

Def. Doc. #2577

ERRATA SHEET

MUTO

3 Nov. 1947

Def. Doc. 2577, p. 6, lines 8 and 9 should read:

On this 10th day of September, 1947

At 1st Demobilization Bureau

Page 6, lines 11 and 16, name "HARA, Seiji" should be "SAKI, Chihiro".

Translated by
Defense Language Branch

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al

-vs-

ARAKI, Sadao, et al

SWORN DEPOSITION(Translation)

Deponent: SAKAKIHARA, Kazuye

Having first duly sworn an oath as on attached sheet and in accordance with the procedure followed in my country I hereby depose as follows.

1. My name is SAKAKIHARA, Kazuye and my address is Ichigaya Honshio-cho, Shinjuku-ku, Tokyo. I am now in the post of Chief of the Personnel Section of the First Demobilization Bureau. When the war ended, I was Chief of the General Affairs Section of the General Staff. Prior to the war, that is, during the period from 1936 (Showa 11) to 1940 (Showa 15), I served as a member of the Personnel Section of the War Ministry, therefore I am fully aware of laws and ordinances concerning the appointments, dismissals, etc. of the servicemen of the Japanese Army and the actual application of them. I will hereinafter depose concerning

the appointments and dismissals of Army officers, among other matters, whether or not they could be relieved of their status or quit office freely at their own will.

2. In the Ordinance Concerning the Status of the Army Officer (Defense Document No. 1337), it was provided for that an Army officer, after being commissioned as an officer, was treated as a holder of a permanent office and accorded the corresponding privileges; while during the term of his military service, he was under obligation to devote himself to military duties, and could not leave his post as he wished, nor was he permitted to enter the reserve list from the active at his will. Now I will state points referring to both 'status' (kan) and 'office' (Shoku).

3. Concerning Permanency of Office.

Article 3 of the Ordinance Concerning the Status of the Army Officer reads:

"The officer, unless he comes under one of the following items, shall not lose his status:

- (1) In case he is relieved of his status at his own request.
- (2) In case he is dismissed by the Imperial sanction on the ground that he acted against his duty as an officer and impaired his honor as an officer.

(3) In case of

ment, except when he was sentenced to less than one year's imprisonment according to the Army Criminal Law or the Navy Criminal Law."

This is a protective stipulation which clarifies that the status of the military officer shall not be lost except in the above three cases. The first item which reads: "In case he is relieved of his status at his own request," does not mean that he will be relieved whenever he merely requests it, but that it is only when his request is permitted by the authorities concerned. And in the actual application of this provision, any request to be relieved of one's status was subject to an iron custom which actually never permitted it though requested. I have heard that there was an instance in which, around the time of the foundation of the Army in the Meiji era, a general who was involved in some criminal case when it was going to be a public affair requested to be relieved of his status so as not to impair openly the honor of the status and he was dismissed. However, since then there has never been an instance of dismissal in accordance with the application of this item.

4. Concerning the 'office' (shoku)

There are four cases in which an officer on the active list is authorized to leave his office: 'Awaiting orders',

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'Temporary retirement from office', 'Suspension from office' and 'Transfer to the first reserve'.

- (1) 'Awaiting orders' was ordered to 'those officers on the active list who were to be placed temporarily out of duty'. (Article 6 of the same ordinance).
- (2) 'Temporary retirement from office' was ordered to 'those whose term of absence from office, owing to wounds or illness, reached six months. In this case, however, such persons might be ordered to Temporary retirement from office' at their request before the term of six months ended. (Article 7 of the same ordinance)
- (3) 'Suspension from office' was ordered to 'those officers who committed an act deserving disciplinary punishment'. (Article 8 of the same ordinance)
- (4) 'Transfer to the first reserve' was ordered to 'those officers under the order of 'Awaiting orders', 'Temporary retirement from office', or 'Suspension from office' due to their health condition or the necessity for replacement'. This 'Transfer to the first reserve' could be ordered at the request of the officer in question only in case he was considered disabled for serving in the active service owing to wounds or illness. (Article 10 of the same ordinance).

Such being the case an officer on the active list was permitted to leave his office only when he requested to be ordered to 'Temporary retirement from office' or 'Transfer to the first reserve' on the ground that he was incapacitated due to wounds or illness from conducting business or executing duties as an officer on the active list. (Article 7, Proviso and Article 10, Clause 2 of the same ordinance).

The procedure in this case is provided for in Article 5 of Chapter 2 of the Regulations Relative to the Application of the Ordinance Concerning the Service of the Army Officer. (Defense Document No. 1335). As for the medical certificate to go with the written request for resignation, it was usually written by a surgeon attached to the unit or the Army hospital in the locality concerned; and then it was to be approved by a superior surgeon attached to the unit, or the director of the Army hospital; and when approved by the Division Commander or a person of equal authority, it was reported to the War Minister. Therefore, it was entirely inconceivable for anyone to feign illness.

5. Such being the case, an Army officer, so far as he was healthy enough to conduct business or to serve in the active service, could by no means leave his office on such grounds as that he cherished views contradicting

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his superior. There might be some cases when a subordinate, held different views from his superior's, he was transferred to some other post. Such transfer was carried out not on his own request, but in accordance with the decision of the superiors concerned when it was deemed just and proper, by way of control or unity of the unit, to transfer him to some other post.

On this _____ day of _____, 1947

At _____

Deponent: /S/ SAKAKIHARA, Kazuye (seal)

I, HARA, Seiji, hereby certify that the above statement was sworn by the Deponent, who affixed his signature and seal thereto in the presence of this Witness.

On the same date

At the same place

/S/ HARA, Seiji, (seal)

OATH

In accordance with my conscience I swear to tell the whole truth withholding nothing and adding nothing.

/S/ SAKAKIHARA, Kazuye (seal)

M 1170

D.D. 2577

辯證圖文書二五七七號

正 誤 表

(勘原主計共述書)

正

誤

三頁トアルハ

二頁ノ誤

二頁トアルハ

三頁ノ誤

極東國際軍事裁判所

亞米利加合衆國 其他

對

荒木貞夫 其他

宣誓供述書

供述者

榊

原

主

計印

ク 自分宣誓書ニ行ハルル方式ニ從ヒ先ツ別紙ノ通り宣誓ヲ爲シタル上テノ如ク供述致シマス

神原主計口供書

一、私の左前は神原主計、任所は東京都新宿區神谷本町であります。私は現亡第一復員局人事課長の職にあります。終戦當時は参謀本部編成課長でありました。その以前昭和十一年より同十五年に至る間私は陸軍省人事局課員として勤務致してまいりましたので、日本陸軍々人の進退等に關する法制及びその運用の實際についてはよく承知致して居ります。以下陸軍將校の進退特に自己の意思を以て自由にその官や職を離れることができたかどうかについて證言致します。

二、陸軍將校は任官後は陸軍將校分限令、

辨證側文書

一三三七號一終身官といふ待遇を與へられ、

により

これに伴ふ恩遇を享受せしめられると共に、在役同軍職に盡す義務を負はされ、按に退官することはもとより、現役から豫備役になることも出来ぬやうになつておりました。そこで私はこれを官と職の双方に亘り退くよりと思ひます。

三、終身官といふ語について

陸軍將校分限令第三條には次の如き規定がありました。

日く
一將校ハ左ノ各號ノ一ニ該當スル場合ニ非レバ其官ヲ失フコトナシ。

六月に及ぶとき命せられるものでありますが、この場合には本人から
 四「六月の期間を待たないで休職となることもできませんでした（第七條同上）
 (3)又停職といふのは「現役將校にし「懲戒すべき行為ありたるもの」に
 命ぜられるものでありませぬ（第八條同上）。(4)豫備役への編入は「待命
 休職又は停職中の將校に対し健康状態又は補充上の必要により一行はれ
 るものでありますか、この豫備役編入については傷痕疾病の爲現役に堪
 へぬと考へられた場合のみ本人の願出によつて行はれることが出来まし
 た（第十條同上）

以上の如くでありますから、現役將校かその軍医から雇はれることを許され
 るのは、唯傷痕疾病により執務又は現役の勤務に堪へない場合に休職又は
 豫備役編入を願はるといふ場合（同上第七條但書第十條第二項）だけに限
 られ「居りました。この場合の手續は医官軍服役令施行規則（附設函文
 書一三三三號）第二章第五條に示されておりますか、退職願に添附する診断
 書は通常陸軍省若しくは最寄陸軍病院の軍医により書かれこれを部員高
 級軍醫又は陸軍病院長が認定し、師團長若しくはこれに準ずる者が判定を下
 し陸軍大臣に上申せられるものであります。師團長若しくはこれに準ずる者が判定を下
 したるものとてありました。

一、本人ノ願ニ依リ其ノ官ヲ免ゼラレタルトキ

二、將校タルノ本分ニ背キ其ノ体面ヲ汚シ勅裁ニ依リ免官トナリタルトキ

三、禁錮以上ノ刑ニ處セラレタルトキ、但シ陸軍刑法又ハ海軍刑法ニ依リ

一年ニ滿ノ禁錮ニ處セラレタルトキハ此ノ限ニアラス

これは陸軍將校たる身分は以上三つの場合以外には之を喪ふことか無いことを明かにした保護規定であります。その第一號の「本人ノ願ニ依リ其官ヲ免ゼラレタルトキ」とあるのは本人の願かあれば免官するといふ意味では無く本人の願かあつ「當局に於「之を許したとき」いふ意味であります而し「之か運用の實際は免官を願ひ出「も之を許さぬ鐵の如き慣行に支配され「あました。私は明治時代陸軍建設當時或る將官が刑事事件に關係し「そのことが表面化しようとしたときに官の名譽を汚さぬために願出「免官となつたことかあつたと聞いて「居りますが、その後は本號の適用とし「免官か發令せられた事例は一度もありませんでした。

四、職に關し「
現役將校がその軍職を去る場合とし「は、待命休職、停職、豫備役編入の四つの場合かありました。

(1) 待命とは「現役將校にし「一時職務に服せしめざるもの」に對し「命ぜられ「第六條同上」、(2) 休職とは「傷痍疾病に因り執かせざること

五

以上のやうな次第でありまして、陸軍將校たるものは、若しその健康にしく職務服従に差支なき限り上官と意見を異にするといふやうな理由でこの官職を解することには絶対にてきないことでありました。上官と意見を異にする部下か他に轉職せしめられたことがあるかも知れませんが之に彼の願ひによるものではなく、統率団結等の見地から他に轉職せしめるのを適當とするといふ判断から轉職せしめられたものであります。

昭和二十二年（一九四七年）九月十日 於第一復員局人壽課長室

供出者 榊 原 主 訂 印

右ハ當立會人ノ面前ニテ宣誓シ且ツ署名捺印シタルコトヲ證明
シマス

同日於 第一復員局人壽課長室

立會人 佐 伯 千 仞 印

良心ニ従ヒ眞實ヲ述ベ何事ヲモ欺秘ヤズ又何事ヲモ附加セザル
コトヲ誓フ

宣誓書

署名捺印
榑原主計印