FEC
19 June 1947

BASIC POST-SURRENDER POLICY FOR JAPAN

This document is a statement of general policy relating to Japan after surrender. It does not deal with all matters relating to the occupation of Japan requiring policy determinations. Such matters as are not included or are not fully covered will be dealt with separately.

PREAMBLE

WHEREAS on September 2, 1945, Japan surrendered unconditionally to the Allied Powers and is now under military occupation by forces of these Powers under the command of General of the Army Douglas MacArthur, Supreme Commander for the Allied Powers, and
WHEREAS representatives of the following nations, namely, Australia, Canada, China, France, India, the Netherlands, New Zealand, the Philippines, the U. S. S. R., the United Kingdom, and the United States of America, which were engaged in the war against Japan, have on the decision of the Moscow Conference of Foreign Ministers met together at Washington as a Far Eastern Commission, to formulate the policies, principles and standards in conformity with which the fulfillment by Japan of its obligations under the Terms of Surrender may be accomplished:
THE NATIONS COMPOSING THIS COMMISSION, with the object of fulfilling the intentions of the Potsdam Declaration, of carrying out the instrument of surrender and of establishing international security and stability,
CONSCIOUS that such security and stability depend first, upon the complete destruction of the military machine which has been the chief means whereby Japan has carried out the aggressions of past decades; second, upon the establishment of such political and economic conditions as would make impossible any revival of militarism in Japan; and third, upon bringing the Japanese to a realization that their will to war, their plan of conquest, and the methods used to accomplish such plans, have brought them to the verge of ruin,
RESOLVED that Japan cannot be allowed to control her own destinies again until there is on her part a determination to abandon militarism in all its aspects and a desire to live with the rest of the world in peace, and until democratic principles are established in all spheres of the political, economic, and cultural life of Japan;
ARE THEREFORE AGREED:

To ensure the fulfillment of Japan's obligations to the Allied Powers;

To complete the task of physical and spiritual demilitarization of Japan by measures including total disarmament, economic reform designed to deprive Japan of power to make war, elimination of militaristic influences, and stern justice to war criminals, and requiring a period of strict control; and

To help the people of Japan in their own interest as well as that of the world at large to find means whereby they may develop within the framework of a democratic society an intercourse among themselves and with other countries along economic and cultural lines that will enable them to satisfy their reasonable individual and national needs and bring them into permanently peaceful relationship with all nations;

AND HAVE ADOPTED the following basic objectives and policies in dealing with Japan:

PART I - ULTIMATE OBJECTIVES

1. The ultimate objectives in relation to Japan, to which policies for the post-surrender period for Japan should conform, are:

a. To insure that Japan will not again become a menace to the peace and security of the world.

b. To bring about the earliest possible establishment of a democratic and peaceful government which will carry out its international responsibilities, respect the rights of other states, and support the objectives of the United Nations, Such government in Japan should be established in accordance with the freely expressed will of the Japanese people.

2. These objectives will be achieved by the following principal means:

a. Japan's sovereignity will be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor outlying islands as may be determined.

b. Japan will be completely disarmed and demilitarized. The authority of the militarists and the influence of militarism will be totally eliminated. All institutions expressive of the spirit of militarism and aggression will be vigorously suppressed.

c. The Japanese people shall be encouraged to develop a desire for individual liberties and respect for fundamental human rights, particularly the freedom of religion, assembly and association, speech and the press. They shall be encouraged to form democratic and representative organizations.

d. Japan shall be permitted to maintain such industries as will sustain her economy and permit the exaction of just reparations in kind, but not those which would enable her to rearm for war. To this end access to, as distinguished from control of, raw materials should be permitted. Eventual Japanese participation in world trade relations will be permitted.

PART II - ALLIED AUTHORITY

1. Military Occupation

There will be a military occupation of the Japanese home islands to carry into effect the surrender terms and further the achievement of the ultimate objectives stated above. The occupation shall have the character of an operation in behalf of the Powers that have participated in the war against Japan. The principle of participation in the occupation of Japan by forces of these nations is affirmed. The occupation forces will be under the command of a Supreme Commander designated by the United States.

2. Relationship to Japanese Government

The authority of the Emperor and the Japanese Government will be subject to the Supreme Commander, who will possess all powers necessary to effectuate the surrender terms and to carry out the policies established for the conduct of the occupation and the control of Japan.

The Supreme Commander will exercise his authority through Japanese Governmental machinery and agencies, including the Emperor but only to the extent that this satisfactorily furthers the objectives and policies stated herein. According to the judgment and discretion of the Supreme Commander, the Japanese Government may be permitted to exercise the normal powers of government in matters of domestic administration, or the Supreme Commander may in any case direct action to be taken without making use of the agencies of the Japanese Government.

After appropriate preliminary consultation with the representatives of the Allied Powers in the Allied Council for Japan, the Supreme Commander may, in cases of necessity, take decisions concerning the removal of individual ministers of the Japanese Government, or concerning the filling of vacancies created by the resignation of individual cabinet members. Changes in the governmental machinery, or a change in the Japanese Government as a whole, will be made in accordance with the principles laid down in the Terms of Reference of the Far Eastern Commission.

The Supreme Commander is not committed to support the Emperor or any other Japanese governmental authority. The policy is to use the existing form of government in Japan and not to support it. Changes in the pre-surrender form of the Emperor institution and in the form of government in the direction of modifying or removing its feudal and authoritarian character and of establishing a democratic Japan are to be encouraged.

3. Protection of United Nations Interests

It shall be the duty of the Supreme Commander to protect the interests, assets, and rights of all Members of the United Nations and their nationals. Where such protection conflicts with the fulfillment of the objectives and policies of the occupation, the government of the nation concerned shall be informed through diplomatic channels and shall be consulted on the question of proper adjustment.

4. Publicity as to Policies

The peoples of the nations which have participated in the war against Japan, the Japanese people, and the world at large shall be kept fully informed of the objectives and policies of the occupation, and of progress made in their fulfillment.

PART III - POLITICAL

1. Disarmament and Demilitarization

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2. War Criminals

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3. Encouragement of Desire for Individual Liberties and Democratic Processes

Freedom of worship and observance of all religions shall be proclaimed and guaranteed for the future. It should also be made plain to the Japanese that ultra-nationalistic, militaristic and anti-democratic organizations and movements will not be permitted to hide behind the cloak of religion.

The Japanese people shall be afforded opportunity and encouraged to become familiar with the history, institutions, culture and the accomplishments of the democracies.

Obstacles to the revival and strengthening of democratic tendencies among the Japanese people shall be removed.

Democratic political parties, with rights of assembly and public discussion, and the formation of trade unions shall be encouraged, subject to the necessity for maintaining the security of the occupying forces.

Laws, decrees, and regulations which establish discrimination on grounds of race, nationality, creed or political opinion shall be abrogated; those which conflict with the objectives and policies outlined in this document shall be repealed, suspended or amended as required, and agencies charged specifically with their enforcement shall be abolished or appropriately modified. Persons unjustly confined by Japanese authority on political grounds shall be released. The judicial, legal and police systems shall be reformed as soon as practicable to conform to the policies set forth herein and it shall be the duty of all judicial, legal and police officers to protect individual liberties and civil rights.

PART IV - ECONOMIC

1. Economic Demilitarization

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2. Promotion of Democratic Forces

Organizations of labor in industry and agriculture, organized on a democratic basis, shall be encouraged. Other organizations in industry and agriculture, organized on a democratic basis, shall be encouraged if they will contribute to furthering the democratization of Japan or other objectives of the occupation.

Policies shall be laid down with the object of insuring a wide and just distribution of income and of the ownership of the means of production and trade.

Encouragement shall be given to those forms of economic activity, organization, and leadership deemed likely to strengthen the democratic forces in Japan and to prevent economic activity from being used in support of military ends.

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3. Resumption of Peaceful Economic Activity

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4. Reparations and Restitution

Reparations

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Restitution

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5. Fiscal, Monetary, and Banking Policies

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6. International Trade and Financial Relations

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7. Japanese Property Located Abroad

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8. Equality of Opportunity for Foreign Enterprise Within Japan

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9. Imperial Household Property

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27 January 1948

MEMORANDUM TO: Brigadier General Courtney Whitney, Chief, Government Section

FROM : Mr. Blaine Hoover, Chief, Civil Service Division

SUBJECT : Activities of Organized Labor in the Government of Japan

This Division has been assigned the mission of constructing a democratic and efficient Civil Service in the Japanese National Government.

This assignment involves a complete reconstruction of the Japanese bureaucracy in form, and at some points changes in personnel. It is a mammoth undertaking because of the character of the upper Japanese bureaucracy. The reform in its external aspects as applied to the Japanese will tax the resources of this Division and the occupation in general. We cannot afford negative elements at any point in our dealing with the Japanese.

In this connection, I direct your attention to a situation which has developed within SCAP which I regard as damaging to that part of the SCAP program for which we carry responsibility.

During the early days of the occupation a Labor Section was constituted in SCAP. It found the Japanese Government defeated, confused, compliant, and uncertain concerning the implications of the new democracy. In this situation the Labor Section was exceedingly successful in securing cooperation on the part of the Japanese Government in the organization of its civil employees and real progress was made. According to the best figures we have been able to obtain there are today in the governments of Japan approximately 26,000 unions with a membership of over 5,000,000 persons, and in the National Government over 5000 unions with a membership of more than 1,000,000. We do not sponsor these figures, which are from the public press, but they are best obtainable and without regard to their precision they indicate that unionization of the employees of government has been substantial.

There is no objection to the unionization of government employees for certain purposes but the purposes for which employees may associate in government are not the same as the purposes for which they may associate in private employment. This is the American pattern. The Japanese unions, however, began to apply in government the pattern of conduct associated with industrial unions including strikes or their equivalent and collective bargaining.

When the United States Personnel Advisory Mission to Japan made its investigations on the Japanese Public Service, it was shocked at violations of good practice in government employment which had been brought about in this way. In its report, among other matters, it directed attention to a situation in which a single ministry there were "approximately 2000 workers

who devote full time to union activities and who receive from the Government the salaries and allowances commensurate with their recorded classifications as government employees. In the law proposed by the Mission various devices, direct and indirect, were included to assist in ridding the government of these and other associated abuses. Amongst them were requirements that civil servants should only perform duties which it was the responsibility of the Government of Japan to perform; a provision removing from the service employees who did strike against the Government of Japan; and a provision for the standardization of wages and salaries on the basis of a scientific plan of classification and compensation to be approved by the Diet. This plan put such decisions in uniform pattern before the only authority that could properly make them in a democracy, viz, the Diet. These recommendations were consistent with the American civil service practice.

Labor legislation removed from certain government employees the right to strike but did not remove the right to collective bargaining nor did it cure many of the associated evils which were maximum sources of confusion and inefficiency in the performance of government workers, and in the National Public Service Law, as passed, certain provisions dealing with the problem were omitted or not dealt with conclusively.

Meanwhile, in the Japanese Government, confusion increased. I direct attention to a report addressed to Col. C. P. Marcum, Chief of the National Government Division, 16 January 1948, at the direction of Mr. Sone, Deputy Chief Secretary of the Cabinet, in which he refers to the "recent movement of government employee unions and its effect on the conduct of official business." (Copy attached.) This memorandum recites a number of instances of concerted failure on the part of government employees to perform duty, including actual refusal to enforce law because of disagreement with overall government policy.

On 30 December 1947, my attention was directed to the fact that the Labor Division of E.S.S. had instructed the Japanese Government to take necessary steps to clarify regulations for enforcement of discipline among white-collar employees of the National Government. We had no objection to the enforcement of discipline - it is critically needed. We informally communicated to the Chief, Labor Division, that problems associated with the discipline of government employees were within the jurisdiction of the Government Section. Nevertheless, without referral to us, the statement on enforcement of discipline upon Government employees approved by that Division was approved by the Cabinet.

We object to the activities of the Labor Division, E.S.S. in this area as:

1. Out of jurisdiction and designed to cause confusion in the proper development and enforcement of the National Public Service Law.

2. Un-American in pattern.

who devote full time to union activities and who receive from the Government the salaries and allowances commensurate with their recorded classifications as government employees. In the law proposed by the Mission various devices, direct and indirect, were included to assist in ridding the government of these and other associated abuses. Amongst them were requirements that civil servants should only perform duties which it was the responsibility of the Government of Japan to perform; a provision removing from the service employees who did strike against the Government of Japan; and a provision for the standardization of wages and salaries on the basis of a scientific plan of classification and compensation to be approved by the Diet. This plan put such decisions in uniform pattern before the only authority that could properly make them in a democracy, viz, the Diet. These recommendations were consistent with the American civil service practice.

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We object to the activities of the Labor Division, E.S.S. in this area as:

1. Out of jurisdiction and designed to cause confusion in the proper development and enforcement of the National Public Service Law.

2. Un-American in pattern.

3. Establishing a jurisdiction on the part of organized labor which has already led the Japanese Government into strikes, sit-downs, no overtime, "prompt" time, improper assignment of government funds, loss of managerial confidence and authority and various other mal-practices evident in the Japanese civil service.

4. Conceivably setting up, prior to the installation of the National Personnel Commission on 1 July 1948, a pattern of conduct inconsistent with the objectives of the National Public Service Law.

The situation is confused by reason of the fact that labor has advanced so far in this field of governmental activity that it would be extremely difficult for the Government Section, prior to the effective date of the Civil Service Law, to bring order out of confusion or accept responsibility for the danger which threaten governmental functions.

In this situation it is recommended that the policy of distinguishing government employees from labor in private industry be recognized and practically implemented by removing all references to government employees from labor legislation and amending the National Public Service law in accordance with American philosophy and practice

29 January 1948

COPY

Colonel C. P. Marcum,
Chief, National Government Division,
Government Section, GHQ, SCAP

January 16, 1948

Dear Colonel Marcum,

I have been directed by Mr. Sone, Deputy Chief Secretary of the Cabinet, who is away from Tokyo at the present moment, to send to you the report on "Recent Movement of Government Employees' Unions", a copy of which is enclosed herewith. The report is made as of December 31 last year, but the collection of materials from various Ministries and the translation thereof into English took some time and made it possible to complete it in the final form only yesterday.

Hoping that the report meets with your request,

Yours sincerely,

/s/ S. SHIMA
S. SHIMA
Secretary of the Prime Minister's Office

ENclosure

Recent Movement of Government Employees' Unions and Its Effects on the Conduct of Official Business

December 31, 1947

I. Prime Minister's Office

"No overtime" movement, which began on November 24 in the Paper Allocation Board and in the Board of Commodity Prices, on December 8 in the Statistics Bureau and the Pensions Bureau, in the December 15 - 23 period in the War Damage Rehabilitation Board, and on December 16 in the Secretariat of the Statistics Committee, is still continuing. In the Statistics Bureau, some inconvenience has been caused, but with this exception, no inconvenience has been felt in the other establishments, as the personnel necessary for urgent business have been working overtime.

II. Foreign Ministry

"No overtime" was put into practice between December 1 and December 6, but the personnel necessary for urgent business worked overtime.

III. Finance Ministry

1. Union of Finance Ministry Employees. The Union began the "No overtime" on November 17, in advance of the employees of other Government offices, but the minimum personnel necessary for urgent business are working overtime. The union intended to start a "mass leave of absence" on December 20. Though negotiations came to a satisfactory conclusion, a certain proportion were absent on December 20, due to inadequate means of relaying the news. This, however, soon returned to the normal conditions.

2. "Zenzai" (National Federation of Financial Employees' Unions).

(a) Gyomu-kanri ("business control")

After the middle of October, some of the local unions adopted resolutions declaring that they would not undertake the revision of income tax assessments, or that they would not enforce the sanction against tax defaulters, or that they would resort to "lawful business control," and attempted to translate their resolutions into practice, but the said resolutions were cancelled at the warning of the Government and considering the general situation.

More recently, however, these unions began insisting that under the current schedule of pay, it was impossible to proceed to the revision of income tax assessments and the sanction against tax defaulters, as planned by the Government. While making propaganda shifting on the Government the blame for the failure to collect the expected amount of taxes, they attempted "lawful sabotage" carrying on union activities during office hours. This has affected efficiency. This state of things has been most conspicuous in the areas under Osaka and Nagoya Finance Bureaus, the Hiroshima and Tokyo areas coming next in the same regard.

According to information received, Gyomu-kanri I-inkai ("business control" committees) were organized on October 16 and after in 24 Revenue Offices, out of 25 in the Osaka-fu area. In these Revenue Offices, the same information states, Gyomu-kanri In ("business management" marks) are being stamped on documents. The revision of income tax assessments, collection, of indirect taxes, and saction against tax defaulters are being suspended, while reports filed on incomes are being accepted without necessary inquiries. The normal conduct of official business is thus being interfered with.

(b) Movement against taxes on the masses. Posters for the purpose have been prepared. The movement still remains within the extent of disputes with supervising authorities over the putting up of these posters.

(c) Mass resignations.

This began with the unions in the area under the Hiroshima Bureau, and spread to other areas. In the Yamaguchi and Okayama prefectural areas, the whole local unions took part in the movement, and some local branches in other areas did the same. (The Hiroshima area is the worst, and in the Tokyo, Nagoya, and Sendai areas, this movement is only partial.) The mass resignations, however, have so far remained a gesture, the resignation notes being still kept in the hands of local union chiefs without being presented to the directors of the Revenue Offices concerned.

IV. Education Ministry.

1. The Union of Education Ministry Employees has been practising "No overtime" since November 28.

2. The Yokohama "Chiren" (local section for the Yokohama area) of the "Nikkyo" (Japan Federation of Teachers' Unions) held, according to information received, a "Job site meeting" during the morning hours of December 17, and cancelled the afternoon lessons, while the local sections for the Kyoto and Hyogo areas are said to have resorted to Gyoku-kanri ("business control").

V. Welfare Ministry.

The Union of Welfare Ministry Employees began "punctual attendance and punctual leaving" on December 6, and has since been practising the same thing, but the personnel necessary for urgent business are working overtime.

VI. Agriculture and Forestry Ministry.

The Union of Agriculture and Forestry Ministry Employees has been practising "No overtime" since November 25. The Ministry's employees took a mass leave of absence on December 11 and 12, in advance of the employees of other ministries.

VII. Commerce and Industry Ministry.

The Union of Commerce and Industry Ministry Employees has been practising "Punctual attendance and punctual leaving" since December 12, but the personnel necessary for urgent business are serving overtime. The Union decided, a report said, to enter on an "individual leave of absence" from December 15.

VIII. Ministry of Transportation

1. Government Railway Labor Union.
(Desertion and sabotage)

a. Sapporo Railway Bureau District.

Within the Ikeda Track Maintenance Area under the jurisdiction of the Kushiro Administration Office, about 40 track maintenance workers belonging to the Atsunai and three other teams had deserted their work since about November 28, but they all resumed their work on December 5. In the area of the Kitami Administration Office, where the labor unions are most active, the locals of the Kitami conductors group, the Kitami engineers group, the Abashiri and Engaru stations, and the Engaru engineers group, decided to go on independent strikes, which, however, were not actually carried out.

The local of the Administration Office is refusing overtime since December 9. Job site meetings were held by most locals belonging to the jurisdiction of the Bureau.

b. Sendai Railway Bureau District.

The labor unions within the District, prone to radical actions, had been conducting collective absentive since some time ago, when the cold and snowstorm still aggravated the situation, resulting in the congestion of freight cars at Aomori. The dire shortage of coal that followed dealt an additional blow, and finally caused the suspension of services.

(1) Aomori Engineering Area.
Since about November 27, about 40 of the 350 trammen had been failing to attend to their work, thereby interfering with the normal operation of trains. Situation since then is outlined below: December 11, 128 of 140 apprentice engineers (Giko) absented themselves; Payment of wages suspended. December 12, 138 of 141 engineers absented themselves. December 13, 70 attendants. Rate of attendance increased, but they sabotaged works. December 18. Most of the attendants resumed work.

(On December 25, Katsumi NAKAMURA, an apprentice engineer, was fired by way of disciplinary punishment, as the instigator of the sabotage.)

(2) Aomori Track Maintenance Area.
December 4, 499 absentees out of 648. At the order of the chief of the Administration Office, 128 more attendants in the afternoon.
December 5, as of the attendance hour: 39 absentees, many of the attendants retired one after another before the closing hour.
December 6, 152 absentees with leave; 23 without leave. Normal conditions were gradually restored thereafter.

(3) Ominato Automobile Area.
December 4, 58 absentees out of 114.
December 5, No attendant. Operation of services seriously affected.
December 6, 47 absentees with leave; 46 without leave.
December 8, Normal conditions restored.

(4) Hirosaki Engineering Area.
Many of the trainmen absented themselves during October, with the result that about two freight trains were cancelled for some time. While subsequently the rate of attendance was on the increase, quite recently desertion of work was resumed.
December 14. Attendants refused to work.
December 15. Of the 47 shed workers, 34 absented.
December 16. No attendant.
December 17. No attendant.
December 18. 35 absentees.
December 19. Normal conditions restored.

On December 13, transportation of coal was rendered impossible on account of snow-storm. All freight services, with the exception of those for the Occupation Forces, were cancelled. As of December 16, coal in stock found in the jurisdiction of the Sendai Railway Bureau amounted to an equivalent of only 0.5 day's consumption. Only two freight train's continued to run and one passenger train had to be cancelled, and the operation of 27 of the 47 large type locomotives was suspended. The coal supply and the weather improved on December 17, but the labor situation became worse, permitting the operation of only seven trips to freight trains, both ways, on the main lines, with the services of passenger trains considerably reduced.

2. The members of the National Federation of Employees' Unions of Maritime Offices, the National Employees' Union of Weather Observatories and the Labor Union of Transportation and Construction Headquarters, have been observing "no overtime" since December 1.

IX Ministry of Communications

1. "Zen-tei "(National Union of Communications Employees). With the Osaka District Federation having submitted its case to the District Labor Committee on August 30 this year for the first time, many of the district federations and locals took similar steps, and, as of November 18, the cases submitted amounted to 35 throughout the country. Meanwhile, the National Union of Communications Employees also submitted its case to the Central Labor Committee on September 26. Since about the time the District Labor Committees were appealed to, there were signs of increasing desertions, which came into prominence in mid-October. The warning issued on October 22 by the Government against the practice of wildcat strikes, coupled with the notice given by the communications authorities on October 29 that while the wildcat strikes were on proportionate reduction of wages would be made, abated the

situation lessening the number of the deserters, and temporarily restoring normal conditions of work. But since about the time of national meeting of the Union, which was held from November 2 to 5, (at which the importance of regional strife was re-endorsed; employees control of communications, sabotage without absenteeism, and local strikes were recommended as means of strife.) slow-down strikes know as "safe communications" were begun in various parts of the country. Consequently, telegrams waiting transmission accumulated at the rate of several hundred per day in some post offices within the Metropolitan Prefecture of Tokyo.

Then the Union decided to accept conditionally the proposed arbitration, which had been presented by the Central Labor Committee on November 13. But, the Union, in demanding the expedited payment of the bonus equivalent to 2.8 months' wage, gave warning to the Government on December 8 that, "unless the payment is decided upon by the 9th as demanded by the Union, peaceful continuance of communications services cannot be guaranteed." As was anticipated, the desertion of work and the so called "safe communications" on a nation-wide scale were resumed since December 10, retarding smooth progress of work. For instance, it is reported, on December 10, nobody attended at the Shimoda Post Office as of 11:00 a.m.; at the Tennoji Post Office on the same day all the workers on day duty in the telegraphic department absented themselves, with the exception of the managing staff; and on the 11th nobody of the 200 workers of the Office turned up.

2. Employees Union of Communications Ministry. (Local Union of Central Ministry belonging to National Union of Communications Employees.)
"No overtime" has been observed since December 10.

X. Ministry of Labor

With the exception of the members of the executive and central committees, the employees had been forbidden from partaking in the People's Meeting for protection of the Right of Live, which was held in front of the Imperial Palace on November 18 (by the National Federation of Labor Unions). But as most of the members of the Employees Union of the Ministry took part in the demonstration parade, the business of the Ministry was interfered with.

NIPPON TIMES, April 29, 1948

KILLEN STRESSES RULES GOVERNING LABOR DISPUTES

Non-Payment of Salaries to Workers on Strike One of 4 Precepts

Four principles, including the non-payment of wages to workers during a strike, were pointed out as fundamental precepts governing labor disputes by James S. Killen, Chief of the Labor Division, ESS, at a conference with six Cabinet Ministers on Monday, it was learned.

Chief Cabinet Secretary Gizo Tomabechi said that Mr. Killen had reminded the Japanese Government of the following points in connection with the recent "piston' strikes of the Government and public workers:

(1) Wages should not be paid during a strike and the union should not entertain the idea that workers ought to be paid during a strike;
(2) Government workers who have no right to strike should submit their grievances to a committee formed for the purpose without resorting to a strike at once so as to settle the dispute peacefully;
(3) Workers who are union members should be paid by the union during a strike and they should be suspended without pay by their employers; and
(4) The time stipulations in a collective contract should be strictly observed and when they are overdue the contract should be renewed instead of prolonged just as it is.

Mr. Killen further pointed out that changes in the labor laws should be submitted to the Diet and not discussed with union members.

The Government has been endeavoring to adhere to these principles.

Meanwhile, the Government is expected shortly to urge various enterprises to establish "Dispute Settlement Committees" to prevent labor disputes as well as to bring about peaceful settlement of all labor-capital disputes.

The decision to urge the establishment of such committees to be composed voluntarily by representatives from both labor and capital in place of the present "management councils" was reached at a meeting held Tuesday evening among six Cabinet Ministers concerned with labor affairs.

It was also decided that labor representatives, who devote most of their time to labor union affairs, should take "leaves of absence" from the companies they are employed and to receive their pays from the union instead of from the company in which they are employed.

At the same time, the Cabinet Minister reaffirmed the decision that wages during strike periods shall not be paid as in the case in all other foreign countries.

It is believed that the decisions reached by the Cabinet Ministers will form the basis of a general labor policy to be formulated by the Ashida Cabinet.

In this connection, Labor Minister Kanju Kato testifying before the Lower House Budget Committee yesterday declared that the status quo may have to be maintained for the time being in connection with the question of pay for full-time union officials who are at present on management of government payrolls.

Mr. Kato said that despite the Katayama Cabinet's decision last November to have full-time union officers placed on union payrolls, most of the Japanese labor unions still remain "feudalistic" in character and their economic foundations are still insecure.

He explained that if the new policy should be applied to all labor unions at once, most of the present full-time union officers would have to work with extremely small pay.

ISSUES FOR DECISION

GOVERNMENT EMPLOYMENT POLICY

ISSUES FOR DECISION - GOVERNMENT EMPLOYMENT POLICY

I. Shall government employees be prohibited by law from bargaining collectively or engaging in strikes or other "dispute tactics" against the government?

Government Section -- Yes. There is a fundamental difference between public employment and private employment. Collective bargaining and strikes or other "dispute tactics" in government employment are:

1. Destructive of efficiency of government operation. (Supp. A, p.5) (Supp. B), (Supp. C).

2. Inconsistent with approved American public personnel practice. (Supp. A, p.5)

3. Impracticable and unworkable. (Supp. A, p.7).

4. Subversive of the sovereignty of the people of Japan. (Supp. A, p.8).

5. Subversive of the rights of the employee. (Supp. A, p.8).

6. Playing into the hands of the old feudal bureauccacy. (Supp. A, p.9).

7. An aid to the advance of Communism. (Supp. A, p.9).

8. Destructive of a modern American type civil service system. (Supp. A, p.9).

9. Damaging to the legitimate aspirations of organized labor in Japan. (Supp. A, p.10).

Comment: Government Section proposes that this situation be corrected principally by the revision of Art. 98 of the National Public Service Law to read as follows. Revisions of law proposed are entirely constitutional. (Supp. D) and similar to American policy. (Supp. A, p.6), (Supp. A, Exhibit C).

> "Personnel of the service in the performance of their duties shall comply with laws and orders and faithfully observe the orders of their superiors on matters pertaining to the performance of their official duties. They shall be permitted to join or refrain from joining associations or other employee organizations, and through such organizations to designate representatives for purposes of consultation or cooperation with proper authorities relative to conditions of employment and for other lawful purposes

> including social and welfare activities except that police, firemen, and personnel of the Maritime Safety Board (Coast Guard) and penal institutions shall be denied the right to organize trade unions or to join trade unions. Personnel of the service shall not strike or engage in delaying or other dispute tactics against the public of Japan represented by the National Government as employer or resort to delaying tactics which reduce the efficiency of governmental operations. Any person in the service who shall resort to strike or any or all of the unlawful tactics herein prescribed shall lose all rights to employment by the National Government acquired and possessed by him under this law or otherwise at the time of such strike, dispute or delaying tactics."

Economic and Scientific Section -- No. The right of workers to organize and to bargain collectively is guaranteed by Article 28 of the Constitution of Japan, and specifically provided for by implementing legislation. (The Trade Union Act and the Labor Relations Adjustment Act). There is nothing in these provisions that distinguishes government employees from employees of private concerns. The right to engage in strikes or other dispute tactics is a recognized weapon of labor for use when other means fail. It should be curtailed by law only when its use endangers the public welfare, not by the circumstance that a given industry or enterprise is owned by the government. No question of definance of the sovereignty of the people is involved. Existing legislation already forbids strikes or dispute tactis by policemen, firemen, administrative and judicial employees of the government and imposes a maximum penalty of ¥10,000 fine against violators. In activities that are not part of the operation of government, strikes should and can be prevented by providing adequate mediation machinery for the peaceful settlement of disputes, not by prohibitory legislation vesting the power of final decision in a bureaucratic body which is also the employer and other party to the dispute.

II. Shall all government employees be subject to operation of National Public Service Law?

Government Section -- Yes, except elected officials, officials whose appointment requires Diet approval, administrative officials at the policy-making level, certain confidential secretaries, employees of the Diet, judges, and employees of Kodans.

Present distinctions between "administration" and "enterprise" are lacking in fundamental validity as applied to government and non-government, and are largely significant as a distinction (poorly defined at best) between operating and non-operating activities of government. In the main they are

under direct control of government officials, are paid by the government, have interchanging personnel arrangements, exercise authority in the name of the government and their operation is essential to the national welfare. The proposal is to put only 374,000 or approximately 20% of the government employees under civil service. It eliminates from the civil service such agencies as the Ministry of Communications which has over 228,000 persons constituting the majority of its employees working in the postal "enterprises," known by us as postal services. General inclusion of government employees under civil service is necessary to:

1. Give the public the institutional protection of a democratic personnel system based on merit as applied to public services essential to the general welfare.

2. Establish the dominance of a body of sound and uniform governmental employment policy over areas of employee population subjected to a multiplicity and diversity of personnel policies and practices which tend to subvert and reduce to mediocrity the standards of the civil service at large. Government, as employer, cannot operate successfully, part on one personnel policy and part on another.

3. Give dignity and career benefits to common labor in government.

4. Assure sufficient coverage of the national government service by the National Personnel Authority to prevent the reappearance in the regular service of bureaucrats found unqualified by examination to hold a position in the regular service.

Comment: For proposed exemptions from application of the National Public Service Law, see Supplement E.

Economic and Scientific Section (Labor Division) -- No. The inclusion of all government employees in the civil service system, regardless of type of activity in which engaged, would be an unwarranted extension perverting the basis purpose of civil service reform, namely, the reform of the governmental bureaucracy in the interest of democratic government. It would result in unrealistic application to workers in such industrial activities as salt mining and cigarette manufacture administrative standards, procedures and methods designed primarily for administrative government employees. It would impose upon the mass of industrial labor, a system of governmental paternalism destructive of initiative and efficiency and sound labor relations. The objective is not necessarily to introduce American theories and practices into Japan. The labor movement in Japan has in some respects followed a British rather than an American pattern, especially as it concerns government employees. That does not make it undemocratic. On the contrary, the labor movement in England is far more

advanced and socially responsible than in the United States and has been a powerful ally of the forces of democracy. To substitute for a formalized and realistic collective bargaining relationship within the government service an omnipotent and unchecked civil service authority will perpetuate the evils of bureaucratic rule.

III. Shall existent contracts and the bargaining relationship of government employees estop implementation of decisions on (1) and (2)?

Economic and Scientific Section (Labor Division) -- Yes. Affirmative decisions on 1 and 2 above would require cessation of bargaining relationships developed over a period of two and one-half years under constitutional and statutory provisions enacted by the Japanese Diet in accord with declared SCAP policies. It is unnecessary and undesirable to require abrogation of existing contracts. Such action could not be carried out by the Japanese Government on its own responsibility but would require instructions from SCAP to impair the validity of agreements entered into by the government in good faith on which government employees have relied. Such SCAP action could not be taken without an admission, express or implied, that the SCAP policy of the past 30 months toward trade unions which has been universally lauded, has undergone reversal. It is not a question here of introducing some desirable reform in Japanese Government. It is a question of turning the clock back two and one-half years in the trade union movement under the Occupation. The probable political and economic repercussions are tremendous.

Government Section -- No. It involves a difficult readjustment but failure to effect this will delay the national recovery indefinitely, expose Japan and the Allied interest to the hazards of the present practice, (Supp. A) and make effective bureaucratic reform impossible.

Comment: Government Section proposes that the situation be corrected by revisions of laws as necessary to differentiate between government employment and private employment and in particular by the addition to the National Public Service Law of a supplementary provision as follows:

"To protect the sovereignty and general welfare of the people of Japan in relations with personnel of the service, promote the efficiency of the service and provide uniform and equitable treatment of the entire personnel of the service consistent with the principles of personnel administration set forth in this law, it is hereby provided that: (1) Effective July 1, 1948, any contracts or agreements existing or purporting to exist between the government or its officials and personnel or organizations of

> personnel of the service, relative to compensation, hours of work, leaves or other aspects of employment in the regular service referred to in this Law, are cancelled and void. (2) On and after July 1, 1948, no official or employee of the government shall in the name of the government or otherwise enter into or promote any such contract or agreement. (3) From July 1, 1948 to December 31, 1948 the provisions of such voided contracts shall continue to control as if established under procedures established in this law, except that upon installation of civil service procedures or issuance of rules and regulations by the National Personnel Authority under this Law any provisions of such voided contracts or agreements relating to the same subject matter shall, as of the date of such installation, order or regulation, be null and void."

IV. Shall Government Section continue to be the staff section exclusively responsible for "the revision and supplementation as necessary of the laws, policies, practices and procedures affecting personnel administration of the Japanese Government for the purpose of assuring conformity to democratic precepts and the making of a maximum contribution to the integrity and efficiency of administration; and the implementation of decisions made with respect to this subject matter by the Supreme Commander for the Allied Powers," as now provided in General Order No. 10, GHQ, SCAP, dated 23 June 1947?

Economic and Scientific Section (Labor Division) -- Yes. Within the framework of overall labor policy as developed by the Japanese Government under the guidance of ESS/Labor pursuant to the declared policies of SCAP, the United States Government and the FEC. If the Government Section will follow standard operating procedure of staff cooperation and coordination, no change in the general order is necessary. ESS viewpoint on the issues is more fully set forth in check-sheet dated 16 June 1948. (Supp. F).

Government Section -- Yes. Duality of control in this specialized field of personnel administration is administratively impracticable.

SUPPLEMENT A
of memorandum 2 April 1948
to
Brigadier General Courtney Whitney
Chief, Government Section
from
Mr. Blaine Hoover,
Chief, Civil Service Division
and
Mr. Carlos Marcum
Chief, Administrative Management Division

Subject
Personnel Administration in Government - Japan

SUPPLEMENT A

There exists within GHQ, SCAP, sharp issue as to what policy shall control personnel administration in government in Japan. The issue has developed as follows:

During the early days of the Occupation a Labor Division was constituted in SCAP. It found the Japanese Government defeated, confused, compliant, uncertain concerning the implications of the new democracy, and eager to comply, in degree at least, with what it believed to be SCAP policy. In this situation the Labor Division was exceedingly successful in securing cooperation on the part of the Japanese in the unionization of its civil employees and real progress was made in terms of the numbers of government employees who were unionized.

There is no objection to the unionization of government employees. However, as developed by American experience, the purposes for which employees may associate in government are not the same as the purposes for which they may associate in private enterprise. Interestingly, the Japanese unions, under Labor Division auspices, began to apply in government the pattern of policy and practice generally associated with unions in private enterprise, including collective bargaining and strikes or other form of work stoppage or work retardation.

When the United States Personnel Advisory Mission to Japan made its investigations of the Japanese public service, it was shocked at excess of union activity which had developed in government. In its report, among other matters, the Mission directed attention to a situation in which in a single ministry there were "approximately 2000 workers who devote full time to union activities and who receive from the Government the salaries and allowances commensurate with their recorded classification" as government employees. The distinctions in typical American practice between what constitutes sound practice in governmental unionization as contrasted with unionization in private enterprise were so axiomatic that the Mission did not protract discussions of this problem but devoted itself principally to the prime problem which was the elimination of the feudalistic elements in the bureaucratic setup. It directed attention to the condition and assumed that its immediate correction under American auspices would be all but automatic.

At the same time, the Mission wrote into the Law, which it described as "a concentration of recommendations", the devices, direct and indirect, necessary to rid the Government of Japan of the abuses resultant of these early distortions of union activity. Amongst them were requirements that civil servants should only perform duties which it was the responsibility of the Government of Japan to perform; a provision removing from the service employees who did strike against the Government of Japan; and a provision for the standardization of wages and salaries on the basis of a

scientific plan of classification and compensation to be approved by the Diet. These recommendations were consistent with the American civil service practice and together with other provisions of the law automatically substituted a modern public personnel system for practices then existing.

Had this law, in its essential entirety, been enacted and had the Labor Division cooperated conscientiously in its implementation, much of current difficulty could have been avoided and the stage set for early restoration of order in the government service of Japan.

On the insistence of the Labor Division, however, disciplinary civil service provisions applicable to government employees who went on strike were removed, certain provisions regarded as unfavorable to the industrial concept of collective bargaining were removed or revised and Labor Division continued to support in government a collective bargaining program.

Meanwhile, in the Japanese Government, confusion increased. We direct attention to a report addressed to Col. C. P. Marcum, Chief of the National Government Division, 16 January 1948, at the direction of Mr. Sone, Deputy Chief Secretary of the Cabinet, in which he refers to the "recent movement of government employee unions and its effect on the conduct of official business." This memorandum, now in your files, recites instances of concerted failure on the part of government employees to perform duty, including actual refusal to enforce law because of disagreement with over-all government policy. We direct attention also to a more recent report prepared by this Division on recent disturbances. (Exhibit A attached) These reports reveal in part the internal disturbance which has recently characterized personnel operations in the Japanese Government.

On 30 December 1947, our attention was directed to the fact that the Labor Division of E.S.S. had instructed the Japanese Government to take necessary steps to clarify regulations for enforcement of discipline among white-collar employees of the National Government. We had no objection to the enforcement of discipline--it was critically needed. We informally communicated to the Chief, Labor Division, that problems associated with the discipline of government employees were also within the jurisdiction of the Government Section. Nevertheless, without referral to us, the statement on enforcement of discipline upon Government employees approved by that Division was approved by the Cabinet. These things were important because they tended to set the pattern of personnel administration in the Japanese Government.

On 29 January 1948 the Civil Service Division addressed you objecting to independent action by the Labor Division, E.S.S. in matters involving government personnel as: 1) Out of jurisdiction and designed to cause confusion in the proper development and enforcement of the National Public Service Law. 2) Un-American in pattern. 3) Establishing, by sheer preemption in the field of public personnel administration, Labor Division policy which had already led the Japanese Government into strikes, sit-

downs, no overtime, "prompt" time, improper assignment of government funds, loss of managerial confidence and authority, and various other malpractices evident in the Japanese civil service. 4) Conceivably setting up, prior to the installation of the National Personnel Commission on 1 July 1948, a pattern of conduct inconsistent with the objectives of the National Public Service Law.

In this memorandum it was recommended that the policy of distinguishing government employees from labor in private enterprise be recognized and practically implemented by removing all references to government employees from labor legislation and amending the National Public Service Law in accordance with American philosophy and practice.

On 2 February 1948 you addressed a check sheet to General Marquat on the subject. General Marquat replied under date of 26 February 1948. This memorandum in part referred to government personnel administration. Essentially it is understood by us to insist that E.S.S. shares with Government Section jurisdiction in personnel problems of the Government of Japan and affirms the soundness of its personnel policies in government, particularly those associated with collective bargaining.

The jurisdiction of Government Section is defined in General Order No. 10 (Exhibit B attached). Waiving for the moment, however, the technicalities of jurisdiction, which can be adjusted if necessary, the Civil Service Division and the National Government Division regard the present policy and practice of Labor Division in Public employment as unsound. The issue here presented is so critical to achievement of the objectives of the Occupation in reform of government in Japan that we submit to you our analysis of the issue. An effort has been made to state the matter as objectively as possible with regard for the tremendous stakes involved and the tragic consequences to the Occupation of failure to expertly handle this important phase of its activity.

In approaching the subject, there are two points on which we desire to have our position understood.

1. We are aware of the importance of trade unionism in modern life and of the historical significance of the trade union movement in correcting many of the abuses associated with a capitalistic economy. We recognize the importance of trade unionism in the industrial and commercial establishments of Japan and in government to the extent that it has been found feasible in American practice.

2. We do not accept the trade union within the government as a substitute for the duly constituted agencies of government exercising the sovereignty of an entire people in the overall national interest through normal legislative, judicial and executive processes.

. . . . . .

SUPPLEMENT A

Referring to the subject matter, our position is as follows:

I. <u>A democratic and efficient public service is essential in the Japanese Government if the objectives of the Occupation are to be achieved.</u>

1. There exists in the Japanese Government a feudalistic bureaucracy inconsistent in ideology and pattern with democratic institutions and in position at opportunity to sabotage many if not all reforms of the Occupation. The reform of this bureaucratic system in manner designed to assure its proper function in a democratic setting is essential to success of the Occupation.

2. There exists in Japan the need recognized by the Occupation for a national recovery to promote economic well being and underwrite the stability of the various economic, political, educational and other reforms of the Occupation. Prime instrumentalities in effecting this recovery are the governmental agencies. Directly their efficiency is reflected in minimizing the over-all cost of government, in maximizing the income of government by collection of taxes, customs and other revenues. Indirectly their efficiency is reflected in the promotion of national health, welfare, education, trade and commerce and the innumerable activities with respect to which a government leads, regulates, and advises its people. Accordingly, the national recovery will be advanced or retarded as government agencies are efficient or inefficient.

II. <u>The Occupation has provided for the installation of a democratic and efficient public service in the Government of Japan.</u> The approved device of the Occupation for assuring a democratic and efficient public service is an American type personnel system which recruits public employees from the entire public and promotes them in the basis of merit and provides scientific supervision for their classification, compensation, training, evaluation, health, safety, welfare, recreation and retirement. This system provides a grievance procedure for employees and assures them fair and equitable treatment in administration. This system, supplemented by an enforcing Commission and aided by certain emergency provisions aimed at quick reform of the higher bureaucracy, constitutes the constructive program for dealing with the hazard which the Japanese bureaucracy presents to the success of the Occupation. This system provides for the over-all personnel administration of government employees.

III. <u>The policies of ESS/LD in government personnel administration are improper as applied to government employees and are inescapably destructive of the Occupation program for the reform of government in Japan.</u>

Present labor union policy and practice in government in Japan is in error as follows:

1. It is destructive of the efficiency of governmental operation. Within the Japanese Government we have union officials, by the thousands, on government pay, devoting full time to union activities, interrupting work in government offices and shops, pleading causes, sowing contentiousness, fostering resistance to orders, usurping by leadership the administrative responsibility of responsible officials; overstaffing with union resistance to reductions in force; employment agreements by the hundreds containing destandardized provisions negotiated independently by negotiators of varying ability and motivation throughout the service; negotiations proposed, negotiations pending and negotiations unsatisfactory; strikes, sit downs, odd assignments, punctual quitting, concerted leaves of absence without permission; all these conditions and others associated therewith combining to produce excessive cost in government, destruction of employee morale, frustration of men charged with administrative responsibility and utter decimation of the efficiency of the public service.

2. It is inconsistent with approved American public personnel practice. The typical American pattern of personnel administration in government views the entire people as employer en bloc exercising sovereignty and control through the supreme legislative body which in the majority of jurisdiction functions through a civil service commission or equivalent which applies principles of scientific management and with or without formal legislative approval as the case may be, standardizes the public service, its recruitment, compensation, discipline, benefits and other employment factors. Such a system is in the process of implementation in Japan. Such a system is designed to regard the welfare of the entire nation supreme to all other considerations and the faithful administration of the law, a prime duty without regard to politics, special privilege, or pressure groups. It cannot function successfully if politics, special privilege or pressure groups are introduced to its internal operation. Strikes against the public as employer has long been recognized in America as inconsistent with the interests of democracy.

In the United States there has been a general acceptance on the part of the labor organizations of the peculiar status of government employment as distinguished from employment in private enterprise.

General unions of strictly governmental employees are unanimous in their renunciation of the strike. The National Federation of Federal Employees, the American Federation of Government Employees, and the State, County and Municipal Workers of America, have constitutional prohibitions of strikes. The United Federal Workers of America and the American Federation of State, County and Municipal Employees, have stated officially that they do not strike.

Government occupational unions reject the strike in principle and actual conduct. The National Federation of Post Office Clerks and the National Federation of Rural Letter Carriers have constitutional renunciations of the strike tactic. There is no doubt from the statements and records of the other postal organizations that they heartily disapprove the use of the strike. This applies to the National Association of Letter Carriers, the Railway Mail Association, the United National Association of Post Office Clerks, the National Rural Letter Carriers Association and the supervisory associations. The American Federation of Teachers has maintained and publicized its non-strike policies since 1918 and testifies that none of its locals has gone on strike.

The constitution of the National Federation of Post Office clerks "recognizes" the fact that legislation and not the strike is the last resort in the adjustment of grievances, while that of the National Federation of Federal Employees states that "under no circumstances shall this Federation engage in or support strikes against the United States Government."

The constitution of the American Federation of Government Employees declares: "We oppose and will not support strikes against the United States Government, picketing and other measures which have the effect of embarrassing it."

It is significant to note that the American Federation of Labor itself refuses to issue a charter to a union of public employees which fails to contain an anti-strike provision.

Where attempts have been made to subordinate the public interest to pressure tactics, the verdict of the public, through its legislative bodies, has tended to be decisive.

At the national level, the Hartley- Taft Act provides: "It shall be unlawful for any individual employed by the United States or any agency thereof including wholly owned Government corporations to participate in any strike. Any individual employed by the United States or by any such agency who strikes shall be discharged immediately from his employment, and shall forfeit his civil service status, if any, and shall not be eligible for reemployment for three years by the United States or any such Agency." (Sec. 305)

Recent enactments in New York, Virginia, Missouri, Michigan, Nebraska, New Jersey, Washington, Minnesota, Indiana, Texas and Pennsylvania have added to an already substantial body of law on the subject.

The overwhelming expression of opinion from public officials from President Theodore Roosevelt through Taft and Coolidge to Franklin Delano Roosevelt, has been that a strike against the government cannot be condoned.

President Franklin D. Roosevelt, strong proponent of unionism, in a letter of Mr. Luther C. Steward, President of the National Federation of Federal Employees on August 16, 1937, wrote in part:

"All government employees should realize that the process of collective bargaining, as usually understood, cannot be transplanted into the public service. It has its distinct and insurmountable limitations when applied to public personnel management. The very nature and purposes of government make it impossible for administrative officials to represent fully or to bind the employer in mutual discussions with government employee organizations. The employer is the whole people, who speak by means of laws, enacted by their representatives in Congress. Accordingly, administrative officials and employees alike are governed and guided, and in many instances restricted, by laws which establish policies, procedures, or rules in personnel matters.

Upon employees in the Federal service rests the obligation to serve the whole people, whose interests and welfare require orderliness and continuity in the conduct of Government activities. This obligation is paramount. Since their own services have to do with the functioning of the Government, a strike of public employees manifests nothing less than an intent on their part to prevent or obstruct the operations of Government until their demands are satisfied. Such action, looking toward the paralysis of Government by those who have sworn to support it, is unthinkable and intolerable."

3. It is impracticable and unworkable. The attempt to apply normal collective bargaining methods to the government service in Japan disregards the well nigh universal recognition that in government such procedure is unrealistic. The government service employing personnel in the millions, scattered over a wide area, and engaged in an infinitude of occupations, cannot on the one hand organize for collective bargaining without constituting a super bureaucracy of central committees or individuals so powerful as to be able to pit their strength against government itself and bring to stalemate across the table that sovereignty which the government represents; or on the other hand decentralize its negotiations, violate the principle that legislative powers shall not be

delegated, and produce as a result of its effort a complete de-standardization of wages and working conditions throughout the service.

It is equally unrealistic in government to advocate collective bargaining but no strikes. If the employee is to forego dispute tactics, what has he to bargain with? His bargaining strength at the negotiating table is his ability, potential or expressed, to suppress function if his demands are not met. Organized labor does not ask that it be permitted to consider the labor contract and if it disapproves, walk away and let others do the work. Its position rather is that until its demands are met it will continue to hold the job and sabotage the function. This means strikes in one form or another. This is intolerable in government. In our opinion, the present strike situation for a long time existing in government in Japan is in no sense an inevitable or healthy transitional condition; it is rather the foreseeable result of an effort to apply inexpert labor policy in the field of government employment and the results will be the same in the future as they have been in the past with cumulative deterioration of the situation until the policy is reversed. To treat threats of general strikes is not to effect a cure. General strikes are only the surface rash symptomatic of systemic infection in the Japanese civil service. Employee actions, less dramatic than general strikes, are effecting almost as much, if not as much, damage as general strikes and will continue to do so until the basic condition is corrected.

4. It is subversive of the sovereignty of the people of Japan. Eighty millions of persons functioning through their legislative body decide by law that certain public functions shall be performed subject to prescribed policy. A handful of government employees or perhaps all the employees of a ministry do not like their wage or some condition of employment, or, as has happened, they do not approve the law and so strike, delay, or otherwise defeat the performance of the public function. Such focus on the rights of organized labor to the exclusion of the national well-being is not only undemocratic -- it is dangerously close to anarchistic. Government employees do not own the government -- the people do.

5. It is subversive of the rights of the employee. It is approved civil service practice to protect the right of the employee to organize for legitimate purposes consistent with the character of governmental operation. It is equally approved civil service practice to protect the right of the employee not to join a union if such is his preference and desire. A system which, however unworkable for other reasons, rests its entire weight

on collective bargaining exercises almost compelling force to induce every government employee to "join" and introduces defacto a "closed shop" situation to the destruction of the individuality of the employee in his relations with his employer, the government, and the complete restriction of his actions and performance, not on the basis of ability, initiative or general merit, but on the basis of union regulations.

6. It plays into the hands of the old feudal bureaucracy. The people of Japan tend to be a disciplined and conservative people. They have welcomed democracy in the hope that it would relieve them of many of the ills that beset human kind and of which in many respects they have had full measure. Post war economic upsets were inevitable. In these difficult times the people turn to government for leadership in working their way out. At this point they find parading under the cloak of democracy, a public service inefficient, disorganized, and quarrelsome with public function sluggish and at points paralyzed. Whatever else may be said about the old bureaucracy, it had dignity. In emergency and with this background, that may appeal to the people. To tolerate the present condition in government service is to lay the groundwork for reaction to the reforms of this period, particularly those directed to the reform of the bureaucracy itself. Well the old guard knows this.

7. It is an aid to the advance of Communism. Although Communism, after it has obtained control of a situation, exercises inexorable discipline, its techniques for obtaining control are agitation, infiltration to government service, disruption of the public service, reduction of the confidence in government and control of strategic public posts. A public service top-heavy with union organization, loose discipline, and minded to sabotage public function at will, offers itself directly as a logical and natural focal point for Communistic activity and indirectly aids the Communistic program by subjecting respect for government to a process of erosion. There is allegation that many of the government unions in Japan are presently Communist controlled.

8. It is destructive of a modern American type civil service system. Omitting for purposes of this memorandum much detailed and technical analysis, the civil service machine when set up constitutes a coordinated entity. If its scientifically constructed examinations, its promotional processes, its scientific classification of employees, its wage and salary scales based on objective research and investigation, its recommendations directed to the elimination of overstaffing, waste and inefficiency, its development of employee morale, or its disciplinary processes, or any one of them, is removed from the area of objective management and subjected to negotiation and pressure tactics, the entire

coordinated system of personnel management is deranged and made ineffective.

9. It is damaging to the legitimate aspirations of organized labor in Japan. Focusing on the national picture and with especial regard for the conditions existent in contemporary Japan the legitimately established and managed agencies of collective bargaining have an important part to play in stabilizing democracy and defeating special privilege. However, jurisdictional excesses and malpractice, inevitable political involvements, such as are associated with their present excursions into the field of government employment, leading to continuous disruption of the public services and eventual failure, dramatize the unions in unfavorable light and may well make them offensive to the common sense of the people. When this happens, not only government unions will be frustrated and retarded, but, under skillful and vitally interested manipulation, the reaction will be swung against legitimate union activities to their serious damage.

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There exist fundamental and apparently irreconcilable differences of opinion between Civil Service Division and National Government Division of the Government Section, on one hand, the Labor Division, Economic and Scientific Section, on the other, relative to the policy which should control personnel administration in government in Japan.

The implications of these differences in terms of our program are most serious. The work of the Occupation is well advanced. Due to our comparatively late introduction to the scene of action, our program is not as far advanced as many. Given full and unqualified SCAP support, it will take every man-hour we can muster and high ingenuity to hammer our program through over the ingenious resistance of the old guard in the Japanese Government. In this effort, we cannot carry the weight of a resistant SCAP unit. Labor Division, ESS has opposed essential provisions of the National Public Servants Law and effected their removal or revision inconsistent with our program. Despite the fact that Labor Division, ESS knows of these unresolved issues, that division or its officials frequently assume to interpret SCAP to union leaders, Japanese officials and in the public press on matters pertaining to personnel administration in government in Japan. We are estopped in making reply and in initiating some actions because such activity will indicate divided counsel in GHQ. Meanwhile, we cannot ignore the fact that these tactics are tending daily to shape the Japanese thinking, to promote contracts, agreements and policy all designed to set the pattern of personnel administration in the Japanese government along the lines of Labor Division policy and to make the reform of the bureaucracy on a sound basis even more difficult than it already is. In the public interest, and with regard for the historical evaluations of SCAP, the situation

should be immediately corrected.

Because of the fundamental nature of the difference of opinion, and the doubtful ability of either party to effectively cooperate in administration of opposite policy, duality of control is not recommended.

DISPUTE TACTICS AGAINST THE JAPANESE GOVERNMENT

The chart below is a sketchy summary of dispute actions against government in Japan during the period 1 January to 30 March, 1948, based on release by Kyodo New Service and Jiji Press, Ltd., and on news articles in the Stars and Stripes and the Nippon Times newspapers. The original reporting is obviously incomplete, particularly during January, February, and the early part of March; hence no attempt has been made here to compile the number of strikes, days lost, employees involved. The nature of press reports does not always identify the agency or agencies against which the strike is directed. Each line represents a different union's activity.

Period	Ministry or Agency	Tactics
28 Jan - 7 Feb	Finance	Strike
5 Feb - 7 Feb	Finance	Sympathy Strike
5 Feb - 7 Feb	Finance	Strike
5 Feb to at least 24 March	Various	Strikes, vacation tactics, blackout strikes, clerical work strikes, 24-hr. hunger strike.
23 Feb - 19 March	Transportation	Communications control 24-hr. strikes, walkouts, mass absenteeism, suspension of loading & relaying Transportation Ministry coal.
23-24 Feb - at least 25 March	Finance	Slow down strike, vacation tactics, safe commuting tactics, 24-hour strike.
1 March - at least 29 March	Communications	24 and 48-hour strikes, work stoppage for rally.
1 March	Various	Mass absenteeism.
2 March - at least 19 March	Education	Safe commuting tactics, strict punctuality, vacation strike.
5 March - at least 30 March	Communications	25-hr strikes, walkouts.
9 March - 22 March	Agriculture & Forestry	24-hour strike, one holiday strike.
12 March - 23 March	Education	25-hr strike; during vacation: "all members will resort to refusing any order or instructions from education authorities. Slow down.
15 March	Transportation	No weather report strike, 12 hours.
15, 16 March	Finance	24-hour holiday, refusal to work overtime, "Management control" tactics.

Period	Ministry or Agency	Tactics
22 March	Finance	48-hr strike.
20 March	Kobe	24-hr strike.
20 March	Kobe	24-hr strike.
22 March	Osaka Commerce & Industry Bureau	24-hr strike.
22 March	Autonomous gov'ts.	No overtime.
23 March	Municipal gov'ts.	Refuse overtime work.
24, 27 March	Finance	Vacation tactics.
24 March	Finance	24-hr strike Regional strikes, positional strikes.
24 March	Various Ministries	24-hr strike.
24 March-at least 30 March	Various Ministries	48-hr leave of absence vacation tactics.
25 March	Municipalities	24-hr holiday strike.
25 March	Various Ministries	Collective vacation tactics.
25, 27 March	Various	Vacation walkout.
25, 27 March	Tokyo	24-hr vacation strike and Traffic Workers' indefinite strike.
30 March	Autonomous gov'ts.	Holiday tactics.

(Extract of General Orders Number 10)

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

GENERAL ORDERS)
:
NO . . . . 10)

APO 500
23 June 1947

	Section
Rescission of General Orders.....	I
Government Section.....	II

* * * * * *

II. GOVERNMENT SECTION. * * *

2. * * * * *

b. Make recommendations for:

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(5) The revision and supplementation as necessary of the laws, policies, practices, and procedures affecting personnel administration of the Japanese Government for the purpose of assuring conformity to democratic precepts and the making of a maximum contribution to the integrity and efficiency of administration; and the implementation of decisions made with respect to this subject matter by the Supreme Commander for the Allied Powers.

AG 323.361 (23 June 47) SGS

BY COMMAND OF GENERAL MacARTHUR:

PAUL J. MUELLER,
Major General, General Staff Corps,
Chief of Staff

OFFICIAL:
(Signed- R. M. Levy)

R. M. LEVY,
Colonel, AGD,
Adjutant General.

SUPPLEMENT A EXHIBIT B

LAWS OF NEW YORK

Chapter 391

"Section 1. The civil service law is hereby amended by inserting therein a new section to follow section twenty-two to be section twenty--two--a, to read as follows:

"22-a. Strikes by public employees prohibited; penalties. 1. As used in this section, the word 'strike' shall mean the failure to report for duty, the willful absence from one's position, the stoppage of work, or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment, for the purpose of inducing, influencing or coercing a change in the conditions, or compensation, or the rights, privileges or obligations of employment; provided, however, that nothing contained in this section shall be construed to limit, impair or affect the right of any public employee to the expression or communication of a view, grievance, complaint or opinion on any matter related to the conditions or compensation of public employment or their betterment, so long as the same is not designed to and does not interfere with the full, faithful and proper performance of the duties of employment.

"2. No person holding a position by appointment or employment in the government of the state of New York, or in the government of the several cities, counties, towns or villages thereof, or any other political or civil division of the state, or of a municipality, or in the public school service, or in any public or special district, or in the service of any authority, commission, or board, or in any other branch of the public service, hereinafter called a 'public employee,' shall strike.

"3. No person exercising any authority, supervision or direction over any public employee shall have the power to authorize, approve or consent to a strike by one or more public employees, and such person shall not authorize, approve or consent to such strike.

"4. Notwithstanding any other provision of law, any public employee who violates the provisions of this section shall thereby abandon and terminate his appointment or employment and shall no longer hold such position, or be entitled to any of the rights or emoluments thereof, except if appointed or reappointed as hereinafter provided."

380,000 Government employees under this agreement.

COMMUNICATIONS COLLECTIVE LABOUR AGREEMENT

The Communications Ministry (called A) and the General Communications Workers Union (called B) conclude herewith the agreement to read as follows with a view to accelerating complete democratization of the enterprise and to promoting its sound progress and thus to securing the common welfare and to improving the living standard of the members of the Union.

Principle Items

Article 1. A shall recognize B as the sole bargaining unit in the Communications Ministry. Every worker in the Communications Ministry is as a rule to be a member of B, except those provided otherwise. (See Memorandum 1 and 2)

Article 2. A and B shall not treat any employee discriminatively because he is or he is not a member of the Union.

Wages

Article 3. A, consulting B, shall establish the minimum wage system in conformity with the living expenses.

Article 4. A, consulting B, shall establish the retiring allowance system at the full expense of A.

Working Hours and Over-time Work

Article 5. As for the working hours, maximum is set to eight hours biding a day and forty eight hours a week. However, the working hours in operating offices shall be decided otherwise within the limits above mentioned in the conference of A and B. (See Memorandum 3 and the list annexed)

Article 6. Concerning the child and woman labor, concrete provisions based on the Draft of the Labor Standard Law, shall be enacted in the conference of A and B. (See the No. 1 of annexed documents)

Article 7. The extra labor allowance not less than 25 per cent of daily wage per an hour shall be payed to the extra labor which exceeds the working hours as mentioned in Article 5. (See Memorandum 4)

Article 8. The extra labor allowance, 25 per cent of the daily wage, shall be paid in addition to normal wage for the labor on a holiday or off-duty day mentioned in Article 11 and 12.

Article 9. The extra night duty allowance shall be paid for the labor from 10 p.m. to 5 a.m. per hour by the ration of 0.3 of eights of the sum corresponding to the average daily wage of all workers. (The concrete sum shall be decided in the conference of A and B.)

SUPPLEMENT B

Article 10. The provisions of Articles 5, 7 and 8 shall not be applied to the labor in the official duty hours.

Holidays and Off-duty

Article 11. Holiday shall be given once a week, and on national holidays and May Day, but according to circumstances, it is permitted to give substitute holidays severally to individuals. (See Memorandum 5.)

Article 12. Holidays in recognition of services shall be given according to the following proportion, and the concrete practices shall be decided in the conference of A and B.

1) Twenty days shall be given to those who are in the service on April 1.
2) For those who enter the service after the above said date, holidays shall be computed by multiplying the number of months served in that fiscal year by twenty-twelfths. The fraction shall be regarded as a day.
3) In the computation of the number of months, less than fourteen days shall be omitted and more than fifteen shall be regarded as a month.

Article 13. Hygienic holidays shall be given, as a rule, three days a month. (See Memorandum 6.)
As to holidays for confinement, fifteen weeks shall be given in all.
The time for nursing, each time less than thirty minutes, twice a day, shall be given to those female workers who have a baby under twelve months old.

Compensation for Accidents

Article 14. When a union member wounded or taken ill owing to his duty, A shall give medical treatment and pay the necessary expenses as well as insure his sustenance sufficiently.

Article 15. Even when a union member cannot take service owing to the medical treatment mentioned in the previous article, A must pay his wage.

Article 16. With respect to the bereaved family and the expense for the funeral service, A and B shall decide the concrete details in their conference, according to the provisions of the Draft of the Labor Standard Law. (See the annexed paper No. 2.)

Personnel Affairs

Article 17. The stands of dismissal, reward and punishment shall be decided in the conference of A and B.

Article 18. When A wants to dismiss someone, change his post, reward or punish him, A must inform its intention before hand to that individual and the Union.
The Union as well as the individual can make objection to A's measure in such a case.
As for the practical measures when the objection is made, they shall be decided in the conference of A and B.

Article 19. A cannot dismiss an employee except in the following cases.

1) By his own desire.
2) When he is idle in his service and the Union is convinced that he will mend his way by no means.
3) When he falls under the provisions of dismissals of the punishment Regulations. (See Memorandum 7).
4) When he is sentenced guilty of an ignoble offence.
5) When he cannot take service on account of serious illness or wound.
6) When he is expelled from the membership.

Services for the Union Movement

Article 20. A shall give sanction to the employees being engaged, commissioned by the Union, in the check-off service of union dues.

Article 21. A shall give sanction to some members taking service exclusively of the Union.
The number of such special members shall be decided in the conference of A and B.

Article 22. When a union member wants to take service for the Union during his duty hours he must tell the director of bureau or division to that effect, and the director must give sanction except when it causes great inconveniences to the business.
When a union member goes on a trip for the sake of the Union, it shall be regarded as a trip on official duty, but the expense shall not be paid by A.

Article 23. A shall give sanction to B making use of part of the Ministry building as its office.
Sanction shall be given to the use of another part of the building in so far as it does not cause great inconveniences, when it is necessary for meeting or other union purposes.

Article 24. A shall not obstruct by its business order, the legitimate disputing activities of the union members directed by B.

Article 25. In order to effect the democratization of the management of the business, A shall give sanction to B's participation in the management and establish the Management Negotiation Committee.

As for the organization and operation of the Committee, it shall be decided in the conference of A and B. (See annexed paper No. 3.)

Article 26. A shall hold consultation with B regarding to the fundamental project of the management. A shall give date on demand of B with regard to the budget, balance sheet and other managements. A and B shall keep on co-operation with regard to the investigation of the details of the business, labor conditions and the like.
The enactment, alteration and deletion of the provisions of various regulations shall be made in the conference of A and B. A shall sanction B's participation in the educational institutions and its planning for employees.

Health and Welfare

Article 27. The health and welfare facilities must be adequate enough to satisfy the demand of the union members.

Other Items

Article 28. A shall give sanction to the members the liberty of political activities of in so far as it does not cause great inconveniences to the business.

Article 29. A shall give sanction to the union members the liberty of taking up other public offices in so far as it does not contradict to their positions as public officials. A shall take measures to give conveniences to the union members to execute their above said public offices.

Article 30. The business facilities must be adequate enough to cause no inconvenience to the labor of the union members.

Article 31. The lower organizations of A and B are authorized to make up agreements, within the provisions of this agreement, concerning the further details and the circumstances peculiar to their locality and field of business.

Article 32. This Agreement shall be valid for a year from the day of its conclusion. Alterations may be made in the conference of A and B, when it is recognized inevitable by both parties on account of sudden and violent changes in the economical circumstances and other important occurrences. This Agreement shall be regarded valid for a year, if there is no expression to make alteration from either party a month before the expiration of the term. Even in case there is the expression to make alteration, this Agreement shall be valid until the new agreement is in effect.

MEMORANDUM REGARDING COMMUNICATION LABOR AGREEMENT

Memorandum 1.

Exception "separately provided for" in paragraph 2 of Article I shall be as follows:

1) Ministry (including Kyoto Branch Office and other offices of the same grade)
   - Section chiefs and superiors thereto.
   - Officials in charge of labor affairs.
   - Officials in charge of personnel affairs. (Person who hold a leadership in official post and the next equivalent)
2) Communications Bureaus and Communications Divisions.
   - Section chiefs and superiors thereto.
   - Officials in charge of labor affairs.
   - Officials in charge of personnel affairs. (Person who holds a leadership in official post and the next equivalent)
3) Operating Offices. (Excluding Special Post Offices)
   - Section chiefs and superiors thereto.
   - Officials in charge of labor and personnel affairs.
   - (Person who holds a leadership in officials post)
4) Special Post Offices.
   - Postmaster
5) Electrotechnical Laboratory.
   - Division chiefs and Section chiefs and superiors thereto.
   - Chiefs of Branches.
   - Chiefs of Shops.
   - Officials in charge of labor and personnel affairs.
   - (Person who holds a leadership in official post)
6) Communications schools, Radiotelegraph Schools.
   - Section chiefs and chiefs of Branches and superiors thereto.
   - Officials in charge of labor and personnel affairs.
   - (Person who holds a leadership in official post)
7) Branches of Savings and Insurance Bureau.
   - Director.
   - Chief Secretary.
   - Officials in charge of labor and personnel affairs.
   - (Persons who hold a leadership in official post)
8) Communications Hospital.
   - Director.
   - Chief Secretary.
   - Officials in charge of labor and personnel affairs.
   - (Persons who hold a leadership in official post)
9) Among the second class officials not exempted in each preceding item, those whose admission is desired neither by the Union nor by themselves.

In case preceding paragraphs are impracticable just now owing to the actual state of affairs of each union branch, gradual unification is intended.

Memorandum 2.

With regard to Paragraph 2, Article 1 there should be the following mutual understandings between A and B.

1) Paragraph 2 of Article 1 is not to be concluded that in case A employs an employee, he is required to obtain consent of, and confer with, B. (Arts. 17, 18)
2) Employees expelled from B shall not be necessarily dismissed by A. However, A shall not make collective negotiations with such employees. (Para. 1 of Art. 1, Art. 2, No. 6 of Art. 19)

Memorandum 3.

1) Shortening of heavy labor hours (physical and spiritual) and of labor hours at dangerous work shall be deliberated upon at Management Committee.
2) Specially leisurely labor hours can be calculated at discount and converted into normal service hours stated in Article 5, but this convertment should be minimized and shall be deliberated upon concretely at Management Committee

Memorandum 4

Actual application of Article 7 of the Agreement shall be as follows.
Extra Hourly pay
30% (per hour) of normal pay for the 1st, 2 hours
50% (per hour) of normal pay for the succeeding hours

Memorandum 5

With the exception of those coming under the Governmental Office Hour Regulation, should the holidays including national festivals and the May day aggregate more thanfive days per annum, the limit of the scope shall be generally set up about or around the said five days by consultation between A and B.

Memorandum 6

With regard to personnel other than those engaging in car, outdoor, and heavy labor, it shall be separately considered, upon conditioning of recuperative means, by consultation between A and B.

Memorandum 7

Present disciplinary system shall be promptly democratized by consultation between A and B.

Annex list Nil

Annex 1 as stated in Article 6 of the present Agreement is omitted.
Annex 2 as stated in Article 16 of the present Agreement is omitted.

SUPPLEMENT B

Annex 3

MANAGEMENT COMMITTEE AGREEMENT

Article 1. The Management Committee shall be established in compliance with Article 25, Labor Agreement concluded on March 1, 1947 between Minister of Communications (hereinafter to be called A) and the All Communications Workers' Union (hereinafter to be called B).

Article 2. The Management Committee shall handle the following items:
1) Items related with operation of the enterprise and planning thereof.
2) Items related with enforcement, revision, and abolishment of the organization and other regulations.
3) Items related with labor working condition.
4) Items related with personnel affairs (exclusive of individual affairs).
5) Items related with allowances.
6) Items related with welfare facilities and goods.
7) Items related with education.
8) Other items considered necessary for the attainment of the Committee's aim.

Article 3. As for items stipulated below A shall inquire beforehand of the Committee and shall endeavour to reflect its opinion to the full extent.
1) Items related with budget formation and items affiliated therewith.
2) Items related with enforcement, revision, and abolishment of statutes, organization, and other important regulations (excluding items related only with the Ministry).

Article 4. The Committee shall consist of each eight members representing either A or B, who shall designate one head representative respectively.

Article 5. Persons affiliated with matters to be presented for consideration to the Committee and admitted by the members after consultation may attend conferences and participate in the proceedings.

Article 6. Term of the Committee membership shall be one year and shall not obstruct reappointment. Term of Committee member elected to fill vacancy shall be the term left behind by the predecessor.
Proxy member shall not, in principle, be admitted, however, the recognition by both A and B constitutes an exception.

Article 7. The Committee may not have conference unless more than side members from each side of A and B have attended thereat.

Article 8. The chairman of this Committee shall be elected mutually from among the Committee members on each occasion.
Conferences shall, in principle, be open conferences.

Article 9. Decisions of the Committee shall not be carried out unless all members of both A and B have consented thereto, however, attendants as stipulated in Article 5 may not participate in the decision.

Article 10. The committee shall present the contents of agenda at least one week before the conference which shall be held each month, provided that according to demand from either A or B the Committee shall hold conference despite this provision.

Article 12. The Committee can organize, when necessity arises, Specialist Committee according to classification of matters deliberated upon, and obtain advice from the said committee.

Article 13. Particulars and results of deliberation on matters conducted by the Committee shall be made public in the name of the Committee.

Article 14. Data and expenses required by the Committee shall be furnished by A.

Article 15. A and B shall establish respectively Organization subordinate to the Committee, taking into consideration organization and system under his or its care.

GENERAL HEADQUARTERS
FAR EAST COMMAND

CHECK SHEET

(Do not remove from attached sheets)

File No: PO JWL/cro Subject: Proposed Classification of Communications Workers

Note No.

From: CCS To: GS Date: 6 March 1948

1. It is recommended that Public Service Law No. 120, be amended and clarified to bring the approximately 400,000 employees of the Postal Bureau, Postal Savings Bureau, Post Office Life Insurance Bureau, the proposed Postal Inspection Bureau, Telecommunications Bureau (Traffic and Commercial operations), Telecommunications Engineering Bureau (Engineering Construction and Maintenance), Supply Bureau (Maintenance and Construction), and associated sections or groups necessary to support those mentioned, of the Ministry of Communications, definitely and specifically within the jurisdiction of the National Personnel Commission.

2. Reasons for action recommended:

a. The National Personnel Commission under the law is assigned duties and responsibilities that will render protection to employees of the Government and also safeguard the obligations and responsibilities of a sovereignty to its people.

b. Being under jurisdiction of the National Personnel Commission will provide the benefits of position classification for personnel involved and assure recognition of compensation rights and equal treatment in the matter of appointment, promotions, retirement, etc.

c. The government agencies involved perform services for all the people of Japan. Adverse factors, such as inefficient performance or interruption of service, breed dissatisfaction and unrest, adversely affect the economic and social welfare of the masses and encourage undemocratic influence throughout the nation.

d. Personnel involved would be in a status to present to the National Diet, as individuals or thru organizations, any grievances or plans for improvement of working conditions, hours of labor, rate of compensation, etc. They would enjoy the right, either individually or collectively to petition the National Diet, or any member thereof, for the betterment of any feature of their employment.

3. Since 14 March 1947, surveys and investigations of operations indicate that the personnel involved has practically dictated administrative as well as operating policies of the Ministry of Communications under a so-called "Communications Collective Labor Agreement" entered into by the MOC with the All Communications Workers' Organization. This, of course, has not been conducive to sound management. It appears that the agreement was conceived by an extremely radical element and executed by possibly misguided persons in the MOC and employees' organization. While the legality of the agreement under existing laws is at least questionable, it has operated to seriously hamper the MOC in efforts to rehabilitate the services.

G.I.B.

FEC AGO Form No. 37
8699—FEC Printing Plant—10/49—50M

SUPPLEMENT C

CONSTITUTIONALITY OF PROPOSED REVISIONS OF LAWS

Article 28 of the Constitution of Japan provides: "The right of workers to organize and bargain and act collectively is guaranteed." However, the Constitution of Japan is not composed of a series of separate and unrelated articles but many articles combining to define the character of the State and the rights of individuals. Articles 1, 12, 13 and 15 combine to assert the sovereignty of the people, the pre-eminence of the public welfare and the right of the people to choose their public officials who shall be "servants of the whole community and not of any group thereof."

The Labor Division itself has recognized this in approving laws which prohibit police, firemen and employees of certain types of institutions from even organizing or joining trade unions.

The Constitution of the State of New York, Article 2, Section 17, provides: "Employees shall have the right to organize and to bargain collectively through representatives of their own choosing." Yet the civil service law of that State (Exhibit "G") contains many restrictive provisions upon conduct of public employees consistent with those proposed herein by Government Section.

The proposed legislation does not deny the right of governmental employees to organize, to act collectively or to bargain in the sense of making collective presentation — these activities are encouraged. The proposed revisions deny government employees the right to coerce the execution of contracts in the name of the Government on matters normally subject to legislative control through civil service procedures, or otherwise to conduct themselves in a manner subversive of the national sovereignty and public welfare.

PROPOSED EXEMPTIONS FROM THE NATIONAL PUBLIC SERVICE LAW

Article 2 of the National Public Service Law:

"Article 2. The national public service shall be divided into the regular government service and the special government service.

The regular government service shall be comprised of all positions in the national public service other than those in the special government service.

The special government service shall be comprised of the following types of positions:

1. The Prime Minister.
2. Ministers of State.
3. Commissioners of the National Personnel Authority.
4. Director-General of the Cabinet Secretariat.
5. Deputy Director-General of the Cabinet Secretariat.
6. Vice-Ministers.
7. Director-General of the Economic Stabilization Board.
8. Director-General of the Construction Board and Director of the Liaison and Coordination Agency.
9. Confidential Secretaries to the Prime Minister (not exceeding three in number) and other Confidential Secretaries (one for each Minister of State or head of independent agency included in the special government service).
10. Positions, the appointment to which requires an election, resolution or consent of one or both Houses of the Diet.
11. Director of the Imperial House Agency, Grand Chamberlain, Chamberlains and other personnel of the Imperial House Agency as designated by Law or rules of the National Personnel Authority.
12. Ambassadors, Ministers and Consuls.
13. Judges and one Confidential Secretary to the Chief Justice of the Supreme Court.
14. Prior to May 31, 1949, personnel of "Kodan" and others similar thereto, as designated by law or rules of the National Personnel Authority.
15. Employees of the Diet. * * *."

"Kodans and others similar thereto..." included under Item 14, Article 2 of the National Public Service Law:

"Kodans"

Shipping Kodan
Petroleum Distribution Kodan
Solid Fuel Distribution Kodan
Industrial Reconstruction Kodan

Minerals and Industrial Products Foreign Trade Kodan
Textile Foreign Trade Kodan
Foodstuff Foreign Trade Kodan
Raw Material Foreign Trade Kodan
Price Adjustment Kodan
Fertilizer Distribution Kodan
Liquors Distribution Kodan
Grocery Distribution Kodan
Feedstuff Distribution Kodan
Oilstuff Distribution Kodan
Staple Food Distribution Kodan

"Others similar thereto..."

Holding Company Liquidation Commission

Other organizations will be included as reviewed and determined by the Commission to fall within this category.

SUPPLEMENT E

GENERAL HEADQUARTERS
FAR EAST COMMAND

CHECK SHEET

WFM/JSK/vm

(Do not remove from attached sheets)

File No: 010 (16 Jun 48)ESS/LAB Subject: Proposed Revision to National Public Service Law

ESS 48 16 June 48

Note No. | From: To: Date:

1. Under date of 17 May 1948 you referred to this Section certain proposed revisions of the National Public Service Law for comment.

2. Attached are the requested comments. They are listed under four general headings relating to the following issues:

a. Extension of the law's coverage.

b. Termination of existing government-union relationships.

c. Other comments.

d. Financial aspects.

3. In accordance with instructions from the Supreme Commander personnel from this Section will be made available at your convenience to discuss the viewpoints expressed in the attached appendix in an effort to resolve any remaining differences of opinion on the basic issues.

1 Incl
Appendix

- W.F.M.- - - - - - - - - -

FEC AGO Form No 37

SUPPLEMENT F

8699—FEC Printing Plant—10/49—50M

APPENDIX

Economic and Scientific Section Comments on Revision of National Public Service Law Proposed by Government Section

1. The chief interest of ESS concerns the proposals to

a. Extend the coverage of the law to include practically all employees of the Japanese Government and

b. Arbitrarily terminate the existing collective bargaining relationship between the Japanese Government and the government workers.

It is believed that this proposed action is both unjustifiable and unrealistic and denies recognition of the economic, social and political problems facing the Japanese community as well as the established and implemented policies of the Occupation in this field. In addition it is felt that many other of the proposed revisions are ill-advised in terms of the establishment of democratic and effective employee relations in the government service in that these revisions seek to clothe the proposed National Personnel Authority with arbitrary and discretionary powers subject to no review by or appeal to any higher administrative authority within the Japanese Government. The dangers inherent in the exercise of such powers would be greatly lessened by the establishment of a formalized and realistic collective bargaining relationship within the government service. This Section believes it would be derelict to its responsibility in the field of labor matters were it not to make reference to these potential dangers. Further, certain of the proposed revisions would remove the Public Service Authority from the normal financial and budgetary controls exercised over other agencies of the Japanese Government and would provide unwarranted and discriminatory treatment in favor of the Authority in such matters.

2. Detailed comments on the proposed revisions follow:

a. Extension of coverage to include practically all employees of the Japanese Government. Article 2, Paragraph 3, lines 24 - 27. Although GS has made frequent oral and written references to "American-type personnel administration," one must not overlook the fact that the Japanese Government, unlike the United States Government, operates most of the railroads, all telegraph and telephone services, and has a complete monopoly on the processing of tobacco and salt. It is interesting to note that in the few cases of Federal operation of industrial enterprises in the United States (such as TVA and the Alaska Railways) these agencies have not been put under the jurisdiction of the Civil Service Commission. Although the desirability of uniform standards in the public service is recognized, the inclusion of workers in government enterprises under the coverage of a law designed for the administration of personnel engaged in government administration would be utterly unrealistic since neither the original law nor the revisions recognize the essential differences between government industrial workers and members of the bureaucracy.

So far as ESS/LAB is aware, such a step is unprecedented, and no industrial democracy anywhere in the world has ever approached this extreme. It is noted that the Kodans and the operative personnel of the government railway system would be included in the Special Government Service until 1 July 1953 while the operative personnel of other government enterprises such as the salt and tobacco monopolies and the communications system would be included within the regular governmental service. ESS questions the reasoning behind such a distinction in view of the similarities in the operation of all government enterprises.

ESS Comment: That the original provisions of Article 2 of the law be left unchanged.

b. Arbitrary termination of existing collective bargaining relationship between government and government workers.

(1) Article 1, paragraph 3 of the proposed amended law states "insofar as they are inconsistent or in conflict with prior laws or implementations thereunder the provisions of this law shall control." The Trade Union Act and the Labor Relations Adjustment Act grant to all Japanese workers certain basic rights of trade union organization, normal trade union activity and collective bargaining with the employer. The Japanese Constitution likewise guarantees to Japanese workers certain rights of trade union organization and collective action. The attempt to set aside the exercise of these rights specifically recognized by the Supreme Commander for the Allied Powers in basic Occupation policy is deemed to be a totally unjustifiable objective or intention. Specific objections to abrogation of these laws will be discussed under Article 98.

(2) Article 3, paragraph 2, items 1 and 2. Government Section's intention to establish by order basic policies on all matters relating to wages, hours and working conditions is contrary to the basic principles of employee participation in the determination of such matters which has been adopted by the Japanese Government and supported by the Supreme Commander for the Allied Powers. Under the Labor Standards Law, the Unemployment Insurance Law and other legislation certain standards are set for working conditions, hours, wages, etc. ESS is in doubt as to the intention of GS concerning the power exercised by the National Personnel Authority to order policies relating to wages, hours and working conditions which are below the

standards established by the aforementioned legislation. ESS is of the opinion that under the language proposed such action could be taken although it is not suggested such was the intention. It is noted that among the items for which the authority shall develop and order policies, standards, procedures, rules, etc.,is the item of "grievance procedure." ESS finds nothing in the law which would appear to provide such procedures in the commonly accepted sense. Certainly, the appeal procedures provided in Articles 90, 91 and 92 do not constitute "grievance procedure" as no provision is made for collective representation or determination by a third party of the disputed issue. Machinery for the settlement of grievances between the government and its employees should be provided by law, not by rules of the Authority. A genuine grievance procedure would provide for appealing not only <u>to</u> but <u>from</u> the National Personnel Authority.

(3) <u>Article 28</u>. The original wording of the Public Servants Law in its present form was used advisedly, with the approval of the CinC (reference GS Memo for Record dated 14 August 1947, subject: National Public Servants Law, signed by Carlos P. Marcum and Frank Rizzo). The purpose of the original wording was to leave the way open for the Japanese Government, through its Diet, to set up procedures whereby changes in wages, hours, and working conditions could be accomplished with employee participation, if so desired by the Japanese Government. It should be noted that GS and ESS proposal to place a time limitation, within which the Diet would have to pass subject legislation, was deleted by the CinC because such limitation would put "an unnecessary limitation on the Diet's freedom to legislation on these matters at any time." The proposed GS revision, therefore, would be a violation of SCAP policy as stated by the CinC.

(4) <u>Article 98</u>. This proposed revision is the crux of the conflict between ESS and GS. It is believed that this paragraph is entirely unneccessary and undesirable. The principles governing trade union organization, collective bargaining, and acts of dispute of all workers, including government workers, are adequately covered by existing legislation. These workers are guaranteed the right of collective bargaining by the Japanese Constitution and these rights are defined and delimited by law. Workers engaged in government administration are already forbidden to strike or to engage

in acts of dispute by the Labor Relations Adjustment Act and this prohibition should not be extended to cover additional workers. The basic principle underlying this restriction was that only those workers engaged in the business of governing should be legally prohibited from striking and that although strikes by other employees of the government are highly undesirable, such strikes should be prevented, not by law or force, but by providing adequate machinery for the peaceful settlement of disputes. The present wording of Article 28 was included in the Public Servants Law to enable the Japanese Government to provide such machinery. The chief reason for the failure of the Japanese Government to provide such machinery has been the opposition of GS to any recognition of employee negotiation. GS intention to handle such matters by administrative fiat would mark a return to the pre-surrender nature of arbitrary government control of public servants. The problem of legal prohibition of this activity is especially delicate in Japan where the government is tending in the direction of increased assumption of functions formerly carried on by private enterprise. The mere fact that the government takes over a function should not disbar an employee from his legal rights. In addition to the violation of basic policy mentioned above, certain considerations of a practical and immediate nature must be kept in mind:

(a) Position of the Japanese Cabinet. The present Cabinet has adopted the policy that it will avoid any restrictive change in labor legislation at this time. GS intention to initiate legislation which will stop all collective bargaining and prohibit acts of dispute by any government employee would be directly contrary to this stated policy. Such action could easily bring about the fall of an already shaky Cabinet, which has not been considering any changes in the Public Servants Law and, so far as ESS is aware, has not been consulted by GS.

(b) Effect on unions of government workers. The time is long past for theoretical discussions of whether or not Japanese workers employed in government of government-operated enterprises may (or should) form trade unions, participate in collective bargaining, or engage in acts of dispute. All of

these three are faits accomplis and are protected the the Japanese Constitution and by law. Some organizations of government workers are among the largest and most vigorous trade unions in Japan. It would be naive to assume that such unions would meekly accept the destruction of their rights. Also, the idea that dispute activity will automatically cease upon the passage of restrictive legislation is wishful thinking of a most dangerous kind. Further, GS assertion that development of trade unions among government workers would encourage the growth of Communism is entirely without basis in historical fact. On the contrary, it has been indicated again and again, particularly in the European trade union movement, that the suppression of healthy trade union development has resulted in a revolutionary, often underground, trade union movement subject to easy manipulation by extremist minorities. Since 1917 England has had a formalized and systematic program for collective negotiation and cooperation between the government and the trade unions of those employed in the public service. This program, officially recognized and accepted by the government, has aided greatly in the prevention of anti-democratic influences developing in the British Labor Movement.

(c) Effect on public opinion re SCAP. The unfavorable international press comments which would probably result from GS proposed course of action might create in labor and other interested circles a distorted and unfavorable impression of the current trend of SCAP labor policy, which has heretofore enjoyed the enthusiastic endorsement of informed opinion in the United States and elsewhere. Also, such a retrogressive step in the heretofore liberal SCAP policy would quite likely be effectively utilized by certain nations and individuals to cast discredit upon the American effort to build a democratic Japan.

ESS comment: ESS therefore recommends that the present language of Article 1 paragraph 3, Article 3 paragraph 2, Items 1 and 2, Article 28 and Article 98 be retained in their present form and in addition that the Japanese Government be encouraged to develop legislation implementing Article 28 in the existing law at the earliest possible time.

c. Additional comments.

(1) Article 85. Objection is made to the first sentence of the proposed revision. Hearings of the Authority should

not run parallel with criminal court proceedings on the same matter unless the charges are different from those under consideration in the criminal court. If the court and the commission should make different findings, the dignity of the court would be impaired and public confidence in the commission would be weakened. Suggest retention of the original wording with the addition of "except as provided in Article 79." With this change it would then be possible for an employee to be temporarily retired pending the resolution of his case.

(2) Article 102. Reference aforementioned GS Memo for Record signed by Messrs. Marcum and Rizzo, dated 14 August 1947, subject: National Public Servants Law, paragraph 3a, which states "modify Article 102 (prohibition of political activity) by the addition of the following clause: 'No provision of this act shall be interpreted to prohibit legal organization of government employees or individuals authorized to act for such organization in taking part in political activities or supporting political parties.'" This provision was approved by CinC on 13 August 1947. It is noted with interest, however, that this provision was not included in the original law. This can only be regarded as gross negligence or a breach of faith on the part of GS.

(3) Article 29, Paragraph 4, line 3. The classification plan is the foundation on which merit system operation rests, and it is inconceivable that examinations, appointments, transfers, salary determinations, etc. could be equitably accomplished without such a plan, approved by the Diet. To enforce this law before Diet approval of the classification plan would mean that the public service would be ruled by order of the Authority.

(4) Article 62. In this case also the original wording of this article was approved by the CinC on 13 August 1947 (aforementioned Memo for Record, paragraph 3d), and ESS must insist that no revision be made.

(5) Articles 33, 75, 77, 79, 81 all provide for a further increase in the arbitrary power of the Authority to rule by order rather than by law. The danger which this arbitrary delegation of power poses to the successful implementation of a sound policy of employees relations cannot be exaggerated.

ESS Comment: ESS recommends no change in the existing language of the above mentioned articles of the law.

d. Financial aspects.

(1) Article 3. "Within the administrative sphere in which the Authority is empowered to act by this law, the decisions and actions of the Authority shall be subject to review only by the Authority under its own procedures." This provision is in conflict with Article 90 of the Constitution which provides for annual audits of all State expenditures and revenues by the Board of Audit. All actions of the Authority relating to the expenditure of public funds are subject to review and audit by the Board of Audit.

(2) Article 13. "A reserve fund which shall be under the supervision of the President of the Authority shall be provided among the expenditures mentioned in the preceding paragraph. Disbursements from this fund shall require a resolution of the Authority." There are presently no reserve funds in individual accounts of the executive branch of the government. There is a general reserve fund in the general account which may be expended only upon the approval of the Cabinet and of the Diet. This is in accordance with Article 87 of the Constitution. To allow the above proposed addition would be in violation of the Constitution and of good budgetary practice. The Diet cannot control expenditures of administrative agencies if these agencies are allowed to maintain reserve funds to be expended solely on their own authority.

(3) Article 13. "In the event the Cabinet or the governmental budget authority desires to revise the annual request of the Authority for operating funds so presented, the request as compiled by the Authority and the request as revised by the Cabinet and/or the governmental budget authority shall be presented to the Diet for consideration." This type of provision is used to protect the Diet and the Judicial branch of the government from undue control of their funds by the Executive branch of the government. However, in the instant case, the authority is a part of the Executive branch of the government and has no need for this protection. The Authority is in the same position as any other administrative agency within the Executive branch of the government.

ESS Comment: ESS recommends that these proposed changes in Article 3 and 13 be deleted.

GEN. DOUGLAS MacARTHUR'S LETTER TO PRIME MINISTER HITOSHI ASHIDA

July 24, 1948

"I have reviewed the conclusions drawn from the joint studies conducted between representatives of your government and this headquarters into the adequacy of the National Public Service Law as a solution to the problems now existing in respect to the public service of Japan. I am in general accord with these conclusions as to existing inadequacies which must be corrected.

"It was the purpose of the National Public Service Law to provide for the installation of a democratic and efficient public service in the government of Japan. The plan envisioned a modern type of personnel system which recruits public employees from the entire public by competitive test and promotes them on the basis of merit, providing scientific supervision over their classification, compensation, training, evaluation, health, safety, welfare, recreation and retirement.

"The system provides a grievance procedure for employees and assures them fair and equitable treatment in administration. Enforced by a quasi-judicial administrative authority and supplemented by emergency provisions aimed at immediate reform where urgency demands it, it constitutes a constructive program for dealing with the hazards which old bureaucratic practices present to the success of democracy in Japan.

"The pattern of personnel administration as here inaugurated views the entire people as exercising sovereignty and control over employees of government through the National Diet which, functioning through a National Public Service Authority, applies principles of scientific personnel management and standardizes the public service, its recruitment, compensation, discipline, benefits and other factors incident to employment.

"Such a system in accordance with democratic concepts, is designed to regard the faithful administration of the Law and the efficient conduct of the government's business as a prime duty without yielding to the pressure of politics or privilege.

"The studies, now completed, of various laws relating to this subject matter, reveal omissions to deal adequately with the situation.

A Noticeable Failure

"They fail to afford positive safeguards against minority pressure upon the authority and integrity of government and they fail to apply the law to many classifications of governmental employees who clearly are entitled to civil service benefits and protection and subject to its restrictions. Throughout there is a noticeable failure to distinguish between employee relationships in government and labor relations in private enterprise.

"The rapid and unprecedented gains labor has made in Japan during the Occupation attest my own awareness of the vital importance of trade unionism in modern life and of the historical significance of the trade union movement throughout the world in correcting many of the abuses associated with modern industrial economy.

"In government, however, this movement has but limited application and cannot substitute for or challenge duly constituted executive, judicial and legislative agencies exercising the sovereign power.

"At the start of the industrial era, the tendency existed to treat labor as a commodity, without voice in the price to be paid or the conditions of its employment.

Had Better Opportunity

"As the technology of mass production developed, however, workers had a better opportunity to organize for their mutual benefit and through long and arduous struggle secured the economic power of bargaining collectively through representatives of their own choice for an improved standard of life, a betterment in working conditions and some degree of social security.

"This right of association with its inherent power of compulsion had progressively developed in the trade union movement an economic power which has brought to bear an increasingly potent influence upon industrial economy. Such influence in democratic society has in turn been translated into political power through the support it has given to political parties, but it would be violative of the democratic concept for the trade union movement to usurp the function of the duly elected representatives of the people as a whole by super-imposing union judgment upon legislation and administration.

"It is true that in all industrialized countries, specific pressure groups exist, representing not only the interests of labor but also those of business, finance, agriculture, and the professions.

They are Transcended

"Although such pressure groups contend for power and influence in a democracy, they are transcended by the fundamental concept of national unity. The "public" is not considered merely the residual members of the community who do not belong to such specific pressure groups, but consists of all the people and the "public interest" is synonymous with the general welfare.

"The significance of this concept is as well understood in Japan as in any western democracy. The Constitution of Japan itself recognizes the 'unity of the people' and the 'Will of the people with whom resides sovereign power'; the Constitution itself affirms the principle that 'the freedoms and rights guaranteed to the people by this Constitution shall be maintained by the constant endeavor of the people' who, 'shall always be responsible for utilizing them for the public welfare'; and the Constitution itself envisages a National Diet as 'the highest organ of state power' which shall be 'representative of all the people.'

Gen. MacArthur's Letter to Prime Minister Hitoshi Ashida (cont'd)

"If this fundamental concept of the Constitution declaring the unity of the people and the supremacy of the public interest is to be preserved inviolate, no part of the power of government can be delegated to or usurped by any private group whatsoever.

"Were the contrary true the "responsible government" for Japn contemplated by the Potsdam Declaration and created by the Constitution, could not exist. For it is axiomatic that a government which abdicates its sovereign power is no longer responsible.

Strength of Unionism

"By its very nature, as a private entity the Labor union does not possess the attributes of government. Wherever it has flourished, the strength of free trade unionism has always sprung from its independence of government and its freedom from domination by government in the pursuit of its lawful and legitimate objectives.

"Having experienced the suppression which was an attribute of totalitarian Japan, Japanese labor since the Occupation has in general understood this principle and chosen the path of free trade unionism, eschewing those reckless policies the inevitable effect of which would be to provoke severe repressive measures in safeguard of the general welfare.

"It has recognized that free workers in free private enterprise cannot exercise sovereign power except in their capacity as free men at free elections. Indeed, because it upholds the dignity of the individual and of his labor, free trade unionism in the pursuit of labor's legitimate objectives constitutes one of the strongest bulwarks of democracy.

"There is, however, a sharp distinction between those who have dedicated their energies to the public service and those engaged in private enterprise. The former are the very instruments used for the exercise by government of the people's sovereign power, and as such owe unconditional allegiance to the public trust imposed by virtue of their employment. For upon them rests, in the words of the late President of the United States, Franklin D. Roosevelt, a foremost exponent of the rights of labor, the obligation to serve the whole people, whose interests and welfare require orderliness and continuity in the conduct of Government activities."

A Paramount Obligation

"This obligation is paramount. Since their own services have to do with the functioning of the government, a strike of public employees manifests nothing less than an intent on their part to prevent or obstruct the operations of government until their demands are satisfied. Such action, looking toward the paralysis of government by those who have sworn to support it, is unthinkable and intolerable.

"I am in full accord with this view. No person holding a position by appointment or employment in the public service of Japan or in any instrumentally thereof should resort to strike or engage in delaying or other

dispute tactics which tend to impair the efficiency of governmental operations.

"I feel that any person, holding such a position, who resorts to such action against the public of Japan thereby betrays the public trust reposed in him and forfeits all rights and privileges accruing to him by virtue of his employment.

"For as President Roosevelt further stated, "all government employees should realize that the process of collective bargaining, as usually understood, cannot be transplated into the public service. It has its distinct and insurmountable limitations when applied to public personnel management. The very nature and purposes of government make it impossible for administrative officials to represent fully or to bind the employer in mutual discussions with government employee organizations."

Governed by Laws

"The employer is the whole people, who speak by means of laws, enacted by their representatives of Congress. Accordingly, administrative officials and employees alike are governed and guided, and in many instances restricted, by laws which establish policies, procedures, or rules in personnel matters.

"It must be clearly understood, however, that this concept does not mean that public servants are deprived of the untrammelled right individually or collectively, personally or by chosen representatives, freely to express their views, opinions or grievances for the purpose of seeking a betterment of their conditions of public employment.

"Such rights are inherent in a democratic society and inalienable and I believe are adequately provided for in the proposed revision of existing law.

"Moreover, the special restrictions which protection of the national interest impose upon the employees of government make it at all times incumbent upon government to provide adequate safeguards to the welfare and interests of such employees. Indeed, so completely is this concept understood and followed in democratic society that the opportunity for public service with the added dignity, prestige and permanence of such a status, is universally regarded and sought as a desirable privilege.

"So far as the railways, salt, camphor, and tobacco activities presently under government ownership are concerned, I believe that employees thereof might well be excepted from the regular civil service.

Urges Proper Provisions

"In this event, however, public corporations should be established by appropriate action to manage and operate these activities. Proper provision should be made for standards, policies, and procedures of employment and while substituting mediation and arbitration measures for the protection

accorded others under the civil service safeguards should be provided to the public interest against any interruption of operations resulting from failure of employees faithfully to discharge their responsibilities of employment.

"Moreover, in the interest of efficiency, I believe that a complete reorganization of the Ministry of Communications is desirable, with the separation of the postal services of the government from the other functions of that Ministry and the establishment of two Cabinet agencies in lieu thereof.

"The National Public Service Law was initially conceived in recognition of the fact that a complete reform of the Japanese bureaucracy is essential to the success of democratic institutions in Japan, as such institutions, whether political, economic or social, will inevitably find strength or weakness in direct proportion to the efficiency of the governmental services and the vigorous leadership which government, as organized to safeguard the public interest and advance the general welfare, is capable of extending to the sovereign people from whom it powers are derived. The success of this reform is accordingly no less a primary objective of the Occupation than it is a prerequisite to the future well-being of the people of Japan.

"In the solution of this problem the paramountcy of the public interest is therefore of foremost consideration and corollary thereto is the need that safeguards be erected to insure that the lawful authority of the government as the political instrument to enforce the people's will as expressed in the body of public law be only challengeable at the polls as provided under well established democratic practice.

Leads to Anarchy

"To hold otherwise would be to subvert the public interest by rendering government subservient to a primacy of the special privilege of minority groups, a condition which inevitably leads to anarchy, insurrection and destruction. This is a rule fundamental to the very existence of a democratic society, and yet its enforcement in the great western democracies has only recently necessitated the full application of the police power of the State involving the employment of the armed forces as well as the civil police.

"In Japan, where the maintenance of armed forces is renounced by constitutional mandate, such application of police power can, however, only be supported by the civil police. This renders it all the more necessary here than elsewhere that the law carefully define and make unmistakably clear the authority of government and provision for the firm preservation of its integrity and dignity.

"It is to this end that I feel that a comprehensive revision of the National Public Service Law to bring the same within the framework of the concepts herein discussed should be undertaken immediately.

GHQ/SCAP Records(RG 331)
Description of contents

THE NATIONAL ARCHIVES OF THE UNITED STATES

(1) Box no. 2042

(2) Folder title/number: (20)
Labor Relations Report

(3) Date: July 1945 - Mar. 1950

(4) Subject:

Classification	Type of record
740	e

(5) Item description and comment:

i) Soviet-American Discussions on Labor Policy in Japan
ii) Australian Resolution and Comments
iii) Official Documents Concerning Employment-Management Relationships in Japan

(6) Reproduction: Yes No

(7) Film no. Sheet no.

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SOVIET-AMERICAN DISCUSSIONS ON
LABOR POLICY IN JAPAN

SOVIET-AMERICAN DISCUSSIONS ON LABOR POLICY IN JAPAN

A.	SCAP Forbids General Strike	5	February	1947
B.	Mr. Blaine Hoover Speaks at Steering Committee Meeting	19	October	1948
C.	US Statement	13	January	1949
D.	Soviet Statement	3	March	1949
E.	Soviet Proposal	2	June	1949
F.	Soviet Statement	23	June	1949
G.	SCAP Reply to Soviet Statement of 23 June 1949	4	July	1949
H.	US Analysis of Soviet Statement of 23 June 1949	13	July	1949
I.	Soviet Statement in reply to US Statement of 13 July	21	July	1949
J.	Soviet Statement	27	October	1949
K.	Statement by US in Reply to Soviet Statement of 27 October 1949	17	November	1949
L.	Soviet Statement concerning Japan Trade Union's Participation in International Conference	8	December	1949
M.	US Reply to Soviet Statement of 8 December 1949	15	December	1949
N.	Soviet reply to US Statement re Participation of Japan Trade Unions in International Conference	22	December	1949
O.	Soviet Statement	5	January	1950

5 February 1947

FROM : WAR (WDGID)

TO : CINCFE (PASS TO CG MARBO GUAM)

NR : WARX 91228

Japan: After SCAP forbade general strike as dangerous "in present impoverished and emaciated condition of Japan" labor leaders appealed to SCAP and members of Allied Council on basis "16 principles established by the Far Eastern Commission".

Comment: Represents first pitting of SCAP against Allied body by any Japanese group.

1 November 1948

FROM: DA

TO : SCAP (ACTING POLAD)

INFO: CSUSA

NR 0: WAR SVC 8127 (RELAYS MSG FROM STATE DEPT TRUE TOO 300147 Z)
(STATE SERIAL 376, OCT 29, 6 PM SIGNED LOVETT)

Subj summary Steering Committee Meeting, Oct. 19, 1948.

At suggestion of UK member, Mr. Blaine Hoover in personal capacity spoke to Steering Committee on background of the National Public Service Law and its proposed revision. Emphasized the defects of present labor relations practices existing among government employees and described how semi-independent National Personnel Authority with its bureaus to deal with recruitment, efficiency, compensation and equity would correct such defects.

STATEMENT BY US REPRESENTATIVE
AT FEC MEETING (WASHINGTON DC)
13 January 1949

At Far Eastern Commission meeting 13 January 1949 US member read and distributed the following US statement on labor policy in Japan.

"At recent meeting of the commission the New Zealand member asked 2 questions of my delegation:

(1) Whether, in our opinion, FEC 045/5 (principles for Japanese trade unions) applies to all or to some workers employed by the Japanese government; and

(2) Whether, in our opinion, the recent Japanese legislation on the subject is in conformity with FEC 045/5.

"FEC 045/5 is a broad statement of principles for Japanese trade unions. It does not indicate the specific categories of workers, government or otherwise, to which it applies or does not apply.

"While we are all aware that virtually every national distinguishes between labor relationships in government and labor relationships in private enterprise, and makes further distinctions in the treatment accorded various categories of government workers, such distinctions are not made in FEC 045/5. The implementation of this policy decision is left, of course, to the Supreme Commander in the exercise of his executive authority.

"The Supreme Commander from time to time in the course of the occupation has given sponsorship and approval of necessary and appropriate Japanese legislation dealing with labor relations both in industry and in the public service. Legislation in these important areas has been amended and revised from time to time by constitutional processes within the framework of the regime of control, to meet the objectives and needs of both the Japanese Government and the occupation. It may be reasonably expected that the legislative code thus evolved will undergo further revision by the same processes in the future.

"This code of Japanese legislation pertaining to labor relations within and without the public service is not patterned precisely on that of any other single nation, nor should it be. It has been developed for Japan, in consultation between the successive Japanese governments and the Supreme Commander who alone on behalf of the allied powers in a position to assess and appraise from an administrative standpoint, the situation in Japan in which pertinent policy directives must be implemented by specific provisions of specific laws.

"In view of the fact that the policy decision has in effect left its precise application to Japanese labor to the Supreme Commander, as a matter of implementation, I can only say in answer to the New Zealand member's questions, that my government considers it inappropriate for it to attempt

to provide, by its opinion, precise terms for such implementation, and that it regards the implementation thus far effectuated by the Supreme Commander as within his prerogatives and the latitude given him by the policy decision. My government does not consider that the recent Japanese legislation is inconsistent with FEC 045/5."

STATEMENT BY SOVIET REPRESENTATIVE
AT FEC MEETING (WASHINGTON DC)
3 MARCH 1949

Soviet member FEC made the following statement at meeting 3 March 1949 and immediately released to press:

"The question of labor policy in Japan and that of General MacArthur's violation of the Potsdam Declaration and the decision of the FEC in regard to the democratization of Japan is already being discussed in the FEC for several months. The discussion of this question began, as is known, in connection with the fact that on July 22, 1948, General MacArthur issued to the Japanese Government a directive in which he demanded that workers and employees of the government enterprises and institutions be forbidden to conclude collective agreements and to strikes, and also, in connection with the cabinet order of the Japanese Government of July 31, 1948, issued in compliance with this directive.

"In its statement of September 16, 1948, the Soviet delegation called the attention of the FEC to the fact that the said actions of General MacArthur were in contradiction with the Potsdam Declaration in respect to Japan and that they constituted a violation of the decisions of the FEC in regard to the democratization of Japan. At that time the Soviet delegation submitted for the consideration of the commission a draft decision which provided that the above-mentioned directive of General MacArthur and the order of the Japanese Government be revoked since they deprived a major part of the Japanese worker's and employee's of their elementary rights to protect their vital interests. The Soviet delegation insisted also that repressions against workers and employees of government enterprises and institutions should be discontimued. After a lengthy discussion of the proposals of the Soviet delegation, this proposal was rejected in the beginning of January by the majority of the commission members. Thus, the majority actually took the position of supporting the policy of the US military authority in Japan which is in violation of the Potsdam Declaration in respect to Japan and the decisions of the FEC regarding the democratization of Japan.

At the same time the above-mentioned anti-Democratic measures were approved by the Japanese Diet under the pressure of the US occupation authority in Japan, and were reflected in the amendments adopted by the Japanese Diet to the National Public Service Law of November 30, 1938. In order to prove that the adopted laws are basically in contradiction with the principles, decided upon by the FEC in regard to Japanese trade unions set forth in the decision of December 6, 1946 (principles for Japanese trade unions) it is sufficient to give the following examples:

"In paragraph 1 of the above-mentioned decision it is stated: 'Japanese workers should be encouraged to form themselves into trade unions for the purpose of preserving and improving conditions of work participating in industrial negotiations to this end, and otherwise assisting the legitimate trade union interests of workers, including organized particpation in building up a peaceful and Democratic Japan.'

"The same objective of protecting the Democratic rights of trade unions is pursued by paragraph 2 of this decision:

'The right of trade unions and their members to organize for these purposes should be assured and protected by law. The freedom of workers to join trade

unions should be provided for by law. All laws and regulations preventing trade unions achieving those objectives should be imabrogated. Employers should be forbidden to refuse employment to, or discriminate against, a worker because he is a member of a trade union.'

"In paragraph 4 it is also stated that:

'Trade unions should be encouraged to negotiate with the employers on behalf of their members regarding terms and conditions of employment. The Japanese Government should establish mediation and arbitration machinery for dealing with industrial disputes that cannot be settled by directive and volunteer negotiation between the worker or his representative and the employer. The mediation and arbitration machinery should operate under conditions assuring the protection of the interests of the workers.'

"Such are the FEC decisions the purpose of which is to protect the legitimate interests of Japanese workers and trade unions from the arbitrary actions of employers.

"However, the above-mentioned laws deprive the workers and employees of government enterprises and institutions of the elementary rights of protecting their interests by means of concluding collective agreements as well as by means of participation in labor conflicts. Severe repressive measures including imprisonment for a period of 1 to 3 years and a fine of 100,000 yen are imposed for participation in such conflicts.

"As to the workers and employees of other branches of industry and the national economy, these laws give the cabinet ministers the right to define the categories of workers and employees which are allowed to participate in trade unions and also the right to determine a list of questions which according to the opinion of the government, may be included in collective agreements for workers.

"13 of the above-mentioned decisions of the FEC is also violated. This paragraph reads as follows:

'Japanese Government and other agencies which were set up or functioned for the purpose of obstructing or in such a way as to obstruct free labor organization and legitimate trade union activities should be abolished or their powers in respect to labor revoked. No police or other government agencies should be employed in spying on workers, breaking strikes, or suppressing legitimate union activities.'

"In violation of this paragraph the revised National Public Service Law establishes a system of police spying and repressive measures in respect to government workers and employees. Besides, these illegal measures against the workers and employees are being taken on a more and more broad scale.

"Finally, paragraph 6 of the commission decisions reads:

'Trade unions should be allowed to take part in political activities and to support political parties'.

"Very often this paragraph is rudely violated. This can be seen even from a fact that the revised National Public Service Law permits the National Personnel Authority which is under the prime minister to determine at its discretion the character of political activities of government employees and also provided for the prohibition of the government employees to engage in any political activities other than exercising the right to vote. In practice this has led to arbitrary measures of the part of Japanese authority in respect to government employees and to an offensive against their elementary ani inalienable rights.

"The above-mentioned examples refute the US representative's statement at the commission meeting on January 13, 1949 to the effect that the recent Japanese laws, mentioned above, allegedly are not inconsistent with the principles set forth in the FEC decision in respect to Japanese trade unions.

"It is not able that in his statement the US representative could not but recognize the absolutely self-evident fact that the Commission decisions do not make any distinctions between the workers and employees engaged in Government enterprises and institutions and those engaged in private enterprises. Nevertheless, the US military authority in Japan and the Japanese Government acting under their patronage, do make such distinctions depriving first of all the workers ani employees engaged in government enterprises and institutions of their legitimate rights.

"The attempt of the US representative to prove that the Supreme Commander , allegedly, has the right to interpret and implement the Commission decisions at his own discretion was dictated by a clear intention to justify illegal action of General MacArthur and those of the Japanese Government. This attempt constitutes an example of ignoring the rights of the FEC which is the only agency formulating allied policy in respect to Japan. Recently such attempts have become more and more numerous.

"In this connection it is impossible not that of aforesaid new laws have led to the increase of police reprisals against Japanese workers, trade union leaders, promoters of Democracy in Japan, and that these repisals are now being extended not only to the workers and employees of Government enterprises and institutions to whom new Japanese laws are directly applied, but also to the workers and employees of other branches of industry.

"As examples of arbitrations and repressions against workers and employees during the recent time one may point out the following:

"In November 1948 the Military Tribunal of the 24th US Infantry Division in Kokura sentenced 16 trade union officials to hard labor. The beating by the Japanese police on November 28, 1948 of girl-operators of the Tokyo Central Telephone station who were on strike may be taken as another example of unlawful practices. The sentencing of 20 railway workers in the city of Asahigawa (Nokkaido) to imprisonment, although they did not commit any crime or offense, also belongs to the same illegal tricks.

"It is also known that there are repeated cases when representatives of the Supreme Commander's Headquarters summon trade union leaders and by threats of

repressions and a direct pressure upon the representatives of striking workers and employees deprive them of their legitimate rights and interests.

"On February 3 the Japanese Labor Ministry issued an order in respect to the activity of trade unions. By this order the prefectural governors are required to examine the 'constitutionality' of trade unions and to dissolve those of them which will not answer the criteria established by the above-mentioned order of the Ministry of Labor. In accordance with these criteria, the trade unions which engage in the organization of mutual aid for their members, engage in cultural activities, and take part in political activities are considered as unconstitutional and subject to dissolution.

"It is not difficult to note that this order of the Japanese Ministry of Labor, approved on February 2, 1949 by the Labor Division of General MacArthur's Headquarters, once again rudely vilated the FEC decision of December 6, 1946.

"According to the reports widely published in the Japanese press the Japanese Government is at the present time preparing itself for the further limitation of the rights of the Japanese working people by means of a new revision of labor legislation and trade union statutes as well. With this purpose there was created a governmental commission which according to Mr. Hepler, Chief of Labor Division of the US Occupation Forces Headquarters, should "prepare a bill for the revision of labor legislation.'

"On February 14 the Japanese Ministry of Labor published new drafts for the revision of the trade union law and the labor relations law.

"The publishing of these drafts created a wave of protests on the part of Japanese Democratic organizations. In particular, the two largest trade union organizations of Japan--the National Congress of Industrial Trade Unions and the All Japanese Federation of Labor were against these drafts. In the statement of the National Congress of Trade Unions it is pointed out that the above mentioned drafts were 'one-sidedly and undemocratically worked out by the government in an attempt to take advantage of the US program on the stabilization of Japanese economy for the revision of labor legislation to the worse.'

"On February 25 a delegation of 11 Japanese trade unions visited the members of the Allied Council for Japan and presented them a petition. In the petition it is stated that the above-mentioned bills, prepared by the Japanese Government, are directed towards abolishing labor agreements, that they deprive the workers of elementary human rights, ignore the right of workers to participate in the consideration of the labor relations law and sanction the right of the local government labor boards to interfere directly in trade union affairs. The delegation justly states that the anti-democratic measures and laws being passed in Japan are in contradiction with the decision of the FEC regarding the Japanese trade unions.

"The representatives of 11 trade unions appeal to the countries participating in the control over Japan, with the request to prevent these anti-democratic measures of the Japanese Government.

"Such is the position of the Japanese workers and employees in regard to the anti-democratic laws and measures, being passed by the Japanese Government with the encouragement and on the direct orders of the/Military authority. How can the FEC not listen to the voice of the representatives of the Japanese trade unions? It cannot, of course, do this since not to reckon with these legitimate demands of the workers of Japan means to ignore its own decisions, directed toward the attainment of democratization of Japan.

"In view of the fact that the revised Public Service Law of November 30, 1948 and the Public Corporations Labor Relations Law of December 11, 1948, by the Japanese Diet on the basis of General MacA thur's directive of July 22, 1948, as well as the drafts for the revision of the Labor Relations Adjustment Law and the Trade Union Law, published by the Japanese Government on February 14 deprive the Japanese workers and employees of their inalienable right to fight for the protection of their legitimate interests and rights, provided for by the decisions of the FEC, the Soviet delegation submits the following proposals for the consideration of the commission:

"1. The FEC finds that the revised National Public Service Law and the Public Corporations Labor Relations Law adopted by the Japanese Diet on November 30 and December 11, 1948, respectively, as well as the draft of the Labor Relations Adjustment Law and the draft of the Trade Union Law, published on February 14, directed towards depriving the Japanese workers and employees of the possibility of protecting their legitimate rights, constitute a violation of the decisions of the FEC-'basic post-surrender policy for Japan' of 19 June 1947 and 'principles for Japanese trade unions' of December 6, 1946.

"2. The FEC deems it necessary that on the part of the Supreme Commander of the US Occupation Forces in Japan appropriate measures be taken towards the abrogation of the revised 'National Public Service Law' and the 'Public Corporations Labor Relations Law'.

"3. The FEC draws the attention of the Supreme Commander to the necessity of taking actions to prevent in the future the adoption by the Japanese Government and the Japanese Diet of measures which violate the Potsdam Declaration in respect to Japan and the policy decisions of the FEC."

FEC
318/22

SOVIET PROPOSAL
RE LABOR POLICY IN JAPAN
(Reference: 318 Series)
AT FEC MEETING (WASHINGTON, DC)
2 JUNE 1949

Note by the Secretary General

1. The enclosure, a proposed policy decision on labor policy in Japan, was introduced by the Soviet Representative at the 156th meeting of the Far Eastern Commission, 2 June 1949, and is circulated for the consideration of the FAR EASTERN COMMISSION.

2. The attention of representatives is invited to the fact that the submission of the enclosure constitutes a reintroduction of the proposal contained in Enclosure "B" of SC-318/19, which was rejected by the Steering Committee on 31 May by a vote of 1 in favor (USSR) to 1 opposed (US), with 9 abstentions. As previously formulated, (FEC-318/13) it was rejected by the Joint Committee on Labor Policy in Japan at the fourth meeting of that committee, 6 April 1949. FEC-318/13 was originally submitted at the 143rd meeting of the Commission, 3 March 1949 and was referred to the Joint Committee on 10 March.

NELSON T. JOHNSON
Secretary General

Enclosure

LABOR POLICY IN JAPAN
Soviet Proposal of 2 June 1949

1. The Far Eastern Commission finds that the revised "National Public Service Law" and the "Public Corporations Labor Relations Law", adopted by the Japanese Diet on 30 November and 11 December 1948, respectively, as well as the Labor Relations Adjustment Law Revision Bill and the Trade Unions Law Revision Bill, adopted by the Japanese Diet on 22 May 1949, directed towards depriving the Japanese workers of the possibility of protecting their legitimate rights, constitute a violation of the decisions of the Far Eastern Commission, "Basic Post Surrender Policy for Japan" of 19 June 1947 and "Principles for Japanese Trade Unions" of 6 December 1946.

2. The Far Eastern Commission deems it necessary that on the part of the Supreme Commander for the Allied Powers appropriate measures be taken towards the abrogation of the revised "National Public Service Law" and the "Public Corporations Labor Relations Law", as well as the laws revising the "Trade Unions Law" and the "Labor Relations Adjustment Law", as being contrary to the above-mentioned decisions of the Far Eastern Commission.

3. The Far Eastern Commission draws the attention of the Supreme Commander to the necessity of taking actions to prevent in the future the adoption by the Japanese Government and the Japanese Diet of measures which violate the Potsdam Declaration in respect to Japan and the policy decisions of the Far Eastern Commission.

SOVIET STATEMENT
RE LABOR POLICY IN JAPAN
AT FEC MEETING (WASHINGTON, DC)
23 JUNE 1949

"In connection with the discussions by the FEC of the Soviet proposal which proves that on the part of the Supreme Commander appropriate measures should be taken to abrogate the revised National Public Service Law and the Public Corporations Labor Relations Law, adopted by the Japanese Diet last year, as well as the laws revising the Trade Unions Law and the Labor Relations Adjustment Law adopted by the Japanese Diet on May 22 this year, I wish to draw the attention of the committee members to the statement of the Soviet Delegation in the steering committee on May 24 (SC-318/18) in which statement concrete examples were adduced to the effect that these new revisions in the Japanese Labor Legislation as well as the revisions of labor laws, which were made last year, are contrary to the FEC policy decision FEC-045/5 and other policy decisions of the FEC in respect to the democratization of Japan.

The revisions of labor laws in the main come to the following:

A. Revised Labor Relations Adjustment Law.

1. The Prime Minister is given the right to include additional enterprises in the category of "Public Utility" enterprises in order to restrict the rights of the workers in such enterprises in regard to acts connected with labor disputes.

As a result of this revision the Prime Minister has received the right to incorporate any enterprise or any industry in the category of 'Public Utility' enterprises and to declare the labor conflicts of the workers in such enterprises as illegal.

2. A very important provision prohibits the employer to discharge workers or create discriminative conditions for them for taking part in labor conflicts has been deleted from the Labor Relations Adjustment Law.

Thus employers have received the right to discharge workers or create discriminative conditions for them because of their participation in labor conflicts.

3. There have been introduced added provisions prohibiting the workers from engaging in labor conflicts during a period established for the settlement of their differences with the employer in respect to the interpretation of the agreement reached, as well as a number of other restrictive provisions.

4. Besides other repressions, the worker who does not fulfill these rules may be subjected to a fine of 1 hundred thousand yen, that is, a sum exceeding the yearly wage of a Japanese worker.

All these provisions of the revised Labor Relations Adjustment Law are clearly contrary to the policy decision FEC 045/5, in particular, to Paragraph 5 of this decision which reads that:

"Strikes and other work stoppages should be prohibited only when the occupation authorities consider that such stoppages would directly prejudice the objectives or needs of the occupation."

B. Revised Trade Union Law.

1. The new law has introduced provisions regarding the structure of the labor relations committees as a result of which these committees are turned into government agencies under the Labor Ministry (Chapter 4, Article 19 and other articles). These government labor committees received the right to interfere directly and control all the activities of trade unions and, besides that, to determine the question of "Constitutionality" of trade unions.

According to the new law the Central Labor Relations Committee, which is directly under the Labor Ministry, have read the right to reject and modify the decisions adopted by local relations committees.

It is absolutely clear that this new system of organization for labor relations committees, in which the role of the representatives of the workers organizations has been reduced to nothing, can not secure the protection of the workers interests.

It is not difficult to convince anyone that this new provision for labor relations committees is contrary to Paragraph 4 of the Policy Decision FEC 045/5.

2. Several categories of Japanese workers are prohibited from joining trade unions/Article 2. 1/.

According to the press reports the adoption of this amendment to the law deprives 30,000 workers of their right to join trade unions.

For the violation of the provisions of this law severe repressive measures are established including imprisonment for a period up to 1 year and a fine up to 1 hundred thousand yen.

These provisions of the Trade Union Law are in contradiction to the Policy Decision FEC-045/5, in particular, its Paras 2, 6 and 10.

It will be pertinent to note that in the analysis of recent changes in labor legislation/FEC-318/23/ of 20 June 49/ circulated by the Secretariat of the FEC and prepared by the Labor Division of General MacArthurs headquarters, the provisions of the new laws which are contrary to the policy of the FEC are systematically ignored or presented in a quite different light as if, allegedly, improving the labor legislation in Japan.

I feel that after the acquaintance with the examples adduced in the statement of the Soviet Delegation of May 24/SC-318/18/ as well as in my statement made this morning the members of this commission can easily be

convinced that as a result of the adoption of the new labor laws there was created in Japan a situation such that for the participation in any labor conflict, both in government as well as private enterprises, the workers may not be only discharged from the job but also subjected to the most severe police repressions including trial, imprisonment and fine.

It is quite clear that since these new anti-labor laws are clearly contrary to the policy decisions of the FEC, they should be abrogated together with the revised National Public Service Law and the revised Public Corporations Labor Relations Law adopted last year.

One cannot help but note that the realization in Japan of recent legislative measures which deprived the Japanese workers of their inalienable rights to fight for the protection of their legitimate interests is accompanied by suppression of legal activities of trade unions, arbitrariness and mobbing by the Japanese police of the trade unions leaders, progressively-minded persons and participants in various labor demonstrations and meetings.

Lt. Gen. Derevyanko, the Soviet representative of the Allied Council for Japan, in his letter of 11 June to Gen. MacArthur drew his attention to the illegal actions of the present Japanese Government in resorting to the brutal suppression of the democratic move by methods of violence and repression similar to those existing during the period of the militaristic domination in Japan as well as the fact that these illegal actions of the Japanese Government are taking place before the eyes of the U.S. occupation authorities which do not take any measures to prevent these actions flagrantly violating the Potsdam Declaration and policies of the FEC in respect to the democratization of Japan.

I feel that such facts as the brutal mobbing by the police of representatives of trade unions and other public organizations who participated in a peaceful demonstration in Tokyo on May 30 and 31; the murder by the police of the worker Hashinoto, who participated in the demonstration; the mobilization of 2,000 policemen for the dispersion of the demonstration before the Tokyo Metropolitan Assembly Hall, hundreds of participants in this demonstration being wounded and injured by them, deserve the serious attention of the FEC.

General MacArthur's "Comments" on June 13 in respect to the above-mentioned letter of Lt. Gen. Derevyanko can be regarded only as an approval by the U.S. authorities of these police measures of the Japanese Government and only as an encouragement of the Japanese Government to increase the pressure upon the democratic rights of the Japanese people as well as to suppress the legal activities of trade unions in Japan.

It will be pertinent to note that on the second day after these "comments" by Gen. MacArthur, namely, on June 14, there occurred a police mobbing of the workers of a steel manufacturing plant in Hiroshima. I have in mind the reports of Jiji Press of June 14 and Kyodo of June 15 to the effect that about 2,000 policemen were mobilized against the workers of the Hiroshima plant of the Japan Steel Manufacturing Company who gathered to protest the intention of the

Soviet Statement
(23 June 1949)

Management to discharge 622 workers from the plant. The police subdued them to brutal mobbing: 9 workers were seriously injured and 325 others slightly. 20 union members, workers of this plant, were arrested.

Neither General MacArthur's attempt to deny these facts and to picture them as "fantastic exaggerations" nor his absolutely unfounded, rude attacks on the Soviet Union can conceal the fact which is clear for everyone that the US authorities in Japan are encouraging the illegal actions of the present Japanese Government and policy agencies which are seeking to prevent by force the democratization of Japan.

I believe that the FEC should take into consideration additional facts adduced by me which show that the Japanese Government and the US occupation authorities violate the provisions and principles set forth in the Potsdam Declaration and policy decisions of the FEC in respect to the democratization of Japan,. I hope that members of the FEC will give appropriate attention to the Soviet proposal in FEC-318/22 and will support this proposal."

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
OUTGOING MESSAGE

ESS/EX WFM/TC/mh

4 July 1949

FROM: SCAP

TO : DEPT OF ARMY . . . . . PRIORITY

C - 51198 Reurad W 90648, subject is FEC Soviet Representative statements on labor policy in Japan. This radio in three parts.

Part A. The revisions of Japanese labor laws enacted in the last Diet Session cannot be construed other than as direct implementation of FEC 045/5 which was issued subsequent to the enactment of the original laws and as a strengthening of the democratic character of Japanese trade unions, with special emphasis on the practical workability of administrative procedures so as to preclude a breakdown which would prevent peaceful settlement of labor disputes. In many instances labor's interests have been further clarified and the rights of individual workers safeguarded. Specific comments on points raised by Soviet Representative correspond to numbered paragraphs his statement.

1. Para A-1. New procedure for designation of emergency public welfare industries is not an additional provision but replaces old procedure which was unworkable in practice. The authority of the Prime Minister to designate such industries is strictly limited to those "the stoppage of which will seriously affect the national economy or seriously endanger the daily life of the general public" and may be exercised only with approval of the national Diet. Even after such designation, work stoppages are forbidden only for a thirty-day period after a request for mediation to the Labor Relations Committee.

2. Para A-2. Statement of the Soviet Representative is completely misleading. The elimination of the blanket exemption in the Labor Relations Adjustment Law simply removes special protection from illegal or violent strike actions. Art. 7 of the revised Trade Union Law now states "the employer shall be disallowed ....to discharge or give discriminatory treatment to a worker...for his having performed proper acts of a trade union." It is clearly understood in Japanese law that a legal strike is contained within the category of "proper acts of a trade union."

3. Para A-3 apparently refers to Art. 37 of the Revised Labor Relations Adjustment Law which provides that in the event that the 30-day "cooling-off" period in a public welfare industry has resulted in an agreement, any conflict on interpretation or in further negotiation shall be treated as a new dispute with an additional 30-day "cooling off" period required prior to acts of dispute. This provision is aimed at preventing continuous dispute tactics which have been utilized by minority elements in the past to keep industrial relations in a constant state of turmoil and should assist the achievement and maintenance of stable labor-management agreements. This provision may be invoked only by prior mutual agreement of both parties.

4. Para A-4. There is no provision in the Labor Relations Adjustment Law for penalizing individual workers 100,000 yen. Such penalty, which is provided in Art. 39, applies only to employers, labor or employer organizations, and outsiders who violate the 30-day "cooling-off" required in public welfare industries. It cannot be contended that this fine is onerous when applicable to a labor organization as a whole.

5. Para A last subpara. The distorted view that the maintenance of the welfare of the people under emergency conditions is not an objective of the Occupation can be held only by those who are antagonistic to the entire concept of a stable democratic government in Japan. The rejection of such a concept and the deprivation of any government of its normal police power to take effective action against strikes which would lead to a breakdown in the daily life of the community would constitute an open invitation to violent and conspiratorial revolution by minority groups which cannot be tolerated by free men.

6. Para B-1. Functions of the Labor Relations Committee are two-fold; peaceful settlement of disputes and enforcement of the protective provisions of the Trade Union and Labor Relations Adjustment Laws. In the former function, the tripartite character of the committee has been fully maintained and labor's interests are completely safeguarded. In the latter function, its quasi-judicial and operational nature have required a governmental rather than the tri-partisan approach. In both functions, the Committees are operationally independent and cannot be overruled by the Labor Ministry. Further, the central committee can overrule local committees only on judicial questions, a provision which is indispensable if uniform interpretation of labor law is to be fostered and legal chaos avoided.

7. Para B-1 cont'd. The statement that these committees have the "right to interfere directly and control all activities of trade unions and, besides that, to determine the question of 'constitutionality' of trade unions" is utter misrepresentation. The Committees merely have the function of inspecting the written constitution of each union to assure that the requirements of FEC 045/5 ensuring democratic internal practices are contained therein, namely provision for election of officers and standing committeemen by direct secret elections, annual general meetings, open financial reports, protection of individual members against discrimination within the union, secret ballot for strike votes and majority vote for revision of the union constitution. In these matters the Committees do not go beyond the union constitution, the enforcement of which is left to the members themselves with court action on the members' initiative only where their constitutional rights have been violated. The only other function of the Committees is to investigate compliance with the requirement that the union is not dominated by the employer.

8. Para B-2. The "workers" prohibited from joining trade unions by the revision noted are supervisory employees. Such exclusion is necessary to prevent employer domination of the workers' organizations. The citation of the penal provision in the Trade Union Law is completely inaccurate. None of the penal provisions in this law, whether fine or imprisonment, apply to workers or unions, but apply to government officials who violate official secrets, persons who interfere with Labor Relations Committee proceedings and employers who violate fair practice provisions of the law. Method of enforcement for unions violating the law is through their disqualification for assistance or protection through procedures established by the law.

From: SCAP to DA

Part B. 1. Both the Tokyo and Hiroshima incidents, featuring Communist-led mob violence in order to intimidate constituted authority into abandoning its legal responsibilities, are typical examples of what may be expected in the coordinated Communist attempts to destroy the economic stabilization effort in Japan. The long-familiar pattern of deliberate provocation of police action with attendant victimization of innocent workers as dupes has been witnessed in every country in which the Communist conspiracy has been attempted.

2. Full permission was granted to leftist elements to conduct a peaceful demonstration outside the Tokyo Municipal Assembly building on 30 May 1949 to protest minor revision of a municipal ordinance to require 72 instead of 48 hours notice prior to a public demonstration. Demonstraters refused to disperse upon termination of the permitted time, entered the building and attempted by continuous mob pressure to intimidate the Assembly into adjournment. Forcible police action to clear the building was not taken until six hours after the termination of demonstration permit and five hours of continued disruption of Assembly proceedings. The demonstration on the following day was similar in that no forcible police action was taken until 1-1/2 hours after the expiration of the demonstration permit. Actual circumstances of Hashimoto death on 30 May are not known for certainty except that physical cause was ruptured liver. Press here first carried story by Kyodo reporter, who has since admitted it was pure fabrication, to the effect that Hashimoto had been thrown from third story window by police, Autopsy fails to bear this out and circumstantial evidence precludes this possibility. It has been established subsequently that neither police nor demonstrators were on the third floor at the time and that Hashimoto was apparently trampled to death, probably by the mob. The press has since made these facts plain. Vicious allegation of police "murder" without any supporting evidence whatever is typical of irresponsible charges with which local Communist elements seek to create social disorder in a peaceful nation. Demonstration tactics on both 30 and 31 May such as use of lock-step, precision squad movements, regularly spaced banners, and other similar typical actions evidence careful organization which cannot allow of presumptions of popular spontaneity but rather clearly indicate the purposeful attempt to provoke violence on the part of the Communist organizers of the movements.

3. At the Hiroshima plant of the Japan Steel Co., peaceful collective bargaining over the discharge of surplus workers which had been proceeding for several weeks, was disrupted when on the morning of 12 June 1949 two truck-loads of persons not connected in any way with the plant or the union suddenly stormed the gates, overpowered the guards and having forced entry, physically attacked members of the managerial staff injuring one person seriously. The plant was in reparations custody but the requirement for special entry permit was ignored. Invaders then joined some 2,000 workers in seizure of the premises. Police action to enforce the law and clear the premises was not taken until 48 hours later on 14 June, during which time every effort was made to persuade the trespassers to leave peaceably but without success. Collateral demonstrations against the management and police action which were held in the city on succeeding days were peaceful. City demonstrators numbering

From: SCAP to DA

8,000, which was 6,000 more than the total number of plant workers, were quickly mobilized by the membership of Communist unions and other Communist organizations in the vicinity. The Soviet Representative's statement on this incident is replete with key omissions and distortions including neglecting to mention forcible seizure of the plant, use of outsiders, destructive actions of mob elements 48 hours prior to police measures referred to and serious injuries inflicted on management personnel.

Part C. 1. In neither the Tokyo nor Hiroshima incidents were any labor laws involved and in the Tokyo case no trade union issues of any kind were at stake. The deliberate association of these incidents with the labor laws by the Soviet Representative is entirely misleading.

2. These and other recent incidents of the same nature have been characterized by certain features of disturbing implications. Seizing upon every pretext for a real or fancied complaint, demonstrations have been organized with the sole apparent purpose of exerting mass pressure to intimidate government authorities and other into doing the bidding of the demonstrators, whether legal or otherwise. The participants in these affairs have been openly provocative in their acts and attitudes, obviously seeking to goad the authorities into acts of force which could then be denounced as "repressive measures, police brutality, etc." It is to be noted that in these incidents the authorities have acted with great consideration and restraint; that the police have been used only when necessary to clear public buildings so that governmental functions could go on, to protect property and to maintain order. Arrests have been made only where demonstrators resisted or even attacked policemen.

3. Currently the chief focus of attack is the government administrative retrenchment program, adopted by the last session of the Diet in implementation of the Nine-Point Economic Stablization Program. The immediate objective appears to be to intimidate the government into delaying execution of the program so long that by next September it will run into a budgetary deficit, with resulting political embarrassment.

4. Not content with this campaign of harassment through labor action and mass demonstrations, which at least have the surface appearance of legitimate action, the influence behind this campaign have recently resorted to acts of physical sabotage against the transportation system.

5. The object of this campaign, of course, has nothing to do with either the rights of labor or the advancement of democratic tendencies. On the contrary, it is clear that these acts, tending to create fear, social unrest, confusion and disorder, are intended to undermine the authority of the government, in the hope of creating a condition favorable to the seizure of the political power. In these circumstances, the government's constitutional duty is to maintain law and order, safeguarding the legitimate rights not only of labor but of the entire citizenry.

From: SCAP to DA

6. Against this background the Soviet letter of 11 June 1949 to the Supreme Commander, with its insincere use of democratic phrases and cynical espousal of the cause of these conspiratorial and lawless elements, drew the immediate rebuff it merited. The Soviet statment of 23 June 1949 before the FEC is in the same category.

OFFICIAL:

APPROVED:

R. M. LEVY
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W. F. MARQUAT
Major General, U. S. Army
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Copies to:
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Approved by Chief of Staff 3 July 1949.

ANALYSIS OF THE UNITED STATES
AT FEC MEETING (WASHINGTON, DC)
13 JULY 1949
OF SOVIET STATEMENT OF 23 JUNE
RE LABOR POLICY IN JAPAN

A. "Revised Labor Relations Adjustment Law.

"USSR statement:

"10. First the Prime Minister was given the right to include additional enterprises in the category of 'Public Utilities' enterprises in order to restrict the rights of the workers in such enterprises in regard to acts connected with labor disputes. As a result of this revision, the Prime Minister had received the right to include any enterprise or any industry in the category of 'Public Utilities' enterprises and to declare the labor conflicts of the workers in such enterprises illegal."

United States reply:

"The new procedure for the designation of emergency public welfare industries is not an additional provision but replaces the old procedure which was unworkable in practice. The authority of the Prime Minister to designate such industries is strictly limited to those 'the stoppage of which will seriously affect the national economy or seriously endanger the daily life of the general public' and may be exercised only with approval of the National Diet. Even after such designation, work stoppages are forbidden only for a 30 day period after request for mediation to the Labor Relations Committee.

"References:
"Article 8, Revised Labor Relations Adjustment Law: Article 37, Revised Labor Relations Adjustment Law."

USSR statement:
"11. Secondly, a very important provision prohibiting the employer from discharging workers or discriminating against them for taking part in labor conflicts had been deleted from the Labor Relations Adjustment Law. Thus employers had received the right to discharge workers or discriminate against them because of their participation in labor conflicts."

United States reply:

"The statement of the Soviet representative is completely misleading. The elimination of the blanket exemption in the Labor Relations Adjustment Law simply removes special protection from illegal or violent strike actions. Article 7 of the Revised Trade Union Law now states 'The employer shall be

FEC

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