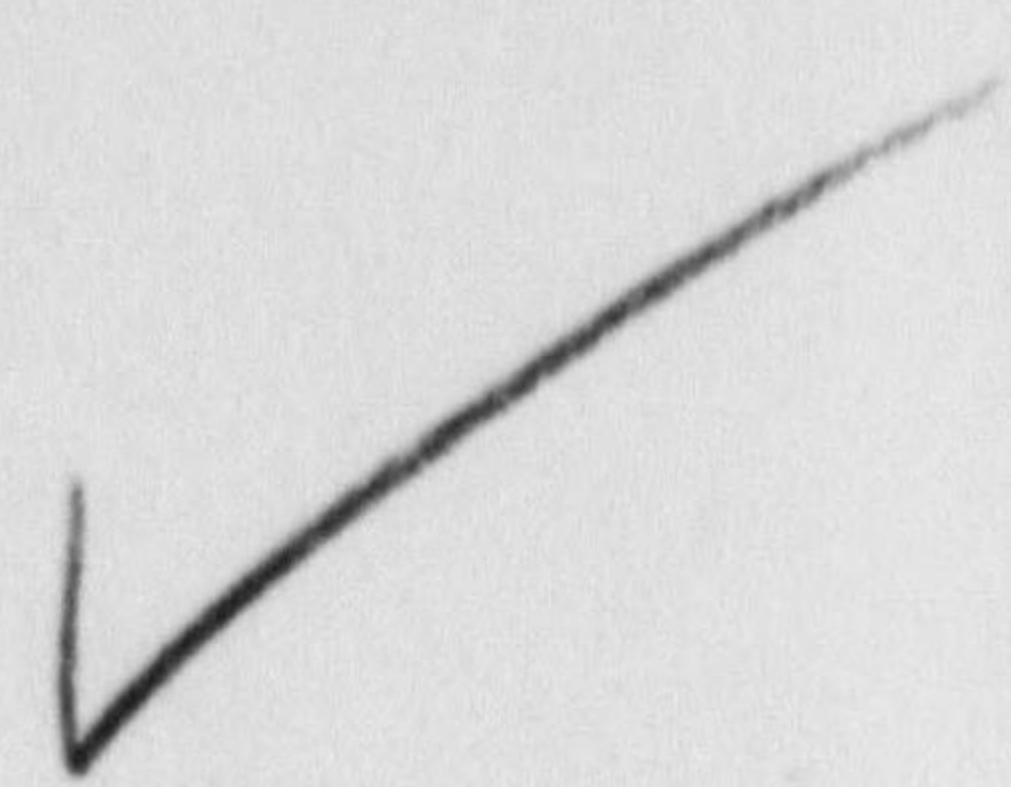


FEC M9. 34 — 45

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FAR EASTERN COMMISSION

Transcript of Thirty-Fourth Meeting of the Far Eastern Commission,

Held in Main Conference Room, 2516 Massachusetts Avenue, N. W.

Thursday, November 14, 1946

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Transcript of Thirty-Fourth Meeting of the Far Eastern Commission,
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REPRESENTATIVES PRESENT

Maj. Gen. Frank R. McCoy, USA (RET.), Chairman	(United States)
Major J. Plimsoll	(Australia)
Mr. R. E. Collins	(Canada)
Dr. S. H. Tan	(China)
Mr. Francis Lacoste	(France)
The Honorable Sir Girja Shankar Bajpai	(India)
Dr. A. D. A. de Kat Angelino	(Netherlands)
Colonel G. R. Powles	(New Zealand)
Mr. F. Rodriguez	(Philippines)
The Honorable Sir George Sansom	(United Kingdom)
Rear Admiral S. S. Ramishvili	(U.S.S.R.)

SECRETARY

Mr. Nelson T. Johnson

Reporter: R. Holtz, Department of State

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(The meeting convened at 10:45 A.M.)

GEN. MCCOY: Good morning, gentlemen. The session will open please.

ITEM 1 - APPROVAL OF THE MINUTES OF THE 32ND AND 33RD MEETINGS

GEN. MCCOY: We will refer to the minutes of the last meeting of which there are certain revisions. The revisions are in the paper before you. If the Commission is agreeable to making it a matter of record with the revisions indicated in the accompanying sheet--are those revisions as you wished, Admiral?

ADM. RAMISHVILI: Yes.

GEN. MCCOY: There were two changes, on your request and on the request of the American representative.

ADM. RAMISHVILI: The verbatim extract is a more plain statement but I think that is natural.

GEN. MCCOY: If there are no comments or other changes indicated, it will stand approved.

ITEM 2 - PRINCIPLES FOR JAPANESE TRADE UNIONS (FEC-045/2)

GEN. MCCOY: We have now the Principles for Japanese Trade Unions over which there has been some difference of opinion about paragraph 7 and the paper with the amended paragraph 7 was approved by the Steering Com-

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mittee at its last meeting. The New Zealand, Philippine, and Soviet members voted against approval of the amendment of paragraph 7. I am hoping as they now look at it again that it might still be acceptable. We will have you consider it for the moment. It is naturally a subject that is hard to get complete agreement as to wording, but my Government has agreed to it and I hope that the changes will not involve disagreement on the part of others. Sir George, I believe it might be helpful if you would speak about it, if you care to, or I might ask the Chairman of the Committee possibly to comment on it. It is so much a question of language.

SIR GEORGE SANSON: That would be better.

GEN. MCCOY: Were you present at the discussion, Major?

MAJOR PLIMSOLL: Well, Mr. Chairman, I am present at all discussions. Mr. Chairman, the paper has been agreed upon except for paragraph 7, and at the Steering Committee the United Kingdom requested an amendment which moved the qualifying clause, "where practicable and while not interfering with their normal operations" moved that clause from the second part of the sentence to the front part so that it covers the whole paragraph. That is to say, it is now laid down that trade unions

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and their officials should take an active part in democratization where it is practicable and where it doesn't interfere with their normal activities. The feeling of the Commission has been that the first duty of trade unions is to take part in collective bargaining and looking after working conditions, improvement of conditions of safety, hours of work, and things like that, and that other activities by trade unions, while desirable, should only be carried out to the extent that it didn't prevent these original basic functions being performed. Now, as the Committee originally drafted that, that qualification applied only to the second part of the paragraph and not to the first part, but the Steering Committee has amended it so that the qualification applies to the whole paragraph. Now, my interpretation of the first part of that is that it is an exhortation of that. That statement will be published in Japan and we are telling the Japanese people that we think trade unions should take part in democratization but only where it doesn't interfere with these other functions. I don't think myself that that would give any undue power to the Japanese Government or to the Supreme Commander or to anybody else to restrict trade union activities. I think it is chiefly something that we are telling trade

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unionists is one of their angles, one of their functions.

ADM. RAMISHVILI: Mr. Chairman, I would like to express my opinion on this paragraph. It seems to me there is not much difference in this paragraph. We will leave the question about participation in the measures taken to achieve the objectives of the occupation--everything is all right, because we think that, as you say, they must refrain in this, so this was agreeable previously. The question is the participation in the democratization of Japan. We have such a statement in paragraph number 1 in the last words, "including organized participation in building up a peaceful and democratic Japan". So, in principle, this is stated in paragraph number 1. Now, going to paragraph No. 7, Mr. Chairman, we can figure out two extreme opinions on this question. One is to force the trade unions, oblige them to take part in democratization and the other is to somehow prohibit them to do this and to limit effort. They are two extremes. Well, I think that both are wrong and I don't think the United Kingdom representatives thinks so. I think that it is worth while to talk it over about this question and find a solution of this problem, maybe some subcommittee of members of the Commission or the committee itself, because what we want to say is that if they want to

take part in democratization, nobody, no outsider must tell them that they are doing too much. They have to decide this themselves. This is my personal opinion, and we think that the participation in democratization of Japan at the expense of their main duty is wrong too. So, not much of a problem is left except maybe to draft this paragraph again involving that idea that the trade unions must take full part in democratization, and nobody can judge the extent of this participation. They themselves have to judge this. On the other hand, nobody can have the right to force them to do this. So, eliminating these two extremes, I hope we can, if our points of view coincide in this opinion, I think that we can find a solution. Now it sounds like some restriction from outside. Maybe I am wrong but I think we could find a solution to this. I have some general plans but I would not elaborate right now because I was just thinking that maybe we could find some amendment, maybe somebody else has some solution because there is no use in killing this document.

SIR GEORGE SANSOM: Mr. Chairman, in view of the way the Admiral has spoken, I think it might be that we are much closer than we thought and that we can bridge any gap there is in consultation or some possible redrafting. But then there are other reservations and

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I don't know what the position is in regard to the reservation of the New Zealand and Philippine members.

COL. POWLES: Mr. Chairman, I don't feel that the matter is one of particularly great importance, but I do think that there is a slight inconsistency in the thoughts involved in the document, and that was the reason why I was fully in favor of the paper in its original form and I also agreed with the interpretation which the United States Government placed on the paper, which interpretation was recorded in the minutes and is on the cover sheet of this paper. I agreed with that as being a correct explanation of what it thought or what I thought at any rate. But the change that has recently been made is to insert the qualifying clause in front of the first phrase in clause 7 as well as in front of the second phrase. Now, the second phrase in clause 7 deals with participation in the measures taken to achieve the objectives of the occupation and none of us had any objection at all to that qualifying clause about where practicable and not interfering with their normal operations was applicable to that second phrase. But, as it is now it applies to the first phrase, which states that they should take an active part in the process of democratization of Japan. Now, the reason why it seemed to me

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that there was a slight confusion of thought there was that the very existence of trade unions, the very carrying on by trade unions of their normal activities in a proper way is a most important part of the process of democratization in Japan, so that one can't say that they are to take an active part in the process of democratization of Japan while not interfering with their normal operations. But, if they do carry on their normal operations, they do take an active part in the democratization of Japan. And it seemed to me that it is not proper to qualify the one with the other because the idea is contained where slightly different. The unions it wasn't suggested by anyone should neglect their normal activities as trade unions in order to indulge in some political activity. That wasn't suggested at all. But it was thought by, at any rate myself and one or two others that the mere fact of their doing their ordinary work in their ordinary way, in accordance with the principles of this paper, would achieve a very useful step in the democratization of Japan, so that the qualification isn't really applicable. I felt that the idea that is in the first part of paragraph 7 is almost sufficiently expressed in the last part of paragraph 1, to which the Admiral has referred, and in view of that fact, it

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seemed to me that possibly we might achieve some measure of agreement if we were to remove the first part of paragraph 7 from paragraph 7 and rely on paragraph 1. In other words, if we should take out what is the third line in paragraph 7 and make paragraph 7 merely read, "Where practicable, etc., they should be encouraged to participate in measures taken to achieve the objectives of the occupation", and then the general principle of their normal activities contributing to the democratization of Japan would be covered in paragraph 1, where it concludes by saying, "including the organized participation in building up a peaceful and democratic Japan". As I say, the matter isn't one of fundamental principle. It was just a view that I held and I haven't yet heard anything that has induced me to change my view. That was the reason why I reserved my position in the Steering Committee.

GEN. MCCOY: Well that is very clarifying to me. Was Australia the other--the Philippines. Mr. Rodriguez, have you any comment?

MR. RODRIGUEZ: I reserved my position in the Steering Committee, Mr. Chairman, because I consider that the inclusion of the qualifying clause in the first part of this paragraph was weakening the sense

that we would like to press by the statement that they should take an active part in the process of democratization of Japan. I also agree with Colonel Powles that every step that is taken in connection with the organization of the, in fact with the very process of organizing the unions and the steps that these unions are taking in order to achieve the desired benefits for their members are steps which I think contribute toward the democratization of Japan. In any case, a very necessary step, I believe, is that at every opportunity we should emphasize the fact that we are encouraging every element or every individual in Japan to take part in the process of democratization, which is the ultimate goal of the Allied Forces in connection with the occupation of Japan. I don't think that the inclusion of this paragraph as originally worded would be conclusive though the wording would seem to limit the departure of the activities of these trade unions from their primary objectives, which is in connection with labor, and for that reason the original wording with the interpretation as recorded by the United States member in the minutes I considered sufficient to safeguard from any possible abuse that may result from the original interpretation of the paragraph. But I would be very willing to get together with the Commission

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toward achieving agreement on this point. Thank you.

COL. POWLES: Mr. Chairman, perhaps I might put my words a little bit more clearly by reducing it to our own domestic level. The idea of the inconsistency would be contained in this particular phrase if we reduce it to the Far Eastern Commission. Supposing we said, where practicable and where not interfering with their normal operations, the members of the Far Eastern Commission can take an active part in the process of securing international cooperation. Now our own normal operations are necessarily directed partly toward that end, and that is why I think there is an amount of confusion of idea.

SIR GEORGE SANSOM: Mr. Chairman, I am not entirely convinced by what Colonel Powles says because I think that he himself put in a condition in the clause, "these operations if conducted in a proper way". This is the real point of difficulty, I think, and I don't think it is very difficult to resolve. I would suggest, if I may, that the four members concerned get together and see if they can't reach agreement. I think it can be done on the wording of this clause or substitution or something of that sort.

GEN. MCCOY: I would like to get one paper through this morning, and if it is agreeable to you, I will

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declare a recess and ask you four to go to another room and see if you can meet the situation this morning and we will wait for it.

SIR GIRJA BAJPAI: I don't wish, Mr. Chairman, to damper your optimism in any way, but with some experience of the troubles that have arisen over simple drafting, I am rather doubtful as to whether a recess would result in an agreed wording of this paragraph here. I think that there is more in it than meets the eye, and even though it may involve a week's postponement, perhaps the best thing would be to leave the four protagonists concerned to reconcile their points of view and then present a wording which we can accept. Mr. Chairman, to save time, I venture to move that the new wording of this paragraph be referred to a subcommittee consisting of representatives of the United Kingdom, the U.S.S.R., New Zealand, and the Philippines.

GEN. MCCOY: Could I ask you to withdraw for the moment--

SIR GIRJA BAJPAI: Certainly.

GEN. MCCOY: To test the paper as it stands. Possibly it might, after this consideration that has already been given it by discussion, possibly the members who had certain reservations might feel that they could permit the paper to go through. Would that be

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possible from your point of view, Colonel Powles?

COL. POWLES: I would be quite willing, Mr. Chairman, on the paper as a whole to record my view in the minutes as being in accordance with the interpretation of the original paragraph as set out by the United States in this reservation here, and I would be willing to make that reservation and have it recorded in the minutes.

GEN. MCCOY: Would that be satisfactory to you, Admiral?

ADM. RAMISHVILI: You want to do what with this paper right now, Mr. Chairman?

GEN. MCCOY: Well, I was just wondering if, in view of recording the statement of Colonel Powles, which brings out that point which seems to be at issue, it would be satisfactory to you to let the paper go through as it stands with your opinion recorded to-- as I take it to accompany the paper in the covering sheet--something of that sort as well as recorded in the minutes.

COL. POWLES: Well, I am not quite sure how it is usually done, Mr. Chairman. It has been done before, has it not, in one or two cases where explanatory reservations have been made?

GEN. MCCOY: I think we did with several of your

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statements of clarification where you asked that it be made a matter of record.

ADM. RAMISHVILI: Yes, but in this final body we have the opinion of other members on the reservation and I cannot alter my reservation. I would like only to work more and find a solution. I don't think that the voting procedure will give us anything because the opinion is quite clear. I think that by this wording we can kill the whole paper. I would be obliged to vote against it.

GEN. MCCOY: Then you would wish that further consideration be given as proposed by Sir Girja? Would you state your motion again?

SIR GIRJA BAJPAI: Yes, Mr. Chairman. I propose that paragraph 7, paragraph 7 be referred to a sub-committee consisting of the representatives of the United Kingdom, the U.S.S.R., New Zealand, and the Philippines.

GEN. MCCOY: Is there any objection to that from your point of view?

ADM. RAMISHVILI: No objection from my point of view.

GEN. MCCOY: Mr. Rodriguez, does that meet your ideas.

MR. RODRIGUEZ: Yes.

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GEN. MCCOY: Sir George?

SIR GEORGE SANSOM: Yes.

GEN. MCCOY: We will accept your motion and assume that it will be seconded.

MR. COLLINS: Seconded.

GEN. MCCOY: It is seconded by Canada and it will be handled in that way. Thank you, Sir Girja, for providing a reasonable solution.

ITEM 3 - REPARATIONS REMOVALS: ACCESSORY PLANTS AND FACILITIES (FEC-059/24)

GEN. MCCOY: Item 3--have we your comment on that, Admiral?

ADM. RAMISHVILI: No sir, not yet.

GEN. MCCOY: You wish it postponed?

ADM. RAMISHVILI: Yes.

GEN. MCCOY: It will be kept on the agenda and postponed at the request of the Soviet representative.

ITEM 4 - DRAFT CONSTITUTION (FEC-087/1): AMENDMENT AND ADOPTION OF THE DRAFT CONSTITUTION BY THE JAPANESE DIET (FEC-087/10, -087/12, and -087/13)

GEN. MCCOY: Item 4, the Draft Constitution, is there any comment on that in view of the fact that you have the Romaji text and the unofficial text as furnished us by the representatives of China?

COL. POWLES: I was wondering, Mr. Chairman,

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whether some of our Japanese scholars could give us an interpretation of the amendment to Article XV, which has been the subject of some query on the part of all of us?

GEN. MCCOY: Have you any comment on that, Sir George?

SIR GEORGE SANSOM: I haven't had a chance to look at it. Mr. Chairman, I can say definitely what I think is an exact translation of Article XV is, "The election of public officials through the universal suffrage of all persons of full age shall be guaranteed." This translation we have before us in 087/10 says, "Universal adult suffrage is guaranteed with regard to the election of public officials." That is all right.

COL. POWLES: May I ask Sir George, sir, whether "public officials" should be construed as including members of the Diet?

ADM. RAMISHVILI: There is no indication.

SIR GEORGE SANSOM: There is no indication but I should have thought so. I should have thought it could--all persons carrying out public functions. That is what the word used stands for--persons carrying out public functions, and I should have thought, without stretching it, say that that covered it.

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GEN. MCCOY: While we have Sir George here, we might see if there are any other points that occur to any of the Commissioners that they would like to have Sir George interpret for them.

SIR GEORGE SANSON: There is a difference in our reading of Article LIX, the old Article LIX, and after the second paragraph there should be a new paragraph. You have FEC-087/10--nearly at the bottom of the page you have the words, "The provision of the preceding paragraph does not preclude the House of Representatives from calling for the meeting of a Joint Committee of both houses, as provided for by law." We think that a more exact translation would be, "The provisions of the foregoing paragraph shall not prevent the House of Representatives from requiring, as provided by law, the calling of a Joint Meeting of both houses." I don't think the word "Committee" is correct here-- "Joint Committee of both houses" is not, I think, correct. I think those are all the changes of substance that we have thought necessary so far. I think that is all I have to say.

GEN. MCCOY: Are there any other questions or comments on this item? If not, I will ask continuance on the agenda of Items 5, 6 and 7, pending the consultations which are now going on outside of the Commission.

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MAJOR PLIMSOLL: Mr. Chairman, I was just wondering why we are keeping Item 5 on the agenda. Is there anything to be brought up? I thought the United Kingdom had an amendment to propose on that.

SIR GEORGE SANSOM: I have a note which says we are awaiting a report of the Committee on FEC-091.

GEN. MCCOY: That report has not yet reached the Steering Committee. Is there any prospect of it reaching the Steering Committee soon? Let's see, the Chairman of Committee No. 1 isn't here. Is there a member of the Committee present? Major Plimsoll--

MAJOR PLIMSOLL: There is no comment, Mr. Chairman.

GEN. MCCOY: is there any remark on the action of the Committee on that other paper?

MAJOR PLIMSOLL: Well, the Committee had a meeting yesterday afternoon in which they got provisional agreement on something but it still is not completely agreed upon and we have to report to the Steering Committee on Tuesday on that paper.

SIR GEORGE SANSOM: Mr. Chairman, we have some slight amendments to propose to this document FEC-084/1, this particular document which is before us, and if this paper remains on the agenda I suppose I should have to make these proposals here or could the paper, would it be more suitable if the paper should go back to the Committee?

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GEN. MCCOY: Well, we might possibly here the United Kingdom amendments.

SIR GEORGE SANSOM: I can circulate the amendments.

GEN. MCCOY: Yes, that would be well and we can see what the Commission wishes done about them.

SIR GEORGE SANSOM: This is the amendment, first, add to paragraph 5b (1)(g) the following:

"In the case of industrial explosives the capacity retained should be limited to that required for Japan's democratic needs and no capacity for manufacturing for export should be allowed."

Second, delete the sentence in paragraph 11.

MAJOR PLIMSOLL: Mr. Chairman, I am prepared to second Sir George Sansom's amendment.

GEN. MCCOY: Major Plimsoll, before you comment on that I find that the United States has a suggestion here which I will also pass around which may effect the United Kingdom suggestion.

(Sir Girja Bajpai, the Indian representative, departed the meeting at 11:25 A.M.)

GEN. MCCOY: Suppose, since we are embarrassed by papers, we attach these suggestions to this paper which is now before us and keep it on the agenda until the other paper which directly effects the passing of this one comes before us at the next meeting, and then take

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this up with these changes proposed? By that time, possibly all will be able to study them and we can possibly, without referring it back to a committee, handle it here around the table. There doesn't seem to me to be any difference of opinions except for certain expressions.

SIR GEORGE SANSOM: I think we could do that, Mr. Chairman. As far as the one of the United States proposals is concerned, I should certainly have agreed-- the one about changing the last part of paragraph 11. That I could agree to at once. On the other point I don't see that the United States expression is an improvement on ours or introduces an important change. Perhaps it would be better for these to be attached pending the other paper.

GEN. MCCOY: And then in the meantime we can hope to get the other paper up and get agreement on this, which seems to be easy. If there is no further comment, we will leave these suggestions be attached to our -084/1 for further consideration when the concerning paper comes up for action.

MAJOR PLIMSOLL: Mr. Chairman, could I ask whether Admiral Ramishvili intends to introduce any amendments? I think he suggested in the Steering Committee that he did have further amendments to this paper to introduce

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in relation to United Nations property. If that is so, would he be able to introduce them now? Have you got any other amendments which you wish to introduce?

ADM. RAMISHVILI: No.

MAJOR PLIMSOLL: I thought you suggested in the Steering Committee that you might. That is why I was asking.

DR. TAN: Mr. Chairman, I should like to call attention to the apparent inconsistency between paragraph 7 and the last part of paragraph 11. I think that one of these changes made by your delegation, Mr. Chairman, is quite in line with the idea that I have taken.

SIR GEORGE SANSOM: The United Kingdom suggestion, I think, was to remove the inconsistency by removing the paragraph.

GEN. MCCOY: I think the differences of opinion there are so slight that we can continue this on the agenda and discuss it when the other paper comes up. In the meantime we will all have an opportunity to study the suggested changes.

DR. TAN: Yes.

GEN. MCCOY: If there is no objection, then we will proceed to Other Business and look around the table to see if there is anything under that heading.

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ITEM 6 - PROPOSED UNITED STATES PLAN FOR REPARATIONS CONFERENCE (FEC-081 series)

(There was no discussion of this item at this meeting.)

ITEM 7 - REPORT ON JAPANESE EXTERNAL ASSETS (FEC-072)

(There was no discussion of this item at this meeting.)

ITEM 8 - OTHER BUSINESS

ADM. RAMISHVILI: May I ask a question, Mr. Chairman? Did you want to approve both minutes today? I have here two sets of minutes.

MR. JOHNSON: What he means there, I think, is the verbatim minutes.

ADM. RAMISHVILI: No, 32nd and 33rd meetings. We had two minutes today. Did we approve both of them?

GEN. MCCOY: We approved the corrected one.

ADM. RAMISHVILI: But we had two minutes.

GEN. MCCOY: Yes, you are right, we had minutes of two minutes, the 32nd and 33rd.

ADM. RAMISHVILI: One had a corrigendum and the other was plain.

GEN. MCCOY: Thank you very much, Admiral, for

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having caught me not giving the proper preamble.

ADM. RAMISHVILI: That is all right. I am sorry.

GEN. MCCOY: Gentlemen, we stand adjourned.

(Whereupon the meeting adjourned at 11:30 A.M.)

FAR EASTERN COMMISSION

Transcript of Thirty-Fifth Meeting of the Far Eastern Commission,

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Thursday, November 21, 1946

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Mr. R. E. Collins	(Canada)
Dr. S. H. Tan	(China)
Mr. Francis Lacoste	(France)
Mr. J. Vesugar	(India)
Dr. A. D. A. de Kat Angelino	(Netherlands)
Colonel G. R. Powles	(New Zealand)
Mr. F. Rodriguez	(Philippines)
The Honorable Sir George Sansom	(United Kingdom)
Rear Admiral S. S. Ramishvili	(U.S.S.R.)

SECRETARY

Mr. Nelson T. Johnson

Reporter: R. Holtz, Department of State

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(The meeting convened at 10:40 A.M.)

GEN. MCCOY: Good morning, gentlemen, our session will open.

ITEM 1 - APPROVAL OF THE MINUTES OF THE 34th MEETING

GEN. MCCOY: Are there any comments or corrections on the minutes of the last meeting? There seems to be none. If there are no objections, the minutes of the last meeting will be made a matter of record.

ITEM 2 - REPARATIONS REMOVALS: ACCESSORY PLANTS AND FACILITIES (FEC-059/24)

GEN. MCCOY: This paper was unanimously approved by the Steering Committee six weeks ago. The Commission has since retained the paper on its agenda, hoping that the instructions from the Soviet Government may have been received. Is that the case, Admiral?

ADM. RAMISHVILI: I am sorry--

GEN. MCCOY: With reference to Reparations Removals, FEC-059/24. It has been kept on the agenda pending receipt of your instructions.

ADM. RAMISHVILI: May I make a statement, Mr. Chairman? I don't think this paper should be kept here. Perhaps we can try to get somewhere with this paper and reconcile the differences in the committee. If the Commission will agree with me, I propose to send it back and we can make some efforts to reach an agreement.

MAJOR PLIMSOLL: I support that, Mr. Chairman.

GEN. MCCOY: If there is no objection, this will be returned to the committee, hoping that it can be redrafted to meet the differences.

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Would you prefer that rather than an ad hoc committee?

ADM. RAMISHVILI: I think it ought to go to the regular committee and that is my proposal.

GEN. MCCOY: If there is no objection, this paper, which has been on our agenda without action, will be sent back to Committee No. 1, hoping that an agreement can be reached there.

ITEM 3 - PRINCIPLES FOR JAPANESE TRADE UNIONS
(FEC-045/2)

GEN. MCCOY: Item 3 is FEC-045/2 which was referred to an ad hoc subcommittee of the Commission, and I would be glad if Sir George could give us the report of progress or interest on that.

SIR GEORGE SANSOM: Mr. Chairman, we met, the four of us, a few days ago and it seemed that most of us were satisfied with Article 7 as it stood, if some identification were given on the point as to the possible conflict between normal trade union activities and political activities, and it was felt that the statement of the United States member on that point, if incorporated in some way in Article 7, would satisfy the objections of some members. That was one proposal. There was another proposal for not quite so full a redraft of paragraph 7. We didn't agree among ourselves between these two and, if I may, I would like to circulate the two proposals. You will find that proposal (a) takes some of the language of the United States statement. Proposal (b) takes a little more of it.

GEN. MCCOY: You have the alternatives before you. I can state for the United States that our Government

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is prepared to accept either one of these that is agreeable to the Commission to obtain unanimity.

ADM. RAMISHVILI: Mr. Chairman, I conveyed both these draftings to my Government and now I am awaiting instructions. I would ask the permission of the Commission to be allowed some time until I get final instructions on one of these. Without an opinion on these we conveyed these to our Government and have not yet got our instructions.

GEN. MCCOY: If there are no objections, we will await instructions for the Soviet member.

ITEM 4 - OFFICIAL JAPANESE AND ENGLISH TEXTS OF THE CONSTITUTION (FEC-087/14, -087/15)

GEN. MCCOY: Item 4 is conveying to members of the Commission the official Japanese text of the new constitution and the official English language translation.

DR. TAN: Mr. Chairman, I just want to make an observation on the Japanese text. I don't want to insist on anything, just to make an observation.

Chapter I is about the Japanese Emperor. In the Japanese text they still retain the old term which pronounced in Chinese means "Tenno", Heavenly Emperor or Divine Emperor. Now, this chapter is something different from the title. The title evidently is an old one that has been used in Japan for a long time. "Tenno" is a term which is used to refer to the emperor. When you take an ordinary legal document in the Japanese language wherever the word "emperor" is used they will not use this word Divine Emperor or Heavenly Emperor, even as His Majesty the King, when

they refer to the King of the United Kingdom, or Emperor of India, they don't use that. Is that right, Sir George? They still retain the old term Divine Emperor or Heavenly Emperor. I think this point, of course, is of minor importance, especially at this stage. Perhaps it is a good idea to take away the substance and still retain the delusion of that institution in Japan.

GEN. MCCOY: Is this used throughout the document or just this one time?

DR. TAN: Throughout the document and particularly in the title. Now, in the Japanese language they use two words meaning either Heavenly Emperor or Divine Emperor. In language, of course, it is one word. The word "emperor" used even in the most formal government in Japanese they would never use the word "Tenno" because they only reserve these two characters for their own emperor. In other words, by having this new constitution the substance of the institution of the Japanese Emperor has been changed substantially but the name remains the same according to old Japanese practice.

SIR GEORGE SANSOM: I might say, Mr. Chairman, I was rather surprised when I first saw this phrase used because it is true it is a traditional phrase. I don't think it necessarily means Divine because anyhow the Emperor has already divested himself of those attributes. But there is another word which can be used to mean emperor. I am rather astonished they didn't use "kotei" which has no reference to Heaven. I suppose it is not

really a point of substance. The Emperor couldn't claim any special attributes because of the use of this character.

GEN. MCCOY: Well, we might make a note of that in the buildup for the review of the constitution.

SIR GEORGE SANSOM: Yes.

GEN. MCCOY: I suppose it is pretty much like a time-honored phrase that goes with your title.

SIR GEORGE SANSOM: Yes, we have all kinds of things like that.

GEN. MCCOY: Is there any other comment. I think that one is well taken to make a matter of record and for future consideration in a final review of the constitution.

ADM. RAMISHVILI: Mr. Chairman, the constitution question will remain on the agenda for one more week? The question is, Mr. Chairman, that I did not have time to compare this last text. I am sure there won't be many question, but if there are some questions which arise, could I raise them.

GEN. MCCOY: We will continue this on the agenda.

ITEM 5 - PROVISION FOR THE REVIEW OF A NEW JAPANESE CONSTITUTION: STATEMENT BY THE UNITED STATES GOVERNMENT (FEC-031/45)

ITEM 6 - ISSUANCE OF THE POLICY DECISION ON REVIEW OF THE JAPANESE CONSTITUTION (FEC-099)

GEN. MCCOY: Item 5 covers the circulated paper of yesterday giving a statement of the United States Government with respect to the question of the time and manner of issuance of the Commission's policy decision, Provision for the Review of the New Japanese

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Constitution, FEC-091/41. That can be taken for the consideration of the Commission with the following Item 6 on the question of the Issuance of the Policy Decision on Review of the Japanese Constitution, FEC-099.

MAJOR PLIMSOLL: Mr. Chairman, the Supreme Commander's reply is a very disappointing one for those of us who believed and believe that the text of the Commission's decision should be published in Japan to the Japanese people as soon as possible. The reply, I think, doesn't fully take into account the number of arguments that were raised in this Commission by the members.

For example, in paragraph b of I where the Supreme Commander points out that the Japanese Diet and people have the right under the constitution to review the document, now I think it was pointed out by a number of us, and particularly by Sir George Sansom, that there is a very great difference between a right to review the constitution and the exercise of that right. A large number of constitutions in the world contain the right of review but we know that right is not often exercised, and it was the desire of the Commission when we adopted the paper for review that the Japanese people should formally at a special session, at any rate within one or two years, consider the constitution as a whole, consider the way it has worked and make any amendments accordingly.

Then again, I think the Supreme Commander pays no attention at all to the point that was raised by many of us that there is a very great danger of leakage of this decision within the next two years. We say in

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Italy, for example, that when the Allied Powers adopted certain decisions in regard to the constitution, it wasn't very long before some of those decisions leaked out, and there was throughout the whole of the year after the surrender of Italy a series of rumors about the constitution, about the role of the monarchy which were very embarrassing to the Italian Government and somewhat embarrassing to the Allied Powers. We have seen actually within the last few weeks here a series of confidential discussions between the United States Government and some of the representatives on this Commission in regard to Japanese reparations leak out to the press. I don't know how they leaked out and it was very embarrassing to some of our governments. And the same sort of thing can happen in regard to the review either here in Washington or in Tokyo. There must be at least four thousand people now who know this decision, including all the representatives of the governments here and our staffs and foreign offices at home and the officers in SCAP. SCAP officers have been talking about this for the last three months, and I am quite certain that it is going to leak out before long.

Now, the reply of the Supreme Commander is addressed very properly exclusively to the question of occupation problems. That is, the problems that he is faced with as an occupation authority. But, there are the other problems which we have discussed here connected with the relations and the responsibilities of the Powers in the Far Eastern Commission. We have responsibilities and diplomatic relations of various sorts with both

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the Japanese and with the people we are representing. I don't think it is necessary for me to go into detail on the first of those points. We have discussed here at two meetings the question of the possible breach of faith that the Japanese can accuse us of if we do not tell them of this decision. And there, I think the Supreme Commander has slightly misinterpreted our intention in adopting this paper. He said this publication could be viewed as a lack of confidence therein even by the Allied Powers. Now, I think when some of us made that a condition of our acquiescence in the constitution that this decision should be passed, that was because we felt that we cannot be sure at this time that the Japanese were entirely capable of adopting of their own free will a democratic constitution, and we do have doubts. I don't say we have lack of confidence but we do have doubts as to the constitution, and we wanted to tell the Japanese people that we will judge the validity, we will judge their acceptance of the constitution partly by the way in which they observe it and put it into effect during the next two years.

And then again we have a responsibility to our own people. Each of us here is representing a government and ultimately the people of our respective countries, and those people, I think, have a right to know something of what we do here. In those countries which have a parliamentary form of executive we are subject to periodical debates in foreign affairs. There was a debate in the British House of Commons

last week in which the policy of the British Government in Europe in regard to Germany and in regard to certain other countries was discussed at some length, and the government had to make a fairly full statement on its relations and other policies. Now, it is quite possible in any one of our governments--there are five governments here in the British Commonwealth and the French Government is in the same position and possibly other governments where a parliamentary debate can be started upon our relations in Japan. Now that is particularly the case in my own country and probably, I should think, in New Zealand also where our relations with Japan are emphasized more than those with countries primarily concerned with Europe. And the Government may be faced with a long and heated parliamentary debate on the whole question of its policy toward Japan. In the course of that debate it is certain, I imagine, to be asked what has been the policy of the Government toward the Japanese constitution. Now, we have all taken the attitude here, as you know, that we should not make public any detailed statement of what we have done with the constitution. We have never indicated that we have ordered changes in the constitution. But I don't think the Government can very well maintain a fiction in parliament--I don't think any of us can maintain the fiction that we have not taken any account whatever of the Japanese constitution, and I feel that in a case like this a government might be justified, whatever this Commission decides as to publicity, in deciding the interests of its own policy and might even

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override a decision of the Commission and the Government may be forced--any one of the at least six governments here might be forced to announce that its attitude to the constitution was that it was not unacceptable provided it was subject to review. And I think the people of our countries have a right to know that.

Now, that is not only in relation to our own people. I think throughout this reply of the Supreme Commander there is to some extent a tendency to concentrate upon the relations between the Commission and the official relations of the government of this Commission with the Japanese Government and Japanese Prime Minister. The Supreme Commander doesn't take into account fully the fact that we are dealing not only with the Japanese Prime Minister, not only with the Japanese Government but with the Japanese people. He says in b, for example, that the Prime Minister is already thoroughly familiar with the continuing authority of the Allies, and in f he says that he has indicated his willingness to advise formally the Prime Minister of Japan. Now, if he is dealing with the Prime Minister as an official, as the head of a government and as the representative of the people of Japan, that is acceptable I think. But we've got to be quite clear that we are not dealing with Yoshida as an individual. As an individual it doesn't really concern us particularly. But we do want the Japanese people to know these things and we do want to build up in Japan a state of affairs and a tradition where the Prime Minister, the officials of the Japanese Government are not acting as autocrats--they are acting

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as representatives of a democracy.

Now, in the light of those observations, Mr. Chairman, I should like to spend a moment or two on the two proposals of the United States Government. Taking the second one first, that is II b, I don't think we could agree that the time and manner of public announcement of this policy is a matter solely for the discretion of the Supreme Commander. I don't think the Far Eastern Commission or any government in the Far Eastern Commission could delegate completely the decision as to whether a policy of this Commission should be announced or not. I think the Far Eastern Commission can decide at any time to announce its own decisions, and, therefore, I don't think we could accept b. In regard to a, Mr. Chairman, I would be prepared to accept that without prejudice to a decision on public announcement if it read as follows: "The Supreme Commander for the Allied Powers should formally advise the Government of Japan of the terms of the policy decision contained in FEC-031/41." That eliminates the words "as soon as practicable". I don't think they are necessary and they are ambiguous. There is ambiguity there that is not intended, I am sure. Secondly, it says that we should advise the Government of Japan--the only use and the only desirability of advising the Prime Minister is to advise him as a head of a government and not as a private individual.

COL. POWLES: Mr. Chairman, I should like very heartedly to indorse what Major Plimsoll has said and he has covered the grounds so adequately that there is very little that I would wish to add. But there are two points I would like to make, the first one at

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the risk perhaps of being accused of flogging a dead horse. I should like to point out that our policy decision in this respect was made on the 17th of October and it is now the 21st of November and we have before us for the first time General MacArthur's considered views on the matter, which is merely an indication of the extreme inadequacy of the liaison which we have possessed with him, a matter which has been referred to by the New Zealand delegation many times. I think it is a matter for the greatest possible regret.

The second point that I should like to make is that, while General MacArthur's views with reference to the effect of publication upon the policies of the occupation insofar as they are concerned within Japan itself are of course entitled to the very greatest consideration and to the most serious consideration, and I don't think any one of us would ever think otherwise, but while that is the case, I think there seems a tendency in his reply to overlook the fact that the Far Eastern Commission is not just merely an isolated organ whose particular duty it is to impose certain policies in connection with Japan. The Far Eastern Commission is a body which is representative of eleven different governments and has the task of carrying out a dual responsibility, a responsibility to endeavor to as far as possible merge the differing views of those governments and produce what is in effect an international policy with reference to Japan. That being the case, I think that that element from the point of view of the responsibility of the Far Eastern Commission is one which has to be given a good deal more weight than

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appears from the face of the Supreme Commander's reply. Consequently, I think that as far as I am concerned I could very readily accept the United States, the first paragraph of the United States suggestion provided that it were amended in the way suggested by Major Plimsoll, but that I couldn't accede to the suggestion that the time and manner of public announcement of the policy are matters for the sole discretion of the Supreme Commander. I think, if it is possible, one might perhaps be able to achieve agreement upon a wording of the first paragraph provided it were understood that it was without prejudice to a further decision at a later stage by the Far Eastern Commission with reference to public announcement.

MR. COLLINS: Mr. Chairman, while agreeing fully with what has been said by the two speakers before me, I must say that I find a certain amount of gratification in the fact that, as has occurred so often in the past by his own obviously grave doubts to the advisability of any announcement of this policy, the Supreme Commander has apparently seen fit to go quite a good way in the direction of meeting the proposal which was and is before us in FEC-099. In this connection, I should like to fully support the proposal of the Australian delegate that paragraph a of the United States proposal should be accepted with the change of the "Government of Japan" instead of the "Prime Minister".

GEN. MCCOY: In view of the length of my discussion with my assistants, I will declare a recess so I will not keep you sitting quietly.

(The meeting recessed at 11:15 A.M.)

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(The meeting reconvened at 11:30 A.M.)

GEN. MCCOY: Gentlemen, will you please come into session again. Thank you, gentlemen, for giving me an opportunity to discuss this important series of points with my assistants. I might interject that naturally from the wording here the Supreme Commander seems to be mentioned often, but I have to think of my own Government, and there I find, after discussion, that although there seems to be a very favorable chance for finding a formula upon which we can agree, there are so many points which were brought to me in my discussion with the representatives of the different departments of my Government that I feel that we couldn't reach agreement here this morning, much as we would like to do. We are very conscious of these statements of Major Plimsoll and Colonel Powles and again like the feelings of those who have studied the matter very carefully and represent their own governments so well, and we also are conscious of the possibility and probability of publicity, which we would consider unfortunate at this time. However, I feel that in hearing Major Plimsoll and Colonel Powles and taking note of their expressions that I would like, before requesting that it be returned for finding a formula to the Steering Committee, that I could have the benefit of other delegates and that will help in the discussion in the Steering Committee. Could I look to the other members at the table for helpful suggestions?

MR. RODRIGUEZ: Mr. Chairman, I would like to make

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of record the general agreement of the Philippine delegation with the position of the United States Government. We believe that in the matter of issuance of this policy decision, which is now under consideration, there are two points involved. The first is that of formal issuance to the Japanese Government and the second is publicity. In the matter of publicity there are also two divisions. One is publicity in Japan and the other is publicity in other places.

We believe that agreement would be very possible and could be achieved in the first point, that of issuance of the policy decision to the Japanese Government. The Supreme Commander has indicated his willingness to so issue the policy decision to the Japanese Government. He said he is willing to transmit the policy decision to the Prime Minister, whom we interpret to be the representative of the Japanese Government.

In connection with the effect of publicity in Japan on the Japanese people, we consider that in this respect the judgment of the Supreme Commander should be given full weight. We believe that the aim of the Supreme Commander as well as the aim of the Far Eastern Commission and all the governments that compose the Far Eastern Commission is to make a success of the occupation and to do everything possible in order to develop in Japan genuine tendencies toward democratic practices. We should, therefore, consider all steps that would be necessary to forward this aim and it is the responsibility of each and every government, as well as the Far Eastern Commission itself, to advance that objective.

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If, as the Supreme Commander puts it, publicity in Japan will be harmful to the achievement of this objective, in other words, if the publicity would set back the spontaneous feelings of the Japanese toward those steps that they are taking in the process of democratization, we believe that we should not put in obstacles in that direction.

Of course, we realize the arguments that have been advanced by colleagues at this table regarding the possibility that if we do not publish this decision we are liable to be accused of bad faith. The Philippine delegation, while realizing the strength of this argument, does not give it maximum weight to override objections that are advanced by the Supreme Commander. We can always say, and we can honestly say, that if we do not publish this decision we are motivated by the idea or the wish that we should not obstruct the process of democratization that is now going on in Japan. It is just like a person who has a very important decision to transmit to a sick man. If he decides not to transmit such decision because he feels that such a transmission will cause a relapse in the condition of the sick man, he cannot be accused of having bad faith in so withdrawing that particular information.

For the foregoing reasons, Mr. Chairman, we believe that the policy decision should be transmitted to the Japanese Government but that the matter of publishing the policy decision in Japan should be left to the discretion of the Supreme Commander and of the Japanese Government itself, because they know best about the timing of such publicity and about the effect that such

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publicity will have on the Japanese people themselves.

As to the publication of this policy decision in other places, such publication, we think, is not necessary because in this matter the paramount interest is in Japan itself. But if it should be necessary for members of this Commission to inform their governments as to what is taking place here, we think we can very readily do so without causing any untoward effect on the Japanese people. If we are asked to report, for example, in the Philippines what has been done in connection with the Japanese constitution, we can very well inform them that we have not interposed any objection to the Japanese constitution as it has been developed so far. On the other hand, we reserve the right to continue to scrutinize that constitution, to watch the way the Japanese people are implementing it, to review it from time to time and at the stated period in the policy, because we want to be sure that in the end this constitution and the way it is applied will result in the fullest democratization of the Japanese, which is the paramount goal of the Far Eastern Commission and the governments that are represented here. Thank you, Mr. Chairman.

GEN. MCCOY: Thank you. You have given us your point of view. Colonel Powles, in going back to your statement, which I am quite conscious of the apparent slowness of our liaison, etc., I don't want you to think that this is always due just to slowness. There has been a continual exchange between my Government and the Supreme Commander. We haven't, of course, been

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able to take that all up with the Commission and there have been messages crossing back and forth. For instance, before we had the former statement of General MacArthur he hadn't gotten our message from my own Government of information which crossed, and also the minutes which were later sent to him and which he has now received and this reply is after receiving those opinions of the Commission that were forwarded by me at the request of the Committee Chairman with the concurrence of the Chairman of the Steering Committee. So it has been an exchange that has been going on and you are getting, you might say, at certain intervals the results of it. It is slow, apparently, and I don't mean to say that we can't improve it. We are constantly trying to do that, and we will continue to, so that I am quite conscious of that point. In fact, every member of my different departments here that have advised me have been most conscious of that part of your statement and we will take full note of it. Admiral, have you any remarks on the subject?

ADM. RAMISHVILI: It will be helpful, Mr. Chairman, to have the opportunity in the full Commission meeting to express the opinion of my Government, which is for the time being in change and which I don't think can be changed. This is, Mr. Chairman, taking into consideration all opinions pro and con expressed here, including of course the Supreme Commander and the representatives of the United States and other governments, taking into consideration also all possible consequences of this step of publication of the Com-

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mission's decision and the responsibility of the Far Eastern Commission, the opinion of my Government was and is that for the good consequence and for the achievement of the goals, task of the democratization in Japan, it would be necessary to let the Japanese people know, including certainly the Japanese Government, that ~~if~~ the Far Eastern Commission has taken the decision that this constitution must be reviewed within a two years' time. In connection with this, Mr. Chairman, the proposal of the Australian representative and supported by several members here, if it will be officially submitted for the consideration of the Far Eastern Commission, will certainly be conveyed to my Government. But I am quite sure that this will not be satisfactory from the point of view of my Government because I would like to emphasize the fact that my Government considers most useful and necessary that they know this fact, the decision, not only the Japanese Government but the Japanese people as well. And in this connection, Mr. Chairman, I do not know the exact opinion of my Government although I am quite sure that this proposal will not be satisfactory.

GEN. MCCOY: That is either proposal?

ADM. RAMISHVILI: The proposal to make known this fact only to the Japanese Government will be not satisfactory, Mr. Chairman, for my Government. I am quite sure. I will certainly convey this proposal if it will be officially discussed here. I am completely sure it will not satisfy because the opinion of my Government is that this decision must be known to the Japanese people themselves.

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GEN. MCCOY: Dr. de Kat, can you give us the benefit of your views?

DR. DE KAT: Mr. Chairman, we feel inclined to share the misgivings of the Supreme Commander and we doubt that it would be wise at the very moment we ask the Japanese people to transfer their loyalties from the old constitution to the new one to throw the shadow of the Commission's doubts on it, and, therefore, we are willing to agree with the action as suggested by the United States Government. But we ask ourselves whether perhaps it would be better not to decide now already on the United States proposal because perhaps it would be better to leave this matter for consideration between you as the Chairman of the Commission and the Supreme Commander.

GEN. MCCOY: That is, the publication part?

DR. DE KAT: Yes, not to be decided now but to leave it as a matter of consultation between you and the Supreme Commander.

SIR GEORGE SANSOM: Mr. Chairman, perhaps I am only raising a question of procedure and am not really tackling the main question, but from a purely procedural point of view we have FEC-099 before us which deals with the issuance of the policy decision of the Commission. If we take FEC-031/45, paragraph 2, which contains the two proposals, suggestions of the United States Government, it seems to me to go beyond the question which is raised in the paper we are considering now. There is nothing in this paper about publicity. It seems to me that this paragraph, small b, introduces an issue which isn't essential at this moment. The question of

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publicity may perhaps have to be raised separately, but there is a main question of issuance as distinct from publicity in Japan, and I should have thought that anyhow we must do something about this question of issuance and I can't see any reason why we shouldn't act on a, with slight amendments as proposed by other members, leaving b out. b introduces, I may repeat, a consideration which isn't, as I see it, relevant to the paper before us. And then I would like also to say on b that I should have supposed that it is going a little too far to say that the time and manner of public announcement of this policy is a matter for the discretion of the Supreme Commander as to the best time and manner of public announcement in Japan of this decision. But surely the members of this Commission, the member States couldn't be bound by the Supreme Commander as to publication elsewhere. I should have thought that would be tying their hands. This is not a secret agreement reached between eleven countries. I could understand that during discussion it would be wrong for any one country to disclose the nature of the discussions, but once an agreement between eleven or ten countries is reached then I don't see any--I can't agree that the time and manner of public announcement other than in Japan is for the Supreme Commander to decide. So, to state perhaps more briefly and simply my view, I see no reason why we shouldn't, with some slight amendments, accept the United States proposal to direct the Supreme Commander to advise the Japanese Government of the terms of the policy decision--nothing more.

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GEN. MCCOY: Before replying to your comments, I would like to canvass the other countries involved. The representative from India?

MR. VESUGAR: Mr. Chairman, speaking for myself without having had definite instructions yet from my Government on this subject, as this paper has not been before us long enough, regarding paragraph a of the United States proposal, if this were changed as suggested by the Australian Government it would certainly meet with our approval. Regarding paragraph b, I would doubt very much if our Government would like to be tied by this decision that the publication of this agreement should be entirely at the discretion of the Supreme Commander. Now, while I agree with Sir George that publication in Japan would be the concern of the Supreme Commander--

SIR GEORGE SANSON: Might be.

MR. VESUGAR: Yes, might be--with the world as it is now I cannot see how it can be published elsewhere and also not in Japan. Secondly, as Major Plimsoll pointed out a little earlier, nearly four thousand people know about this. Is there any real guarantee that this will remain secret? The third thing is that in spite of what our Philippine delegate point out, and he made a very material contribution to this discussion, I also doubt that it would be just enough to inform our Governments only, as he recommended. The people represented here--not merely the governments--have also a right to know, and if they know, well then I can't see how it can be kept from the Japanese people. As Major Plimsoll pointed out, supposing that there is a discussion in

the parliament of Australia or India or New Zealand or Canada or Holland, how much of this could be held back from the discussion and how much of it it would be right to hold back from such a discussion? It is quite possible that this may even be discussed in the United States Congress. Now would the people here have a right to know about it or not?

GEN. MCCOY: There is no question about the right of the people of all countries concerned to know about it when it is considered opportune to meet the situation in Japan. That is the point, I think.

MR. VESUGAR: Yes, that is a very material point and it requires our mature consideration.

GEN. MCCOY: Of course, we know that things do leak and probably have leaked. At the same time we are still discussing it around this table. It hasn't been decided yet, so that it is a question of when, that we are concerned with more than the right.

MR. VESUGAR: Oh quite, I concede that. I concede that.

GEN. MCCOY: Well, these points are being clarified one by one and I welcome all of your comments. Does France have anything to say in the subject? We usually get a very logical answer from the French delegation.

MR. LACOSTE: We had at the beginning of this session two very complete and adequate expose on the consideration made by our Australian and New Zealand colleagues and I think they expressed the views that are shared by a great number of the members of this Commission and they certainly are shared, generally

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speaking, by the French delegation. We find ourselves in substantial agreement with what has been said by them. The French delegation considers that the proposal made by our Australian colleague ought to constitute a very good basis for some kind of compromise between the conflicting views of the Supreme Commander on the one hand with the occupation which are quite worthy of consideration and with the views held by the Commission whose preoccupation of its own authority is also very commendable. As to the matter of publicity, it is quite obvious that this is not going to be kept a secret. Lots of people already in Japan, we can be certain, are aware of the position that has been taken here, and we cannot expect the thing to be kept secret much longer. Therefore, I submit that it would be a very good idea to have a very careful examination of our Colleague from Australia's suggestion, which you yourself suggested a moment ago, with a view to issuing something that might be acceptable to both parties.

DR. TAN: Mr. Chairman, I am perfectly conscious of the views expressed at this table, particularly those expressed by Major Plimsoll. But, at the same time, of course we are very conscious of the fact that SCAP is doing very good work in Japan and he is our Commander in Chief and we ought to have continued confidence in him. So I am thinking whether we can develop some kind of a compromise plan that would meet as much as possible our conflicting views. I can suggest something along three points. First, that we would authorize SCAP to

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inform the Japanese Government about our decision regarding review so that the Japanese Government would know the decision of the Far Eastern Commission. And then secondly the power to decide when and in what manner our decision regarding review should be published will still be retained with the Far Eastern Commission. Then my third point would be, it would be clearly understood that before doing that the Far Eastern Commission would consult SCAP, would still consult him. That is to say, we still have confidence in him and will try to get his opinion on the matter. Substantially, you see, it would amount to this, that we would meet the point of view as to all of us as much as we can that the Far Eastern Commission will retain that power but, in fact, it would almost meet the United States point of view. It means that we will not go ahead to announce it to the world. If we want to decide that, we do so when we consult the Supreme Commander beforehand.

MR. VESUGAR: Mr. Chairman, would you permit me to add to my remarks? Around this table we are very conscious of the Supreme Commander's views and the difficulties that he envisages from a knowledge of this decision by the Japanese people. Now--

GEN. MCCOY: At this time.

MR. VESUGAR: Yes, at this time. Now, one way to allay his doubts and to allay this possible danger of its being known at this time is perhaps to add a rider to our policy decision showing why we have come to this decision that it is not a decision to tell the Japanese people who is master or that this is a dictate

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but only to help them in this very goal of their own making and to help them with the final evolution of the best possible constitution. We would go all the way that General MacArthur would like in order to clear this because there is no one around this table who has any doubt whatsoever that we are not attempting to put this policy decision forward as a gesture to show that this Commission here has the final authority of review. Not at all. Our principal concern is to make sure that the best possible method is evolved for putting Japan on a self-governing peaceful and prosperous career.

GEN. MCCOY: Well, I think that brings a good many points for our consideration. I would like once more to have a recess for reconsideration in the light of what has been said. Therefore, I will declare a recess for the moment.

(The meeting recessed at 12:03 P.M.)

(The meeting reconvened at 12:10 P.M.)

GEN. MCCOY: Gentlemen, we are in session again, and I have had an opportunity to discuss the question again, in view of the expressions here, and my assistants have helped me in trying to reach a decision this morning which I will put in the form of a motion to see if we can cover the points at issue from our point of view, and hopefully from yours. By accepting this we get the immediate action and oppose the delays that Colonel Powles is conscious of and that we are sympathetic to. I will make a motion to this effect, that the United States Government will request the Supreme Commander for the Allied Powers formally to advise the Prime Minister of Japan and his successors

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of the terms of the policy decision contained in FEC-031/41. b., The United States Government will inform the Supreme Commander for the Allied Powers that the time and manner of public announcement of this policy decision are matters which will be considered subsequently and in the light of further consultation with the Supreme Commander.

I will read it again because I haven't other copies to put before you. I make the motion that,

"a. The United States Government will request the Supreme Commander of the Allied Powers formally to advise the Prime Minister of Japan and his successors of the terms of the policy decision contained in FEC-031/41.

"b. The United States Government will inform the Supreme Commander for the Allied Powers that the time and manner of public announcement of this policy decision are matters which will be considered subsequently and in the light of further consultation with the Supreme Commander."

We can accept that now, otherwise we would have to refer the thing back to the Steering Committee.

MR. RODRIGUEZ: I would like to second the motion, Mr. Chairman.

GEN. MCCOY: Does anybody wish to see it as I have read it?

MR. JOHNSON: Copies are being made.

GEN. MCCOY: It has been moved and ~~and~~ seconded.

DR. DE KAT: The motion is acceptable to us, Mr. Chairman.

ADM. RAMISHVILI: Mr. Chairman, as I said previously, I couldn't accept this proposal, well at least without

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consultation with my Government. I am quite sure that it will not be satisfactory but I am not ready to vote today right now on this.

GEN. MCCOY: You are?

ADM. RAMISHVILI: I am not ready to vote. I am quite ready to vote against but perhaps after consultation with my Government--

COL. POWLES: If that is the case, Mr. Chairman, perhaps it ought to be referred to the Steering Committee.

GEN. MCCOY: Are there any comments before I take cognizance of the Soviet statement?

MAJOR PLIMSOLL: I am not very happy about it, Mr. Chairman. It seems to contemplate that the--in fact, it almost states expressly that the Prime Minister shall not advise the Cabinet, and I don't think it is very satisfactory to have a state of affairs stretching on for two years--a long period could be covered by this--the Prime Minister and his successors--I don't think it is satisfactory to have this decision in existence for possibly two years and the Japanese Cabinet not knowing about it although the Japanese Prime Ministers know about it. As I said, I don't think it is a satisfactory arrangement and I don't think it is contributing to democracy in Japan to encourage a situation whereby you have a single individual, the effective head of the state, knowing things, entering into relations with foreign governments, and the people of Japan and even the Diet of Japan not being informed about it.

GEN. MCCOY: No, but he would be the judge of that. He might immediately inform it. It gives the Prime

Minister the responsibility too, and it might be there with the Supreme Commander and the Prime Minister being cognizant of the wishes of the Commission and also cognizant of the conditions in Japan, it seems to me that they together are the best judges of the time to publish this.

MAJOR PLIMSOLL: Well, as I said, Mr. Chairman, I would have to think it over before making a snap decision on it.

GEN. MCCOY: Well then, I will withdraw my motion as it seems to be unacceptable at the moment, with the hope that the Steering Committee will work out a recommendation to the Commission that will enable us to agree.

MR. COLLINS: Mr. Chairman, while we are discussing this, just in connection with the remarks which you have just made regarding the possibility that the Prime Minister himself might, in consultation with the Supreme Commander, decide that it would be appropriate to let the Cabinet or even perhaps a wider body such as the Diet know something of this, I think for that very reason the addition of paragraph b, even in its present form, would be probably rather unwise because that rather tends to formally state that no action should be taken until the Far Eastern Commission does. I think it is conceivable that if they simply passed some version of paragraph a without going any further than that it would not prejudice the authority of the Far Eastern Commission to make a further decision if it so wishes, but likewise it would leave the way open for the Prime Minister and the Government, if they

decided so to do, to hit upon some form of announcing of this review provision which would be acceptable to all concerned. That might well, for instance, occur during the course of the next meeting of the Diet after implementing legislation had been fully considered. The Japanese Government might possibly make an announcement that, now the constitution is completed with its implementing legislation and the Government, in view of the fact that this is a brand new constitution, etc., has decided itself that it would be advisable to have a full-dress review after a period of time when the whole constitution has been tried and practiced. In practice that type of decision might well be arrived at by the Japanese Government on its merits, and I think that any such form as paragraph b here might rather hold that up.

GEN. MCCOY: Would the Soviet representative be willing to accept that?

ADM. RAMISHVILI: No sir.

GEN. MCCOY: The motion has been withdrawn and I would now suggest, with your approval, that the question at issue be referred to the Steering Committee hoping that they can reach a quick agreement.

COL. POWLES: Mr. Chairman, just before you leave the matter, I made reference to the question of delay. My criticism was directed to the fact that the machinery itself was imperfect, and I had no intention whatever of appearing to cast any criticism whatsoever on the manner in which the machinery has been worked. I don't want you to think or any other member of the Commission to think that I was attempting to criticize the efforts

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which you yourself and your advisers have made to perfect what inadequate communication we do have with General MacArthur. As a matter of fact, I think that most of the members of the Commission are very conscious of the fact that you yourself, sir, are doing your very best to work the inadequate machinery that we have.

GEN. MCCOY: Well, I have been conscious of that general situation and I had in mind when I prepared the report a month ago of our work during the last six months to the Commission, I had at that time and I think I made a statement to the effect that, after an appropriate time, I would ask the Commission to sit in with me having that what we had accomplished and had not accomplished before us to see if together we couldn't improve our machinery and procedure. I am quite conscious that no machinery ever works successfully unless we keep constantly repairing it and improving it, and I would welcome, I would hope that all of you will be conscious of that fact. I have delayed in doing it hoping that we could break the jam on reparations and finish up, you might say, with the constitution for the moment, and then take up the new consideration on the part of us around the table and with an opportunity for all to help in improving our technique and procedure, and I will do that as soon as practicable. But I felt it was unwise to do it just at this time in view of this delay that we are undergoing while we are trying to reach some way of breaking the jam on the reparations problem. So that, this particular discussion will be available to the Steering Committee and a reference will be made to them of this

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paper and its accompanying suggestions. Items 5 and 6 will both go to the Steering Committee for their consideration in trying to find a formula for us in which we can agree.

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ITEM 7 - JAPANESE LEGISLATION TO IMPLEMENT THE CONSTITUTION (FEC-098)

GEN. MCCOY: Item 7 is the Japanese Legislation to Implement the Constitution, placed on the agenda at the request of the Australian representative.

MAJOR PLIMSOLL: Mr. Chairman, the Japanese Diet is meeting next Monday in a special session to consider implementing legislation. During the discussions of the constitution in the Far Eastern Commission, reference was made in a number of occasions to the implementing legislation and a number of members pointed out that important constitutional matters were not covered in very great detail in the constitution. We were given an assurance by you, Mr. Chairman, that we would be shown the legislation, given an opportunity to scrutinize it. The United Kingdom, for example, specifically referred to the property of the imperial household and expressed a desire to scrutinize the provisions of the New Imperial Household Law in that matter and the Commission actually passed a policy decision on the 25th of September regarding the relations between the House of Councillors and the House of Representatives. It said that it considers essential its continuing right to scrutinize the implementing legislation very carefully, to insure that such predominance is not established.

Now, I have put this item on the agenda, Mr. Chairman, not in a critical spirit but in order that we could reach some understanding on the matter. I thought it would be very unfortunate if the Diet met and we had no agreement as to what was going to happen. We

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have got into that sort of situation in the past just because we haven't foreseen these things. I raised the matter in the Steering Committee on Tuesday and Dr. Blakeslee made an extremely helpful statement on the subject. He said that his understanding of the position would be that the Commission would treat this implementing legislation in a manner similar to the constitution, that we would receive the drafts of the legislation; it would go to Committee No. 3, which would consider it; and the Commission would make its views known to the Supreme Commander either by means of messages of consultation or by means of policy decisions. If that were the case, I think it would be essentially satisfactory to every one of us. The two important points that we need assurances on are, first, that we will be given the draft legislation promptly or at least in sufficient time to consider it, and secondly, that the deliberations of the Japanese Diet on the subject will not be unduly rushed and that we will have an opportunity to make our views known.

GEN. MCCOY: I am now better informed with regard to these points. In general, I was conscious of Dr. Blakeslee's statement to the Steering Committee, in which I concur, and I was just trying to get the latest information about this implementing legislation, and the department concerned was quite conscious of this approaching problem and has endeavored to get the implementing bills as soon as possible. To make sure of that they sent out an official purposely for that purpose. That official has not yet returned, but in

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the meantime there was a general statement from the Supreme Commander:

"For my part, the Commission may be assured that I, as Supreme Commander, will make available to it copies of all special and periodic reports covering the administration of Japan, and any other special information which it may from time to time specifically desire, and do everything else reasonable within my power to facilitate discharge of the Commission's responsibility in the over-all task to which the Allied nations jointly are committed."

That was followed by a letter on the 2nd of November in which he lists certain drafts requested in a cable, which were passed by the extraordinary session of the Diet, and which were attached, and then he lists the bills requested in reference cable to be furnished: "Cabinet Law, National Diet Law, House of Councillors Law, Imperial Household Law, Partial Amendment Bill of the Civil Code, Partial Amendment Bill on the Criminal Procedure Law, Partial Amendment Bill on the Court of Justice Organization Law, Public Procurators Law, Plebiscite Law for Discharging Judges, Judges' Impeachment Law, Finance Law, Partial Amendment Bill on the Criminal Code, Special Regulations Concerning Administrative Suits, Law for Protection of Fundamental Human Rights.

"Legislation requested in reference cable which is included in other measures: Bill to compensate Munitions Industries in Special Cases, etc., Bill for Reconstruction and Organization of Financial Institutions, etc., Court Law on Court of Justice Organization Law concerned with

the Judiciary."

So that, in furtherance of that letter of the Supreme Commander on the 2nd of November and then the expressed effort to have an official go out in connection with the prompt sending of these various laws, some fifteen of them that I think would practically cover what the Commission has had in mind, and we find still that mechanical delay due to the difference in language. Apparently the slowness there is due either in the small number of translators--they have, as I understand it, a large number of these Nisei, but most of them are not educated well enough to really help much in problems of this sort--and I think that we can assume the delay so far has been due to the mechanical difficulties.

MAJOR PLIMSOLL: Well, I wasn't critical of the delay, Mr. Chairman. I just wanted an understanding.

GEN. MCCOY: Well, I think it is well to have that on the agenda. I agree with you thoroughly that it is a very important part--

MAJOR PLIMSOLL: But, it is not only--

GEN. MCCOY: We don't want to be pushed up to the end when there is no time to take cognizance and give due consideration. With that I am in full accordance and will do everything in my power to get these before us in the earliest possible moment.

MAJOR PLIMSOLL: But the Supreme Commander is aware, I take it, that we don't want the Diet to take final action on any of these until we have had an opportunity to express our views on the legislation?

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GEN. MCCOY: Well, I think that it is, but I think he would have a different point of view there that would probably go back to his consistent feeling that there should be no interference on the part of this Commission or himself in the due processes of the law there, with regard to the Government, and I am trying to meet that obstacle by getting the things here as quickly as possible. That is the only assurance I can give for the moment. But, I am quite conscious of the feeling that you have and I think it is a very proper one and I am glad to have it put on the agenda. I assure you that I will try my best to get these before the Commission as quickly as possible.

MR. COLLINS: Mr. Chairman, on that point, I sympathize completely with the Supreme Commander's view regarding the due process of law, etc. I think we have found in connection with the constitution that the most helpful way the Commission can probably enter into the picture at all is by getting in before the legislation is actually passed. After all, the formal interference of the Commission over the control by the Japanese over their own destiny is much more drastic and more obvious if it is forced into a position that it has to take action after the Diet has passed something. Therefore, I think, in the interest of all concerned, it is definitely advisable that we have an opportunity before the final passage for the Commission to at least scrutinize them and because then it can be handled in a manner in which the Supreme Commander has already shown himself to be very adept at without an obvious interference on anybody's part.

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(Sir George Sansom, the United Kingdom representative, departed the meeting at 12:35 P.M.)

(Mr. Graves, Sir George Sansom's alternate, took the United Kingdom seat.)

ITEM 8 - REDUCTION OF JAPANESE INDUSTRIAL WAR POTENTIAL (FEC-084/1 -084/2)

GEN. MCCOY: Item 8 is Reduction of Japanese Industrial War Potential, FEC-084/1 and -084/2. FEC-084/1 contains a saving clause like that in FEC-084/2, Selection of Plants for Reparations Removals, etc., and at the 32nd meeting of the Commission it was agreed to hold /1 on the agenda until further report on the matter of Selection of Plants becomes available. FEC-084/2 contains amendments proposed by the United States and United Kingdom representatives at the last meeting. It was agreed that these amendments should be held in abeyance until the main paper should be considered by the Commission. That main paper is still in the Committee, or has it advanced to the Steering Committee?

MAJOR PLIMSOLL: It is still in the Committee, Mr. Chairman, and I am very doubtful as to whether we can reach agreement on it in the near future. I think there is more possibility of redrafting paragraph 7 of the paper, FEC-084/1. The paper that we've got under consideration in the Committee is one concerned primarily with reparations, which raises certain questions in addition to the question of reducing war potential.

GEN. MCCOY: Do you suggest we continue this on the agenda for the present?

MAJOR PLIMSOLL: I think we might get further if

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we sent it back to the Committee.

GEN. MCCOY: To be considered with the other paper?

MAJOR PLIMSOLL: I move it be sent back to the Steering Committee, Mr. Chairman, with instructions to try and reach rapid agreement on a new paragraph 7.

GEN. MCCOY: If there is no objection to the motion of the--

MAJOR PLIMSOLL: There is also the question of explosives. I don't know if we are going to deal with it here today. If not I think that can be considered in the Committee as well. The United Kingdom made some amendments last week. That is FEC-084/2.

GEN. MCCOY: If there is no objection, both these papers will be sent back to the appropriate committee to consider in their work with the finding of a formula for paragraph 7 in 045/2.

DR. TAN: Mr. Chairman, since the representative of your country and also the United Kingdom have made certain suggestions to modify certain parts of this paper, our delegation wants also to bring out two minor points for the consideration of the Commission. I want to take this opportunity to indicate what they are. Now, in paragraph 5b (1)(p), our delegation decided to propose to make it "The heavy electrical and mechanical equipment industry". Just add two words "and mechanical". That is page 4, paragraph 5b (1)(p), just before (2), "The heavy electrical and mechanical equipment industry". And then we decided also to add another item immediately following that under the caption (q), "Optical and precision instrument industry". So, we want these two

points of ours to be considered along with other suggestions.

GEN. MCCOY: And you will be prepared to discuss them on the Committee?

DR. TAN: Yes.

GEN. MCCOY: Will you consult with the recorder to make sure that we have that suggestion proposed there for consideration of the committee?

ITEM 9 - PROPOSED UNITED STATES PLAN FOR REPARATIONS CONFERENCE (FEC-081 series)

ITEM 10- REPORT ON JAPANESE EXTERNAL ASSETS (FEC-072)

GEN. MCCOY: Items 9 and 10 are still postponed and kept on the agenda.

ITEM 11 - OTHER BUSINESS

GEN. MCCOY: Under Other Business the Secretary has an announcement to make.

a. ANNOUNCEMENT BY SECRETARY GENERAL REGARDING DISTRIBUTION OF CARDS TO MEMBERS OF DELEGATIONS

MR. JOHNSON: Mr. Chairman, at the 17th meeting of the Commission on 27 June 1946, the Far Eastern Commission requested the United States Government to extend to it the privileges, exemptions and immunities of the International Organization Immunities Act (FEC-073/2).

Because of certain provisions of this act the United States Government was not able to comply with this request, and the reply of the United States Government to this effect was circulated to the Commission on 6 August 1946 as FEC-073/3.

At the 30th meeting of the Far Eastern Commission on 17 October 1946, the question of diplomatic immunity for members of the Far Eastern Commission was again

raised and the Secretary General agreed to undertake further consultation with the United States Government.

In line with the suggestion of the United States Government in its previous reply that if the Far Eastern Commission finds that the effective performance of its duties is impaired, the United States Government would be glad to give consideration to any possible means by which any impediments to its work may be removed, specifically the Secretary General was instructed, (a) to investigate the possibility of issuing special identity cards to members of the Far Eastern Commission who could not be attached to their own diplomatic staffs in Washington, and (b), to investigate the possibility of issuing a special sticker for vehicles driven by members of delegations to the Commission.

The United States Government has now forwarded to the Secretary General for distribution special identity cards for all officers and officials of delegations on the Far Eastern Commission who are not otherwise designated as members of diplomatic missions and these cards may be obtained upon request in the office of the Deputy Secretary General. The possibility of issuing special automobile stickers is still being investigated by the Secretary General.

b. SPECIAL MEETING OF THE STEERING COMMITTEE

MR. JOHNSON: And, Mr. Chairman, I have another announcement to make. There will be a special meeting of the Steering Committee on Monday, next, at 10:30 A.M. to consider the paper on Basic Policy.

c. TIME OF NEXT MEETING

MR. JOHNSON: The other question is the time of the next meeting, that is because Thanksgiving Day comes on Thursday. That interferes with the meeting of the full Commission.

GEN. MCCOY: What is your wish? Possibly Wednesday might be--Can you foresee any objections to Wednesday instead of Thursday? In considering the meeting next week it seems pretty crowded before Thursday. Possibly we could adjourn to meet at the call of the Chairman, if there is anything that turns up in the Steering Committee or otherwise I could call an emergency meeting possibly on Wednesday in spite of the pressure of the committee meetings.

MAJOR PLIMSOLL: I think, Mr. Chairman, that it would be better to meet on Wednesday morning. We've got a lot of business before. There is the Trade Union paper and a number of other papers and I think we should meet once a week if possible. I agree with you that we shouldn't meet on Friday morning because some members do want to go away for the holiday.

GEN. MCCOY: What is your pleasure? The suggestion is made that we have a meeting on Wednesday. In view of the different opinions suppose I adjourn to meet at the call of the Chairman, and I will keep in touch with any members that have any wishes to express on that, whether we have it Wednesday or Friday or postpone it until the following week.

MR. LACOSTE: Mr. Chairman, inasmuch as I raised the question of the matter of diplomatic cards or some

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kind of special recognition for the members of the Commission who were not members of the diplomatic corps here, I wish to express in the name of all those who have benefitted by those efforts our thanks to the Secretary General for the good care he has taken and the happy results he has brought out.

GEN. MCCOY: Gentlemen, we stand adjourned.

(Whereupon the meeting adjourned at 12:45 P.M.)

FAR EASTERN COMMISSION

Transcript of Thirty-Sixth Meeting of the Far Eastern Commission,

Held in Main Conference Room, 2516 Massachusetts Avenue, N.W.

Friday, December 6, 1946

FAR EASTERN COMMISSION

Transcript of Thirty-Sixth Meeting of the Far Eastern Commission,
Held in Main Conference Room, 2516 Massachusetts Avenue, N.W.
Friday, December 6, 1946

REPRESENTATIVES PRESENT

Maj. Gen. Frank R. McCoy, USA (Ret.), Chairman	(United States)
Major J. Plimsoll	(Australia)
Mr. R. E. Collins	(Canada)
Dr. S. H. Tan	(China)
Mr. Francis Lacoste	(France)
The Honorable Sir Girja Shankar Bajpai	(India)
Dr. A. D. A. de Kat Angelino	(Netherlands)
Colonel G. R. Powles	(New Zealand)
Mr. F. Rodriguez	(Philippines)
The Honorable Sir George Sansom	(United Kingdom)
Rear Admiral S. S. Ramishvili	(U.S.S.R.)

SECRETARY

Mr. Nelson T. Johnson

Reporter: R. Holtz, Department of State

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(The meeting convened at 10:40 A.M.)

GEN. MCCOY: Good morning, gentlemen.

ITEM 1 - APPROVAL OF THE MINUTES OF THE 35TH MEETING

GEN. MCCOY: We now open our session and ask for any observations on the minutes of the last meeting. Are there any corrections or suggestions that occur to anyone? There seems to be none and we will make the minutes a matter of record.

ITEM 2 - INTERIM REPARATIONS REMOVALS: STEEL ROLLING INDUSTRY (FEC-059/29); INTERIM REPARATIONS REMOVALS: TEMPORARY RETENTION OF ELECTRIC STEEL FURNACES (FEC-059/30)

GEN. MCCOY: Now, we have, under Item 2, two important papers which have been held up for some time, but I am happily informed that there has been final agreement. These papers were considered together by the Steering Committee and were unanimously approved at its last meeting, that is, FEC-059/29 and FEC-059/30. They have been pretty thoroughly worked over, I think, by all concerned and I am hoping that the discussion is so complete that we will be able to pass these papers together. Major Plimsoll, do you feel the need of any discussion?

MAJOR PLIMSOLL: No, Mr. Chairman. I don't think there is anything that need be said. It has been considered very thoroughly. It makes available some capacity in the Steel Rolling Industry for reparations and also allows the Supreme Commander, in the second paper, to retain a portion of that temporarily to meet occupation needs.

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GEN. MCCOY: Well, these are one--two steps forward. I was remarking, and I have no doubt such remarks have been made by you at times, that we move with glacier-like speed; but the glacier does move downhill.

SIR GIRJA BAJPAI: It has been almost geological.

GEN. MCCOY: Well, I don't know--I think that we might compare our movements with other international commissions and find that we--even our glacier moves a little faster than some of the others.

SIR GIRJA BAJPAI: I wasn't indulging in comparison, Mr. Chairman, because they are proverbly odious. I was merely suggesting a substitution of geological for glacier.

GEN. MCCOY: Well, in reading the proceedings of the Steering Committee--I like to hear your remarks on the subjects there--I notice that you still keep your sense of humor despite the frustration you might feel at times.

Gentlemen, is there any discussion on your part on these two papers? There seems to be none, and, if there is no objection, we will forward them as policy papers which will be very helpful in starting the ball rolling.

ITEM 3 - PRINCIPLES FOR JAPANESE TRADE UNIONS
(FEC-045/2, -045/4)

GEN. MCCOY: FEC-045/2 was considered by the Commission at its meeting on the 14th of November and an ad hoc subcommittee was appointed to redraft paragraph 7. The subcommittee presented two alternative proposals for revision of paragraph 7 at the last meeting

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of the Commission and further consideration was postponed to enable the Soviet representative to obtain the views of his Government. The Soviet representative is now in a position to support "Proposal A". Is that correct, Admiral?

ADM. RAMISHVILI: Yes sir.

GEN. MCCOY: I am able to state that my Government goes with the Soviet Government in this acceptance. In fact, we would be prepared to accept either--but we will stand with the Soviet representative on "Proposal A".

COL. POWLES: Mr. Chairman, "Proposal B" was a product of a suggestion which I made with reference to drafting. The difference between the two proposals is really mainly a matter of drafting and I offered "Proposal B" in the hope that it might perhaps be a more acceptable compromise than "Proposal A". Well, now that "Proposal A" has been accepted, I don't feel any love at all for "Proposal B" and I will be very glad to support the accepted compromise.

GEN. MCCOY: I will be glad to throw the baby out the window as long as it narrows the procedure to one solution--one formula. Is there a motion on that subject, or does it need a motion? Is there any discussion, we will say, or observations from anybody? If there is no objection, then we will accept the report of the ad hoc subcommittee and their alternative "A", "Proposal A". If there is no objection that paper will also be passed and made a matter of record and action.

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ITEM 4 - OFFICIAL JAPANESE AND ENGLISH TEXTS OF THE CONSTITUTION (FEC-087/14, -087/15)

GEN. MCCOY: The Official Japanese and English Texts of the Constitution is still on the agenda, and, if there are no remarks there, we will pass on to Item 5.

ITEM 5 - PROPOSED UNITED STATES PLAN FOR REPARATIONS CONFERENCE (FEC-081 series)

GEN. MCCOY: Once more that requires postponement. I have made enquiry and find that the different nations have not yet completed their replies to the diplomatic exchanges, but I am informed that there are only a few that have not and that it looks as though we get some action very shortly.

ITEM 6 - REPORT ON JAPANESE EXTERNAL ASSETS (FEC-072)

GEN. MCCOY: This paper has been continued on the agenda and I will hope it may continue for the present.

ITEM 7 - OTHER BUSINESS

GEN. MCCOY: Is there any other business this morning?

ADM. RAMISHVILI: Mr. Chairman, I am sorry--the constitution paper continues on the agenda in order to give the opportunity for members--

GEN. MCCOY: Yes.

ADM. RAMISHVILI: Thank you.

a. CHANGE IN STATUS OF INDIAN REPRESENTATIVE

GEN. MCCOY: Under Other Business, I turn to the Indian representative. I noticed in the paper a change of your status which has not been announced to the Com-

mission.

SIR GIRJA BAJPAI: Oh, it was, Mr. Chairman, not to the Commission but to the Steering Committee, and I don't think there is a need for repeated incarnation.

GEN. MCCOY: Well, we are glad of the present incarnation and welcome you under the new status.

b. IMPLEMENTING LEGISLATION

GEN. MCCOY: Naturally we are continuing to be concerned with the implementing legislation on the new Japanese constitution. I can assure you that we have had considerable interest in that and I am able to inform you that every effort is being made to bring to the Far Eastern Commission as soon as possible the draft legislation providing for the implementation of the constitution.

An official of the War Department was sent out for the express purpose of we might say "greasing the channels" for quicker transmission. The official has returned--sat in my staff meeting and reports that definite arrangements have been made with SCAP by which copies of bills implementing the constitution will be sent to the Far Eastern Commission, both in English and Japanese texts, as soon as these bills have been approved by the Cabinet for submission to the Diet. To obviate any possible delay due to translation, the Japanese text will, if necessary, be sent ahead of the English text. In addition to the report from the official of the War Department, a radio message has been received from the Supreme Commander dated November 30th, in which he states that the drafts of laws imple-

menting the constitution will be forwarded by air courier after their introduction in the Diet, as requested, and that the Imperial Household Law, the Household Economy Law, House of Councillors Election Law, and the National Bank Law are scheduled for consideration by the Diet now in session. I am also informed by the Department that they ought to be nearly here now--that they have been sent. The radio announces that the bill for the House of Councillors was introduced into the Diet on Tuesday last, the third, and that the bill for the Cabinet Law was to be introduced yesterday.

This air courier service is the fastest thing that we have and it reacts consistently between ten days and two weeks.

I hope that we will not be embarrassed or hindered by any rapid approach to a deadline as we were during the constitutional affair and I have done everything I could think of to anticipate that. So that, we will hope for the best.

COL. POWLES: As a matter of procedure, may I assume that it would be your wish and the wish of the members of the Commission that immediately when some of those texts of the laws come to hand they would be referred direct to Committee No. 3, which could then hold a meeting?

GEN. MCCOY: I think that would be a good idea. Will you see that that is done?

MR. JOHNSON: Yes, just as soon as they come they will be referred.

c. PROPER NOTICE OF MEETINGS

GEN. MCCOY: Is there any other comment?

SIR GIRJA BAJPAI: Not on this point, Mr. Chairman. What I say now is said in no spirit of criticism at all, but some of us are shorthanded and from our point of view, if we could have a little longer notice of altered meetings of the Commission it would be more convenient. For instance, when I attended the meeting of the Steering Committee on Tuesday, I was told there would be no meeting on Thursday. But there was no indication there would be another meeting during the rest of the week. It is not that I am a week-ender but there is far too much work at my hands and I find it rather difficult to adjust my program on such short notice. I want to attend the meetings as often as possible.

GEN. MCCOY: Will you be cognizant, sir.

MR. JOHNSON: I will.

d. INTRODUCTION OF JUSTICE DAVIS TO COMMISSION

GEN. MCCOY: Gentlemen, I am informed and have had the pleasure myself of meeting the eminent Canadian Judge Davis, who is about to go to China as the new Ambassador from Canada. Am I correct sir?

JUSTICE DAVIS: Yes sir.

GEN. MCCOY: I would like to welcome him for you and give you an opportunity to meet him.

DR. TAN: Mr. Chairman, naturally I would like to associate myself with you. The Ambassador is very welcome to China.

JUSTICE DAVIS: Thank you sir.

GEN. MCCOY: We seem to be well stocked with

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ambassadors to China for the past, present, and I hope future.

Is there any other business before us this morning? There seems to be none so that we will adjourn to meet at our usual time next week.

(Whereupon the meeting adjourned at 10:55 A.M.)

FAR EASTERN COMMISSION

Transcript of Thirty-Seventh Meeting of the Far Eastern Commission,

Held in Main Conference Room, 2516 Massachusetts Avenue, N.W.

Thursday, December 12, 1946

FAR EASTERN COMMISSION

Transcript of Thirty-Seventh Meeting of the Far Eastern Commission,
Held in Main Conference Room, 2516 Massachusetts Avenue, N.W.
Thursday, December 12, 1946

REPRESENTATIVES PRESENT

Maj. Gen. Frank R. McCoy, USA (Ret.), Chairman	(United States)
Major J. Plimsoll	(Australia)
Mr. R. E. Collins	(Canada)
Dr. S. H. Tan	(China)
Mr. Francis Lacoste	(France)
Mr. J. Vesugar	(India)
Dr. A. D. A. de Kat Angelino	(Netherlands)
Colonel G. R. Powles	(New Zealand)
Mr. F. Rodriguez	(Philippines)
The Honorable Sir George Sansom	(United Kingdom)
Rear Admiral S. S. Ramishvili	(U.S.S.R.)

SECRETARY

Mr. Nelson T. Johnson

Reporter: R. Holtz, Department of State

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(The meeting convened at 10:30 A.M.)

GEN. MCCOY: Gentlemen, good morning. The table seems to be filled with representatives of all concerned. We will now open the session.

ITEM 1 - APPROVAL OF THE MINUTES OF THE 36TH MEETING

GEN. MCCOY: With reference to the minutes, are there any observations or corrections of the minutes of the last meeting? There seem to be none and, if it is your pleasure, the minutes will be made a matter of record.

ITEM 2 - ISSUANCE OF THE POLICY DECISION ON REVIEW OF THE JAPANESE CONSTITUTION (FEC-099/3)

GEN. MCCOY: The only important paper that I see before us this morning is the Issuance of the Policy Decision on Review of the Japanese Constitution. We have finally gotten together on that, through the earnest and helpful efforts of all concerned, and the Steering Committee forwards it for action of the Commission with the general approval of all representatives on the Steering Committee.

MAJOR PLINSOLL: Mr. Chairman, I am very pleased to welcome the decision of the United States Government to support this paper. It represents a compromise on the part of all of the governments around this table. Some of us wanted immediate and complete publication in Japan and General MacArthur and the American Government preferred that there should be no publication at all at this stage. Now, we have all compromised but I think the American Government has gone further, and very generously, because their compromise is irrevocable

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whereas the rest of us, under the second paragraph, will urge later on that there be complete public announcement.

I should like, Mr. Chairman, with your permission, seeing that there is a very small agenda today, to outline at somewhat greater length the views of my Government on this general question of constitutional review. There have been two problems that have confronted us throughout. One has been the contents of the constitution and the other has been its methods of adoption. The Far Eastern Commission secured a number of very important alterations to the constitution and I think we can take a certain amount of pride in the way in which we have handled the whole situation. But, I think just as important as the changes we have secured in the document have been the changes we have secured in its method of adoption and the policy we have laid down. You will remember that, on the 13th of May the Commission adopted a policy statement which laid down three points, one of which was that there should be full and ample discussion and the second of which was that it should be adopted in such a way as to indicate clearly that the constitution represents the free will of the Japanese people. General MacArthur made a public statement on the 21st of June, when he announced those principles, and I think we have all received reports from Japan, from our representatives and from other people there, that that statement had a very great effect on the Japanese people and upon the Japanese Diet. Up to that time there was a general skepticism

in Japan as to the authorship of the constitution and as to the power of the Japanese people to secure changes. From that time on, the Japanese people, though still, I think, possibly feeling that they are under an obligation to pass the constitution, nevertheless began to discuss it much more freely and to suggest changes of their own accord. I have read recently the verbatim reports of a large number of sessions in the House of Peers on the Japanese constitutional bill, and I have been very pleasantly surprised by the quality of the discussion there. A lot of the Japanese peers spoke very intelligently, with considerable knowledge of political and international affairs and with a fairly broad outlook, and I think that there is a great deal of hope in Japan if we can encourage the Japanese people to consider the constitution and consider other problems. We see also that the implementing legislation that is before the Diet has provoked more discussion than we might have expected six months ago. There has been a long debate on whether the imperial throne could be ascended to in the future by a woman. That is very healthy. At the same time, we have indication of an inability on the part of some people to appreciate fully the situation in Japan today. In the Diet last Friday there was a statement by Isaja Tanaka, an Independent, who demanded to know why peace treaties with Germany and Italy were being concluded today by the Allies when those two countries do not have a constitution and Japan did, and his implication was that Japan had now fulfilled her obligation and had adopted a consti-

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tution and was now in a position to be independent again. Now, I don't think Tanaka could have held that view if he had known of the decision of the Far Eastern Commission that the constitution was going to be subject to review later. The point I am trying to make now is that the constitution is a first stage-- that there are other stages to be accomplished, some of which are possibly verbal changes to the constitution, but more important we have to make the constitution a living reality and see how it works in practice. That was, I think, the main idea of the Commission in adopting the review paper. We felt, or many of us felt, that the Japanese people were still inexperienced in democratic ways, the country was still unsettled, and we thought also the Japanese should see how the constitution works in practice. In other words, the review decision was not an attempt to impose Allied policy on the Japanese, but it was a step taken to insure that the Japanese people could exercise the rights promised them under the Potsdam Declaration, to choose a form of government of their own free will.

General MacArthur argued very cogently, and I think we were persuaded--all of us--that there should be an immediate constitution so that Japan could continue under its old government but not a Meiji constitution. He convinced all of us that we should allow a constitution to come into effect, but this review provision was added.

I think there are two major problems confronting the occupation today. The first is that we must continue to make changes in Japan. The initial directive

to the Supreme Commander, issued by the United States Government, was an excellent document. It reflects very great credit on Mr. Stimson, General Marshall and the whole of the advisers and officers that helped them in working on this document. It is one of the best military government documents that has ever been issued, and I think the way General MacArthur set about implementing it reflects the highest credit upon him and upon his country. Those of us who were in Japan last January must have been very impressed by the skillful way in which General MacArthur proceeded to make changes--make one change and then leave a short period for consolidation--and they go on and make further changes. And very great promise, I think, has been set by the initial steps taken by General MacArthur. Now, it is important, very important, I think, that the occupation should continue to allow and to encourage changes in Japan in the direction of a more democratic and a more liberal community. It is always a danger, I think, that the tendency becomes to preserve the status quo instead of pressing for changes, and that is particularly a danger where you have an army in occupation. An army instinctively looks for tranquility, and when I say that I am not thinking particularly of the American Army. It is true of all armies. It is true of my own army and the British and every army. An army desires tranquility and there is a danger that an army forgets that it is in Japan and any country in order to secure changes in order to bring about a political policy. There is the danger that the army, on the contrary, seeks quiet,

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seeks to maintain a status quo and a state of peace so that it won't have trouble. It takes a very exceptional military man to overcome that. I think General MacArthur is such a man and, in point of fact, that the United States Army has produced a remarkable number of really brilliant military governors over the last hundred and fifty years. You have had Winfield Scott in Mexico and Leonard Wood in Cuba, and, in fact, Mr. Chairman, you yourself have had a very distinguished career in military government in Cuba and the Philippines.

Now, the first major problem is to continue to make these changes and the second problem is to throw the initiative more and more on the Japanese. Up to the time of the surrender the Japanese had instinctively looked to the emperor to give them a lead. If the emperor of Japan laid down a policy or declared himself in favor of a certain course, it was a natural tendency of most Japanese to follow that without any question. That looking to the emperor is possibly a little weakened since the surrender, but there has been a transfer in many cases of this adoration from the emperor to General MacArthur, so that you have the Japanese today taking a lead either from the emperor or from General MacArthur, and the problem of the occupation, I think, is more and more to replace this adoration or this following of a single individual and to throw the initiative upon the individual Japanese. Until we do that we do not succeed in laying the basis of a democratic regime in Japan. It is not only on the constitution. It is in the whole economic and political and social reform of Japan that we have to

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transfer administration, but particularly transfer initiative and responsibility from the occupying forces to the Japanese themselves.

Now, I raise these two points, Mr. Chairman, not in criticism of the Supreme Commander. I raise them because they are peculiarly functions which the Far Eastern Commission is able to exercise. The Far Eastern Commission is in a particularly good position to insure that the occupation does not become stagnant, that it continues to initiate reforms in Japan. It is also in a particularly good position to keep before the occupational authorities the desirability of transferring responsibility and power more and more to the Japanese. General MacArthur and his officers are tied up in the day to day administration of Japan. They are also somewhat isolated from world opinion. We, on the other hand, can look at things from a broader way, but, at the same time, sometimes are hampered by not having a completely clear appreciation of the detailed problems. And, therefore, I think differences of opinion between the Supreme Commander and the Far Eastern Commission from time to time are very natural. They are not to be shirked. They arise because we do look at things differently and it is inevitable that sometimes the Far Eastern Commission's views should prevail and sometimes the Supreme Commander's should prevail. More often, I think we shall get compromises. That is very desirable and not to be frightened at.

In conclusion, Mr. Chairman, this review paper was an attempt, I think, by the Far Eastern Commission

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to exercise those two functions. It is a continuation of our previous policy--first, of bringing about changes in Japan, and secondly, of throwing initiative more and more on the Japanese people. We make it clear to them in this policy that the constitution as adopted is not a final document. It is subject to change and the Japanese people themselves can bring about these changes. The changes are not to be dictated by the Allied powers; they are to be brought about by the Japanese themselves. And, therefore, Mr. Chairman, we regard publication of this policy as being just as important as the policy itself. The policy is important. It is all-important that the Japanese people themselves should be aware of this policy and should be encouraged to carry it out in due course. However, as the Supreme Commander and the American Government at this stage are not prepared to go as far as that, it would be churlish to press them at this stage. And, therefore, I am very pleased that your Government has taken this attitude and I welcome your decision to support the paper.

GEN. MCCOY: Thank you very much, Major. You have stated the broad problem very soundly and with a nice touch of philosophy which I think is useful for us to hear from time to time. I can assure you that my Government will be cognizant of your opinion and of your particular interest in the publication and the reasons for it.

This paper today gives us a step forward and I feel that both you and your Government and Dr. Evatt should be congratulated in initiating this compromise

which we have been able to agree upon. As a matter of fact, if you look back over the course of events, particularly with regard to our action on the constitution, you will find that it follows a very interesting course and shows how discussion and cooperation is possible on important subjects of policy, which can be used as a forecast for the future. I know that my Government has been influenced largely by the good reasons that have been presented here and the way they have been presented, so that we could helpfully reach a formula--find a formula that is acceptable around the table.

Are there any further discussions on the review paper? If there is no objection, this paper, which we all consider of great importance, and which we have had before us for months, is now a matter of action, and, if there are no objections, I will declare it passed and a basis for a policy directive to the Supreme Commander. It will continue to be of interest in the implications stated by Major Plimsoll.

ITEM 3 - OFFICIAL JAPANESE AND ENGLISH TEXTS OF THE CONSTITUTION (PEC-087/14, -/15)

GEN. MCCOY: As requested by members of the Commission, if there is no objection, the official Japanese and English texts of the constitution will continue to be on the agenda. The final official Japanese text has been distributed.

ITEM 4 - PROPOSED UNITED STATES PLAN FOR REPARATIONS CONFERENCE (PEC-081 series)

GEN. MCCOY: I am unable to give any completed results on Item 4, Proposed United States Plan for

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Reparations Conference, but hope to be able to do it very shortly.

ITEM 5 - REPORT ON JAPANESE EXTERNAL ASSETS
(FEC-072)

GEN. MCCOY: If there is no objection, the Report on Japanese External Assets will continue to remain on the agenda.

ITEM 6 - OTHER BUSINESS

a. OCCUPATION OF JAPAN: POLICY AND PROGRESS

GEN. MCCOY: There has been a number of papers circulated for your information, some of them mostly covering the papers that are in the working committees, and a number on reparations from the different points of view. In connection with the information sheets, I have been just handed a rather helpful publication of my own Government entitled: "Occupation of Japan: Policy and Progress", so that I think you will find that there is a great deal of information in convenient form for reference. Copies of this will be circulated as soon as received. The first copy has just reached me and I haven't had time to go over it. But, Dr. Blakeslee did, as usual, with his careful scrutiny, and he feels that it will be useful to all of us as a matter of reference, especially the appendices.

b. MEETINGS SCHEDULED DURING CHRISTMAS HOLIDAY

GEN. MCCOY: I call your attention in due season to the coming holiday season, which I hope will not interfere too much with our work and meetings. At the same time I would like to give full consideration to the almost year of continuous work, and canvass your wishes as to meetings for the rest of the month. I

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believe your principal, Sir Girja, last session insisted that he was not a week-end member, so I assume that you take that position too?

MR. VESUGAR: Yes.

GEN. MCCOY: What are the wishes of the United Kingdom about the Thursday between Christmas and the New Year? I believe you have some time-honored and traditional holiday there, haven't you?

SIR GEORGE SANSOM: Only the day after Christmas.

GEN. MCCOY: You would prefer to have that another day?

SIR GEORGE SANSOM: I don't believe so, if the other members would desire to meet. I have no wishes at all.

GEN. MCCOY: Is there any wish to be expressed about the particular meeting on the day following Christmas?

ADM. RAMISHVILI: It is very dangerous, Mr. Chairman. (Laughter)

GEN. MCCOY: Possibly this far ahead, and having in mind the human reactions, it might be well to leave the particular day's decision up to the Chairman, to consult or to hear from any of you for the period prior to Christmas as to your wishes, and I could, if necessary, set the meeting in due time on some other day than the day immediately following Christmas--possibly Friday.

ADM. RAMISHVILI: I think your proposal is the best decision, Mr. Chairman. We leave this question to your discretion and your wisdom.

GEN. MCCOY: Well, then, if there is no objection,

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I will consider the thing from time to time as to your wishes, and if they are not expressed, why, we will have a meeting that week either on Thursday or Friday, and I will decide subject to further interest on the part of anyone concerned.

Is there any other business on the part of any of you? There seems to be none.

The meeting stands adjourned.

(Whereupon the meeting adjourned at 10:55 A.M.)

FAR EASTERN COMMISSION

Transcript of Thirty-Eighth Meeting of the Far Eastern Commission,

Held in Main Conference Room, 2516 Massachusetts Avenue, N. W.

Thursday, December 19, 1946

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REPRESENTATIVES PRESENT

Maj. Gen. Frank R. McCoy, USA (Ret.), Chairman	(United States)
Major J. Plimsoll	(Australia)
Mr. R. E. Collins	(Canada)
Dr. S. H. Tan	(China)
Mr. Francis Lacoste	(France)
The Honorable Sir Girja Shankar Bajpai	(India)
Dr. A. D. A. de Kat Angelino	(Netherlands)
Colonel G. R. Powles	(New Zealand)
Mr. F. Rodriguez	(Philippines)
The Honorable Sir George Sansom	(United Kingdom)
Rear Admiral S. S. Ramishvili	(U.S.S.R.)

SECRETARY

Mr. Nelson T. Johnson

Reporter: R. Holtz, Department of State

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(The meeting convened at 10:40 A.M.)

GEN. MCCOY: Gentlemen, we are all here and our session will open. We will proceed to a very short agenda.

Unfortunately, the number of papers before the Steering Committee were still held on the agenda, awaiting instructions from various governments, and sometimes reservations from the American Government. But, in the two sessions we did get through some important papers and we may look forward, I hope, to those now before the Steering Committee to be passed soon.

ITEM 1 - APPROVAL OF THE MINUTES OF THE 37TH MEETING OF THE FAR EASTERN COMMISSION

GEN. MCCOY: Are there any observations or corrections of the minutes of the last session?

ADM. RAMISHVILI: Major Plimsoll's speech is the minutes.

GEN. MCCOY: A very good speech and worthy of our record. It was very useful. We call that a research document. I wonder whether Major Plimsoll has any corrections to make?

MAJOR PLIMSOLL: It is about correct, thank you, Mr. Chairman.

COL. POWLES: I think he has seen it before.

GEN. MCCOY: If it is your pleasure I will make the minutes a matter of record.

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ITEM 2 - CONSULTATION RELATIVE TO TIME TABLE
OF IMPLEMENTING LEGISLATION (FEC-100)

GEN. MCCOY: Item 2, FEC-100, is a request for consultation with the Supreme Commander and I ask your consideration of it. Is this a motion to be presented, Major?

MAJOR PLIMSOLL: Mr. Chairman, this was adopted by the Steering Committee. It was a motion moved by me in that Committee. It complements a question which I asked you, a matter which I raised at the Commission several weeks ago.

The Commission has regarded the implementing legislation as being a matter of vital importance and closely connected with our power to review and pass policy decisions upon constitutional matters.

At that time I said that there were two things that we desired. First, that we should get the legislation--get copies of the legislation for our consideration before it had passed the Diet, and secondly, that the time table in Japan should be such as to allow the Commission to exercise its function of review.

Now, at that time you gave us assurance that you would do all in your power to get the legislation in time, and I know you have done so. In fact, I appreciate the personal exertions you have gone to in this matter. The fact remains, however, that we do not have this legislation yet, and there is a danger that the legislation will pass the Japanese House of Representatives and House of Peers before we have had an opportunity to review it.

The legislation on the Imperial Household has already gone through the lower House and is now before the House of Peers. It has seemed to me for some time that the best course would be for the Supreme Commander to arrange for a short delay after it passes the lower House before the House of Peers begins its consideration--say, a delay of three weeks--in which time the Far Eastern Commission could review the legislation and suggest or ask any changes that it considered necessary.

This paper which is now before us is an attempt to get some idea from the Supreme Commander as to what the time table is going to be. There is no one in Washington who knows. General MacArthur has not informed the American Government or the Commission. I think that if we had this information it might very considerably assist us in our work.

As I pointed out in the Steering Committee, the representatives around this table are not without certain powers. We have the right later, even after it has passed the House of Peers and House of Representatives, we have the right then to review the legislation and to require changes. We also have the right to raise the matter in the Allied Council in Japan in a public session. But the countries here do not wish to do either of those. We realize the difficulties. We realize that that would inevitably complicate the position of General MacArthur, and, although these rights and these powers exist, the members of this Commission have voluntarily foregone the exercise