

SECRET

-6-

unreasonable under the circumstances to require absolute proof of loss as a result of Japanese action rather than from other causes, only "reasonable" evidence is required on this point.

6. Political Repercussions Among Japanese -- There is reason to expect that essential reasonableness and justice of a replacement program of extremely limited nature herein proposed would be recognized by most thinking Japanese. There would seem to be little basis for belief that such a program would have unfortunate political consequences in Japan either now or in future.

DEPT of State earnestly hopes you will be able concur in revised policy statement. Since it is desirable this GOVT reach agreed position on this problem soonest, your early reply will be appreciated.

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COPY

28 July 1948

Honorable George C. Marshall

Secretary of State

Dear General Marshall:

This will acknowledge receipt of your letter of 13 July 1948. I note that you are not at this time ready to concur with the views expressed by General MacArthur in his radio of 31 May 1948 regarding the replacement of cultural objects.

The profound sense of injury of our Allies who suffered looting of cultural objects by Japan is easily understood. On the other hand two wrongs do not make a right and in addition to the adverse political and administrative problems that the proposed method for the restitution of cultural objects would create, I believe that such seizure of works of art and science by a military occupant would violate Article 56 of The Hague Convention No. IV of 18 October 1907.

The matter was discussed with General Clay on his recent visit and his reaction was very similar to that of General MacArthur and the position consistently maintained by the Department of the Army with respect to SANACC 385 and various communications relating to the subject. General Clay was of the opinion that if the United States should change its position in Japan and permit reparations of Japanese cultural objects, it would be a very unfortunate step, that it would legalize the Russian theft of such articles from Germany, and that it would overturn all of our efforts for many years to set cultural objects up as an item outside the scope of war booty. He further stated that should we make such a decision with respect to Japan that we could expect France to immediately claim a great many articles in Germany.

I therefore request that you reconsider the question in light of the views of the Department of the Army and our Theater Commanders to the end that a workable solution may be achieved.

Sincerely yours,

/s/ Kenneth C. Royall
Secretary of the Army

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Royall
7/9/48

Dear Royall:

You have drawn my attention in your letter of June 8, 1948 to a report that members of the United States Delegation to the Far Eastern Commission have improperly submitted policy proposals in subcommittees of the FEC based on policy papers pending but not yet approved in SANACC.

With respect to SANACC 365 on the replacement of lost cultural objects, no proposal has been submitted to the FEC as a U.S. proposal. On the contrary, the members of the U.S. Delegation have been careful in discussing the matter to indicate that they were not authorized to state the position of the U.S. Government. The U.S. Delegation did lay before a subcommittee of the FEC an informal working paper drafted in the Department based upon the suggestions of various FEC members during subcommittee discussions. That action could possibly be construed as a too liberal interpretation of the provision of SANACC 294/1 with respect to informal and preliminary discussions in FEC working committees. It has not, however, prejudiced the determination of a U.S. position on this matter.

With respect to SANACC 369/1 on Japanese patents, the FEC paper was proposed by the UK member after this Government had been unable over a period to arrive at an agreed proposal. In participating in discussions of the British paper in the FEC committee, the U.S. member made clear that he was not in possession of adequate instructions to participate formally in the consideration. The Department of State was fully aware of the reservations expressed at one time by the Department of the Army regarding the desirability of making freely available certain patents which the Department of the Army believed should remain secret. Pending State-Army agreement, the U.S. representative made clear that he was not instructed as to the acceptability

of the

The Honorable
Kenneth C. Royall,
Secretary of the Army.

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of the proposal as a whole and believed that his Government would have reservations on at least one provision.

The papers in question cannot be withdrawn from the FEC because they were not formally submitted by the U.S. and because in any event the approval of other members would be required. For the reasons stated above there is no necessity to advise the Commission that the papers do not represent a firm U.S. governmental position. The members of the Delegation are under instructions to be attentive to the provisions of SWCC 294/1, and to the interest of the Department of the Army in policy questions generally before the FEC, in any expressions which may be interpreted by the other members as statements of the U.S. policy.

With further reference to the replacement of cultural objects, which is the subject of General MacArthur's message of May 31, the Department of State appreciates that such a program presents serious political and administrative problems in Japan. It believes, however, that the objections of principle have been overstated and that it is desirable to recognize the profound sense of injury of our Allies who suffered looting of cultural objects by Japan. It is hoped that we may be able to agree on measures which will tend to satisfy their just wishes without at the same time invading the cultural heritage of Japan or imposing an unreasonable burden upon the occupying forces.

Faithfully yours,

OE:RNBarnett

O:NHausendinger:dmd 7/9/48 2*

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♦ - 1726 (Blue)

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Returned to Mr. Saltzman

SECRET

DEPARTMENT OF THE ARMY
WASHINGTON

*Mr. Saltzman
Pls. see me on this*

26 OCT 1948

RECEIVED
DEPARTMENT OF STATE
OCT 26 5 40 PM '48

Honorable Robert A. Lovett
Under Secretary of State
Department of State

Dear Bob:

*894.403/7-2848
FE*

*Reply made 12/2/48
to Dept. of the Army,
Draped by C.E.
Saltzman. 1948*

DEPARTMENT OF STATE

File

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740.0019 PW
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General Marshall wrote me on 18 September concerning the replacement of cultural objects lost or destroyed as a result of Japanese aggression. He suggested that Mr. Saltzman and General Eberle discuss the State Department's suggested solution but that if their consideration of the matter indicated need for further consideration, he would be glad to discuss the matter with me.

I have studied the proposals that have now been made and it is true that the proposed replacement program limits somewhat the area of replacement. However, the principle remains the same and I still believe that the proposed policy violates Article 56 of the Hague Convention of 1907.

Article 56 reads "All seizure of, destruction or wilful damage done to institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings."

It is true that art replacement provisions have been included in the Italian and other peace treaties. This, however, is quite a different matter since Italy was a party to the peace treaty and, by its signature, gave its agreement to the provision.

We have strongly criticized the Russian seizure of the Sistine Madonna and other works of art from Germany. The present proposal would justify these seizures. We have opposed both the Russian and French desire for art replacement in the Control Council in Berlin. The present proposal is inconsistent with the position we have already taken. My own belief is that question of principle is involved as well as a treaty obligation to which we are committed and that this obligation cannot be violated in a minor degree any more than in a major degree.

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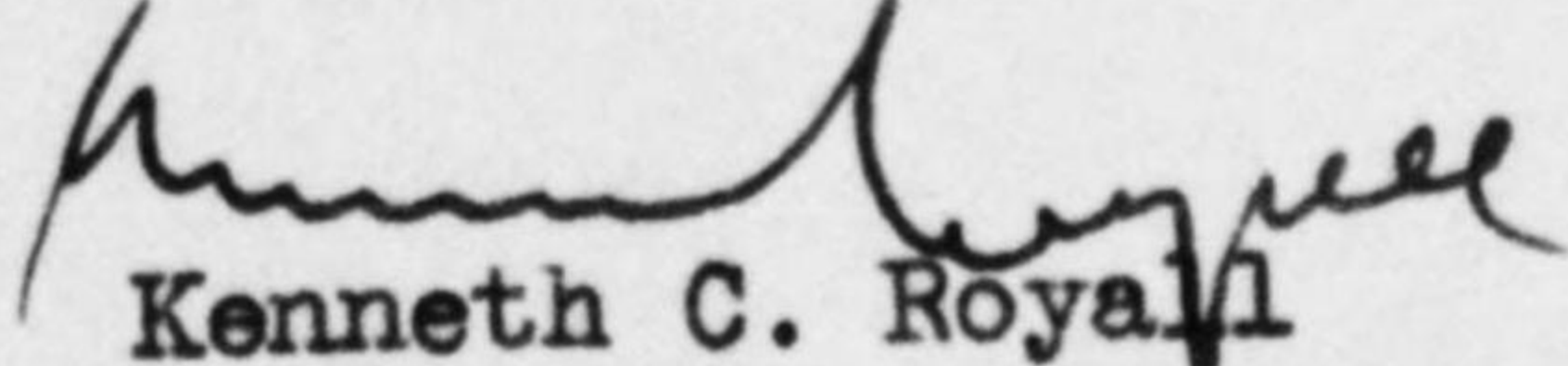
SECRET

Honorable Robert A. Lovett

The appointment of a so-called neutral commission by the occupying power to implement a program of seizure does not, so far as I can see, relieve the occupying power of its obligation not to seize works of art. For more than three years we have maintained a consistent policy in keeping with our obligations under the Hague Convention. Our theatre commanders both strongly urge that we continue this policy. It seems to me that good faith, as well as consistency, requires that we maintain our past policy.

If you still feel that any further action on this matter is necessary, I suggest that we discuss it further with General Marshall at any convenient time after his return in accordance with his last letter.

Sincerely yours,



Kenneth C. Royall
Secretary of the Army

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1948 DEC 13 PM 1 39

December 2, 1948

DEPARTMENT OF STATE

Dear Bill:

This is with reference to Secretary Royall's letter of October 26th to Mr. Lovett on the subject of replacement of cultural objects which were lost or destroyed as a result of Japanese aggression.

In his letter Secretary Royall repeated his belief that the procedure which the State Department had proposed in this regard would involve a violation of the Hague Convention of 1907. It seems to us that the proper solution of the problem is further complicated by the question of providing reasonable equity to the victims of Japanese aggression whose cultural objects, of the sort with which this matter deals, have either been destroyed or lost as a result of the actions of the Japanese.

Since receipt of Secretary Royall's letter of October 26th, we have again referred to the Legal Adviser of the State Department the question of application of Article 56 of the Hague Convention of 1907 to the proposed procedure and have obtained from him an opinion, a copy of which I am enclosing. I should be very grateful if you would let me have your comments on this legal opinion. I am sure you will agree with me that we should do anything that may be practicable to provide some sort of compensation under proper safeguards for reasonably justified claims.

Yours sincerely,

Charles M. Saltzman

Enclosure:

Copy of legal opinion.

The Honorable
William H. Draper, Jr.,
Under Secretary of the Army,
Department of the Army.

O:CESaltzman:hjh 11/30/48
C:RHeimendinger:lk 12/2/48

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A true copy of the signed original. *mmg*

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DEPARTMENT OF STATE
THE LEGAL ADVISER

*Ball
File*

November 1, 1948

1948
DEC 15 PM 1 39
RECEIVED
ASSISTANT SECRETARY
FOR OCCUPIED AREAS

TO: O - Mr. Saltzman
FROM: L - Mr. Tate
SUBJECT: REPLACEMENT OF CULTURAL OBJECTS REMOVED OR DESTROYED BY THE JAPANESE

1. A legal opinion is desired as to whether the proposed policy statement, on replacement of cultural objects lost or destroyed as a result of Japanese aggression during the period 1931-1946, would require action by SCAP in violation of Article 56, Annex to the Hague Convention No. IV of 18 October 1907 (Hague Regulations of the Rules of Land Warfare), which reads as follows:

"All seizure of, destruction of, or wilful damage to, institutions of this character (e.g. institutions dedicated to religion, charity and education, the arts and sciences), historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings."

2. The proposed policy statement would require the Japanese to replace by objects of identical or closely similar character, "cultural objects" (e.g. movable objects of artistic, historical, religious or educational character, including collections of books, which are irreplaceable through normal channels of production and commerce) which were removed from Allied countries by the Japanese or their agents during the period 1931-1945, and which are not found, "or which were destroyed by the Japanese or their agents as a result of military action". This language requires some slight modification to express the objective without ambiguity. It should cover cultural objects removed by the Japanese and not found, and cultural objects destroyed by the Japanese or their agents, "either wantonly or as a result of Japanese military action."

4932 3. The issue raised by the question is the punishment which is to be visited on a nation which violates Article 56 of the Hague Convention by seizing or destroying the "cultural heritage" of another nation. If the nation that has been despoiled wins the war, can it require the despoiler to give up part of its own "cultural heritage" as a replacement for the objects seized or destroyed; or is such punishment itself a violation of Art. 56, as a seizure of the "cultural heritage" of the original despoiler?

4. Article 56

FW 894.403/10-2648

FW 894.403/10-2648

-2-

4. Article 56 of the Hague Convention provides some remedy for its violation. According to the English version all seizure and destruction of cultural objects "should be made the subject of legal proceedings". The French and only official text reads: "doit être poursuivie." Although the word "poursuivie" might properly be construed to include either criminal prosecution of the guilty persons, or civil suit for recovery of the objects or damages for their loss or destruction, the history of the text indicates that the words should be translated "should be prosecuted". Article 56 apparently originated in Lieber's Code of 1863, issued by the U.S. War Department as General Order No. 100 (Articles 34-36). That Code requires that classical works of art, libraries, scientific collections, or precious instruments should be secured against all possible injury, and in no case be sold or given away, nor "privately appropriated or wantonly destroyed or injured". In the final draft of the Brussels Conference of 1874, Article 8 provided that all seizure or destruction of monuments, works of art or scientific museums "doit être poursuivie par l'autorité compétente", language which clearly imports criminal prosecution. In the Hague Conference of 1899 the words "par l'autorité compétente" were dropped, "in order not to raise here a question of competence". 1 Proceedings of the Hague Peace Conference of 1899, p. 563. The present text was adopted: "Toute saisie, destruction ou dégradation intentionnelle de semblables établissements, de monuments historiques, d'oeuvres d'art et de science, est interdite et doit être poursuivie". This language was repeated without alteration by the Hague Conference of 1907. See Franklin, Municipal Property under Belligerent Occupation, 38 Am. J. Int. Law 383-389.

5. The fact, however, that Art. 56 of the Hague Convention provides only for criminal prosecution of the persons guilty of the crime in question, does not make illegal or inequitable the punishment of the nation which permits its armies or its nationals to commit the offense. As to that the Convention is silent. International practice, however, throws considerable light on what is internationally regarded as equitable in the premises. Article 247 of the Treaty of Versailles contains the undertaking of Germany to furnish to the University of Louvain, manuscripts, incunabula, printed books, maps and objects of collection corresponding in number and value to those destroyed in the burning by Germany of the Library of Louvain. Article 75 paragraph 9 of the Italian Treaty of Peace provides that where it is impossible for Italy to make restitution of objects of artistic, historical or archaeological value, belonging to the cultural heritage of the United Nations from whose territory such objects were removed by force or duress by Italian forces, authorities or nationals, Italy shall transfer to the nation concerned "objects of the same kind as, and of approximately equivalent value to, the objects removed, in so far as such objects are obtainable in Italy." Similar provisions are found in the Treaties of Peace with

Hungary

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Hungary (Art. 24, par. 3), and Bulgaria (Art. 22, par. 3). If Japan can properly be compelled to enter into a Treaty of Peace providing for replacement of cultural objects, no reason is perceived why the same result cannot be obtained during the occupation under the Terms of Surrender.

6. In conclusion, there appears to be no legal reason why Japan cannot be required to replace, in so far as possible, the cultural heritage which she has destroyed or which she has removed and cannot return. [A moral objection might be raised in that such replacement robs future and innocent generations of Japanese of ~~the~~ part of their own cultural heritage, in order to atone for the misdeeds of the present generation. However, it seems to be a question of equity as between two innocent future generations, that of the despoiler and that of the despoiled, and in such case equity has viewed with complacency the visiting of the wrongs of the fathers on future generations.]

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STANDARD FORM NO. 64

SECRET

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Office Memorandum • UNITED STATES GOVERNMENT

TO : FE - Mr. Butterworth
FE - Mr. Allison
FROM : NA - Mr. Bishop

DATE: November 12, 1948

SUBJECT: US Policy on Replacement of Cultural Objects Lost or Destroyed as a Result of Japanese Aggression.

XX
740.00119 FEAC
Let's do this from here on out
y

I have not had anything to do with this problem and come into the picture after decision apparently already has been reached regarding the Department's position. I do not feel that I can agree with the principle which underlies the Department's proposal. I also feel that administratively the proposal is unsound and would result in little or no good and much lasting bitterness on all sides. I hope that the mere fact that a question has been raised in the FEC will not forever tie our hands to the proposition that we must continue to recognize the competence of FEC to handle such a question. It would be better, I believe, to examine all questions before the FEC with a view to eliminating those which in the interests of the United States should be eliminated from FEC consideration.

I note that NA is not listed for concurrence in the attached memo to the Acting Secretary and I merely pass this on to you for such value as it may have.

894.403/11-1248

Nov. 13, 1948

W. W. B.

While there is much merit to Bishop's point of view I believe that in this case we should at least do as much as the underlying memo recommends - namely ask the Army to send the present revised policy to SCAP for his comments. If SCAP still objects I would not be in favor of overriding him.

FE:NA:MWBishop/pm

I agree with the suggestion in last sentence of first paragraph of Bishop's memo and shall suggest to make such a study.

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I have therefore initialed the paper and it is on its way.

Jma

App: [initials]
Rev: [initials]
Dat: [initials]
Dist: [initials]
18549

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894.403/11-1248
NOV 14 1948



THE FOREIGN SERVICE OF THE UNITED STATES OF AMERICA

ACTION is assigned to

[Handwritten signature]

United States Political Adviser for Japan

DLR

Wakyo, November 12, 1948.

DEC - 2 1948

~~UNITED STATES DEPARTMENT OF STATE~~

DEC 13 1948

DEPARTMENT OF STATE

No. 72

DEPARTMENT OF STATE

UNCLASSIFIED

Subject: Return to Japan of Swords Classified as Objects of Art.

RECEIVED DEPARTMENT OF STATE

NOV 19 1 51 PM '48

BRANCH

The Honorable The Secretary of State, Washington.

LIAISON

NOV 22 PM 12 30

RECEIVED DEPARTMENT OF STATE

894.403/11-1248

ACTION FE COPIES TO:

0 OFD 061 DS V POS

DLR

I have the honor to invite the Department's attention to a request by the Civil Information and Education Section of General Headquarters, Supreme Commander for the Allied Powers, for the Department's assistance in effecting the return to Japan of certain swords which are classified as art objects and which have presumably been taken to the United States by United States military personnel.

The Civil Information and Education Section states that these swords were received by American personnel through error and gives the following account of the occurrence. The Japanese Government was directed in October, 1945, to surrender all arms to the Allied forces and in accordance with this order swords were surrendered by individual Japanese to local police stations. In January, 1946, civilian Japanese were permitted by directive to retain swords classified as art objects, but in the interim, many swords of artistic value were turned over to American personnel, although special regulations had meanwhile been issued for the protection of these swords. As a result of the United States military practice in Japan of issuing to military personnel surrendered military swords, these swords were given to individual Americans and presumably removed to the United States.

Enclosed is a copy of a list prepared by the Japanese Government describing certain swords of artistic value and indicating the owners of these swords, as well as the police station and Allied personnel to whom the swords were surrendered. The Civil Information and Education Section states that the enclosed list contains the best description of the swords and most complete identification of Allied recipients available in Japan, and suggests that if necessary, the assistance of museum personnel and art dealers be obtained in order to identify the swords.

Also enclosed

UNCLASSIFIED

Routing slip with fields for 'To', 'Cc', 'Dist' and a handwritten signature.

CS/A

APR 29 1949

FILED

894.403/11-1248

Tokyo's Despatch No. 727,
November 12, 1948.

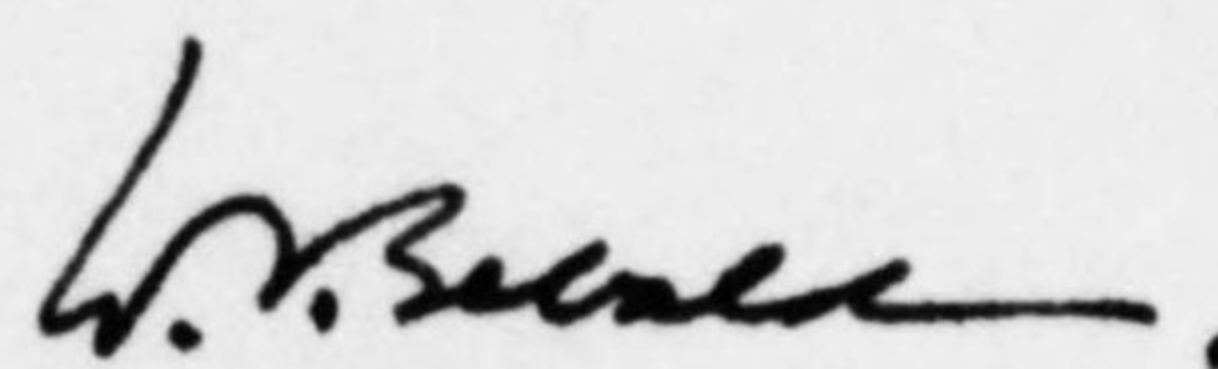
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Also enclosed is a copy of a petition dated October 4, 1948, from the Japanese Government requesting return of the swords listed in the first enclosure.

The Civil Information and Education Section considers that efforts should be made toward effecting the return of these swords under the authority of and in accordance with the procedure described by SWNCC 322, approved informally by the State-War-Navy Coordinating Committee on January 28, 1947. SWNCC 322 states that the Department of State should take steps by means of appropriate publicity and correspondence to indicate the responsibility of the United States Government in respect to the return of wrongfully taken cultural objects and to request the assistance of individuals and organizations concerned in locating and returning such objects. The Civil Information and Education Section has given assurance that the swords listed in the enclosure are considered important art objects in accordance with established criteria and states its opinion that these swords were wrongfully removed from Japan within the meaning of SWNCC 322 because they were taken in violation of special regulations and a later General Headquarters order for the protection of these swords and their retention by their Japanese owners.

The Civil Information and Education Section states that the instant case appears to be the sole blemish on the record of United States forces in Japan in regard to despoliation of cultural properties, and that accordingly efforts provided for by SWNCC 322 should be made to right the record. It is suggested, therefore, that the moral aspect of this case be emphasized.

Respectfully yours,


W.J. Sebald

Enclosures: *art*

1. Copy of list by Japanese Government describing certain artistic swords;
2. Copy of petition dated October 4, 1948, from Japanese Government requesting return of swords.

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RBFinn:hh

Original and Ozalid to Department. ✓

UNCLASSIFIED

W.C. B. 11/12

UNCLASSIFIEDEnclosure No. 1 to
1948 from the United States
Japan, Tokyo, subject to
Classified as ObjectCOPYLIST OF N.T. AND I.A.O. SWORDS, SURRENDERED TO THE OCCUPATION FORCES AND NAVAL FORCES
(Prepared by the Education Ministry)

Note: I.A.O. - Important Art Object; N.T. - National Treasure. Both terms are defined by Japanese Law.

| <u>Items</u> | <u>Police stations that handled the swords and dates</u> | <u>Names and addresses of the owners</u> |
|---|--|---|
| Katana, with inscription 'Made by Tadayoshi, inhabitant of Hizen Province' (I.A.O.) | Tsuchiura Police Station, Ibaragiken, September 29, 1945 | Kiyoharu Ishikawa Tsuchiurashi, Ibaragiken |
| Katana, having no inscription, attributed to Aoe school (I.A.O.) | Tsuchiura Police Station, Ibaragiken, September 29, 1945 | Kiyoharu Ishikawa Tsuchiurashi, Ibaragiken |
| Tachi, with inscription 'Narimune' (I.A.O.) | Tsuchiura Police Station, Ibaragiken, September 29, 1945 | Kiyoharu Ishikawa Tsuchiurashi, Ibaragiken |
| Tachi, with inscription 'Masahiro, inhabitant of Sagami Province' (I.A.O.) | Tsuchiura Police Station, Ibaragi-ken, October 1, 1945 | Shigeo Asano (1) Tsuchiura-shi, Ibaragi-ken |
| Tachi, with inscription 'Yukuhira of Bingo Province' (I.A.O.) | Takasaki Police Station, Gunma-ken, January 15, 1946 | Shozaburo Inoue Renjaku-cho, Takasaki-shi, Gunma-ken |

UNCLASSIFIED

Enclosure No. 1 to Despatch No. 727 dated November 12, 1948 from the United States Political Adviser for Japan, Tokyo, subject: "Return to Japan of Swords Classified as Objects of Art."

COPYN.T. AND I.A.O. SWORDS, SURRENDERED TO THE OCCUPATION FORCES AND NOT RETURNED

(Prepared by the Education Ministry)

Object; N.T. - National Treasure. Both terms are defined by Japanese law.

| | Police stations that handled the swords and dates | Names and addresses of the owners | Names of Allied Forces |
|-----------------------------|--|---|---|
| made by Tadayoshi, 'I.A.O.) | Tsuchiura Police Station, Ibaragiken, September 29, 1945 | Kiyoharu Ishikawa (930 Tsuchiurashi, Ibaragi-ken) | Presented to the 637th Anti-tank Regiment, 8 October 1945 (Commander Lt. Col. Nathaniel Word) |
| on, attributed | Tsuchiura Police Station, Ibaragiken, September 29, 1945 | Kiyoharu Ishikawa (930 Tsuchiurashi, Ibaragi-ken) | Presented to the 637th Anti-tank Regiment, 8 October 1945 (Commander Lt. Col. Nathaniel Word) |
| rimune' (I.A.O.) | Tsuchiura Police Station, Ibaragiken, September 29, 1945 | Kiyoharu Ishikawa (930 Tsuchiurashi, Ibaragi-ken) | Presented to the 637th Anti-tank Regiment, 8 October 1945 (Commander Lt. Col. Nathaniel Word) |
| asahiro, in- ce (I.A.O.) | Tsuchiura Police Station, Ibaragi-ken, October 1, 1945 | Shigeo Asano (1,161 Tsuchiura-shi, Ibaragi-ken) | Presented to the 637th Anti-tank Regiment, 8 October 1945 (Commander Lt. Col. Nathaniel Word) |
| kuhira of Bingo | Takasaki Police Station, Gumma-ken, January 15, 1946 | Shozaburo Inoue (61 Renjaku-cho, Takasaki-shi, Gumma-ken) | Presented to the 637th Anti-tank Regiment, 8 October 1945 (Commander Lt. Col. Nathaniel Word) |

Katana,

Enclosure No. 1 to Tokyo's Despatch
No. 727, November 12, 1948

-2-

| Items | Police stations that handled the swords and dates | Names and address of the owners |
|---|--|--|
| Katana, having no inscription, attributed to Mihara-Masaie (I.A.O.) | Takasaki Police Station, Gumma-ken, January 15, 1946 | Shozaburo Inoue Renjaku-cho, Ta shi, Gumma-ken) |
| Katana, having no inscription. Known as the 'Honjo-Masamune' (N.T.) | Mejiro Police Station, Tokyo, December, 1946. | Iemasa Tokugawa Yoyogi-Oyama-ma Shibuya-ku, Tok |
| Tachi, with inscription 'Nagamitsu, inhabitant of Osafune, Bizen Province' (I.A.O.) | Mejiro Police Station, Tokyo, December, 1946 | Iemasa Tokugawa Yoyogi-Oyama-ma Shibuya-ku, Tok |
| Tachi, with inscription 'Rai-Kunitoshi' (I.A.O.) | Mejiro Police Station, Tokyo, December, 1946 | Iemasa Tokugawa Yoyogi-Oyama-ma Shibuya-ku, Toky |
| Tanto, with inscription 'Akihiro, inhabitant of Sagami Province' (I.A.O.) | Ojiya Police Station, Ojiya, Kita-Uonuma-gun, Niigata-ken, October 5, 1945 | Saizaburo Nishiw (Ojiya-machi, Ki uonuma-gun, Niig |

UNCLASSIFIED

Despatch

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| | Police stations that handled the swords and dates | Names and addresses of the owners | Names of Allied Forces |
|--------------------------------|--|--|--|
| tion, attributed) | Takasaki Police Station, Gumma-ken, January 15, 1946 | Shozaburo Inoue (61 Renjaku-cho, Takasaki- shi, Gumma-ken) | Presented to the 7th Army Military Govern- ment, 17 April 1946. |
| tion. Known as (T.) | Mejiro Police Station, Tokyo, December, 1946. | Iemasa Tokugawa (1,064 Yoyogi-Oyama-machi, Shibuya-ku, Tokyo) | Presented to the 7th Cavalry Regiment through Mejiro Police Station, 18 January 1946. Re- sponsible person, Serg. Colly D. Beimo. |
| Nagamitsu, Bizen Province' | Mejiro Police Station, Tokyo, December, 1946 | Iemasa Tokugawa (1,064 Yoyogi-Oyama-machi, Shibuya-ku, Tokyo) | Presented to the 7th Cavalry Regiment through Mejiro Police Station, 18 January, 1946. Re- sponsible person, Serg. Colly D. Beimo. |
| Rai-Kunitoshi' | Mejiro Police Station, Tokyo, December, 1946 | Iemasa Tokugawa (1,064 Yoyogi-Oyama-machi, Shibuya-ku, Tokyo) | Presented to the 7th Cavalry Regiment through Mejiro Police Station, 18 January 1946. Re- sponsible person, Serg. Colly D. Beimo. |
| Akihiro, Province' (I.A.O.) | Ojiya Police Station, Ojiya, Kita-Uonuma-gun, Niigata-ken, October 5, 1945 | Saizaburo Nishiwaki (Ojiya-machi, Kita- uonuma-gun, Niigata-ken) | Presented to the 26th Company M.P., 2nd Bn., the 303rd Regiment, 97th Division stationed in Takana City, 29 Novem- ber, 1945. (Deputy Chief, MP 1st Lt. Dafeld Dengman). |

Kodachi,

Enclosure No. 1 to Tokyo's Despatch
No. 727, November 12, 1948

-3-

| Items | Police Stations that handled the swords and dates | Names and address of the owners |
|---|---|---|
| Kodachi, with inscription 'Norifusa' (I.A.O.) | Kofu Police Station, Yamanashi-ken, May, 1946 | Yoshihiko Uchida (Sakura-machi, shi) |
| Tachi, with inscription 'Masatsune', Braid-wrapped hilt (N.T.) | | Kumano-hayatama Jinja (Shingu-ma Shingu-shi, Waka ken) |
| Tachi, with inscription 'Rai-Kuimitsu' (N.T.) | Saga Police Station, Saga City, October 13, 1945 | Matsubara-jinja (Matsubara-machi Saga-shi, Saga- |
| Tanto, with inscription (Kunihiro' (N.T.) | Saga Police Station, Saga City, October 13, 1945 | Matsubara-jinja (Matsubara-machi Saga-shi, Saga- |
| Tachi, with inscription 'Tomomura' (I.A.O.) | Oita Police Station, Oita City, January 19, 1946 | (Hachimen, Hachi mura, Oita-gun, ken) |

UNCLASSIFIED

Despatch

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| | Police Stations that handled the swords and dates | Names and addresses of the owners | Names of Allied Forces |
|----------------------|---|--|--|
| 'Norifusa' (I.A.O.) | Kofu Police Station, Yamanashi-ken, May, 1946 | Yoshihiko Uchida (Sakura-machi, Kofu-shi) | Presented with other swords through Kofu Police Station to 97th Field Artilar Bn., May 1946. |
| 'Masatsune', | | Kumano-hayatama Jinja (Shingu-machi, Shingu-shi, Wakayama-ken) | Presented with three other swords to 1st Lt. Word H. Marlis, 390th Infantry Regiment, 98th Division, 17 January 1946. |
| 'Mitsui-Kuimitsu' | Saga Police Station, Saga City, October 13, 1945 | Matsubara-jinja (Matsubara-machi, Saga-shi, Saga-ken) | Presented to an Allied Armed Force B, October, 1945 (Commarider Lt. Col. Antonio) |
| 'Mitsunihiro' (N.T.) | Saga Police Station, Saga City, October 13, 1945 | Matsubara-jinja, (Matsubara-machi, Saga-shi, Saga-ken) | Presented to an Allied Armed Force B, October 1945 (Commarider Lt. Col. Antonio). |
| 'Tomomura' (I.A.O.) | Oita Police Station, Oita City, January 19, 1946 | (Hachiman, Hachiman-mura, Oita-gun, Oita-ken) | Delivered to a certain occupation force stationed in the locality, December, 1946. (The name of the regiment is unknown, but probably 32nd Field Artilery Regiment, judging from the mark of red arrow). |

Katana,

Enclosure No. 1 to Tokyo's Despatch
No. 727, November 12, 1948

-4-

| Items | Police stations that handled the swords and dates | Names and addresses of the owners |
|--|--|---|
| Katana, with inscription 'Humbly made by Shume-no-kami Ippei Yasushiro' (N.T.) | Shishuku Police Station, Kagoshima-ken, December 6, 1945 | Miyasaka-jinja |
| Katana, with inscription 'Akihiro, inhabitant of Sagami Province' and the date of 3rd year of Meitoku Era (N.T.) | Kokubu Police Station, Kagoshima-ken, December 31, 1945 | Kagoshima-jingu (Haito-machi) |
| Katana, no inscription, but is considered to be the work of Norishige (N.T.) | Kokubu Police Station, Kagoshima-ken, December 31, 1945 | Kagoshima-jingu (Haito-machi) |
| Tachi, with inscription 'Kunimune' (N.T.) | Kagoshima Police Station, January 30, 1946 | Terukuni-jinja (Yamashita-cho Kagoshima-shi) |
| Tachi, with ring-shaped hilt-top (N.T.) | Aiura Police Station, Nagasaki-ken, April 28, 1946. | Kamishima-jinja (Konega-machi, Kitamatsura-gun, Nagasaki-ken) |
| Tachi, with inscription 'Yasuie of Hoki Province' (I.A.O.) | Noshiro Police Station, Akita-ken, October 10, 1945 | Taro Anno (7 Yoro-cho, Noshiro-shi, Akita-ken) |

UNCLASSIFIED

-4-

Despatch

| | Police stations that handled the swords and dates | Names and addresses of the owners | Names of Allied Forces |
|--|--|---|--|
| Assembly made by 'Shiro' (N.T.) | Shishuku Police Station, Kagoshima-ken, December 6, 1945 | Miyasaka-jinja | Presented to 3rd Bn., 8th Marine Corp., 24 February 1946 (Commander Lt. Col. Howel) |
| 'Toshihiro, in- ce' and the 'Ku Era (N.T.) | Kokubu Police Station, Kagoshima-ken, December 31, 1945 | Kagoshima-jingu (Haito-machi) | Presented to 3rd Bn., 8th Marine Corp, 2 January, 1946 (Commander, Lt. Col. Heyword). |
| 'is considered 'ge (N.T.) | Kokubu Police Station, Kagoshima-ken, December 31, 1945 | Kagoshima-jingu (Haito-machi) | Presented to 3rd Bn., 8th Marine Corp, 4 February, 1946 (Commander, Lt. Col. Heyword). |
| 'nimune' (N.T.) | Kagoshima Police Station, January 30, 1946 | Terukuni-jinja (Yamashita-cho Kagoshima-shi) | Presented to 3rd Bn., 8th Marine Corp, 4 February 1946 (Commander, Lt. Col. Howel). |
| 't-top (N.T.) | Aiura Police Station, Nagasaki-ken, April 28, 1946. | Kamishima-jinja (Konega-machi, Kitamatsura-gun, Nagasaki-ken) | Presented to 2nd Bn., 10th Regiment, Marine Corp, 8 May 1946 (1st Lt. J.C. Gasser) |
| 'sue of Hoki Pro | Noshiro Police Station, Akita-ken, October 10, 1945 | Taro Anno (7 Yorozu-cho, Noshiro-shi, Akita-ken) | Col. Hoscar, 457 Airborne stationed at Akita. Delivered to Capt. Moran, Ch. Public Safety Section, Military Government Team. |

Tachi,

Enclosure No. 1 to Tokyo's Despatch
No. 727, November 12, 1948

-5-

| Items | Police Stations that handled the swords and dates | Names and addresses of the owners |
|---|--|--|
| Tachi, with inscription 'Kuniyuki' (N.T.) | Kuamoto-kita Police Station, Kuamoto City, December 10, 1945 | Takehiko Motada (Kuamoto-shi, Oe-machi) |
| Tachi, with inscription 'Kanemitsu of Osafune, Bizen Province, August, 2nd year of Embun Era' | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata-machi, Yonezawa-shi) |
| Tachi, with inscription 'Nagamitsu' (I.A.O.) | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata-machi, Yonezawa-shi) |
| Naginata. No inscription, but is considered to be the work of Norifusa. Mounted. | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata-machi, Yonezawa-shi) |

UNCLASSIFIED

Despatch

-5-

| | Police Stations that handled the swords and dates | Names and addresses of the owners | Names of Allied Forces |
|-----------------------|--|--|---|
| niyuiki' | Kuamoto-kita Police Station, Kuamoto City, December 10, 1945 | Takehiko Motada Kuamoto-shi, Oe-machi) | Presented to the Occupation Army through the Police Station, December 21 and 22, 1945. Commander of the Regiment Col. McHarland Ch. Kumamoto Military Government Team. Lt. Col. Link; Adm. Officer, Major Sobel. |
| nemitsu e, Era' | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata-machi, Yonezawa-shi) | Presented to the Occupation Army through the Police Station, December 21 and 22, 1945. Commander of the Regiment, Col. McHarland Ch. Kumamoto Military Government Team. Lt. Col. Link; Adm. Officer, Major Sobel. |
| gamitsu' | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata-machi, Yonezawa-shi) | Presented to the Occupation Army through the Police Station, December 21 and 22, 1945. Commander of the Regiment Col. McHarland Ch. Kumamoto Military Government Team. Lt. Col. Link; Adm. Officer, Major Sobel. |
| but is of | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata-machi, Yonezawa-shi) | Presented to the Occupation Army through the Police Station, December 21 and 22, 1945. Commander of the Regiment, Col. McHarland Ch. Kuamoto Military Government Team. Lt. Col. Link; Adm. Officer, Major Sobel. |

Yari,

Enclosure No. 1 to Tokyo's Despatch
No. 727, November 12, 1948

-6-

| Items | Police Stations that handled the swords and dates | Names and addresses of the owners |
|--|--|--|
| Yari, with inscription 'Made by Umetada, Yamashiro Province. December, 2nd year of Bunroku Era' (I.A.O.) | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata-machi Yonezawa-shi) |
| Tachi, with inscription 'Hasebe-Kuni- obu'. Mounted as Uchigatana (I.A.O.) | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata-machi Yonezawa-shi) |
| Naginata. No inscription. Attributed to Mitsutada. Mounted. (I.A.O.) | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata- machi, Yonezawa-shi) |

UNCLASSIFIED

Despatch

-6-

| | Police Stations that handled the swords and dates | Names and addresses of the owners | Names of Allied Forces |
|-----------------------------------|--|--|---|
| de by Umetada, ember, 2nd year | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata-machi, Yonezawa-shi) | Presented to the Occupation Army through the Police Station, December 21 and 22, 1945. Commander of the Regiment, Col. McHarland Ch. Kuamoto Military Government Team. Lt. Col. Link; Adm. Officer, Major Sobel. |
| asebe-Kuni- tana (I.A.O.) | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata-machi, Yonezawa-shi) | Presented to the Occupation Army through the Police Station, December 21 and 22, 1945. Commander of the Regiment, Col. McHarland Ch. Kuamoto Military Government Team. Lt. Col. Link; Adm. Officer, Major Sobel. |
| Attributed (I.A.O.) | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata- machi, Yonezawa-shi) | Presented to the Occupation Army through the Police Station, December 21 and 22, 1945. Commander of the Regiment, Col. McHarland Ch. Kuamoto Military Govern- ment Team. Lt. Col. Link; Adm. Officer, Major Sobel. |

Naginata,

Enclosure No. 1 to Tokyo's Despatch
No. 727, November 12, 1948

-7-

| Items | Police Stations that handled the swords and dates | Names and address of the owners |
|--|--|--|
| Naginata. No inscription. Attributed to Sukemura. Mounted. (I.A.O.) | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata Yonezawa-shi) |
| Tachi, with inscription 'Motoshige' and the date 'September, 2nd year of Kagen Era' (I.A.O.) | Minami Police Station, Kumamoto-shi, April 21, 1946. | Shinto Shimada (Shimazaki-cho, Kumamoto-shi, Kumamoto-ken). |

Note:

Above exact reproduction of original in spelling. (HH)

UNCLASSIFIED

o's Despatch
1948

-7-

| | Police Stations that handled the swords and dates | Names and addresses of the owners | Names of Allied Forces |
|--|---|--|---|
| on. Attributed to (I.A.O.) | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata-machi, Yonezawa-shi) | Presented to the Occupation Army through the Police Station, December 21 and 22, 1945. Commander of the Regiment, Col. McHarland. Ch. Kuamoto Military Government Team. Lt. Col. Link; Adm. Officer, Major Sobel. |
| a 'Motoshige' and 2nd year of Kagen | Minami Police Station, Kuamoto-shi, April 21, 1946. | Shinto Shimada (Shimazaki-cho, Kuamoto-shi, Kuamoto-ken). | Presented to the Occupation Force through the Police Station, 22 April, 1946. Reg. Com. Col. McHarland. Ch. Military Government Team, Lt. Col. Link. Adm. Officer, Major Sobel. |

on of original in spelling. (HH)

UNCLASSIFIED

Enclosure No. 2 to Despatch No. 727
dated November 12, 1948 from the
United States Political Adviser for
Japan, Tokyo, subject: "Return to Japan
of Swords Classified as Objects of Art."

COPY

JAPANESE GOVERNMENT

CENTRAL LIAISON AND COORDINATION OFFICE

TO : General Headquarters of the Supreme Commander for the
Allied Powers.

FROM : Central Liaison and Coordination Office, Tokyo.

SUBJECT : Request for Restitution of Swords Designated as National
Treasure or Sanctioned as Important Art Object.

C.L.C.O. No. 3453 (2PA)

4 October 1948

1. Reference:

- a. Paragraph XI, of General Order No. 1 (Directive No. 1).
- b. SCAP Memorandum AG 388.3 (23 Oct 45) CIS, subject: "Instructions concerning the Surrender of Arms by the Civilian Population of Japan."
- c. SCAP Memorandum AG 000.4 (12 Nov 45) CIE, subject: "Policies and Procedures relating to the Protection of Arts, Monuments, and Cultural and Religious Sites and Installations."
- d. SCAP Memorandum AG 386.3 (10 Jan 46) CIS, subject: "Retention of Swords Classified as Objects of Art in Civilian Hands."

2. The Ministry of Education reports as follows:

In accordance with Paragraph XI of the reference General Order No. 1, the arms in the possession of the civilian population were necessitated to be delivered to the Allied Forces. Under the regulations of the Home Ministry, the swords of aesthetic value were permitted for the time being to be retained in civilian hands in readiness for delivery, being registered at the police stations. However, some of the swords designated as national treasures or sanctioned as important art objects as shown in the attached list, were erroneously delivered to the Allied units in the field through police stations and have not yet been restituted to the owners! The situation has caused not a little anxiety to the owners, besides being a matter for regret in view of the preservation of Japanese old art objects.

3. Under the above circumstances the Central Liaison and Coordination Office requests the General Headquarters, Supreme Commander for the Allied Powers be good enough to ascertain the present whereabouts of these swords and to make possible the restoration of these objects to the proper owners.

FOR THE DIRECTOR-GENERAL:

(K. Yoshida)
Chief of Liaison Section,
Central Liaison and Coordination Office

Enclosure:

List of Swords as stated above.

UNCLASSIFIED

cc/R

MAR 4 1949

894.403/11-1248

My dear Mr. Secretary:

There is enclosed a copy of despatch No. 727, dated November 12, 1948, from the Office of the Acting United States Political Adviser for Japan, entitled "Return of Swords Classified as Objects of Art," which invited the Department's attention to a request by the Civil Information and Education Section of General Headquarters, Supreme Commander for the Allied Powers, for the Department's assistance in effecting the return to Japan of certain swords which are classified as art objects and which have presumably been taken to the United States by United States military personnel. You will note the assertion of the Civil Information and Education Section that the swords in question "were taken in violation of special regulations and a later General Headquarters order for the protection of these swords and their retention by their Japanese owners."

The Department is inclined to the view that the swords in question were given and received in good faith and that from the practical standpoint, it would be an exceedingly expensive and time-consuming task to trace, secure and return such weapons to Japan.

Before replying to the Acting Political Adviser for Japan the Department would appreciate having your views as soon as possible.

Sincerely yours,

Charles E. Saltzman
Assistant Secretary

Enclosure:

Copy of despatch No. 727 from Tokyo, dated November 12, 1948.

The Honorable
~~Kenneth C. Royall~~ Tracy S. Voorhees,
Assistant Secretary of the Army.

W. A. Chan
PCS/J:DCBhChan/rk 2/28/49
O:CVHulick:mmf 3/3/49

DAS. POS
MMS NA
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EX CR
MAR 4 1949

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DEPARTMENT OF THE ARMY
OFFICE OF THE UNDER SECRETARY
WASHINGTON, D. C.

File

ASSISTANT SECRETARY
FOR OCCUPIED AREAS

1948 DEC 10 PM 12 32

8 December 1948

0"
DEPARTMENT OF STATE

Dear Charlie:

894.403/10-2648

On looking over this matter of replacement of cultural objects by the Japanese on which you wrote me on 2 December, I find that Mr. Royall has suggested that if any further action is felt necessary he would be glad to discuss the matter with General Marshall after his return in accordance with General Marshall's last letter.

I do not see that there is much to be gained by our examining together any intricacies of the legalisms in this matter. Mr. Royall assures me that he is ready to go forward at any time in accordance with his letter.

Sincerely yours,

William H. Draper, Jr.
William H. Draper, Jr.
Under Secretary of the Army

The Honorable
Charles E. Saltzman
Assistant Secretary of State
for Occupied Areas
Department of State

Central Files
DC/R
894.403/12-848
This Document Must Be Returned to

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[Signature]

DEPARTMENT OF STATE
THE LEGAL ADVISER

OC/R

CONFIDENTIAL

April 8, 1949

TO: POS/J--Mr. Buchanan
FROM: L/M--Mr. Yingling

In view of the position taken in my memorandum of April 6, 1949 that private^{ly} owned arms taken by a military occupant from inhabitants of the occupied country must be restored when peace is made, I do not feel able to initial the attached draft instruction to USPOLAD for Japan in view of the position taken in the second paragraph thereof. Although the swords may not have been wrongfully taken from the individual owners, they are being wrongfully kept which seems to be the point at issue.

PUBLIC AFFAIRS OVERSEAS PROGRAM STAFF
Japan-Korean Branch
POS/J

APR 11 1949

DEPARTMENT OF STATE

L: L/M: RY ^{my} Yingling: bd

FV 894.403/3-1749 -

DEPARTMENT OF STATE
 THE LEGAL ADVISER

CONFIDENTIAL

April 6, 1949

TO : POS/J - Mr. Buchanan
 FROM : L/M - Mr. Yingling
 SUBJECT : Restoration to Japanese Individuals of Swords
 of Artistic Value Turned Over to American Forces.

Despatch No. 727 of November 12, 1948 from USPOLAD for Japan requests the Department's assistance in effecting the return to Japan of certain swords turned over to the occupation authorities by Japanese individuals and apparently distributed to United States military personnel. The statement is made in your proposed reply to Tokyo that under international law such objects may be regarded as legitimate trophies of war.

The swords in question were not taken from the hands of Japanese soldiers on the battlefield but were surrendered to occupation authorities long after Japan had surrendered. The swords were the property of the Japanese civilians who surrendered them in accordance with an occupation directive.

Under the Hague regulations respecting the laws and customs of war on land (Hague Convention IV of 1907) private property cannot be confiscated by a military occupant of enemy territory (Article XLVI) and pillage is formally forbidden (Article XLVII). While privately owned war material such as arms, ammunition, etc. may be seized and made use of for military purposes by an invading belligerent, such property must be restored and compensation fixed when peace is made (Article LIII). It is therefore suggested that the referenced statement in your draft reply to Tokyo be omitted.

894.403/11-1248

CONFIDENTIAL

L:L/M:RTYingling:fje

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 DC/R
 FW 894.403/3-1749

Fwd 894.403/3-1749
 OS/14

They may also under international law be regarded as legitimate trophies of war which were received in good faith and which were not "wrongfully taken" from public, etc. There were, therefore, in this respect etc.

ARMY
NAVY

ch 1949

1949 MAR 21 PM 4 04

D C/R

DIVISION OF STATE
NORTHEAST ASIAN AFFAIRS

MAR 22 1949

Dear Mr. Murphy:

DEPARTMENT OF STATE

Mr. Saltzman's letter to Mr. Voorhees of 4 March 1949, which forwarded a copy of despatch #727, dated 12 November 1948, from the U.S. Political Advisor for Japan, entitled "Return of Swords Classified as Objects of Art" has been received and considered.

*x 12
894.412*

The Department of the Army concurs in the view of the Department of State that the swords in question were given and received in good faith and that from the practical standpoint, it would be an exceedingly expensive and time-consuming task to trace, secure and return such weapons to Japan. It is doubtful if a majority of the combat soldiers and marines to whom the swords were issued in 1945 are still in the armed services. Even if it were possible to trace the swords, the possessors would be unlikely to give them up because of any consideration for Japanese sensibilities. It is believed that under the circumstances any attempts to aid the Japanese through court actions would be equally futile.

It is recommended that the Political Advisor be informed that the request of the Civil Information and Education Section is considered to be impractical.

For Assistant Secretary of the Army:

R. W. Porter, Jr.
R. W. PORTER, JR.
Colonel, General Staff Corps
Executive Officer

*Public Affairs Statement Program Staff
Japan-Korean Branch
POS/J
MAR 22 1949
DEPARTMENT OF STATE*

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CS/H

DEPARTMENT OF THE ARMY
OFFICE, ASSISTANT SECRETARY
WASHINGTON, D. C.

17 March 1949

1949 MAR 21 PM 4 04

POS
DC/R

Honorable Robert Murphy
Acting Director,
Office of German and Austrian Affairs
Department of State

DIVISION OF DE STATE
NORTHEAST ASIAN AFFAIRS

MAR 22 1949

DEPARTMENT OF STATE

Dear Mr. Murphy:

Mr. Saltzman's letter to Mr. Voorhees of 4 March 1949, which forwarded a copy of despatch #727, dated 12 November 1948, from the U.S. Political Advisor for Japan, entitled "Return of Swords Classified as Objects of Art" has been received and considered.

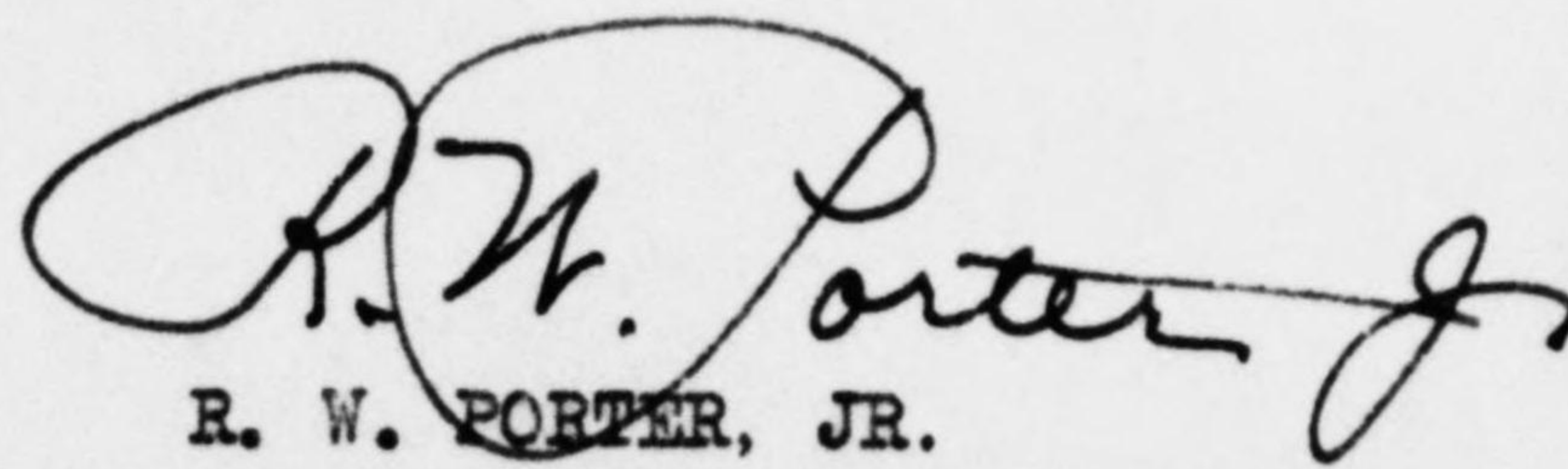
x 12
894.412

The Department of the Army concurs in the view of the Department of State that the swords in question were given and received in good faith and that from the practical standpoint, it would be an exceedingly expensive and time-consuming task to trace, secure and return such weapons to Japan. It is doubtful if a majority of the combat soldiers and marines to whom the swords were issued in 1945 are still in the armed services. Even if it were possible to trace the swords, the possessors would be unlikely to give them up because of any consideration for Japanese sensibilities. It is believed that under the circumstances any attempts to aid the Japanese through court actions would be equally futile.

894.403/3-1749

It is recommended that the Political Advisor be informed that the request of the Civil Information and Education Section is considered to be impractical.

For Assistant Secretary of the Army:



R. W. PORTER, JR.
Colonel, General Staff Corps
Executive Officer

PUBLIC AFFAIRS STENOGRAPHIC PROGRAM STAFF

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Japan Korean Branch
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MAR 22 1949

DEPARTMENT OF STATE

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894.403/3-1749
CS/H

PUBLIC AFFAIRS OVERSEAS PROGRAM STAFF
Japan-Korean Branch
POS/1

MAR 8 1949

DEPARTMENT OF STATE

FILE COPY

MAR 4 1949

My dear Mr. Secretary:

There is enclosed a copy of despatch No. 727, dated November 12, 1948, from the Office of the Acting United States Political Adviser for Japan, entitled "Return of Swords Classified as Objects of Art," which invited the Department's attention to a request by the Civil Information and Education Section of General Headquarters, Supreme Commander for the Allied Powers, for the Department's assistance in effecting the return to Japan of certain swords which are classified as art objects and which have presumably been taken to the United States by United States military personnel. You will note the assertion of the Civil Information and Education Section that the swords in question "were taken in violation of special regulations and a later General Headquarters order for the protection of these swords and their retention by their Japanese owners."

The Department is inclined to the view that the swords in question were given and received in good faith and that from the practical standpoint, it would be an exceedingly expensive and time-consuming task to trace, secure and return such weapons to Japan.

Before replying to the Acting Political Adviser for Japan the Department would appreciate having your views as soon as possible.

Sincerely yours,

Charles E. Saltzman
Assistant Secretary

Enclosure:

Copy of despatch No. 727 from
Tokyo, dated November 12, 1948.

The Honorable
~~Kenneth C. Kayath~~ Tracy S. Voorhees,
Assistant Secretary of the Army.

POS/J:DCBuchanan/rk
C:CVHulick:MMF 3/3/49

2/28/49

POS

NA

FE

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copy to Howell
4/5/49

A true copy of this document is being furnished to the following:

CONFIDENTIAL

file copy

NA - Mr. Bond Bishop

15 February 1949

POS - Mr. Schuler

Tokyo's Despatch No. 727, dated November 12, 1948 on Return to Japan of Swords Classified as Objects of Art.

While there might appear to be some legal justification under SWNCC 322 for the return to Japan of swords classified as objects of art which were inadvertently handed over to the United States armed forces, we are of the opinion that special effort to recover the thirty swords in question is not required for the following reasons:

1. As the sword has been traditionally regarded by Japanese of all classes as the symbol of militarism, it is deemed unwise, even though some of these weapons may be regarded by the Japanese government as "national treasures" to attempt to return them to Japan. Such action might well be viewed by a considerable body of Americans as another indication that we were abandoning piece by piece the policies adopted at Potsdam. It would be regarded in a similar light by some of our Allies, and would also certainly, when it became known, subject the United States to propaganda attack by the USSR of serious consequence to our relation with our Allies as well as to the achievement of our aims in Japan. Finally, such action might well be interpreted by the Japanese themselves as an indication that the slate had been wiped clean.

2. Although the weapons in question may be termed "cultural objects" they are in a larger sense objects for disseminating military culture. In fact, it is not at all unlikely that some of the blades were carried, up to the date of surrender, by high military officers as family heirlooms and symbols of their authority. So far as we have been able to ascertain none of the weapons were "wrongfully taken" from public, government or Imperial collections. Insofar as the blemish on the record of the United States armed forces is concerned, it should be borne in mind that the American holders received the swords in good faith and can hardly be accused of "cultural despoliation".

3. Efforts to return the swords would be highly impractical and extremely difficult to carry out. They would require the services of several professionals in each agency involved (State, Army and Navy). The recipients of the weapons are widely scattered, many of the personnel having returned to civilian life, so that it would be an exceedingly time-consuming and expensive undertaking to get in touch with them. Furthermore, it is not at all unlikely that a goodly number of the swords in question have changed hands many times, which would also increase the difficulty of tracing and securing such weapons.

4. The various divisions concerned of the Department of the Army have been informally approached on the problem. With one accord they indicate that any attempt to return the swords in question to Japan would be "unnecessary, undesirable and impractical."

5. There is attached hereto a draft instruction to the United States Political Advisor for Japan replying in the premises.

Attachment: Draft of instruction to USPOLAD

POS/J:DCBuchanan/rk 2/15/49

STANDARD FORM NO. 64

Confidential

Office Memorandum • UNITED STATES GOVERNMENT

TO : L/P - General Snow

LEGAL ADVISER

DATE: December 20, 1948

FROM : POS - Mr. Schuler *W*

DEC 21 1948

SUBJECT: Attached despatch No. 727 from the States Political Advisor for Japan on the return of certain swords alleged to be art objects.

DEPARTMENT OF STATE

Before taking action on this matter we would appreciate the opinion of your office on the applicability of SWNGC 322 to the matter in question.

*memo to Mr. Schuler
file
12-28-48*

FW 894.403/11-1248

ACB
P:POS/J: DCBuchanan/dfe 12/20/48

Confidential

FILE COPY

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : POS/J - Mr. Schuler
FROM : FE - Mr. Allison
SUBJECT: Return of Japanese Swords.

DATE: February 24, 1949
WAR OFFICE GENERAL INVESTIGATIVE STAFF
Japan-Research Branch
POS/J

FEB 24 1949

DEPARTMENT OF STATE

Reference Tokyo's despatch no. 727 of November 12, 1948 and POS/J's draft instruction concerning the Japanese Government's request for the return of certain swords of artistic value.

I wonder if it would not be desirable to obtain formal comment from the War Department on Tokyo's despatch before replying to Tokyo. It is noted that the swords in question were originally surrendered by the Japanese under SCAP's General Order No. 1, that the swords were believed to have been removed from Japan by members of the armed forces, and that the Japanese Government's request for the return of the swords is supported by the C.I.&E. Section of SCAP. Under these circumstances a formal statement of the War Department's position would seem to be in order. The War Department's comment might be requested in particular on the C.I.&E. assertion that the swords "were taken in violation of special regulations and a later General Headquarters order for the protection of these swords and their retention by their Japanese owners" (as reported in Tokyo's despatch).

It is also suggested that the second paragraph of the draft instruction would not seem to present a very convincing line of argument for the retention of the swords. Would not the case be somewhat stronger if this paragraph were omitted and reliance placed on the arguments set forth in the third paragraph of the draft instruction?

FW 894.403/11-1248

FW 894.403/11-1248
CS/H

Handwritten initials and signature

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CONFIDENTIAL

POS/J - Mr. Schuler

February 24, 1949

FE - Mr. Allison

Return of Japanese Swords.

Reference Tokyo's despatch no. 727 of November 12, 1948 and POS/J's draft instruction concerning the Japanese Government's request for the return of certain swords of artistic value.

I wonder if it would not be desirable to obtain formal comment from the War Department on Tokyo's despatch before replying to Tokyo. It is noted that the swords in question were originally surrendered by the Japanese under SCAP's General Order No. 1, that the swords were believed to have been removed from Japan by members of the armed forces, and that the Japanese Government's request for the return of the swords is supported by the C.I.&E. Section of SCAP. Under these circumstances a formal statement of the War Department's position would seem to be in order. The War Department's comment might be requested in particular on the C.I.&E. assertion that the swords "were taken in violation of special regulations and a later General Headquarters order for the protection of these swords and their retention by their Japanese owners" (as reported in Tokyo's despatch).

It is also suggested that the second paragraph of the draft instruction would not seem to present a very convincing line of argument for the retention of the swords. Would not the case be somewhat stronger if this paragraph were omitted and reliance placed on the arguments set forth in the third paragraph of the draft instruction?

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CONFIDENTIAL

FILE COPY



THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

United States Political Adviser
for Japan

Tokyo, November 12, 1948.

No. 727

UNCLASSIFIED

Subject: Return to Japan of Swords Classified as Objects of Art.

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The Honorable
The Secretary of State,
Washington.

DEPARTMENT OF STATE

Sir:

I have the honor to invite the Department's attention to a request by the Civil Information and Education Section of General Headquarters, Supreme Commander for the Allied Powers, for the Department's assistance in effecting the return to Japan of certain swords which are classified as art objects and which have presumably been taken to the United States by United States military personnel.

The Civil Information and Education Section states that these swords were received by American personnel through error and gives the following account of the occurrence. The Japanese Government was directed in October, 1945, to surrender all arms to the Allied forces and in accordance with this order swords were surrendered by individual Japanese to local police stations. In January, 1946, civilian Japanese were permitted by directive to retain swords classified as art objects, but in the interim, many swords of artistic value were turned over to American personnel, although special regulations had meanwhile been issued for the protection of these swords. As a result of the United States military practice in Japan of issuing to military personnel surrendered military swords, these swords were given to individual Americans and presumably removed to the United States.

Enclosed is a copy of a list prepared by the Japanese Government describing certain swords of artistic value and indicating the owners of these swords, as well as the police station and Allied personnel to whom the swords were surrendered. The Civil Information and Education Section states that the enclosed list contains the best description of the swords and most complete identification of Allied recipients available in Japan, and suggests that if necessary, the assistance of museum personnel and art dealers be obtained in order to identify the swords.

Also enclosed

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Tokyo's Despatch No. 727,
November 12, 1948.

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Also enclosed is a copy of a petition dated October 4, 1948, from the Japanese Government requesting return of the swords listed in the first enclosure.

The Civil Information and Education Section considers that efforts should be made toward effecting the return of these swords under the authority of and in accordance with the procedure described by SWNCC 322, approved informally by the State-War-Navy Coordinating Committee on January 28, 1947. SWNCC 322 states that the Department of State should take steps by means of appropriate publicity and correspondence to indicate the responsibility of the United States Government in respect to the return of wrongfully taken cultural objects and to request the assistance of individuals and organizations concerned in locating and returning such objects. The Civil Information and Education Section has given assurance that the swords listed in the enclosure are considered important art objects in accordance with established criteria and states its opinion that these swords were wrongfully removed from Japan within the meaning of SWNCC 322 because they were taken in violation of special regulations and a later General headquarters order for the protection of these swords and their retention by their Japanese owners.

The Civil Information and Education Section states that the instant case appears to be the sole blemish on the record of United States forces in Japan in regard to despoliation of cultural properties, and that accordingly efforts provided for by SWNCC 322 should be made to right the record. It is suggested, therefore, that the moral aspect of this case be emphasized.

Respectfully yours,

W.J. Sebald

Enclosures:

1. Copy of list by Japanese Government describing certain artistic swords;
2. Copy of petition dated October 4, 1948, from Japanese Government requesting return of swords.

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is being
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UNCLASSIFIEDEnclosure No. 1 to
1945 from the United States
Japan, Tokyo, subject
Classified as ObjectCOPILIST OF N.T. AND I.A.O. SWORDS, SURRENDERED TO THE OCCUPATION FORCES AND NO
(Prepared by the Education Ministry)

Note: I.A.O. - Important Art Object; N.T. - National Treasure. Both terms are defined by Japanese law.

| <u>Items</u> | <u>Police stations that handled the swords and dates</u> | <u>Names and addresses of the owners</u> |
|---|--|---|
| Katana, with inscription 'Made by Tadayoshi, inhabitant of Hizen Province' (I.A.O.) | Tsuchiura Police Station, Ibaragiken, September 29, 1945 | Kiyoharu Ishikawa, Tsuchiurashi, Ibaragiken |
| Katana, having no inscription, attributed to Aoe school (I.A.O.) | Tsuchiura Police Station, Ibaragiken, September 29, 1945 | Kiyoharu Ishikawa, Tsuchiurashi, Ibaragiken |
| Tachi, with inscription 'Narimune' (I.A.O.) | Tsuchiura Police Station, Ibaragiken, September 29, 1945 | Kiyoharu Ishikawa, Tsuchiurashi, Ibaragiken |
| Tachi, with inscription 'Masahiro, inhabitant of Sagami Province' (I.A.O.) | Tsuchiura Police Station, Ibaragi-ken, October 1, 1945 | Shigeo Asano (1), Tsuchiura-shi, Ibaragiken |
| Tachi, with inscription 'Yukuhira of Bingo Province' (I.A.O.) | Takasaki Police Station, Gumma-ken, January 15, 1946 | Shozaburo Inoue, Renjaku-cho, Takasaki-shi, Gumma-ken |

UNCLASSIFIED

Enclosure No. 1 to Despatch No. 727 dated November 12, 1945 from the United States Political Adviser for Japan, Tokyo, subject: "Return to Japan of Swords Classified as Objects of Art."

COPY

N.T. AND I.A.O. SWORDS, SURRENDERED TO THE OCCUPATION FORCES AND NOT RETURNED
(Prepared by the Education Ministry)

Object; N.T. - National Treasure. Both terms are defined by Japanese law.

| | Police stations that handled the swords and dates | Names and addresses of the owners | Names of Allied Forces |
|---|--|---|---|
| made by Tadayoshi, 'I.A.O.) on, attributed | Tsuchiura Police Station, Ibaragiken, September 29, 1945 | Kiyoharu Ishikawa (930 Tsuchiurashi, Ibaragi-ken) | Presented to the 637th Anti-tank Regiment, 8 October 1945 (Commander Lt. Col. Nathaniel Word) |
| | Tsuchiura Police Station, Ibaragiken, September 29, 1945 | Kiyoharu Ishikawa (930 Tsuchiurashi, Ibaragi-ken) | Presented to the 637th Anti-tank Regiment, 8 October 1945 (Commander Lt. Col. Nathaniel Word) |
| rimune' (I.A.O.) | Tsuchiura Police Station, Ibaragiken, September 29, 1945 | Kiyoharu Ishikawa (930 Tsuchiurashi, Ibaragi-ken) | Presented to the 637th Anti-tank Regiment, 8 October 1945 (Commander Lt. Col. Nathaniel Word) |
| shiro, in- (I.A.O.) | Tsuchiura Police Station, Ibaragi-ken, October 1, 1945 | Shigeo Asano (1,161 Tsuchiura-shi, Ibaragi-ken) | Presented to the 637th Anti-tank Regiment, 8 October 1945 (Commander Lt. Col. Nathaniel Word) |
| uhira of Bingo | Takasaki Police Station, Gunma-ken, January 15, 1946 | Shozaburo Inoue (61 Renjaku-cho, Takasaki-shi, Gunma-ken) | Presented to the 637th Anti-tank Regiment, 8 October 1945 (Commander Lt. Col. Nathaniel Word) |

Katana.

Enclosure No. 1 to Tokyo's Despatch
No. 727, November 12, 1945

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| Items | Police stations that handled the swords and dates | Names and address of the owners |
|---|--|---|
| Katana, having no inscription, attributed to Mihara-Masaie (I.A.O.) | Takasaki Police Station, Gumma-ken, January 15, 1946 | Shozaburo Inoue Renjaku-cho, Ta shi, Gumma-ken) |
| Katana, having no inscription. Known as the 'Honjo-Masamune' (N.T.) | Mejiro Police Station, Tokyo, December, 1946. | Iemasa Tokugawa Yoyogi-Oyama-ma Shibuya-ku, Tok |
| Tachi, with inscription 'Nagamitsu, inhabitant of Osafune, Bizen Province' (I.A.O.) | Mejiro Police Station, Tokyo, December, 1946 | Iemasa Tokugawa Yoyogi-Oyama-ma Shibuya-ku, Tok |
| Tachi, with inscription 'Rai-Kunitoshi' (I.A.O.) | Mejiro Police Station, Tokyo, December, 1946 | Iemasa Tokugawa Yoyogi-Oyama-ma Shibuya-ku, Tok |
| Tanto, with inscription 'Akihiro, inhabitant of Sagami Province' (I.A.O.) | Ojiya Police Station, Ojiya, Kita-Uonuma-gun, Niigata-ken, October 5, 1945 | Saizaburo Nishi (Ojiya-machi, Ki nonuma-gun, Niig |

UNCLASSIFIED

Despatch

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| | Police stations that handled the swords and dates | Names and addresses of the owners | Names of Allied Forces |
|--------------------------------|--|--|--|
| tion. attributed) | Takasaki Police Station, Gunma-ken, January 15, 1946 | Shozaburo Inoue (61 Renjaku-cho, Takasaki- shi, Gunma-ken) | Presented to the 7th Army Military Govern- ment, 17 April 1946. |
| tion. Known as (T.) | Mejiro Police Station, Tokyo, December, 1946. | Iemasa Tokugawa (1,064 Yoyogi-Oyama-machi, Shibuya-ku, Tokyo) | Presented to the 7th Cavalry Regiment through Mejiro Police Station, 18 January 1946. Re- sponsible person, Serg. Colly D. Beimo. |
| Magamitsu, Bizen Province' | Mejiro Police Station, Tokyo, December, 1946 | Iemasa Tokugawa (1,064 Yoyogi-Oyama-machi, Shibuya-ku, Tokyo) | Presented to the 7th Cavalry Regiment through Mejiro Police Station, 18 January, 1946. Re- sponsible person, Serg. Colly D. Beimo. |
| Rai-Kunitoshi' | Mejiro Police Station, Tokyo, December, 1946 | Iemasa Tokugawa (1,064 Yoyogi-Oyama-machi, Shibuya-ku, Tokyo) | Presented to the 7th Cavalry Regiment through Mejiro Police Station, 18 January 1946. Re- sponsible person, Serg. Colly D. Beimo. |
| Akihiro, Province' (I.A.O.) | Ojiya Police Station, Ojiya, Kita-Uonuma-gun, Niigata-ken, October 5, 1945 | Saizaburo Nishiwaki (Ojiya-machi, Kita- uonuma-gun, Niigata-ken) | Presented to the 26th Company M.P., 2nd Bn., the 303rd Regiment, 97th Division stationed in Takana City, 29 Novem- ber, 1945. (Deputy Chief, MP 1st Lt. Dafeld Dengman). |

Kodachi,

Enclosure No. 1 to Tokyo's Despatch
No. 727, November 12, 1948

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| Items | Police Stations that handled the swords and dates | Names and address of the owners |
|---|---|---|
| Kodachi, with inscription 'Norifusa' (I.A.O.) | Kofu Police Station, Yamanashi-ken, May, 1946 | Yoshihiko Uchida (Sakura-machi, shi) |
| Tachi, with inscription 'Masatsune', Braid-wrapped hilt (N.T.) | | Kumano-hayatama Jinja (Shingu-m Shingu-shi, Wak ken) |
| Tachi, with inscription 'Rai-Kuimitsu' (N.T.) | Saga Police Station, Saga City, October 13, 1945 | Matsubara-jinja (Matsubara-mach Saga-shi, Saga- |
| Tanto, with inscription 'Kunihiro' (N.T.) | Saga Police Station, Saga City, October 13, 1945 | Matsubara-jinja (Matsubara-mach Saga-shi, Saga- |
| Tachi, with inscription 'Tomomura' (I.A.O.) | Oita Police Station, Oita City, January 19, 1946 | (Hachimen, Hach mura, Oita-gun, ken) |

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Despatch

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| | Police Stations that handled the swords and dates | Names and addresses of the owners | Names of Allied Forces |
|---------------------|---|--|---|
| 'Morifusa' (I.A.O.) | Kofu Police Station, Yamanashi-ken, May, 1946 | Yoshihiko Uchida (Sakura-machi, Kofu-shi) | Presented with other swords through Kofu Police Station to 97th Field Artilar Bn., May 1946. |
| 'Masatsune',) | | Kumano-hayatama Jinja (Shingu-machi, Shingu-shi, Wakayama-ken) | Presented with three other swords to 1st Lt. Word H. Marlis, 390th Infantry Regiment, 98th Division, 17 January 1946. |
| 'Iai-Kuimitsu' | Saga Police Station, Saga City, October 13, 1945 | Matsubara-jinja (Matsubara-machi, Saga-shi, Saga-ken) | Presented to an Allied Armed Force B, October, 1945 (Commarider Lt. Col. Antonio) |
| 'Kunihiro' (N.T.) | Saga Police Station, Saga City, October 13, 1945 | Matsubara-jinja, (Matsubara-machi, Saga-shi, Saga-ken) | Presented to an Allied Armed Force B, October 1945 (Commarider Lt. Col. Antonio). |
| 'Tomomura' (I.A.O.) | Oita Police Station, Oita City, January 19, 1946 | (Hachiman, Hachiman-mura, Oita-gun, Oita-ken) | Delivered to a certain occupation force stationed in the locality, December, 1946. (The name of the regiment is unknown, but probably 32nd Field Artillery Regiment, judging from the mark of red arrow). |

Katana.

Enclosure No. 1 to Tokyo's Despatch
No. 727, November 12, 1948

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| Items | Police stations that handled the swords and dates | Names and addresses of the owners |
|--|--|---|
| Katana, with inscription 'Humbly made by Shume-no-kami Ippai Yasushiro' (N.T.) | Shishuku Police Station, Kagoshima-ken, December 6, 1945 | Miyasaka-jinja |
| Katana, with inscription 'Akihiro, inhabitant of Sagami Province' and the date of 3rd year of Meitoku Era (N.T.) | Kokubu Police Station, Kagoshima-ken, December 31, 1945 | Kagoshima-jingu (Haito-machi) |
| Katana, no inscription, but is considered to be the work of Norishige (N.T.) | Kokubu Police Station, Kagoshima-ken, December 31, 1945 | Kagoshima-jingu (Haito-machi) |
| Tachi, with inscription 'Kunimune' (N.T.) | Kagoshima Police Station, January 30, 1946 | Terukuni-jinja (Kamashita-cho Kagoshima-shi) |
| Tachi, with ring-shaped hilt-top (N.T.) | Aira Police Station, Nagasaki-ken, April 28, 1946. | Kamishima-jinja (Konega-machi, Kitamatsura-gun, Nagasaki-ken) |
| Tachi, with inscription 'Yasue of Hoki Province' (I.A.O.) | Noshiro Police Station, Akita-ken, October 10, 1945 | Taro Anno (7 Yorocho, Noshiro-shi, Akita-ken) |

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Despatch

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| | Police stations that handled the swords and dates | Names and addresses of the owners | Names of Allied Forces |
|--|--|---|--|
| Assembly made by 'Miyakami' (N.T.) | Shishuku Police Station, Kagoshima-ken, December 6, 1945 | Miyasaka-jinja | Presented to 3rd Bn., 8th Marine Corp., 24 February 1946 (Commander Lt. Col. Howel) |
| 'Miyakami', in- 'Miyakami' and the 'Miyakami' Era (N.T.) | Kokubu Police Station, Kagoshima-ken, December 31, 1945 | Kagoshima-jingu (Haito-machi) | Presented to 3rd Bn., 8th Marine Corp., 2 January, 1946 (Commander, Lt. Col. Heyword). |
| 'Miyakami' is considered 'Miyakami' (N.T.) | Kokubu Police Station, Kagoshima-ken, December 31, 1945 | Kagoshima-jingu (Haito-machi) | Presented to 3rd Bn., 8th Marine Corp., 4 February, 1946 (Commander, Lt. Col. Heyword). |
| 'Miyakami' (N.T.) | Kagoshima Police Station, January 30, 1946 | Terukuni-jinja (Kamashita-cho Kagoshima-shi) | Presented to 3rd Bn., 8th Marine Corp., 4 February 1946 (Commander, Lt. Col. Howel). |
| 'Miyakami'-top (N.T.) | Aiura Police Station, Nagasaki-ken, April 28, 1946. | Kamishima-jinja (Konega-machi, Kitamatsura-gun, Nagasaki-ken) | Presented to 2nd Bn., 10th Regiment, Marine Corp, 8 May 1946 (1st Lt. J.C. Gasser) |
| 'Miyakami' suite of Hoki Pro | Noshiro Police Station, Akita-ken, October 10, 1945 | Taro Anno (7 Yoro-cho, Noshiro-shi, Akita-ken) | Col. Hascar, 457 Airborne stationed at Akita. Delivered to Capt. Moran, Ch. Public Safety Section, Military Government Team. |

Tachi.

Enclosure No. 1 to Tokyo's Despatch
No. 727, November 12, 1948

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| Items | Police Stations that handled the swords and dates | Names and addresses of the owners |
|--|--|---|
| Tachi, with inscription 'Kuniyuki' (N.T.) | Kumamoto-kita Police Station, Kumamoto City, December 10, 1945 | Takehiko Motada Kumamoto-shi, Oe-machi) |
| Tachi, with inscription 'Kanemitsu' of Osafune, Bizen Province, August, 2nd year of Embun Era' | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata-machi, Yonezawa-shi) |
| Tachi, with inscription 'Nagamitsu' (I.A.O.) | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata-machi, Yonezawa-shi) |
| Haginata. No inscription, but is considered to be the work of Norifusa. Mounted. | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata-machi, Yonezawa-shi) |

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Despatch

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| Police Stations that handled the swords and dates | Names and addresses of the owners | Names of Allied Forces |
|--|---|---|
| Miyuki' Kumamoto-kita Police Station, Kumamoto City, December 10, 1945 | Takehiko Motada Kumamoto-shi, Oe-machi) | Presented to the Occupation Army through the Police Station, December 21 and 22, 1945. Commander of the Regiment Col. McHarland Ch. Kumamoto Military Government Team. Lt. Col. Link; Adm. Officer, Major Sobel. |
| Mitsuru' Yonezawa Police Station, October 5, 1945 Era' | Noriaki Uesugi (Minamihoribata-machi, Yonezawa-shi) | Presented to the Occupation Army through the Police Station, December 21 and 22, 1945. Commander of the Regiment, Col. McHarland Ch. Kumamoto Military Government Team. Lt. Col. Link; Adm. Officer, Major Sobel. |
| Mitsuru' Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata-machi, Yonezawa-shi) | Presented to the Occupation Army through the Police Station, December 21 and 22, 1945. Commander of the Regiment Col. McHarland Ch. Kumamoto Military Government Team. Lt. Col. Link; Adm. Officer, Major Sobel. |
| Mitsuru' Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata-machi, Yonezawa-shi) | Presented to the Occupation Army through the Police Station, December 21 and 22, 1945. Commander of the Regiment, Col. McHarland Ch. Kumamoto Military Government Team. Lt. Col. Link; Adm. Officer, Major Sobel. |

Yari.

Enclosure No. 1 to Tokyo's Despatch
No. 727, November 12, 1948

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| Items | Police Stations that handled the swords and dates | Names and addresses of the owners |
|--|--|---|
| Yari, with inscription 'Made by Umetada, Yamashiro Province. December, 2nd year of Bunroku Era' (I.A.O.) | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata-ma Yonezawa-shi) |
| Tachi, with inscription 'Hasebe-Kuni- obu'. Mounted as Uchigatana (I.A.O.) | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata-ma Yonezawa-shi) |
| Haginata. No inscription. Attributed to Mitsutada. Mounted. (I.A.O.) | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata- machi, Yonezawa-sh) |

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Despatch

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| | Police Stations that handled the swords and dates | Names and addresses of the owners | Names of Allied Forces |
|--|--|--|---|
| de by Umetada, ember, 2nd year) | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata-machi, Yonezawa-shi) | Presented to the Occupation Army through the Police Station, December 21 and 22, 1945. Commander of the Regiment, Col. McHarland Ch. Kuamoto Military Government Team. Lt. Col. Link; Adm. Officer, Major Sobel. |
| Kasebe-Kuni- atana (I.A.O.) | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata-machi, Yonezawa-shi) | Presented to the Occupation Army through the Police Station, December 21 and 22, 1945. Commander of the Regiment, Col. McHarland Ch. Kuamoto Military Government Team. Lt. Col. Link; Adm. Officer, Major Sobel. |
| Attributed (I.A.O.) | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata- machi, Yonezawa-shi) | Presented to the Occupation Army through the Police Station, December 21 and 22, 1945. Commander of the Regiment, Col. McHarland Ch. Kuamoto Military Govern- ment Team. Lt. Col. Link; Adm. Officer, Major Sobel. |

Naginata,

Enclosure No. 1 to Tokyo's Despatch
No. 727, November 12, 1948

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| <u>Items</u> | <u>Police Stations that handled the swords and dates</u> | <u>Names and address of the owners</u> |
|--|--|--|
| Naginata. No inscription. Attributed to Sukemura. Mounted. (I.A.O.) | Yonezawa Police Station, October 5, 1945 | Noriaki Uesugi (Minamihoribata- Yonezawa-shi) |
| Tachi, with inscription 'Motoshige' and the date 'September, 2nd year of Kagen Era' (I.A.O.) | Minami Police Station, Kumamoto-shi, April 21, 1946. | Shinto Shimada (Shimazaki-cho, Kumamoto-shi, Kumamoto-ken). |

Note:

Above exact reproduction of original in spelling. (HH)

UNCLASSIFIED

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1945

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| | Police Stations that handled the swords and dates | Names and addresses of the owners | Names of Allied Forces |
|--------------------------------------|--|--|--|
| on. Attributed to (I.A.O.) | Yonezawa Police Station, October 5, 1945 | Noriaki Usugi (Minamihoribata-machi, Yonezawa-shi) | Presented to the Occupation Army through the Police Station, December 21 and 22, 1945. Commander of the Regiment, Col. McHarland. Ch. Kumamoto Military Government Team. Lt. Col. Link; Adm. Officer, Major Sobel. |
| 'Motoshige' and 2nd year of Kagen | Minami Police Station, Kumamoto-shi, April 21, 1946. | Shinto Shimada (Shimasaki-cho, Kumamoto-shi, Kumamoto-ken). | Presented to the Occupation Force through the Police Station, 22 April, 1946. Reg. Com. Col. McHarland. Ch. Military Government Team, Lt. Col. Link. Adm. Officer, Major Sobel. |

on of original in spelling. (HH)

UNCLASSIFIED

Enclosure No. 2 to Despatch No. 727
dated November 12, 1948 from the
United States Political Adviser for
Japan, Tokyo, subject: "Return to Japan
of Swords Classified as Objects of Art."

COPY

JAPANESE GOVERNMENT

CENTRAL LIAISON AND COORDINATION OFFICE

TO : General Headquarters of the Supreme Commander for the
Allied Powers.

FROM : Central Liaison and Coordination Office, Tokyo.

SUBJECT : Request for Restitution of Swords Designated as National
Treasure or Sanctioned as Important Art Object.

C.L.C.O. No. 3453 (2PA)

4 October 1948

1. Reference:

- a. Paragraph XI, of General Order No. 1 (Directive No. 1).
- b. SCAP Memorandum AG 388.3 (23 Oct 45) CIS, subject: "Instructions concerning the Surrender of Arms by the Civilian Population of Japan."
- c. SCAP Memorandum AG 000.4 (12 Nov 45) CIE, subject: "Policies and Procedures relating to the Protection of Arts, Monuments, and Cultural and Religious Sites and Installations."
- d. SCAP Memorandum AG 386.3 (10 Jan 46) CIS, subject: "Retention of Swords Classified as Objects of Art in Civilian Hands."

2. The Ministry of Education reports as follows:

In accordance with Paragraph XI of the reference General Order No. 1, the arms in the possession of the civilian population were necessitated to be delivered to the Allied Forces. Under the regulations of the Home Ministry, the swords of aesthetic value were permitted for the time being to be retained in civilian hands in readiness for delivery, being registered at the police stations. However, some of the swords designated as national treasures or sanctioned as important art objects as shown in the attached list, were erroneously delivered to the Allied units in the field through police stations and have not yet been restituted to the owners. The situation has caused not a little anxiety to the owners, besides being a matter for regret in view of the preservation of Japanese old art objects.

3. Under the above circumstances the Central Liaison and Coordination Office requests the General Headquarters, Supreme Commander for the Allied Powers be good enough to ascertain the present whereabouts of these swords and to make possible the restoration of these objects to the proper owners.

FOR THE DIRECTOR-GENERAL:

(K. Yoshida)
Chief of Liaison Section,
Central Liaison and Coordination Office

Enclosure:

List of Swords as stated above.

UNCLASSIFIED

Confidential

December 28, 1948.

To: PCS - Mr. Schuler

ARE JAPANESE SWORDS CULTURAL OBJECTS WRONGFULLY TAKEN,
WITHIN MEANING OF SWANCC 322.

1. A legal opinion is requested as to whether certain swords taken from the Japanese by United States Army authorities are "cultural objects" which have been "wrongfully taken" within the meaning of SWANCC 322.
2. The Supreme Commander has been assured by the Central Liaison and Coordination Office of the Japanese Government that the listed swords are designated as "national treasures" or sanctioned as "important art objects". Only an expert on the subject of Japanese art and weapons could pass on the validity of the claim. However, in January 1946, after these particular swords had been taken, SCAP by directive permitted civilian Japanese to retain swords "classified as art objects". If swords may be properly classified as "art objects", they are by the same token "cultural objects". It would be inconsistent for SCAP, in view of his own order of 7 January 1946, now to deny that these swords as a class are "cultural objects". Of course, the fact may still be disputed, in any individual case, by an expert familiar with Japanese weapons.
3. The swords were turned in to the United States authorities in response to a directive to the Japanese Government of 7 October 1945, to surrender all "arms" to the Allied Forces. It is believed that under this order the surrender of swords which were either "national treasures" or "important art objects" should not have been required. Like medieval suits of armor, they are in this day and age more properly "art objects" than "arms". This was apparently recognized by the order 7 January 1946. It is concluded that, insofar as the swords in question were "cultural objects", they were "wrongfully taken" within the meaning of SWANCC 322.

Conrad E. Snow

L:L/P:CESnow:vb
12-28-48

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December 28, 1948.

To: POS - Mr. Schrider

ARE JAPANESE SWORDS CULTURAL OBJECTS WRONGFULLY TAKEN,
WITHIN MEANING OF SWANCC 323.

1. A legal opinion is requested as to whether certain swords taken from the Japanese by United States Army authorities are "cultural objects" which have been "wrongfully taken" within the meaning of SWANCC 323.
2. The Supreme Commander has been assured by the Central Liaison and Coordination Office of the Japanese Government that the listed swords are designated as "national treasures" or sanctioned as "important art objects". Only an expert on the subject of Japanese art and weapons could pass on the validity of the claim. However, in January 1946, after these particular swords had been taken, SCAP by directive permitted civilian Japanese to retain swords "classified as art objects". If swords may be properly classified as "art objects", they are by the same token "cultural objects". It would be inconsistent for SCAP, in view of his own order of 7 January 1946, now to deny that these swords as a class are "cultural objects". Of course, the fact may still be disputed, in any individual case, by an expert familiar with Japanese weapons.
3. The swords were turned in to the United States authorities in response to a directive to the Japanese Government of 7 October 1945, to surrender all "arms" to the Allied Forces. It is believed that under this order the surrender of swords which were either "national treasures" or "important art objects" should not have been required. Like medieval suits of armor, they are in this day and age more properly "art objects" than "arms". This was apparently recognized by the order 7 January 1946. It is concluded that, insofar as the swords in question were "cultural objects", they were "wrongfully taken" within the meaning of SWANCC 323.

Conrad E. Snow

L:L/P:CSGnow:vb
12-28-48

Confidential

STANDARD FORM NO. 64

Office Memorandum

Confidential

FILE COPY

UNITED STATES GOVERNMENT *PAS*

TO : POS/J - Mr. Schuler

DATE: February 8, 1949 *DGR*

FROM : O - J. F. Ray, Jr.

SUBJECT: Return to Japan of Swords Classed as Objects of Art (USPOLAD Dispatch 727 - November 12, 1948)

I have checked informally with the Department of the Army on the subject of the above dispatch. Neither Plans and Operations Division nor Civil Affairs Division appears to view with any favor the suggestion of CI&E, SCAP, as transmitted by the Acting Political Adviser.

It is my understanding that the Department of the Army considers the proposal, to attempt to return the swords in question to Japan, as unnecessary, undesirable and impractical.

PUBLIC AFFAIRS OVERSEAS PROGRAM STAFF
Japan-Korean Branch
POS/J

FEB - 8 1949

DEPARTMENT OF STATE

FW 894.403/11-1248

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PUBLIC AFFAIRS DIVISION
Japan-Korea Branch
POS/1

DEC 30 1948

DEPARTMENT OF STATE
THE LEGAL ADVISER

DEPARTMENT OF STATE

December 28, 1948.

To: POS - Mr. Schuler

ARE JAPANESE SWORDS CULTURAL OBJECTS WRONGFULLY TAKEN,
WITHIN MEANING OF SWANCC 322.

1. A legal opinion is requested as to whether certain swords taken from the Japanese by United States Army authorities are "cultural objects" which have been "wrongfully taken" within the meaning of SWANCC 322.

2. The Supreme Commander has been assured by the Central Liaison and Coordination Office of the Japanese Government that the listed swords are designated as "national treasures" or sanctioned as "important art objects". Only an expert on the subject of Japanese art and weapons could pass on the validity of the claim. However, in January 1946, after these particular swords had been taken, SCAP by directive permitted civilian Japanese to retain swords "classified as art objects". If swords may be properly classified as "art objects", they are by the same token "cultural objects". It would be inconsistent for SCAP, in view of his own order of 7 January 1946, now to deny that these swords as a class are "cultural objects". Of course, the fact may still be disputed, in any individual case, by an expert familiar with Japanese weapons.

3. The swords were turned in to the United States authorities in response to a directive to the Japanese Government of 7 October 1945, to surrender all "arms" to the Allied Forces. It is believed that under this order the surrender of swords which were either "national treasures" or "important art objects" should not have been required. Like medieval suits of armor, they are in this day and age more properly "art objects" than "arms". This was apparently recognized by the order 7 January 1946. It is concluded that, insofar as the swords in question were "cultural objects", they were "wrongfully taken" within the meaning of SWANCC 322.

Conrad E. Snow

L:L/P:CESnow:vb
12-28-48

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FW 894.403/11-1248

OS/H

FW 894.403/11248

STANDARD FORM NO. 64

Confidential

Office Memorandum • UNITED STATES GOVERNMENT

TO : FE - Mr. Butterworth

DATE: 3/17/49

FROM : NA - Mr. Bishop *MB*

SUBJECT: Replacement of Cultural Objects.

full file

13-2949 Conf file

14-1149 Conf file

Attached for your signature are an instruction to General McCoy (Tab A) and a letter to Assistant Secretary Voorhees (Tab B) on the subject of replacement of cultural objects lost or destroyed as a result of Japanese aggression.

The background of this matter is briefly as follows:

1. In mid-1947 the State Department presented to SANACC, and, with the approval of Mr. Saltzman's office, informally to the FEC, a proposed policy statement providing for a fairly extensive program of replacement of cultural objects lost or destroyed as a result of Japanese aggression, with similar objects publicly or privately owned in Japan.

2. The Army, strongly supported by SCAP and General Clay, have persistently opposed both the original paper and successively more restrictive drafts prepared to meet their views, arguing that the policy was morally wrong, that it violated international law, that it would antagonize the Japanese, that it would be difficult to administer, that it was inconsistent with our policies on the subject in Europe, that it would give the French an opportunity to reopen the issue in Germany, and that it would "legalize the Soviet theft of cultural objects from Germany". The opposing points of view on the matter have been set forth in a considerable number of letters between Secretary Marshall and Secretary Royall and between Mr. Saltzman and Mr. Draper (Tab D), but Mr. Royall has remained inflexible in his opposition to even the most restricted type of replacement program.

3. In the FEC, the State Department's informal policy proposal of mid-1947 was considered too narrow by China, the Netherlands and the Philippines, which presented an alternative proposal for a more liberal replacement program. The UK at first supported the US proposal but some months ago shifted its support to the Chinese plan. The Chinese paper is now supported by the entire Commission membership except the US and the USSR, and the USSR has indicated that it supports it in principle desiring only that certain minor amendments be made. Ambassador Koo has called on Mr. Saltzman several times to urge that the US announce a position in favor of the Chinese proposal.

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- 2 -

It is my personal conviction that it would be most unwise to compel the Japanese to replace objects lost or destroyed as a result of the war with objects from their own cultural store. Two wrongs do not make a right. Also it seems somewhat incongruous at this time to transfer rare cultural objects from the safety and security of Japan to strife-torn areas such as China, Indo-china, Burma, Malaya and the Netherlands Indies. These factors, the possible adverse effect of the proposed policy on our cultural objects policies in Europe, and the fact that all previous cultural objects replacement programs were instituted under a treaty (Versailles in 1919 and the treaties with the satellites after this war) rather than during the period of occupation, all lead me to believe that we should instruct General McCoy to oppose the Chinese proposal (SC-272/13 at Tab C) and state it to be the US view that the matter should be considered on its merits if introduced at the time of the peace conference.

This position is also probably the only course that, practically speaking, remains to us. Continued insistence by this Department on a replacement program, no matter how narrowly defined, would require that the whole complicated, intrinsically minor matter be explained to the Secretary, that he be convinced of the program's advisability, and that he then renew Mr. Marshall's and Mr. Saltzman's efforts to win the Department of the Army to this view, in face of the strong opposition of General MacArthur and General Clay. Ultimately he would probably be compelled to carry the matter to higher authority, and even then might well be forced to retreat to the position in the attached instruction.

I recommend that you sign the instruction. I also recommend that, if you approve the above, you ask the representatives of the friendly FEC powers to come in individually and explain to them the action we are going to take. At the same time you might lay the groundwork for the reparations decision we may soon make.

*Mr. Bishop
do*

Attachments:

1. Instruction to General McCoy.
2. Letter to Mr. Voorhees
3. Copies of SC-272/12 and 13.
4. File of Letters.

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Confidential

*Forwarded to FEC,
U.S. member without prior
talks as agreed by MA
of 72. mms*

I agree but suggest that Bishop do the talking to the FEC representatives. This will keep the problem in proportion. The reparations issue, I believe, should be kept separate.

JMA

SC-272/12FEC-RESTRICTEDSC-272/1211 January 1949FAR EASTERN COMMISSIONSTEERING COMMITTEEREPLACEMENT OF LOST CULTURAL OBJECTS
As Amended 11 January 1949
(References: SC-272/10, 272 series)Note by the Secretary General

1. The enclosure, a version of SC-272/10, a proposed policy decision on the replacement of lost cultural objects incorporating amendments adopted by the Steering Committee at its 130th meeting, 11 January 1949, is circulated herewith for the consideration of the STEERING COMMITTEE.

2. The record of reservations which has been carried on this proposal now stands as follows:

Australia: [^{Reservation subsequently removed}~~Reservation on the paper as a whole~~]
 Canada : [^{Reservation subsequently removed}~~Reservation on paragraph 3~~]
 U.S.S.R. : Reservation on the paper as a whole
 (note proposed amendments in SC-272/13) (attached)
 U. S. : Reservation on the paper as a whole

NELSON T. JOHNSON
Secretary General

SC-272/12

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FEC-RESTRICTEDE N C L O S U R EREPLACEMENT OF LOST CULTURAL OBJECTS
As Amended 11 January 1949

1. This policy is supplementary to and not in derogation of policy decisions relating to restitution of looted property.

2. For the purpose of this policy, cultural objects are defined so as to include all movable objects of artistic, historical, religious, or educational character, including collections of books, which are irreplaceable through normal channels of production and commerce.

3. The Japanese Government should be required to replace cultural objects:

a. which were publicly owned; or

b. which, if privately owned, had been accessible to the public, or were typical of the evolution of the national culture of the claimant country; and

c. which have been removed from Allied countries by the Japanese or their agents but have not been found within a reasonable period, or which have been destroyed by the Japanese or their agents or as a result of military action during periods of Japanese military aggression against Allied territories

in accordance with the following provisions.

4. Allied countries attacked or occupied by the Japanese which claim replacement should show, in reasonable details, amounts, kinds and quality of cultural objects lost.

5. In cases of doubt concerning the adequacy of evidence provided in support of a claim, the presumption should be in favor of the claimant country.

6. Claims for replacement of specific cultural objects, when approved, should be satisfied by the Japanese Government by providing cultural objects of approximately equivalent character and cultural value obtainable in Japan.

7. Replacement in approximate equivalents as indicated in paragraph 6 above should not be made from:

a. Cultural items designated by the Japanese Government as National Treasures (Kokuho) prior to 1931 regardless of origin or ownership, or designated as Japanese National Treasures (Kokuho) after 1931, if they are of Japanese origin or were owned by Japanese public institutions or private individuals prior to 1894.

b. Early collections significant for their unity and completeness, such as the Nara Complex of the Horiuji, Yakushiji, Tokudaiji, Todaiji, Kofukuji, Shin-Yakushiji temples and the Shosoin and other similar temple complexes, in so far as replacement can be made from other sources.

c. Items required by the Supreme Commander for the Allied Powers to accomplish the objectives of the occupation particularly with respect to the program of democratization and education of the Japanese people.

SC-272/13FEC-RESTRICTEDSC-272/1311 January 1949FAR EASTERN COMMISSIONSTEERING COMMITTEEREPLACEMENT OF LOST CULTURAL OBJECTS
Proposed Soviet Amendments
(Reference: SC-272/12)Note by the Secretary General

At the 130th meeting of the Steering Committee, 11 January 1949, the Soviet member submitted the following amendments to the proposed policy on Replacement of Lost Cultural Objects (SC-272/12):

- a. Delete paragraph 3 in its entirety and substitute;
- "3. The Japanese Government should replace cultural objects which were in national and public use."
- b. Delete paragraph 7 c.

NELSON T. JOHNSON
Secretary General

SC-272/13

FU 894.403/3-1749

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March 29, 1949

Dear Mr. Voorhees:

As you may know, there have been several exchanges of letters between our two Departments on the subject of replacement of cultural objects lost or destroyed as a result of Japanese aggression. I have reference particularly to a letter of July 28, 1948, from Secretary Royall to Secretary Marshall; Secretary Marshall's reply of September 18; a letter of the same date from Assistant Secretary Saltzman to General Eberle; Secretary Royall's reply of October 26 to Secretary Marshall; a letter of December 8 from Mr. Saltzman to Under Secretary Draper; and Mr. Draper's reply of December 8.

This letter is to advise you that the Department of State has decided to instruct the United States Representative on the Far Eastern Commission to oppose SC-272/12, Replacement of Lost Cultural Objects, or any other policy proposal on this subject which is or may be placed before the Commission, and to inform the Commission that it is the view of this Government that this matter is not one which can properly be dealt with during the occupation but should be considered on its merits if introduced at the time of the peace conference. A copy of this instruction, which it is assumed, in light of the views expressed by Secretary Royall in his letters of July 28 and October 2, 1948, will be acceptable to the Department of the Army, and which will go forward in a few days, is enclosed.

Faithfully yours,

Signed

W. Walton Butterworth
Director for Far Eastern Affairs

Enclosure:

Copy of Instruction
to General McCoy.

The Honorable
Tracy S. Voorhees,
Assistant Secretary of the Army.

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3/18/49

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P. M. K.*

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MEMORANDUM FOR UNITED STATES MEMBER, FAR EASTERN COMMISSION

SUBJECT: SC-272 12, "Replacement of Lost Cultural Objects".

You are authorized to inform the Commission that it is the view of the United States Government that the matter of replacement of cultural objects lost or destroyed as a result of Japanese aggression is one which, in contradistinction to the restitution of cultural objects, cannot properly be dealt with during the occupation. It is the position of the United States that proposals for a program of replacement of cultural objects should, as has been the case in Europe, be considered on their merits if introduced at the time of the peace conference. You are accordingly instructed to oppose SC-272/12, "Replacement of Lost Cultural Objects", or any other policy proposal on this subject which is or may be placed before the Commission.

You may at your discretion advise the Commission that the United States Government appreciates the profound sense of injury of those of its Allies which suffered looting of their cultural heritage at Japan's hands, and that the above position arises not out of lack of sympathy for these nations in their loss but only from the conviction that proposals for partial redress of the loss through replacement from Japan's cultural store cannot properly be acted upon in advance of the peace conference.

/s/ W. Walton Butterworth
Director for Far Eastern Affairs

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3/18/49

DIVISION OF
NORTHEAST ASIAN AFFAIRS

APR 5 1949

DEPARTMENT OF STATE

1 April 1949

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Hon. W. Walton Butterworth
Director for Far Eastern Affairs
Department of State
Washington 25, D. C.

Dear Mr. Butterworth:

I acknowledge with thanks on behalf of Mr. Voorhees your letter of March 29th advising us of the instructions which the Department of State has decided to issue to the United States Representative on the Far Eastern Commission in respect to SC-272/12.

The Department of the Army notes with definite satisfaction the position which the Department of State is taking on this matter.

Very sincerely yours,

SIGNED
Robert R. West
Deputy to
Assistant Secretary of the Army

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April 11, 1949

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MEMORANDUM FOR UNITED STATES MEMBER, FAR EASTERN COMMISSION

SUBJECT: SC-272 12, "Replacement of Lost Cultural Objects".

You are authorized to inform the Commission that it is the view of the United States Government that the matter of replacement of cultural objects lost or destroyed as a result of Japanese aggression is one which, in contradistinction to the restitution of cultural objects, cannot properly be dealt with during the occupation. It is the position of the United States that proposals for a program of replacement of cultural objects should, as has been the case in Europe, be considered on their merits if introduced at the time of the peace conference. You are accordingly instructed to oppose SC-272/12, "Replacement of Lost Cultural Objects", or any other policy proposal on this subject which is or may be placed before the Commission.

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WLB
W. Walton Butterworth
Director for Far Eastern Affairs

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To the

Acting United States Political Adviser for Japan,
Tokyo.

The Secretary of State acknowledges receipt of despatch No. 727 dated November 12, 1948, from the Office of the Political Adviser, entitled "Return to Japan of Swords Classified as Objects of Art", which invited the Department's attention to a request by the Civil Information and Education Section of General Headquarters, Supreme Commander for the Allied Powers, for the Department's assistance in effecting the return to Japan of certain swords which are classified as art objects and which have presumably been taken to the United States by United States military personnel.

894.403/4-2149

~~Although the swords mentioned in the despatch under reference were captured in the Philippines during the war, and were received in good faith and were not the property of the public government of Japan, but were captured from individuals who were not the original recipients of the swords, it appears to have been received in good faith. Inasmuch as the~~

~~original recipients of the swords are now widely scattered, some of them having left the armed services, it is not unlikely that many of the weapons have subsequently changed hands. From the practical standpoint it is obvious that to trace, secure and return to Japan such weapons would be an exceedingly expensive and time-consuming task.~~

The Department has given careful consideration to all aspects of this matter and has reached the conclusion, in which the Department of the Army concurs, that it is neither expedient nor practical to attempt to effect the return of these swords.

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To the

Acting United States Political Adviser for Japan,
Tokyo.

The Secretary of State acknowledges receipt of despatch No. 727 dated November 12, 1948, from the Office of the Acting Political Adviser, entitled "Return of Swords Classified as Objects of Art," which invited the Department's attention to a request by the Civil Information and Education Section of General Headquarters, Supreme Commander for the Allied Powers for the Department's assistance in effecting the return to Japan of certain swords which are classified as art objects and which have presumably been taken to the United States by United States military personnel.

Although the swords mentioned in the despatch under reference may have great artistic merit and may be regarded by the Japanese government as cultural objects, they may also be regarded as objects for inculcating militarism in view of the unique position occupied by the sword in Japanese culture. The United States Government is, of course, pledged to fulfill the terms of the Potsdam Proclamation which stipulates inter alia that "the Japanese government shall remove all obstacles to the revival and strengthening of democratic tendencies among the Japanese people". The return of the weapons, ~~particularly at a time when the United States is being charged with rearming Japan,~~ might conceivably give rise to unwarranted suspicion in many places, that the United States is abandoning the policy outlined at Potsdam. Furthermore, the return of the swords might be interpreted by the Japanese themselves as indicating the abandonment of such policy.

While early Japanese swords are fine examples of craftwork in metal, they may also under international law be regarded as legitimate trophies of war. The weapons do not appear to have been "wrongfully taken" from public, government or Imperial collections, nor from any individual. The holders received the swords in good faith and can hardly be accused of "cultural despoliation". There would, therefore, in this respect, seem to be no blemish on the record of the United States armed forces in Japan. Inasmuch as the original recipients of the swords are now widely scattered, it is not unlikely that many of the weapons have subsequently changed hands. From the practical standpoint it is obvious that to trace, secure and return to Japan such weapons would be an exceedingly expensive and time-consuming task.

The Department has given careful attention to all aspects of this matter and is of the opinion that it is neither wise nor practical to attempt to effect the return of these swords.

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DEPARTMENT OF THE ARMY
Office, Assistant Secretary
Washington, D.C.

17 March 1949

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Honorable Robert Murphy
Acting Director,
Office of German and Austrian Affairs
Department of State

Dear Mr. Murphy:

Mr. Saltzman's letter to Mr. Voorhees of 4 March 1949, which forwarded a copy of despatch #727, dated 12 November 1948, from the U.S. Political Advisor for Japan, entitled "Return of Swords Classified as Objects of Art" has been received and considered.

The Department of the Army concurs in the view of the Department of State that the swords in question were given and received in good faith and that from the practical standpoint, it would be an exceedingly expensive and time-consuming task to trace, secure and return such weapons to Japan. It is doubtful if a majority of the combat soldiers and marines to whom the swords were issued in 1945 are still in the armed services. Even if it were possible to trace the swords, the possessors would be unlikely to give them up because of any consideration for Japanese sensibilities. It is believed that under the circumstances any attempts to aid the Japanese through court actions would be equally futile.

It is recommended that the Political Advisor be informed that the request of the Civil Information and Education Section is considered to be impractical.

For Assistant Secretary of the Army:

/s/t/ R. W. Porter, Jr.
Colonel, General Staff Corps
Executive Officer

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March 4, 1949

My dear Mr. Secretary:

There is enclosed a copy of despatch No. 727, dated November 12, 1948, from the Office of the Acting United States Political Adviser for Japan, entitled "Return of Swords Classified as Objects of Art," which invited the Department's attention to a request by the Civil Information and Education Section of General Headquarters, Supreme Commander for the Allied Powers, for the Department's assistance in effecting the return to Japan of certain swords which are classified as art objects and which have presumably been taken to the United States by United States military personnel. You will note the assertion of the Civil Information and Education Section that the swords in question "were taken in violation of special regulations and a later General Headquarters order for the protection of these swords and their retention by their Japanese owners."

The Department is inclined to the view that the swords in question were given and received in good faith and that from the practical standpoint, it would be an exceedingly expensive and time-consuming task to trace, secure and return such weapons to Japan.

Before replying to the Acting Political Adviser for Japan the Department would appreciate having your views as soon as possible.

Sincerely yours,

Charles E. Saltzman
Assistant Secretary

Enclosure:

Copy of despatch No. 727 from
Tokyo, dated November 12, 1948The Honorable
Tracy S. Voorhees,
Assistant Secretary of the Army.POS/J:DCBuchanan/rk 2/28/49 POS NA FE O
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AC/R

A true copy of the signed original. *DB*

May 9, 1949

In reply refer to NA

RESTRICTED

MEMORANDUM FOR THE U. S. MEMBER FAR EASTERN COMMISSION

With reference to the query of the Chinese Member on April 18 & 26, 1949 regarding the statement of the United States Member on Replacement of Lost Cultural Objects, the United States Member is authorized to make the following statement:

"In response to the statement by the Chinese Member on April 18 & 26, 1949, the United States Government desires to clarify the considerations underlying the United States view submitted on April 12 that the matter of replacement of lost cultural objects by other similar cultural objects 'cannot properly be dealt with during the occupation.'

"It has long been accepted in international law and practice that cultural objects occupy a special status. It is believed that the Chinese Delegation will agree that Japanese cultural objects cannot legally be appropriated as war booty or as reparations. It is felt that, in view of the body of world opinion which has long placed cultural objects in a class apart, the question of replacement of lost cultural objects with similar Japanese objects should be considered in connection with the peace settlement, and that a replacement program should not be enforced by the victorious powers during the occupation period. All of the historic precedents for such replacement have been provided in peace treaties.

"It is further believed that a program of forcible removal of Japanese art treasures for replacement purposes, if it should be ultimately decided upon, would arouse less bitterness and resentment among the Japanese and less criticism by world opinion, if it were agreed in connection with a peace settlement, than if it were arbitrarily imposed during the military occupation."

Dist.

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W. Walton Butterworth
Director for Far Eastern Affairs

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A true copy of
the signed original.
DB

May 9, 1949

In reply refer to
NA

RESTRICTED

MEMORANDUM FOR THE U. S. MEMBER
FAR EASTERN COMMISSION

With reference to the query of the Chinese Member on April ~~12~~²⁶, 1949, regarding the statement of the United States Member on Replacement of Lost Cultural Objects, the United States Member is authorized to make the following statement:

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W. Walton Butterworth
Director for Far Eastern Affairs

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Supreme Commander for the Allied Powers,

Tokyo,

200
Info: Army Chief of Staff.

For Office Acting Political Adviser.

Following Chicago Daily News story, Tokyo dateline, May 11:
"The case of the 30 precious Japanese swords, which disappeared into GI duffel bags as souvenirs, has finally been closed.

After more than three years and a small mountain of paper work the American State Department has ruled that it isn't practical to attempt to return the swords to their rightful owners.

The Japanese government had requested the return of the swords because they were "national treasures" and their removal from the country was contrary to international law.

Some of the swords in question are more than 500 years old. Prized only as souvenirs in America, in Japan they have the value of rare old paintings."

Department's instruction this matter dated April 21, classified confidential and should not have been disclosed by either U. S. or Jap officials. Department desires immediate investigation source leak prelude possible corrective statement.

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MAY 12 12:45 P.M.

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INCOMING AIRGRAM

DEPARTMENT OF STATE DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

JUN 7 - 1949
DEPARTMENT OF STATE

No action necessary

AIRGRAM

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CONFIDENTIAL JUN 7 10 07 AM '49

FROM: USPOLAD, Tokyo

(For Department Use Only) SECTION

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June 6, 1949 12:43 p.m.

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Secretary of State,
Washington.

A-130, May 27, 1949.

Reference is made to Department's confidential telegram no. 200, May 12, 1949, 7 p.m., transmitting press report publicizing Department's instruction no. 68, April 21, 1949, regarding Japanese swords taken to United States as souvenirs.

Department's request for investigation has been referred to Civil Information and Education Section, GHQ, SCAP, which to date has made no reply.

It is known that Keyes BLEECH, Chicago Daily News Tokyo correspondent, is a close friend of several CIE officials concerned with this matter and that one of these officials (C. P. GALLAGHER, fine arts adviser) lives on part-time basis with Beech. Leak of Department's instruction no. 68 could have come from this source.

CIE is also known to take open view regarding press prerogatives and may feel in this instance that leak to press would serve double purpose of showing concerned Japanese SCAP's interest in their behalf and encouraging present American holders of swords to return them to Japan. It is known that several CIE officials feel strongly that at least token effort should be made to obtain return of these national art objects.

Department will be informed in premises when reply from CIE received or when other information available.

HUSTON

236/631
RBFinn:cgf

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894.403/5-2749

JUN 9 1949

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Action: POS Info: SS P G FE OLI CIA ARMY CON DCR

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JUN 10 4 17 PM '49

File - no further action Rec'd June 10, 1949 a.m. PUBLIC AFFAIRS OVERSEAS PROGRAM STAFFO Japan Branch

RECORDS & DISTRIBUTION FROM : Tokyo TO : Secretary of State NO : 201, June 9

JUN 14 1949

DEPARTMENT OF STATE

FROM SCAP TOKYO TO STATE DEPARTMENT FOR ACTION INFO CSUSA (CITE CX 50651).

Reference State serial 200, May 12 concerning Japanese swords.

Investigation has failed to disclose source of any leak of information contained in Department's instruction of April 21. Civil information education section in checknote 7 June also suggests that no corrective statement be made since article quoted has had no apparent repercussions in Japan.

HUSTON

SW:KC

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JUN 16 1949

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~~AA - AIA~~

This seems OK
to me - Please
discuss it with
POS/J and then
drop a reply for
my signature.

JM

DIVISION OF
NORTHEAST ASIAN AFFAIRS
AUG 29 1949
DEPARTMENT OF STATE

JMA
SEP 9 1949
FE

JOSEPH C. GREW

MANCHESTER
MASSACHUSETTS

August 25, 1949

Office of
FAR EASTERN AFFAIRS
AUG 29 1949
DIRECTOR
Department of State

JOHN
file

Dear Walt:

I don't happen to know who is at present holding the Japan desk but shall be obliged if you will kindly refer this letter to him if he is the right officer to consult.

I have been asked to accept the chairmanship of a committee set up for the purpose of bringing over to the United States a loan exhibit of Sesshus and other ancient Japanese paintings which would be shown in various cities here. Dr. Edgell, Director of the Boston Museum of Fine Arts, writes me that he is very much intrigued about this proposed exhibit and says that if the paintings should include Prince Mori's roll, that alone would make the exhibit epochal. The present members of the committee which I believe is being expanded are given on the enclosed paper. All I wish to know is whether the Department sees any objection to our endeavoring to arrange such an exhibit in the United States and also whether it sees any objection to my taking the chairmanship. There are sometimes niggers-in-the-woodpile in these matters which are not obvious to those outside the government and it would be very helpful to me to be forewarned, off the record if necessary, of any considerations or obstacles which might make it unwise for me to associate myself with this project.

894.403/8-2549

With many thanks in advance,

Sincerely yours,

Joseph C. Grew

5731

Honorable W. Walton Butterworth
Assistant Secretary of State
Washington, D. C.

FILED
SEP 20 1949

DGR, NE Unit

Enclosure: List members of Committee for proposed Japanese Art Exhibit.

Final. *mf*
Rev. *[Signature]*
Dist. *[Signature]*

CS/H
894.403/8-2549

SEP 9 1949

Dear Joe:

I have received your letter of August 25, 1949 in which you request our views as to the advisability of arranging an exhibit of Japanese art in the United States and of your assuming the chairmanship of such an undertaking.

I perceive no objection to either proposal. As you know it is the view of the Department that every effort should be made to initiate and revive contacts with Japan, cultural or otherwise, that would have the effect of breaking down the barriers of suspicion and bitterness that were created during the war. It is my feeling that the arrangement of such an art exhibit in this country under your leadership could not but help to accomplish this end.

Sincerely yours,

W. Walton Butterworth

The Honorable
Joseph C. Grew,
Manchester, Massachusetts.

894.403/8-2549

SEP 9 1949

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9/8/49

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Mr. Schuler by *[Signature]*

CS/H

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