shimizu until the settlement of the transaction.

4. Further, on about the 26th of the month, he summoned Mochizuki to the house of Uta Mizutani, Shimazaki-cho, Shimizu City and strongly demanded him to present immediately to the accused the delivery certificate of the cuttle-fish which he must have received from Hirayama and accepting it in exchange for his own visiting card he handed it to a person called TAKEUCHI and let him go up to Tokyo to have the destination of the goods changed from Tokyo Metropolis to Shizuoka Prefecture through the intermediate help of Yutaro TAKEYAMA.

The summing up of the accused's explanation in response to questions made by chief judge etc. on the above charge calling for his dismissal:

(1) On Feb. 22, I went to the suburb of Shimizu City on official business. On my way back, taking chance of the spare time, I dropped into Uta Mizutani's, Shimazaki-cho, Shimizu City, my acquaintance (a widow of a lawyer, during whose life Amano's younger brother, also a lawyer, had been living with him).

(2) Unexpectedly, I found there Tetsuo Takeuchi who joined the tour to Akita which I made with Tanaka and also Takeji Nagao whom I was not acquainted with. (He explained that this meeting had not been arranged beforehand.)

(3) Prior to this, I had informed Tanaka of the arrangement made between Hirayama, Mochizuki and myself on Feb. 22 at the Takeya Hotel, about the transfer of the dried cuttlefish (Refer (8) of 3 of the 2nd Reason) and asked him to understand it.

(4) May be on that account, Takeuchi told me the following story of the pregress of the matter there, at Mizutani's,

Tanaka telephoned Mochizuki on the evening of Feb. 23 questioning about the acceptance of the goods by the Abe Association. Mochizuki answered that the Abe Association could not take them and they were going to be transferred to the Hamana Association.

Tanaka demanded Takeuchi to go to Mochizuki to get the delivery certificate and arrange for the change of the destination. So, he approached Mochizuki but Mochizuki did not agree to his request placing no confidence in Takeuchi, saying he could deliver it only to Mr. Amano but no one else. Therefore, Takeuchi informed this to Tanaka.

Thereupon TANAKA inquired at the office to inform me (AMANO) of the matter, and found out taht I was out in the suburbs of Shimizu City. Further TAKEUCHI said: "TANAKA told me (TAKEUCHI) to wait there as AMANO might drop in at MIZUTANI's on his way home, and ask him to receive a shipment certificate from MOCHIZUKI, So I was waiting."

(5) Until I heard the story, I was under the impression that the "dried cuttle-fish" case had been settled clear through.

(6) But I could not refuse his disire, and was obliged to take it on. TAKEUCHI called MOCHIZUKI to MIZUTANI's; I explained him the circumstances in which a shipment certificate was necessary due to change of the "frame", and asked him to deliver it. I do not know how it was, but MOCHIZUKI hesitated to do so. I spoke about the promise for February 22 (cf. 2nd reason III-8), and then MOCHIZUKI said, "I shall give it to you,": and he handed me a shipment certificate.

(7) Then I handed the shipment certificate over to TAKEUCHI, Teatsuo. Takeuchi was saying, "I am going to Tokyo, to ask a favor of TAKEYAMA, Yutaro, a Peoples' Cooperative Party member of the Diet, to take steps to change the 'frame'."

(8) I have never strongly demanded MOCHIZUKI to diliver a shipment certificate as described in the reason for indictment.

5. About the same date the dried cuttle-fish were laid bare

as materials violating the important materials Transportation Regulations by the Ihohara District Police Station, Shizuoka Prefecture. It is alleged that as soon as he was informed of this, he visited the Shizuoka Prefecture Government and the aforementioned Police Station, and listened to the circumstances of the exposure. He reprimanded MITSUMA, Superintendent of the said Police Station, and IKUTANI, assistant Inspector in charge of economic matters in the said Police Station, and said that the Police Station had gone too far. He tried to have them pass the contravened materials unnoticed.

And it is contended that the reasons from 1. to 5. in the Second Part fall under Article 2, No.2 of the Judges Impeachment Law, and that he deserves to be dismissed from the position of a judge by way of impeachment.

The gist of the accused's answers for the examination conducted by judges in respect to the aforementioned five reasons for dismissal:

(1) I heard from TANAKA for the first time that while steps were taken to change to Shizuoka Prefecture the "frame" of the dried cuttle-fish bound for Tokyo-to, the fish were seized by the police on the charge of being materials violating economic control, and that it had become a criminal case.

(2) I have no direct connection with this transaction. From responsibility for having been present when the transaction was discussed, and for the purpose of reference,

however, I visited the Fisheries Division of the Shizuoka Prefecture Government on the morning of March 13, availing myself of the opportunity before attending the opening ceremony of the Shizuoka Simple Court the same day. I saw Expert KATAYAMA, and asked how it turned out to be a criminal case, while approval had been granted to change the "frame" of the dried fish. He said, "The Police Station went too far by seizing them."

(3) And as Expert KATAYAMA told me to see SHIMANO, President of the Fisheries Association of Shizuoka Prefecture, I did so. He said that he couldn't catch the situation well, but that the dried fish were seized by the Shimizu Station and steps for valuation were taken on them. Further, he kindly inquired of the Shimizu Branch about the circumstances. Their answer was that, even if there is a legal transfer approval document (a document approving of the change of the "frame"), it is of no use --- something like that.

(4) On that occasion, MURAMATSU, Hideo, a clerk of the Fisheries Association, who was beside SHIMANO, said that, if the dried fish are legal ones, a subsidy of ¥60,000 or ¥70,000 ought to be granted from the National Treasury, for their transportation.

(5) After this visit, I attended the opening ceremony of the aforementioned Shizuoka Simple Court, where I saw Superintendent MITSUMA, Ryohei, of the Ihohara Police Station. At that time I asked him about the circumstances; but he denied any knowledge of the matter.

(6) Further I inquired by phone of the Fisheries Association of the Shizuoka Prefecture which police station had seized the dried fish, and learned that it was the Shimizu Police Station.

(7) As Superintendent MITSUMA's explanation was not at all to the point, I went to the Ihohara Police Station with him, and saw IKETANI, Shinji, Head of the Economic Division of that Police Station.

(8) When I inquired of IKETANI, Head of the Economic Division, he said that, though he was in arrear with a report for the Superintendent, the dried fish have been seized on a charge of violating the Important Materials Transportation Regulations, and that steps for appraisal have been taken.

(9) Under the influence of sake (drunk at the opening ceremony of the court), as I said, "It is unreasonable not to inform the Superintendent of such an important case," IKETANI seemed to be angry.

(10) However, as for me, being unable to say beyond that extent, I asked for an understanding explaining the circumstance that I had not any connection with MOCHIZUKI, Kajuro and HIRAYAMA, both suspects of the dried cuttle-fish

case and TANAKA, not suspect, and the Hamana Agricultural Association.

(11) On that occasion, I pointed out that the police went too far which was said by KATAYAMA, technical official of Shizuoka Prefecture and the approval of transfer (approval for the change of "frame") was offered by Tokyo Metropolitan Government, and emphasized that the said cuttle-fish were legal: My voice might have been somewhat in a harsh tone but I did neither forcibly demand the case to be passed over untouched nor made a heated discussion.

Among the questionings of the presiding judge in relation with the dismisal, those deemed important are as the following:

Question: By whom were the travelling expenses, etc., to Akita paid?

Answer: They were paid by myself.

Question: In connection with this transaction, had you any promise to receive an offering of profit from those concerned?

Answer: No, I had never obtained such a promise.

Question: Explain your mental process while you were being involved into the case step by step.

Answer: The reason why I resolved to go to Akita was to show my recovered health to those persons who gave me warm help during my illness in Akita and to thank them. At that time, as I was asked by TANAKA, lawyer, to introduce him to my acquaintances in Akita, I accompanied him, taking advantage of that

opportunity. Such being the case, although I went to Akita with him, I only introduced ASARI, Suekichi to him. Having no interest at all, I never had any connection with the business transactions of TANAKA and others. On my returning to Shizuoka, I missed the train and took a stroll. On the way, I visited NAGASAWA, president of the Marine Products Industry Association, at his office, though I had no need to call on him. At this time, Nagasawa mentioned the Taihei Maru. Started from it, TANAKA asked for the transportation of "herring meal", and it caused the necessity to meet HIRAYAMA Yukichi. Asked by TANAKA, I accompanied him to HIRAYAMA's. It would have been very fortunate for me if the talks at that time had been only confined to the transportation of"herring meal", but HIRAYAMA talked on dried cuttle fish, and TANAKA agreed. I didn't think that it was such an important transaction, but afterward, as HIRAYAMA forwarded the dried cuttle-fish to Shimizu Port, Shizuoka Prefecture, which were meant for Tokyo, I was much worried about it. Although the cuttle fish were sold to the Abe Agricultural Association through MOCHIZUKI, Kajuro, I received a telagram from HIRAYAMA, to the effect that "Your help is requested." As my character is to do things to the last, I was inevitably involved too far into the case. At the time when the cuttle-fish were in transaction, I was with the parties. Keenly feeling this responsibility, I thought that I should bring these mislead cuttle-fish into the legal channel, with the result that I went too deep into the case

without knowing that it was too extreme and unjust as a judge.

Question: Don't you think at present that you went too deep into the business transaction as a judge?

Answer: At that time, I didn't think that it was unjust as a judge, but as the result of successive examinations, I think that I went too far. However, it was inevitable from my character.

Examinations on the next public trials:

1. Sept. 25 One witness is to be questioned in Shimuda City, Shizuoka Prefecture (two persons of judges on duty)

2. Sept.27 Examination of evidences at public trial
(evidences 4
witnesses 7 persons)

Sept.28 Examination of evidences at public trial
(witnesses 6 persons)

Sept.29 Examination of evidences at public trial
(witnesses 9 persons)

Sept.30 Examination of evidences at public trial
(witnesses 4 persons)

With the above-mentioned examination of evidences, the examinations on facts and evidences are scheduled to end. Then, the period of making a written examination will be about ten days. Following to it, the argument of the Indictment Committeeman and the pleading of lawyers will be conducted. After the oral discussions, about seven days will be set

aside for the period of making the decision. The decision is scheduled to be given in October.

Ob. Wilson

Sept. 17, 1948
D.K.

A View on the Case concerning improper Judgement by a Judge Kenjo Mabuchi of the Osaka District Court.

1. The case in question concerns a pending case of habitual theft (pickpocket) by Jiman Kim (Korean) and three others, filed with.

Of these four accused, three are confirmed criminals with more than three previous convictions.

Judge Mabuchi of the Osaka District Court, as a Judge in charge of this case, admitted to bail them on May 15, 1948, just after the fact examination in the first trial, but all the three persons did not appear to the court on June 3 of same year, the day of sentencing the verdict. At that time they fled already and are now at large.

Moreover, they were sentenced as follows:

5 years imprisonment for Jiman Kin, four years, and three years six months' imprisonment for two others respectively and two year's imprisonment only for Sekikon Kin who has no previous offence.

2. It is extremely difficult for policemen, in my opinion, to arrest pick pocket criminals and indeed especially so in the case of habitual offenders with many former convictions. Nowadays pickpockets are rampant by taking advantage of bustle and confusion in the streets, electric cars, trains, etc. Cases of falling victims to pickpockets happen one after another and social uneasiness is steadily mounting. All these really are beyond description. For all that, the percentage of arrest is extremely poor, because the difficulty of arrest is so great that it is nearly next to impossible to arrest in spite of pains taken therein.

The criminals, especially the habitual offenders, whom the policemen have succeeded in arresting after so much hard work, should be tried and declared sentences upon by judges during the criminals' detention and such sentences be executed, all as soon as possible. Should they be given freedom even for one day during their detention, social security would greatly be menaced, it must be said.

3. In this case it is not hard to infer that the policemen arrested the accused only after all the pains they had taken. Judge Mabuchi, however, allowed bail to the accused above mentioned, who are habitual pick pocket offenders, in compliance with the application presented by the counsels of Ota Hirotaro, Yamamoto Ryoichi and three others and gave to the accused the liberty of bodies on May 15, 1948.

Meanwhile, before June 3, this year, the day of the sentence, all the accused had run away and, of course, did not appear in the court. Surprised at the decision of allowing bail, the procurator appealed on May 17 to the Osaka High Court for his proposal which was done immediately to suspend the bail was turned down by the judge in charge. As the result of the appeal, the decision to suspend the bail was delivered on June 3 as insisted upon by the procurator, but it was too late, and there was no means to save the situation, because the accused had already run away.

4. Although bail is the system admitted on the basis of the principle of respecting human rights of the accused, there exists in itself a limit to the principle. This is the matter not to be considered in the benefit of freedom of the accused alone, but it is the matter which should be decided taking the maintenance of public safety into consideration, in other words, for the sake of public welfare. Only measures standing on such considerations, can be said real manifestation of democratic government.

Therefore, either the habitual pickpocket or the ex-convict should not be admitted to bail in view of the sort of crime, character of offence and criminal situations.

Although persistent demand for bail may have been applied by the counselor for the accused in this case, it should not be granted. If admitted, it can not be said that such disposition would comply with the true respect of human right and real democracy.

Furthermore, the judge is said to have been moved by the remarks of Mr. Ohta, counselor, and his intimate friend ie. "Mr. Kin so-and-so, chairman of the Koreans Federation told him that the accused expressed his satisfaction with the way of trial by Chief Judge Mabuchi."

The fact that the judge told the above situation to the judge Tsuji who was authorized by the judges conference for allotment of the Osaka Local Court cases to be in charge of the case, and took over this case rather privately from Judge Tsuji is an improper action done intentionally.

He is pleading himself that he gave credit to the counselor's pledge to guaranty the persons of the accused on the risk of his position, however, transfer of the charge of case requires the approval of the judges conference.

In admitting to bail, it is a matter of course to do it deliberately to take the words of counselor, and furtheremore, it is an unwritten rule to be observed by the judge to take most carefully the character and limit of the case into consideration.

It must be said that the action taken by Judge Mabuchi, as having threaten public safety by improperly admitting bail against the above rule and having caused the unprecedented appeal by the procurator to the Osaka High Court, was really against the duties of judges.

September 14th, 1948.

Chairman of the Impeachment
Committee.

Mataichi Nakamura

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The criminals, especially the habitual offenders, whom the policemen have succeeded in arresting after so much hard work, should be tried and declared sentences upon by judges during the criminals' detention and such sentences be executed, all as soon as possible. Should they be given freedom even for one day during their detention, social security would greatly be menaced; it must be said.

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September 14th, 1948.

Chairman of the Impeachment
Committee.

Mataichi Nakamura

16 Sep

Dr Williams:

Attached is copy of Impeachment Court Regulations a

and comments appertaining thereto from LS.

RGB

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

ROUTING SLIP

FROM: G S DATE: 1 Sept 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:

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

Attn: LS / L+J (Order)
This is revised draft.
Brown
26-6076

FEC AGO Form No. 14 (1 July 48)

GOVERNMENT SECTION
Buck Slip

15 Dec 1948

From:
No:

		INITIAL	DATE
___	CHIEF		
1	EX OFF		15
___	Deputy Chief		
___	Maj Rizzo		
___	Chief Adm Div		
___	Statistics & Review Br.		
___	Civil Service Div		
2	Parl & Pol Div		
___	Public Adm. Div		
___	Public Aff Div		
3	File		
___	Chief Clerk		
___	Personnel Clerk		

FOR:

1-2	INFORMATION
___	NECESSARY ACTION
___	ACTION (PREPARE REPLY)
___	APPROVAL
___	SIGNATURE
___	INITIAL
___	COMMENT OR CONCURR.
___	RETAIN
___	RETURN
3	FILE

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

ROUTING SLIP

FROM: LS DATE: 14 Sept 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:

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

FEC AGO Form No. 14 (1 July 48)

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Legal Section

14 September 1948

MEMORANDUM TO PARLIAMENTARY AND POLITICAL DIVISION

SUBJECT: The Impeachment Court Reguletions

The following comments and suggestions are made regarding subject regulations.

a. In Article 2, either strike the phrase "and other reasons" or amend it to specify the reasons.

b. In Article 3 and Article 11, the phrase "Legal Action Committee" should be amended to read "Impeachment Committee" to conform to the law.

c. In Article 4, par 2, Article 5, par 4 and Article 6, the words "some modifications are too indefinite. The Japanese text may mean "mutatis mutandis" or "necessary modifications", either phrase being satisfactory. If not amendment to that effect should be made.

d. Article 13, par 3, Item 2 is meaningless as presently worded. This may be due to faulty translation, and if so, the english text only need be corrected, otherwise amendment is necessary.

A. C. Oppler By JLB
A. C. OPPLER, Chief
Legislation & Justice Division

Prepared by
Frank C. Novotny
Frank C. Novotny
Capt. Inf.

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

ROUTING SLIP

FROM: GS/PPD DATE: 8/25 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 — Oppler
Inspector General	Nat Resources
Judge Advocate	Public H & W
Medical	Reparations
Ordnance	Stat & Rpts

FOR:

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

FEC AGO Form No. 14 (1 July 48)

DRAFT

The Impeachment Court Regulations ~~(draft)~~ House of Councillors

Article 1. The procedures for examination and trial in the Impeachment Court, except those determined by the Judge Impeachment Law (hereinafter referred to as the Law), shall be determined by the present regulations.

Article 2. The documents relative to a case must not be made public prior to examination in court, except in cases where it is regarded as proper in view of their necessity for public good and other reasons.

Article 3. Suspension of the function of a judge, against whom a legal action for dismissal has been instituted under Article 39 of the Law, shall be made by decision.

When the decision has been made as prescribed in the foregoing paragraph, it must be notified to the judge against whom the legal action for dismissal has been instituted, the court to which that judge belongs (if the judge against whom the legal action for dismissal has been instituted is a judge of a summary court, to the district court which has that judge under control), the Supreme Court, and the Legal Action Committee.

Article 4. A protocol must be prepared as regards the inspection provided for in Item 2, par. 5, Article 29 of the Law.

The provisions of Article 58 and Article 59 of the Code of Criminal Procedure shall be applied with some modifications to the protocol mentioned in the foregoing paragraph.

Article 5. Forwarding shall be done by delivering the original or attested copy of the document to be forwarded to the person to whom the document is addressed.

The business pertaining to forwarding shall be handled by the "sanji" or "shuji".

Forwarding shall be done by mail. However, to the person who has made his appearance in connection with the case concerned delivery may be made by the "sanji" or "shuji".

As regards forwarding by mail the provisions of par. 2, Article 162, par. 1, Article 169, Articles 171-173 and Article 177 of the Code of ~~Penal~~ Criminal Procedure shall be applied with some modifications.

Article 6. As regards preparations for examination in court the provisions of Articles 320-326 and Article 328 of the Code of Criminal Procedure shall be applied with some modifications.

Article 7. When evidence has been produced of the cause of dismissal in respect of a case, a decision shall be given for dismissal by judgement.

When it is admitted that there exists no cause of dismissal, a decision must be given to the effect that no dismissal is made.

In any of the following cases, a legal action for dismissal shall be rejected by judgment:

1. Where the person had no jurisdiction over the case.
2. where the procedure taken for a legal action for dismissal is not in conformity with the provisions of procedure and is invalid.
3. Where the legal action for dismissal is not in conformity with the provisions of Article 12 of the Law (concerning the period for instituting a legal action).

In case where the judge against whom a legal action for dismissal was instituted has died, the legal action shall be rejected by decision.

4. Where a legal action for dismissal is brought in respect of the same cause of which a judgment has already been given.

Article 8. Notification of a trial may be made by forwarding a copy of the text of the judgment, except in cases where it is made in court through pronouncement.

Article 9. Sentence on a case shall be passed by the chief Judge. In pronouncing a sentence, the text of the judgment and the reasons must be read.

Article 10. When the person who has been given judgment for dismissal is to apply for judgment for restitution of qualifications, he shall produce to the impeachment court a statement of application, an exemplified copy of the judgment for dismissal, and the original or exemplified copy of documentary evidence, in case there is such evidence.

In the statement of application as mentioned in the preceding paragraph shall be stated the following matters and the statement shall be signed and sealed by the applicant.

1. The name, occupation and address of the applicant.
2. The purport of the application and its cause.
3. The date of application.

Article 11. The impeachment court, on receipt of application for restitution of qualifications, shall notify it to the Legal Action Committee.

Article 12. The decision for restitution of qualifications shall be given by judgment.

Article 13. When, with respect to an application for restitution of qualifications, it is admitted that there is evidence of the cause

as mentioned in Item No.1 or Item No.2 of paragraph 1 of Article 38 of the Law, a decision must be given for the restitution of qualifications by judgment.

When, with respect to an application for restitution of qualifications, it is admitted that there is no cause as mentioned in the preceding paragraph, a decision must be given by judgment to the effect that the application is rejected.

In any of the following cases the application for restitution of qualifications must be rejected.

1. Where the application for restitution of qualifications is not in conformity with the prescribed procedure and is invalid.

2. Where application for restitution of qualifications has been made again in respect of the same cause in respect of which application for restitution of qualifications has been made.

3. When the person applying for restitution of qualifications has died.

Supplementary Provision

These Regulations shall be put into effect as from the day of promulgation.

REGRADED UNCLASSIFIED BY 1183 SEC. 3(E) AND 3(D) OR (E) MDG # 775 072

Draft— HC 8/14/48

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copy to LS for comment, 8/25/48

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 3(D) OR (E) NNDG # 775 072

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DECLASSIFIED E.O. 11652 SEC. 3(E) AND 3(D) OR (E) NNDG # 775 072

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DECLASSIFIED E.O. 11652 SEC. 3(E) AND 3(D) OR (E) NNDG # 775 072

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Supplementary Provision

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DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775 012

B

November 15th, 1948.

Dr. J Williams
Chief of Parliamentary & Political Division
Government Section, GHQ

Re Investigations into the managment etc. of procuratorial and trial businesses.

Dear Sir,

I have the honour of forwarding you enclosed reports on the summarized substances of the several cases into which we have so far informally inquired with respect to the above-mentioned subject for investigation.

In this connection, I want to inform you that the Committee has decided to begin with the following four cases in consideration of the duration of the Diet session and other circumstances. (Reference is made to the Report on the process of the Committee working dated November 11th.)

(1) Alleged delinquency of Public Procurators in charge of examination of Showa Denko Scandal.

(2) The case of Takesaburo Miyagi.

(3) On the site of the Kofu District Chief Public Procurator's official residence.

(4) The case of Matsuo Sasaki.

I remain, yours faithfully.

Osamu, Ito
Chairman of Attorney General's Committee
House of Councillors.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 3(D) OR (E) NNDG # 775 072

Alleged Delinquency of Public Procurators in Charge of Examination of Showa Denko Scandal

Some of the public procurators in charge of the examination of the Showa Denko (Showa Electric Industry Co.) scandal are said to have received treats from the advocates and other persons concerned. Part of such procurators have already had to retire from their posts at their own request. It is necessary to clear up the facts of the matter.

DECLASSIFIED E.O. 12065 SEC. 3(E) AND 3(D) OR (E) NNDG # 795 072

The Case of Takesaburo Miyagi

In addition to the taking up of the official posts such as the vice-president of Sendai Land Demarkation Adjustment Committee, the president of Crime-Preventing Association in front of Sendai Station and the member of Association for Promotion of Industry and Commerce of Sendai, Takejiro Miyagi is the proprietor of Miyagi Hotel in front of the Sendai Station and the keeper of many other hotels and restaurants. He is a man of respectable fortune. Nevertheless it is rumoured that he is a gambler who had previously been convicted several times and a local boss of the gamblers. And he is shrewd enough to get into favor of the members of procurators' office by rendering good offices for the supply of goods such as rice and miso and for the getting of board and lodging. As a result of it the procurator of Sendai Local Procurators' office is inviting the public suspicion on the following facts:

1. In order to carry out his insistence representing the local interested party in favor of a straight line instead of curb for the road in front of the Sendai Station, Muneo Miyagi, son of Takejiro Miyagi had tried to bribe the municipal councillors concerned with about a million yen. It was in March, 1948 that Muneo Miyagi was arrested by the Sendai Local Procurators' Office. While his examination being completed during June 1948, the case is still remains unsettled.

2. During the spring of 1948, the said procurator has accepted 50 or 60 thousand yen from certain cotton dealer in Sendai under the pretence of helping him to be admitted to bail in connection with his economic offence.

3. In September, 1948 the said procurator has accepted money from Yoshisaburo Kutani, director-general of the Federation of

DECLASSIFIED BY: NSA/CSS SEC. 3(B) AND 3(D) OR (E) MDR # 79-072

Distributing Unions of Textile Goods in Miyagi Prefecture, under the pretence of helping him to be admitted to bail in connection with his usurpation crime.

DECLASSIFIED NLS E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNSC # 775 072

On the Site of the Kofu District

Chief Public Procurator's Official

Residence

Mr. Kuro Ikeda, Chief Public Procurator of the Kofu District Office is suspected of having made a contract with a man named Bunichi Kamimura that the site of the Chief Public Procurator's Official Residence, which is now situated at a busy street in Kofu City, should be exchanged for a residencial site in the suburbs, on the condition that the same residence of the Chief Public Procurator should be removed there, and four public procurator's residences and a chauffeur's house should be newly built in the same site and be presented to the Office. By this contract, it is also suspected that a great excessive profit was allowed to Kamimura, who had been a nameless and penniless person before, but amassed a vast fortune after the war and established a cinema theatre called Orion Palace at next door to that official residence making himself its president. He was moreover sentenced to ¥100,000 penalty and two years' imprisonment with three years' probation in July, 1947, on the charge of black-marketed wine. Mr. Ikeda has purchased 2,400 cho of the Imperial gift prefectural forest in order to establish the Foundation Boys' Town, to which Kamimura made a donation of ¥1,000,000, a fact which deapens the suspicion.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 3(D) OR (E) NNDG # 775 072

The Purpose of the Investigation into the Honjo Case

With reference to the Honjo Case (a case in which Waichiro Oishi, member of the Town Assembly of Honjo, Saitama Prefecture, member of the Judicial Protection Commission, and director of the Police Association assaulted and injured Tadao Kishi, a reporter of the Asahi stationed at Honjo Town), and the banquet held at Toyouke Town, Gumma Prefecture, one 'ri' distance from Honjo (to which were invited a procurator and policeman by some textile manufacturers, who allegedly wished to have their illegal transactions hushed up), a sharp comments were made that the procurator and policeman charged with the examination of these cases had exercised their duties improperly by listening to the solicitation of aforesaid Waichiro Oishi, a boss in the neighborhood of Honjo, who had usually frequented the procurator's office and police station and won over the officials concerned there. The purpose of this investigation, therefore, is to see the propriety or otherwise of the way of handling the cases on the part of the procurator and policeman, of their conducts as officials charged with procuratorial business, and of the investigation into the matter of the competent Higher Public Prosecutor's Office and the Public Safety Commission.

DECLASSIFIED: NLS 2-13-1052 SEC. 3(E) AND 3(D) OR (E) NNDG # 775 072

Yamada of the same street were arrested by the City Police on the charge of illegal business, he swindled them out of ¥ 30,000 under the same pretext as above-mentioned. Besides, he is suspected to have committed blackmails and frauds against more than ten merchants in Fukushima City who were charged with illegitimate business transactions. It is on these charges that Kitajima has been apprehended by the Fukushima City Police. The relations between Kitajima and the Public Prosecutor's Office are regarded with suspicion by most citizens of Fukushima.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 775 072

Genichi Kitajima Case in Fukushima

Genichi Kitajima, No.1, Mansei-cho, Fukushima City, is a showman exercising a suspicious influence under the name of "Kitajima of Fukushima". When Mr. Shimizu was chief of the Fukushima District Public Prosecutor's Office, Kitajima got in contact with this Office and in the recommendation of this Chief Public Prosecutor was appointed member of the Judicial Protection Committee in June, 1947 in spite of the fact he was a person with four previous convictions. Besides, he became a secretary of the Fukushima City Cooperation Society, a director of the Fukushima Juvenile Guidance Society, and the Chief of the Okitama Juvenile Consultation Center.

Subsequently, acquainted with Mr. Oshima, the present Chief of the Fukushima District Public Prosecutor's Office, Kitajima used to visit Mr. Oshima's Office so frequently that he came to be know as a prosecution broker so to speak, with the nickname of "Prosecutor Kitajima". He always boasted of his relationship with the Prosecutor's Office saying, "With the Police office I am powerless, but I can take any case in hand in so far as it is concerned with the Public Prosecutor's Office". In August, when Mr. Toyohachi Nakamura, a tyre repairer No.23, Yatsurugi-cho, Fukushima City, was apprehended on the charge of illegal dealing in mobile oil, Kitajima obtained ¥ 3,000 from him on the pretext of using the money in an effort to persuade the Prosecution Office to abandon the case. When Mr. Shohei Inoue, proprietor of Tetsuya's Branch store at Okitama-cho; Fukushima City, Mr. Shuzo Inoue, proprietor of the Tetsuya's Main Store at Nakano and Mr. Shintaro

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 3(D) OR (E) NNDG # 75-072

Katsuma Case

Judicial action for unlawful detention and injury against Katsumi Katsuma and two others, now under trial in the Osaka District Court (Court of first instance).

Katsuma, the accused, is the proprietor of Katsuma Sangyo-sha, of Izumi Sano City, Osaka prefecture, carrying of chiefly the manufacture of fish manure and fishery, and he is a boss of some influence in his locality.

The alleged case is this: The accused has unlawfully kept in custody a debtor who has failed to pay the price of manure sold, and has assaulted him with voilence. The injured person complened the matter to the local communal police (the Izumi Sano-shi Police Station) but, strange to say, the police officers, not taking steps forthwith to investigate the real position of the case, called by telephone the accused to the police office, and confronted the injured person with the accused, and then not taking up the complaint of the injured person, but declaring that the case was of trivial matter, let the both persons go. On the way home from the police station, the accused again kept the injured person in custody.

The accused is a man of some influence in the locality and he is said to have made some contributions of maney to the police and others, and when these facts and other various circumstances are considered, there is some point of suspicion as regards the relation between the accused and the police. More than one month has passed since the accused was arrested, but, though there is a rumor that

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 773 072

among the suspicion the chief of the police station has disclosed has intention to resign the post, he has not yet taken any step to acquit himself of his responsibility.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDG # 793 072

Zugoshi Case

The case relative to Riichi Zugoshi, a boss gambler, of Higashi-shichijo, and two other, accused of blackmail and violation of the Firearms, etc., Possession Prohibition Ordinance.

The case is now under trial at second instance in the Osaka High Court. Notwithstanding the fact that the decision of the first instance was delivered in October, 1947, the instrument of judgement was written in August, 1948, ten months after the sentence. Moreover, the accused is now being released on bail on the ground of his illness.

The said person is afflicted with the chronic disease of acute peritonitis and suffers frequently from a fit. But while out on bail he is said to have been found making activities, riding on a bicycle, on the occasion of quarrels among some villagers. He failed to appear in court at the date of the public trial on pretext of his illness, which is causing a considerable delay in the trial.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 3(D) OR (E) NNDG # 775 012

RS

Yanagawa Case

This case originates from the murder of Seiji Taki, boss of the gambling companion composed of some 50 or 60 followers, by Shigemi Matsunaga and others, followers of Takashi Ogishima, boss of the opposing force comprising about same number of followers. The address of Seiji Taki is Okiha-mura, Yamakado-gun, Fukuoka Prefecture and that of Takashi Ogishima is Yanagawa-cho, Yamakado-gun, Fukuoka Prefecture.

Attempting the revenge on Ogishima, Hango Inoue and Shigere Morofuji, sworn brothers of Taki, with the assistance of their fellow followers, attacked the residence of Ogishima with pistols, handgrenades and dynamites etc., on April 2, 1948. After a confused sighting with the party of Ogishima, they set fire to Ogishima's house and eventually killed Hideo Hamazaki on the part of Ogishima.

At the time of occurrence the setting out of police force was delayed about an hour and half, arriving on the spot after the dispersion of attackers, and Ogishima is the vice-president of Yanagawa town-council and an influencial boss. From these facts the police and procurator are under the general suspicion that they have some connection with the boss.

DECLASSIFIED E.O. 11652 SEC. 3(E) AND 5(D) OR (E) NNDC # 79-072

Dr. W. Hian

Copy sent to L S (Novotny) 11/12/48

Impeachment Court.

November 11th, 1948.

Report on the Proceedings of Examination of the Indictment for Dismissal of Judge AMANO

I. The summary of the proceedings of examinations made until Sept. 30 of this year has already been reported. At the trial of Oct. 23 the following witnesses were summoned for questioning.

1. Regarding the circumstances under which the notice of absence and the application of absence was dealt with in connection with the first reason for dismissal, the following witness was called in by authority of the court:

TAKAHASHI, Takeo, Secretary in the Hamamatsu Court.

2. Regarding the items 1 and 3 of the second reason for dismissal, the following witness was called in upon the demand of the Indictment Committee:

NAGASAWA, Ryokichi, President of the Akita Prefecture Marine Products Association.

3. Regarding the progress of investigation into the violation case of the Regulations for Important Commodities Transportation Certification, in which Judge AMANO was involved in connection with the shipments of 2,000 kan of cuttle-fish, as well as AMANO's refusal to issue a warrant demanded by Procurator OOKUBO, the following witness was called in by authority of the court.

SHIRAKAMI, Hiroshi, Chief Procurator of the Shizuoka District Procuratorial Office.

4. Regarding Judge AMANO's refusal to issue a warrant demanded by Procurator OOKUBO, the following witness was called in under the authority of the court:

KUNOMATA, Tsuneyasu, Senior Procurator of the Hamamatsu Procuratorial Office.

5. Regarding whether or not the witnesses who were under suspicion really escaped, the following Witnesses were called in under the authority of the court:

IIDA, Torabana,

TSUJI, Yoshitaro,

II. Date for the next trial.

1. In the moring of November 15.

Regarding matters concerning item 4 of the second reason for dismissal, the following Witness will be summoned upon the request of the defense counsel.

MATSUMOTO, Kashiro, lawyer.

Regarding the character and personality of Judge AMANO, the following Witness will be summoned upon the request of the defense counsel.

NAGANO, Kiyoshi, Director of the Civil Litigation Bureau, Attorney General's Office.

In the afternoon of the same day the Argument of the Indictment Committee Chairman will be made.

2. In the morning of November 16.

Pleading by four defense counsels.

In the afternoon of the same day.

Final questioning of the acaused, and conclusion of the trial,

3. The decision of the court will be given around the end of this month.

III. Synthetic report on the proceedings of examination.

1. The number of trials ----------9.

Already held ----------7.

To be opened hereafter ----------2.

2. Persons questioned at the court.

the accused -------twice (already questioned once.)

witnesses ----------5 times (28 persons)

Witnesses expected to be summoned hereafter ----------one time (2 persons)

3. Questioning conducted outside the court.

Witness ----------one time (1 person)

4. Number of material evidence

----------21.

TF

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November 11th, 1948.

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November 11th, 1946.

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2. Persons questioned at the court.

the accused -------twice (already questioned once.)

witnesses ----------5 times (28 persons)

Witnesses expected to be summoned

hereafter ----------one time (2 persons)

3. Questioning conducted outside the court.

Witness ----------one time (1 person)

4. Number of material evidence

----------21.

Dr Williams:-
1. Attached report received from H.R. today -
2. Do you want to send a copy to L.S.?

RJS

3 Nov '48

B

House of Representatives

Nov. 1, 1948.

The trial for impeachment against Judge AMANO, Toshiichi, Hamamatsu Branch Office, Shizuoka District Court, was nearly completed on October 23, 1948, and the testimony of 2 witnesses who have no direct connection with the main points of this case is slated to be heard on the morning of November 24, to be followed by prosecution by the Chairman of the Impeachment Committee. The factual particulars of this case and application of law thereto are as per the separate statement of opinion attached hereto.

October 25, 1948.

NAKAMURA MATAICHI,

Chairman,

The Indictment Committee.

The Indictment Committee Chairman's opinion is herewith expressed as follows on the trial for impeachment against Judge AMANO, Toshiichi, Shizuoka District Court.

1. The most remarkable characteristics of the New Constitution as compared with the Meiji Constitution are that a fundamental independence is secured for the judicial power, the authority of the court is elevated, the judges' treatment such as remuneration, etc. is placed above that of the general administrative officials and the Supreme Court is made a true watchman for the Constitution. The judges therefore should exert efforts in the judicial branch for truly being public servants who have been vested with the supreme trust of the people and discharge their highest duties by displaying excellent abilities and an upright and independent spirit. Those, who at all hold office of judges, should be mindful of the great bearing that court trials have on the interests and welfare of the country, and devote themselves to their duties with utmost fairness so that they may meet the expectations of the people.

Should the judge come to lose the people's confidence through neglect of duty, he would be disqualified for a judge. The Judge Impeachment System was herewith instituted by the New Constitution, and

1) when the judge fails to fulfill his official obligations to a considerable extent or exceedingly neglects

his duties, or

2) when the judge comits such a misconduct, whether inside or outside of the court, as will exceedingly compromise his dignity as a judge,

the Impeachment Committee shall examine the matter and execute indictment against him. The Impeachment Court, when it recognizes the case justifiable for prosecution upon examination, shall resort to trial for his removal from office.

Expecting the desired results to be obtained as a matter of course through the existence of this system we earnestly desire that the judge always be fully conscious of being a public servant and stand in such a relation with the people as they will heartily repose confidence in him, and that he all the more display the honorable tradition of our court which can boast to the world of its dignity and fairness in trial.

2. The Indictment Committee considered Judge AMANO, Toshiichi's act amenable to his dismissal, and brought the case to trial through indictment as the first case under this system.

If at the time when this case occurred the revised and added provisions of Article 15 of the Judge Impeachment Law had existed, we firmly believe that the Chief Judge of the Supreme Court would have asked the Indictment Committee for indictment against him.

We reiterate that it is indeed a matter for great regret that the Indictment Committee was obliged to take this matter up as a judicial case and finally to resort to indictment.

3. The Indictment Committee began factual investigation on Judge AMANO's application for resignation by a sub-committee in accordance with the decision of the conference of May 1, 1948. Based on its report, the Indictment Committee, considering the case worth to be indicted, decided on May 25 to subpoena witnesses. From June 2 to 5 AMANO, Toshiichi himself was examined and testimony of NAKAJIMA, Sho and 23 other witnesses was heard, as the result of which indictment was decided upon after discret deliberation. On July 1, a written indictment was submitted to the Impeachment Court. The Impeachment Court accordingly held a public trial on September 6 and 7 when AMANO, Toshiichi's deposition was heard. The witnesses' testimony was heard on 5 days, i.e. from September 27 to 30 and on October 23, and is further slated to be heard on November 24. It is a matter for congratulation for the start of the Impeachment System that an extremely discreet examination has thus been performed.

4. Now we proceed to the main issue of the prosecution.

As grounds for the dismissal of AMANO, Toshiichi, Judge of the Shizuoka District Court, we can give the following two reasons.

First: He left his post on a trip to Akita City during the period from Jan. 6-13, 1948 without taking the necessary procedure for either his absence or leave on furlough. This was an obvious violation and remarkable neglect of his duties.

Second: Since then until the middle of March, he endeavoured to assist the conclusion of commercial arrangements, despatched commercial telegrams from his office and participated in the dried cuttle-fish transaction which was against the Regulations for Important Commodities Transportation Certification. This was a misconduct against the prestige of judges.

Actual facts and corresponding evidences pertaining to the above first reason are as follows: Around Jan. 4th, 1948 the accused, AMANO, Judge of the Hamamatsu Branch Office of the Shizuoka District Court agreed in his office to assist lawyer TANAKA, Toyoe, an acquaintance residing in Hamamatsu, concerning the latter's tour with TAKEUCHI, Tetsuo for inspection of industries to the Akita District where AMANO had his previous post as a Judge. They asserted that their tour was connected with the business of the Agricultural Association of Hamana-gun, Shizuoka Prefecture, and wanted to utilize AMANO's influence there.

About Jan. 6, AMANO joined them and left for Akita City. This fact is proved by Evidence No. 2 (Statement by the accused) and the testimonies given in this court by

the accused himself and the witnesses TANAKA and TAKEUCHI. The fact of his absence from his duty during the period from Jan. 6 to Jan. 13 without taking the necessary procedure for either the absence or leave on furlough is proved by Evidences No. 1-3, the attendance-book, the statement made by the accused himself in this court and testimonies given by witnesses NAKAJIMA, Sho, NAGAI, Yusho and HARIMOTO, Kakuichi.

The accused had his notice of absence (Evidence No.5) addressed to the Chief Judge of the court which was to be presented by Assistant-judge HARIMOTO, Kakuichi, but having put it in the drower of his desk he did not present it even after he came back from Akita. It is apparent that he must have been pretending to have the matter left off during the time, anticipating that it would be treated eventually as a "Taku-cho" (home work of investigation) case which is the same in result as attendance at the office. Later on, it was found marked as "Taku-cho" in the book, presumed to have been his own deed and on the other hand the accused did not demand its correction. It was corrected however, after this case came out, according to the testimony by the witness NAKAJIMA, Sho, that "Taku-cho" in the attendance-book was finally changed to "non-attendance".

The time being the beginning of the new year during which few public hearings were expected, practical inconvenience in the office business might not have been

expected to occur by his absence. Nevertheless, the number of judges was small and cases might happen suddenly at any moment or the procurator, for instance, might request a warrant of arrest for any imminent case problble. Under such circumstances, if the notice of absence had been presented regularly, the supervising authority would have been able to prevent troubles which might arise in connection with the vacant post by preparing for counter-measures toward his absence.

From the above point of view, the action of the accused must be recognized as to contain an extreme danger and should not be entitled to admit any extenuation as in the case, for instance, of an instantaneous departure from duty on receipt of a summonning telegram announcing a close relative's critical condition. Thus, it must be decided that he extremely violated his functional duty as a judge.

As a matter of fact, the date of trial for a case of infringement concerning election of the Mayor of Hamamatsu had been designated to take place on Jan. 10 (when he was out at Akita) in a collegial trial with Iida as Chief Judge and Amano and Harimoto as assistant-judges. But on account of his absence, judge Kondo was summoned from Kakekawa Branch Office to take his place and the trial was barely opened. These facts can be recognized by the statement of the accused himself and the testimonies by witnesses IIDA, Shuzo and HARIMOTO, Kakuichi in this court.

Thus, his leaving his post on a tour, indifferent of the designated trial date, must be judged as an exceeding neglect of his duty as a judge.

Then, the second fact and the evidence relative thereto will be shown.

1. In connection with the business transaction which was an aim of TANAKA, Toyoe and TAKEUCHI, Tetsuo, the accused called on NAGASAWA, Ryokichi, president of the Akita Prefecture Fishery Association at his office in Akita City on January 10, the same year. The accused met alone NAGASAWA twice and consulted with him on the transportation of fish dregs to be shipped from Hokkaido. He also called on HIRAYAMA, Yukichi, Chief of the General Affairs Department, the same association at his home and introduced TANAKA and etc., to him and made a consultation on the transportation of dregs of herring to be shipped from Hokkaido with him and TANAKA. At this meeting, he also made efforts personally to make a business contract of cuttlefish in advance. This coincided with the testimonies of witnesses such as TANAKA Toyoe, TAKEUCHI Teruo, NAGASAWA Ryokichi, HIRAYAMA Yukichi, SAGARA Haruo and etc., in this court.

The accused stated that it was TANAKA Toyoe who asked the transportation of fish dregs to NAGASAWA and made a negotiation with HIRAYAMA on the transaction of dried cuttlefish. However, judging from the testimonies of above-mentioned TANAKA and NAGASAWA that Judge AMANO alone entered NAGASAWA's room and talked with him and the testimony of HIRAYAMA that the transaction of dried cuttlefish was conducted between him and AMANO, and TANAKA talked a little on it, AMANO's affidavit can hardly be relied on it.

2. From his returning to Hamamatsu City around the 13th of the same month to the middle of February, the same year, he had exchanged the commercial telegrams with HIRAYAMA for several times under his name for the purpose of arranging the transaction between TANAKA and HIRAYAMA above-mentioned. This fact is recognized in Items 1 - 7 of Evidence No. 7, the affidavit of accused himself and the testimonies of witnesses such as TANAKA Toyoe, HIRAYAMA Yukichi, SAGARA Haruo and ITO Yasukichi. Judging from each of these testimonies, the accused should be recognized that he acted as if he was the real party of the said business transaction. Seen from the testimony of witness, SAGARA, it is conceivable that the accused must have been in the position of party concerned.

3. About on February 13, the same year, HIRAYAMA, above-mentioned, forwarded some 2,000 kan of dried cuttlefish destined to Tokyo to Shimizu Port by on ship in accordance with the above-mentioned business transaction but with the difference of destination, the carge could not be unloaded. As they could not hand over it to the Hamana County Agricultural Association, despite of the premise of the accused HIRAYAMA, being so much worried at last gave up the transaction above-mentioned and made efforts to sell the dried cuttlefish to the above-mentioned association through MOCHIZUKI, Kajuro, his acquaintance, and got a private agreement. Knowing this fact, the accused met with HIRAYAMA at Takeya Hotel in Shimizu City around the 22nd of the same month and forcibly demanded

him to change his mind for several hours. However, as he could not get HIRAYAMA's definite answer, he obstinately asked him for handing over of the dried cuttle fish to the Hamana County Agricultural Association through telephone as often as twice at midnight and next early morning. This fact is recognized in Evidence No. 12 and in the testimonies of witnesses such as HIRAYAMA Yukichi, MOCHIZUKI Kajuro and SUZUKI Kyohei in this court.

4. Furthermore, around the 26th, the same month, the accused called out MOCHIZUKI above-mentioned to MIZUTANI, Uta's home at Shimazaki-cho, Shimizu City. And having asked him to hand over the shipping certificate to him immediately which certificate was necessary to receive the dried cuttlefish and was already given MOCHIZUKI by HIRAYAMA, the accused succeeded in making him to hand over it against his name-card as its receipt. Then, he caused TAKEUCHI, Tetsuo to come up to Tokyo with that certificate and took a step to transfer the dried cuttlefish from Tokyo to Shizuoka Prefecture. This fact is recognized judging from Evidence No. 8 - 9, the name-card which was given to MOCHIZUKI as the receipt, affidavit of the accused himself and the testimonies of witnesses such as TAKEUCHI Tetsuo and MOCHIZUKI, Kajuro.

HW

5. About the same date and time the dried cuttlefish in question were exposed by the Ihohara District Police Station, of Shizuoka Prefecture, as articles against the regulations for authenticating transportation of important goods, and a price was named for them. As soon as the indictee learned this, he went about March 13 th, 1947, to the Shizuoka Prefectural Office, the Shizuoka Prefecture Fishery Association, and the said police station to listen the developments of the matter. He to the Superintendent MITSUMA of the said police station and Assistant Police Sergeant IKETANI in charge of economic affairs of the said police station that the police station ~~that the police station~~ had been going too far, and reprimanded them. Or again he asked them earnestly to leave the illegal goods unnoticed. The fact that he did these actions is clearly recognized through witness MOCHIZUKI's deposition with regard to the movements of judge AMANO, the indictee, before the Indictment Committee, - - "When I told a near-by police-substation, he was said to be a bogus judge: I too did not think he was a true judge." - - and through the statement of witness MITSUMA, the Superintendent - - "That a present judge should touch on such a case! So I thought him to be a very plucky man. - - and through the testimonies given in this court by OSHIMA, Kanezo, IKETANI, Shinji, MITSUMA, Ryohei, SAGARA, Haruo; SHIMANO, Katsuo; and KATAYAMA, Seimei. Sure enough, the indictee has committed a misdeed to lose his prestige as a judge to a marked degree.

Further, while the indictee held office as preliminary judge in the Akita District Court, he took charge of the Akita Dockyard case and other knotty cases and stayed up all night to deal with them. As a consequence, he suffered from severe insomnia, and entered the Akita Prefectural Women's College Hospital around, May, 1947, and was under treatment for some two weeks. But he was transferred to the Hamamatsu Court in April, 1947, and got better gradually by attending the office from a genial climate of his native place Fujieda-machi, Shizuoka Prefecture: he was completely restored to health about October, 1947. Between January to March, 1948, when he made a trip to Akita and was concerned in the dried cuttlefish transactions, he was sound both in mind and body. This is recognizable through the deposition of the indictee himself given in this court and the testimonies of KAKETA, Katsumi and Mrs. AMANO, Tai. He cannot possibly maintain that his acts in this case are attributable to the aforesaid disease.

With regard to the symptoms of the indictee's disorder, KAKETA, Katsumi, a witness, said, "AMANO has melancholy ailments growing out of constitutional nervousness with strong feelings." As regards the indictee's character, OKUBO, Hirotake, a witness, said, "Judge AMANO is very nervous.", and SAGARA, Haruo, a witness, said, "Judge AMANO is a person of intense feeling with nervousness."
The indictee himself has admitted that his character is not fitted for the Bench who judges reason calmly. The telegrams between HIRAYAMA and the indictee afforded as

evidence concerning the transactions of cuttlefish show that messages quite equal to ciphers were used as in the case where even HIRAYAMA who undertook the matter, wired back to say that the contents of a telegram were obscure - with a view to making an inquiry of AMANO. They were aware tacitly that they did not carry on right transactions between themselves. In answer to a telegram from AMANO inquiring about the price, HIRAYAMA telegraphed, "Price 378 which will be decided later after talking over face to face.", and there are sufficient traces of their having provided against the criminal acts coming out.

According to the testimonies produced by witnesses SAGARA, Haruo and SHIRAGAMI, Hiroshi, AMANO himself is investigated as a suspect and the case is unsettled as yet.

The fact that a judge in office is suspected owing to such acts as were mentioned above, is not to be allowed in the light of the dignity of the Bench.

Judges are public officials, but they are free of application of the Public Service Law as ones on the Special Service. The court that is a hall of justice, ought to be kept always clean. It is incumbent upon the Impeachment Court to carry out discipline in the Bench which is out of the reach of people at large.

Judging from all these facts, it is proper that the indictee should be dismissed pursuant to Article 2, No. 1 and No. 2 of the Judges Impeachment Law he ought to be dealt with.

It is earnestly hoped that a right and proper judgment may be passed on him.

HW

Committee for Indictment
of Judges.

Oct. 22nd, 1948

MEETING OF THE COMMITTEE FOR INDICTMENT OF JUDGES

1. Date: Oct. 22, 1948

2. Opened: 11:30 a.m.

3. Closed: 1:30 p.m.

4. Attendance: 15 members.

5. Subjects:

(1) The case calling for the indictment of Naoyoshi Tsukazaki and Saburo Iwamatsu, Judges of the Supreme Court.

(2) The case in the Yonago branch office of the Tottori District Court.

(3) The case calling for the indictment of Eiichi Koizumi and 3 others, Judges of the Tokyo High Court.

(4) The unjust trial case of Judge Mabuchi Kenzo of the Osaka District Court.

(5) The case of Koreans' disturbances in Osaka and the so-called "Dai-Zo" (the Osaka Arsenal) case.

(6) The case calling for indictment against Judge Tomita Chujiro of the Osaka Superior Court.

(7) The case calling for indictment against Teraseko Michitaka, Judge of the Otsuki Summary Court in Yamanashi Prefecture.

(Demanded by the Chief Judge of the Supreme Court.)

6. Results of deliberation.

With regard to the first case, as a result of careful deliberation on the report of the investigations conducted by the four committee members who investigated the case, namely Shiro HANAMURA, Eizo KAWAI, Ryosaku KAJI and Toshio NAKAMURA, it was decided not to indict the two judges.

With regard to the second case, as a result of deliberation on the reply sent by Gakuichi TSUCHIYA, Chairman of the Yonago City Assembly, in answer to the inquiry from this committee, it was decided to dispatch Toshio NAKAMURA to Yonago City as an investigator.

With regard to the third case, no final decision was arrived at as it is still under investigation by Shiro HANAMURA and Koichi YAMAGUCHI, the Committee's investigators.

As to the fourth case, it was decided to summon witnesses to the Indictment Committee.

With regard to the fifth case it was decided to continue further investigations.

As to the sixth case it was decided to dispatch Torazo KAWAI, Sadaaki OSHIKAWA, and Toshio NAKAMURA to Osaka as committee investigators.

With regard to the seventh case it was decided to call witnesses before the Committee.

(Signed) MATAICHI NAKAMURA

Chairman of the Committee
for Indictment of Judges.