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File 39

LAA-B2

Feb. 8, 1951

Information for: Governor of To, Do, Fu or Prefecture

From : Deputy Chief of the Local Autonomy Agency

Subject : On the Treating Measures for Cases concerning the Unfair Labor Practices unsettled by the Labor Relations Commission

As to the subject, I informed you, by "On the Enforcement of the Local Public Service Law (LAA-B2, Dated Jan. 10, 1951)" and in the recent block meeting of the chiefs of sections concerned on the enforcement of the Local Public Service Law, a effect that those cases which have been complained by individual shall be brought to a close on February 13. But, a question being raised against that treating measures in national agencies concerned, it has been decided, as a result of consultation with the Labor Ministry, that these cases shall be proceeded continually, as well as the cases complained by trade unions are, during the trade union concerned continues to be in existence as the trade union under the Trade Union Law in accordance with the provisions of paragraph 14 of Supplementary Provision of the Local Public Service Law. So, I will give a notice of such effect.

Then, I will solicit you to inform such effect to every cities, towns and villages under your control.

Copy to Economics

File 39

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File 39

地自乙発第四二号
昭和二十六年二月八日

地方自治庁次長

都道府県知事殿

労働委員会に係属中の不当労働行為に関する事件の取扱について

標記については、昭和二十六年一月十日附地自乙発第三号「地方公務員法の実施について」及び過般の地方公務員法実施に関する関係課長ブロック会議において、個人提訴のものは、二月十三日以降は打切られる旨の連絡を行ったが、その後この点に関し関係当局の間に疑義を生じたのでこれが取扱について更に労働省と協議の結果、個人提訴のものについても組合提訴の場合と同様地方公務員法附則第十四項の規定に基き当該組合が、労働組合法上の労働組合として存続する間は、なお労働委員会に係属するものと解して取り扱うこととしたので、御通知する。

なお、管下市町村に対しても、この旨御示達をお願いする。

To The Governor
Metropolis, district or prefecture

Chi Ji Otsu Hatsu No. 42
8 February, 1951

How to handle the case concerning unreasonable labor action, now in charge of the Labor Relation Board.

With respect to the headed matter, we came to an agreement by our Chi Ji Otsu Hatsu No. 3 "On the enforcement of the Local Public Service Law" dated 10 Jan., 1951 and in the "block" conference some time ago of Chiefs of sections concerned regarding the enforcement of the Local Public Service Law that the suit instituted by an individual shall be discontinued after 13 Feb. Later, however, some doubts were entertained on this point by competent authorities. For this reason, we had another conference with the Labor Ministry and have decided that the suit instituted by an individual shall be construed as to be placed in charge of the Labor Relation Board in the same way as that instituted by a union and shall be handled accordingly as long as the union concerned continues to exist as a labor union

provided for in the Labor Union Law, in accordance with par. 14 of the Supplementary Rule of the Local Public Service Law.

We hope you will convey the effect of this notification to a city, town or village under your jurisdiction.

Vice-Chief
Local Autonomy Agency.

file 39

GENERAL HEADQUARTERS
FAR EAST COMMAND
Public Information Office

Press Release: 3 May 1949

GENERAL MACARTHUR'S MESSAGE ON 2D ANNIVERSARY OF CONSTITUTION

Today, on the occasion of the second anniversary of the New Japanese constitution, General MacArthur issued the following message:

TO THE PEOPLE OF JAPAN:

"Today marks the second anniversary of the birth of New Japan - a Japan conceived in the impoverished aftermath of war's violence, seeking political stability and social progress through concepts which hold to the primacy of individual liberty, equal opportunity, and personal dignity.

"These have been fruitful years as you progressively have come to understand and live by the new and enlightened constitutional precepts. Your basic laws have been recast and your public institutions redesigned. Your selected architects and builders have worked arduously to fabricate a citadel of freedom from those imperishable human norms drawn from experience of the ages. And your house now rests upon a political and social foundation which, if well fortified by the human spirit, should remain impervious to the ideological stresses and strains which threaten all about you.

"Your farmers now own the soil they and their forebears long have tilled--your workers now have voice in the conditions of their employment--and your women now exercise influence upon the political and social course of Japan's destiny, all beneficiaries of human rights and fundamental liberties rendered inalienable by your constitutional mandates. These changes in the moral values of Japanese life have brought about a regeneration of the Japanese edifice. This edifice, if it firmly stands as an impregnable barrier against the forces bent upon its destruction, will strengthen the faith of all peoples in the spirituality of human freedom. And in proportion as you value this freedom you must understand, cherish and preserve it.

"The Allied purposes enunciated at Potsdam in many essential respects have been fulfilled, and you have worked diligently and faithfully to discharge your surrender commitments. That Allied forces still occupy your native soil is thus by no means due to fault of yours since the inception of the Occupation, but rather to events and circumstances elsewhere beyond your capacity to influence or control.

"In these two years the character of the Occupation has gradually changed from the stern rigidity of a military operation to the friendly guidance of protective force. While insisting upon the firm adherence to the course delineated by existing Allied policy and directive, it is my purpose to continue to advance this transition just as rapidly as you are able to assume the attending autonomous responsibility. Thus progressive latitude will come to you in the stewardship of your own affairs.

"To such end and to insure the continuity of a calm and well ordered progress, I call upon every Japanese citizen on this anniversary of Japan's rebirth, to safeguard the commonweal by unrelaxed vigilance against the destructive inroads of concepts incredulous of human wisdom, prejudicial to personal dignity, and suppressive of individual liberty. There can be no higher human purpose."

DOUGLAS MacARTHUR

File
39

LAA-B2

Feb. 8, 1951

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File 39

-~~JointLetter~~

Joint letter of the Fishery Agency & S.P.B.

昭和二十五年十二月十二日

昭和二五年水第六二七二号

特調乙発第九二三号

水産庁長官

特別調達庁長官

青森、茨城、千葉、東京、神奈川、長崎、福岡

鳥取、島根、山形

各知事

運合軍ノ漁業者ノ被ル損失補償ニツイテ

標記ニ関シテハ、去ル七月二十一日閣議ニオイテ、補償スルコトノ

決定ヲ、更ニ第九臨時国会ニオイテ、この予算措置

決定ヲ見タ旨、今般別紙文付要綱ニヨリ補償金

外務省

を交付することに至る次第であるが、視察漁業者の現況に鑑み、速かに交付事務を処理すると共に、これが取扱いについては遺憾の点、換致されたい。

右通牒する。

なほ、この補償金の性質上左記事項についても特に留意願いたい。

記

一、要綱第一の漁業者とは漁業事務従事者をも含むものであること。

二、補償金は該当漁業者を債主とするものであること。

外務省

連合国軍の演習により漁業者の被る損失補償金交付要綱

一、交付の相手方）

この補償金は、昭和二十一年度から昭和二十四年度に至る期間において連合国軍の演習（爆撃、砲撃、上陸演習等のため一定の水面を専ら占用して行われるもの）のため漁場の使用を制限されたことにより、当該漁場を主たる操業の場所としていた漁業者が漁業操業上直接被害を受けた場合、損失の程度によりその漁業者に交付する。

二、

一補償金の決定方法）

国は、予算の範囲内において、都道府県知事から報告された当該漁場における平年漁獲高に対する減少高その他損失の状況を勘案し、別紙算定式により計算して、各都道府県ごとに補償金額を定める。

三、

都道府県知事は、要綱二により補償金額を定められたときは、当該漁場ごとに関係ある地元地区を定め、地元地区内に居住する要綱一に該当する漁業者（以下該当漁業者という）から一定の様式に基いて作

成された損失補償金交付申請書を提出させるものとする。

2. 都道府県知事は該当漁業者から選定された代表者及び都道府県関係吏員二名をもつて地元地区ごとに構成する漁業被害調査委員会の意見をきいて、前項の申請書を審査し該当漁業者別に補償金額を決定するものとする。

3. 前項の補償金額の決定にあたつては、該当漁業者が昭和二十四年度までに支給された失業保険金はこれを控除するものとする。

4. 都道府県知事は、補償金額の決定に至るまでの経過を記載した書面を作成し、これを保存しておくものとする。

一 補償金の予算の示達方法

四 国は、要綱二により都道府県ごとに定めた補償金に対して予算上の審査をした上、次の科目をもつて都道府県へ示達する。

なお、この示達に関する手続きは別に調達庁長官の定めるところに

科目	
総理府所管	
部局等	特別調査庁
款	終戦処理費
項	終戦処理業務費
目	終戦処理業務補償費
	補償費

よろ。

（別　紙）

算　定　式

(1)　当該年度所得が平年所得の20％以下のとき

魚価×平年　獲数量×$\frac{42}{100}$×$\frac{60}{100}$

(2)　当該年度所得が平年所得の20％を超えるとき

魚価×平年漁獲数量×$\frac{42}{100}$×$\frac{80}{100}$－魚価×当該年度漁獲数×$\frac{38}{100}$

備　考

魚価は各年度の公定価格（公定価格のない魚種については時価）生産者価格とする。

（別　紙）

算　定　式

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魚価×平年漁獲数量×$\frac{42}{100}$×$\frac{60}{100}$

(2) 当該年度所得が平年所得の20%を超えるとき

魚価×平年漁獲数量×$\frac{42}{100}$×$\frac{80}{100}$－魚価×当該年度漁獲数×$\frac{38}{100}$

備考

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(2) 当該年度所得が平年所得の20%を超えるとき

魚価×平年漁獲数量×$\frac{42}{100}$×$\frac{80}{100}$－魚価×当該年度漁獲

12 Dec, 1950

1950 Sui no. 6272

Toku Cho Otsu no. 923

To the Governor

Aomori, Ibaraki, Chiba, Tokyo, Kanagawa,
Nagasaki, Fukuoka, Shimane, Tottori, Yamagata

Re Indemnification for Damage Sustained by Fishermen, due to Bombing and Gunnery Practice held by the Allied Forces.

The Cabinet meeting 21 last July decided upon compensation and furthermore the budget was passed in the 9th extraordinary Diet session. It has now been decided to pay indemnity money in accordance with the outlines stated in accompanying paper. In view of the existing condition of those injured fishers, we hope that you will take every necessary steps for payment without delay, leaving nothing to be desired.

At the same time, your special attention is drawn to the following items in the light of the nature of the indemnity money

1. "Fishers" referred to in the first paragraph of the outlines shall include persons engaged in office work for fishing industry.
2. As for payment of indemnity money, fishers concerned shall be obligees.

Director-General of the Marine Products Agency
Director-General of the Special Procurement Agency

Outlines for payment of indemnity money for loss suffered by fishers due to the battle practice held by the Allied forces.

(The other party to payment)

1. This indemnity money will be paid in proportion to the extent of damage in the case where fishers who had the fishing ground concerned as the principal place of their operation have suffered direct damage in their fishing work as a result of restriction placed upon the use of their fishing ground due to the military exercise by the Allied forces (held in certain occupied area of water surface for air bombing, bombardment and landing practice) during the period between 1946 and 1949 fiscal year.

2 The Government will fix the amount of indemnity money, within the limit of budget, to be allotted to each metropolis, district and prefecture by calculating it according to the formula shown in the annexed paper and studying the rate of decrease in catch in the fishing ground concerned against that in normal year on the basis of reports received from the Governor of metropolis, district or prefecture.

3. (1) When the amount of indemnity money is fixed in accordance with paragraph 2 of the outlines, the Governor of metropolis, district or prefecture shall appoint districts in the locality connected with the fishing ground concerned and cause fishers residing in the district who come under paragraph 1 of the outlines (hereinafter to be referred to as fishers concerned) to present an application for payment of indemnity money made out in a certain regular form.

(2) The Governor of metropolis, district or prefecture shall, after listening to the opinion of the Military Exercise Damage Investigation Committee to be formed in each district which consists of representatives elected from among fishers concerned and two local officials of metropolis, district or prefecture concerned, examine the application referred to in the preceding paragraph and determine the amount of indemnity money.

(3) Upon determining the amount of indemnity money mentioned in the preceding paragraph shall be deducted therefrom the unemployment insurace money which the fishers concerned have received in and before 1949 fiscal year.

(4) The Governor of metropolis, district or prefecture shall make out documents giving the account of all which

have passed up to the decision of indemnity money and preserve such documents.

(The method of giving official notice of the estimate for indemnity money)

The Government will, after the budgetary examination of the amount of indemnity money fixed for each metropolis, district or prefecture in accordance with paragraph 2 of the outlines, officially give notice to metropolis, district and urban or rural prefectures, under the following title of account.

As for the formalities concerning this notice, those to be fixed by the Special Procurement Agency shall be conformed to.

Title of Account

Division or bureau under
Jurisdiction of the Prime Minister's Office — Special Procurement Agency.
Division — War Termination Expenses
Section — War Termination Business Expenses
Paragraph — War Termination Business Compensation Expenses
Item — Compensation Expenses.

A.

(Accompanying paper)

Formula for calculation

(1) In the case where income in the year concerned is less than 20% of that in normal year.

Fish price × Quantity of catch in normal year × $\frac{42}{100}$ × $\frac{60}{100}$

(2) In the case where income in the year concerned is more than 20% of that in normal year.

Fish price × Quantity of catch in normal year × $\frac{42}{100}$ × $\frac{80}{100}$ − Fish price × Quantity of catch in the year concerned × $\frac{38}{100}$

Remarks

Price of fishes to be officially fixed price (Fishes without officially fixed price to be the current price) producers price.

File 39

Public Opinion Survey on Human Right

Upon request from the Civil Liberties Bureau of the Attorney-General's Office the National Public Opinion Reserch Institute conducted a survey on human right for the period extending from 30 Oct. to 11 Nov.

The survey was conducted on two groups of 450 persons not younger than 20 years respectively, picked up from among the inhabitants in Tokyo and in the rather backward area.

The result of the survey is as follows:

1. How many of them know the word human right and understand the existence of the Civil Liberties Bureau?

		cities	villages
a.	Don't know the word or meaning of the human right	13%	45%
b.	Know the existence of the Civil Liberties Bureau and also will report to the Civil Liberties Bureau when there is an infringement upon human right.	10%	4%
c.	Know about the Civil Liberties Bureau.	3%	1%

2. What do they mean by human rights?

a.	Consider it as the pressure from government officials or bad treatment in the investigation.	44%	13%
b.	Domestic matters.	18%	7%
c.	Something backed up by the boss.	8%	14%

3. How many persons have known instances of infringement upon human rights? 8% 4%

39

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Civil Affairs Section
APO 500

Burke
BURKE/ls
HDP
WPS

095 ( )CAS-L

SUBJECT: Transmittal of Translations of Letters from the Director of the Local Autonomy Agency

TO: Chief, Chugoku Civil Affairs Region, APO 182
Chief, Hokkaido Civil Affairs Region, APO 309
Chief, Kanto Civil Affairs Region, APO 500
Chief, Kinki Civil Affairs Region, APO 15
Chief, Kyushu Civil Affairs Region, APO 1105
Chief, Shikoku Civil Affairs Region, APO 1050
Chief, Tohoku Civil Affairs Region, APO 547
Chief, Tokai-Hokuriku Civil Affairs Region, APO 710

The attached are translations of letters from the Director of the Local Autonomy Agency addressed to the Governors of Metropolis, District or Prefecture in connection with advice given by the Local Administration Investigation Committee concerning re-distribution of administrative affairs, and on the report on redistribution of administrative affairs and rationalization of scope of towns and villages. They are forwarded for information.

FOR THE CHIEF, CIVIL AFFAIRS SECTION:

2 Incls
1. Ltr, Chi Ji Otsu Hatsu No. 14
2. Ltr, Chi Ji Ko Hatsu No. 4

J. A. O'BRIEN
CSO USA
Adm Off

LEG & GOV'T FILE

30 JAN 1951
A 976

Chi ei Otsu Hatsu No. 14
13 January, 1951

To: The Governor of Metropolis, District or Prefecture

Report on redistribution of administrative affairs and rationalization of scope of towns and villages.

We believe that you have already studied the question of redistribution of administrative affairs and the suitable scope of towns and villages. The Local Administration Investigation Committee 22 December submitted its advice to the Cabinet and the Diet through the Cabinet. In this connection, the Director of the Local Autonomy Agency today sent out a report.

With respect to the redistribution of administrative affairs, the Government is now carefully studying the matter as various relevant laws and regulations are subject to revision or abolition with realization of the contents of the advice. Naturally, therefore, a fairly long time would be required before the advice gets into shape. We hope that you would carefully study the question in every detail and make thorough preliminary arrangements. Furthermore, the advice, when given effect will seriously affect the authority of every ministry. From this viewpoint we are afraid that we shall no doubt encounter various difficulties on the road for its realization. We hope, therefore, that all people concerned will do their best in line with the advice.

As for the rationalization of the scope of towns and village, we are glad to say that the time is getting ripe for its realization. Even at the present moment, those weak and small towns and villages are suffering from mounting heavy expenditures and heavy burden of business. Therefore, the rationalization of the scope of towns and villages is an urgent question for the establishment of local autonomy. As it is anticipated that with the realization of the advice, a city, town or village will rise in its position and will have to shoulder correspondingly much heavier obligations, it is most important to make every possible preparation to cope with the situation.

In view of the general election of the chief of local public body and assemblymen to be held in the spring next year, it is now high time to execute the rationalization of the scope of towns or villages. So, the Government hopes that all cities, towns and villages voluntarily take necessary measures in accordance with instructions to be given by the competent authorities of a metropolis, district or prefecture. To achieve this objective it is advisable that a city, town or village creates under your supervision a council which will be composed of mayor, assemblymen, representatives of the prefectural assembly and men of special knowledge and experience and thus precipitate the rationalization of the scope and its smooth execution.

Local Autonomy Agency
Director

Incl 1

Chi-Ji-Ko-Hatsu No. 4

13, January 1951

To : Governor of Metropolis, District or Prefectures

From : Local Autonomy Agency Director

Subject: Re Advice given by the Local Administration Investigation Committee concerning redistribution of administrative affairs. (report)

The recent advice given by the Local Administration Investigation Committee contains rational readjustment of distribution of administrative affairs throughout the central and the local governments. Every effort is now being made by the Government for investigation for its realization. When it has been realized, a city, town or village will rise in position. It is essential that at this time when local election will take place early spring this year, the realization of scope of a city, town or village will be effected by the dissolution, creation, division or union of a town or village and consolidation of fundmental system of the local public entity will be carried out. The best measures to be taken for attaining this objective are to create a committee in every metropolis, district or prefecture which will strive for its realization.

Furthermore, what we want to mention in addition to the above is a recently much discussed question of the full number of members of the local assembly. In this respect, no legislative measures seem to be taken for the present. However, there are some cities, towns or villages where the full number of assemblymen is to be changed due to the increase or decrease of population. From this standpoint, we consider it opportune to independently determine the full number of assemblymen prior to the election.

As the result of our talk with the local autonomy committee, we have come to the conclusion that the best wayis to lay the question before each city, town or village for its thoughtful consideration. We hope, therefore, you will take up the matter with those concerned and do your best on the line laid down hereby.

Incl 2

39

File Opinions

HEADQUARTERS
KANTO CIVIL AFFAIRS REGION
APO 500

JGF/rk

KLG 091.7

22 January 1951

SUBJECT: Problems of Re-Armament

2495

TO: Chief
Civil Affairs Section
General Headquarters
Supreme Commander for the Allied Powers
APO 500

The attached translation from the "Mainichi Shinbun" dated 18 January 1951 pertaining to re-armament is transmitted for information in accordance with telephone conversation between Dr. Featherstone, Legal & Government Section, this headquarters and Mr. Porter, your headquarters.

FOR THE CHIEF:

1 Incl
Transl of Art,
Mainichi, dtd 18 Jan 51

GEO. B. NIBLOCK JR
Lt. Col., Infantry
Deputy Chief

HEADQUARTERS
KANTO CIVIL AFFAIRS REGION
APO 500

JGF/rk

KLG 091.7

22 January 1951

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FOR THE CHIEF:

1 Incl
Transl of Art,
Mainichi, dtd 18 Jan 51

GEO. B. NIBLOCK JR
Lt. Col., Infantry
Deputy Chief

19 January 1951 rk

UNIFIED INTERPRETATION OF PROBLEM OF REARMAMENT BY CABINET MEMBERS:
(The Mainichi Shinbun - 18 January 1951)

The 10th session of the Diet now in recess will be reopened on Jan. 20th. Expecting questions concerning rearmament would be put by the opposition at the outset, the government authorities tried to establish a unified interpretation of Article 9 of the Constitution. For this purpose Mr. Sato, the director of the Legal Opinions Bureau on 17th called on GHQ to exchange opinions with the GHQ authorities. The result was immediately reported to the Attorney General Ohashi. The present unified interpretation made by the authorities of the Attorney General's Office is to the following effect:

"The clause, 'In order to accomplish the aim of the preceding paragraph' modifies the clause 'Aspiring sincerely to an international peace'. Therefore it is a wrong interpretation that 'The Japanese people forever renounce war as means of settling international dispute.' Therefore, under the provision of Article 9, any type of war potentials will never be maintained. This interpretation has never been changed since the Constitution was first promulgated."

The Cabinet Meeting is said to investigate or approve the above interpretation prior to the session of the Diet.

As to the right of self-defense, Attorney General Ohashi on the 17th told newspapermen to the effect as follows:

"Under the provisions of the International Law a nation has been vested with a right of self-defense against a sudden, unlawful invasion. However, it must be provided by a national law how to exercise such right."

It is presumed that the government may consider it necessary to amend the Constitution to meet present crisis in case where the public opinion may arise to advocate rearmament.

Reference: The Constitution of Japan
Chapter II
Renunciation of War

Art. 9. Aspiring sincerely to an international peace on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international dispute.

In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized.

Translated by /s/ K.Koiwai 19 Jan 51

Incl.

39

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Civil Affairs Section
APO 500

Nolan
NOLAN/ls
WPS

250.1 ( )CAS-L

SUBJECT: Use of slot machine

TO: Chief
Kanto Civil Affairs Region
APO 500

The following is the opinion of Legal Section concerning slot machines:

"1. Article 185 of the Criminal Code of Japan reads as follows:

> Every person who has gambled or bet for property to be gained or lost by chance shall be fined with a fine not exceeding Yen 1000 or a minor fine, except where the bet is (of things) for momentary amusement.

The Japanese Attorney General's Office has rendered an official opinion that the operation of slot machines for money constitutes the crime of gambling in violation of this article of the Code. A copy of the opinion is attached hereto.

"2. It should be noted that according to the Attorney General's Office opinion operation of slot machines for money as a regular practice also constitutes a violation of Article 186 of the Criminal Code which relates to habitual gambling and opening of gambling houses, and that the slot machines can be confiscated under Article 19 of the Criminal Code. These two articles read as follows:

> Article 186.--Every person who has indulged in gambling or betting as a regular practice shall be punished with penal servitude not exceeding three years.
> Every person who for gain has opened a gambling house or assembled gamblers shall be punished with penal servitude for not less than three months nor more than five years.

> Article 19.--The following articles may be confiscated:
> 1. Objects which have constituted the criminal act;
> 2. Objects which have contributed to the criminal act, or which it was attempted to furnish for use in committing the offence;

LEG. & GOV'T FILE

4 JAN 1951
A7-078

250.1 ( )CAS-L, subj: Use of slot machine

3. Objects originating from, or acquired by means of, a criminal act or objects acquired as a remuneration of criminal act;

4. Objects received in exchange for things mentioned in the preceding number.

Articles may be confiscated only if they do not belong to persons other than the offenders; but if, after the committal of an offence, persons other than the offender have taken possession of any of the articles mentioned in the preceding paragraph being aware of them as such they may be confiscated even if they belong to persons other than the offender.

"3. The Attorney General's Office opinion recognizes that under the exception of Article 185 the crime of gambling is not constituted where a loser is merely caused to pay a fixed sum for something which is intended for momentary amusement, instead of staking money on chance. However, the opinion recognizes that where the slot machine is so constructed that the user cannot foresee what amount of money the machine will yield to him each time he deposits a coin, it constitutes the crime of gambling and does not fall within the exception of Article 185.

"4. Legal Section concurs in the opinion of the Attorney General's Office, which is in accord with the great weight of American authority. Various American courts have formulated different rules in determining when a slot machine is a gambling device, but one which seems to have been accepted very generally is that where one who plays a slot machine stands to win or lose money by chance, the machine is a gambling device. According to the generally prevailing opinion where the return to the player is dependent on an element of chance, a slot machine is a gambling device, even though the player is assured of his money's worth of some commodity and, hence, cannot lose. According to some cases, however, certain slot machines which dispense nothing but amusement or are in reality tests of skill have been held not to constitute gambling devices. Examples of such machines are coin operated slot machines wherein miniature mechanical horses race on a track and which dispense nothing but amusement, machines comprising miniature bowling alleys which have an element of chance but where no betting or offering of prizes on the result of the play is involved, machines in the nature of miniature mechanical baseball games which could be operated after depositing a coin and which involve the exercise of skill.

"5. Tokyo police have expressed the opinion that the operation of slot machines is not a violation of Article 185 of the Japanese Criminal Code. Legal Section, however, points out that the Attorney General's Office is the legal adviser of the Japanese Government and that its opinion in this matter is considered authoritative."

FOR THE CHIEF, CIVIL AFFAIRS SECTION:

1 Incl
Opinion of Attorney General

J. A. O'BRIEN
CWO USA
Adm Off

Re Gambling by Slot Machine

A Crime of gambling under Article 185 of Penal Code is constituted if any person has gambled or waged property upon a matter depending on Chance. The slot machine is a device which by putting a coin into the hole in the upper part of the machine and by turning the handle gives out maximum 10 times the number of coin put into it. It is so constructed that the user cannot foresee what amount the machine will yield to him.

Therefore, in the case of a player and keeper of the slot machine waging money by use of the machine crime of gambling is constituted under Article 185 of the Penal Code.

In the case of habitual practice by a keeper the crime of habitual gambling under Article 186 is constituted.

In the case of metals instead of real coins used for such a purpose with the machine, as they are freely exchanged for money, the crime is likewise constituted.

However, the waging of articles for temporary pleasure usually prevents the constitution of crime of gambling, so long as the item is such as a package of candies or cigarettes, whose economic value is small and so long as the waging is not feared to give bad influence to the society, regardless of the kind and nature of the game.

However, with respect to the money waged, it is not to be included among the items for temporary pleasure according to the court precedents and the relevant opinion of scholors that prevails regardless of the resources of the parties concerned or the amount waged. Therefore, in the case of the slot machine, as long as money is waged, the waging cannot be said to be of "Articles for temporary pleasure".

Incl 2

The slot machine thus used can be confiscated under Article 19 of the Penal Code.

GENERAL HEADQUARTERS
FAR EAST COMMAND

CHECK SHEET

(Do not remove from attached sheets)

Mr. Woods
26-5701

-1783

File No: Subject: Use of Slot Machine

Note No.	
	From: PM To: Civil Affairs Section Date: 1 Dec 50
1.	1. Your attention is invited to the attached letter addressed to General Baker, FIB SCAP, allegedly from Mr. Frank G. O'Neill of the Legal Section, GHQ SCAP, pertaining to the alleged operation of slot machines in the Tokyo Drive-In and the Hibiya Inn. The inclosed letter was referred to the Provost Marshal by ESS/FIB on 30 November 1950.
7179	2. The attached complaint is forwarded to the Civil Affairs Section for any action deemed appropriate inasmuch as enforcement measures of this nature involving non-occupation personnel is primarily the responsibility of the Japanese government agencies. PM records indicate that previous reports on operation of slot machines at Hibiya Inn were referred to Civil Affairs Section (Miss Burke) on 23 October and 4 November 1950.
	1 Incl Ltr a/s for R.T.C. R.W. Nolan 64-2111 Ext 12 Date: 7 DEC 1950
	From: Civil Affairs To: PM
2	1. The original complaint was called to the attention of the Tokyo police on 23 October 1950, as were subsequent complaints.
2-248	2. Article 185 of the Japanese Criminal Code is not applicable to slot machines nor is there any other Japanese law on which the police can act.
	1 Incl n/c C.A.S.
	Lt Lapham, 26-3432 Date: 12 Dec 50
	From: PM To: G-1 Attn: Lt Col Duffey
3.	Forwarded for your information and return to this section for file.
	1 Incl n/c R.T.C.

FEC AGO Form No 37

0031—FEC Printing Plant—2/50—50M

250.1

GENERAL HEADQUARTERS
FAR EAST COMMAND

CHECK SHEET

Lt Col Hampton/rm 26-5937

(Do not remove from attached sheets)

1783

File No: **Subject:** Use of Slot Machine

Note No.	From: G-1 To: LS Date: 14 Dec 50
4	Request your comment on the question; "Is the operation of slot machines a violation of the Articles of the Japanese Criminal Code?" 1 Incl n/c WAB W. A. B.
5	From: LS To: G-1 R. B. Appleton 57-8501 Date: 19 Dec 1950

1. Article 185 of the Criminal Code of Japan reads as follows:

> Every person who has gambled or bet for property to be gained or lost by chance shall be fined with a fine not exceeding Yen 1000 or a minor fine, except where the bet is (of things) for momentary amusement.

The Japanese Attorney General's Office has rendered an official opinion that the operation of slot machines for money constitutes the crime of gambling in violation of this article of the Code. A copy of the opinion is attached hereto.

2. It should be noted that according to the Attorney General's Office opinion operation of slot machines for money as a regular practice also constitutes a violation of Article 186 of the Criminal Code which relates to habitual gambling and opening of gambling houses, and that the slot machines can be confiscated under Article 19 of the Criminal Code. These two articles read as follows:

> Article 186.--Every person who has indulged in gambling or betting as a regular practice shall be punished with penal servitude not exceeding three years.
> Every person who for gain has opened a gambling house or assembled gamblers shall be punished with penal servitude for not less than three months nor more than five years.

> Article 19.--The following articles may be confiscated:
> 1. Objects which have constituted the criminal act;
> 2. Objects which have contributed to the criminal act, or which it was attempted to furnish for use in committing the offence;

FEC AGO Form No 37

6931—FEC Printing Plant—2/50—50M

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

CHECK SHEET

(Do not remove from attached sheets)

File No: Subject: Use of Slot Machines

R.B.Appleton 57-8501
Date: 19 Dec 1950

Note No. 5 Cont'd

From: LS To: G-1

3. Objects originating from, or acquired by means of, a criminal act or objects acquired as a remuneration of criminal act;

4. Objects received in exchange for things mentioned in the preceding number.

Articles may be confiscated only if they do not belong to persons other than the offenders; but if, after the committal of an offence, persons other than the offender have taken possession of any of the articles mentioned in the preceding paragraph being aware of them as such they may be confiscated even if they belong to persons other than the offender.

3. The Attorney General's Office opinion recognizes that under the exception of Article 185 the crime of gambling is not constituted where a loser is merely caused to pay a fixed sum for something which is intended for momentary amusement, instead of staking money on chance. However, the opinion recognizes that where the slot machine is so constructed that the user cannot foresee what amount of money the machine will yield to him each time he deposits a coin, it constitutes the crime of gambling and does not fall within the exception of Article 185.

4. Legal Section concurs in the opinion of the Attorney General's Office, which is in accord with the great weight of American authority. Various American courts have formulated different rules in determining when a slot machine is a gambling device, but one which seems to have been accepted very generally is that where one who plays a slot machine stands to win or lose money by chance, the machine is a gambling device. According to the generally prevailing opinion where the return to the player is dependent on an element of chance, a slot machine is a gambling device, even though the player is assured of his money's worth of some commodity and, hence, cannot lose. According to some cases, however, certain slot machines which dispense nothing but amusement or are in reality tests of skill have been held not to constitute gambling devices. Examples of such machines are coin operated slot machines wherein miniature mechanical horses race on a track and which dispense nothing but amusement, machines comprising miniature bowling alleys which have an element of chance but where no betting or offering of prizes on the result of the play is involved, machines in the nature of miniature mechanical baseball games which could be operated after depositing a coin and which involve the exercise of skill.

3844—FEC Printing Plant—1/49—25M

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

-2279

CHECK SHEET

(Do not remove from attached sheets)

File No.: Subject: Use of Slot Machines -2279

Note No.	
5 Cont'd	From: LS To: G-1 R.B.Appleton 57-8501 Date: 19 Dec 1950 5. Reference to Note No. 2 of subject Check Sheet indicates that Tokyo police have expressed the opinion that the operation of slot machines is not a violation of Article 185 of the Japanese Criminal Code. Legal Section, however, points out that the Attorney General's Office is the legal adviser of the Japanese Government and that its opinion in this matter is considered authoritative. 2 Incl. 1 added - Opinion of Attorney General A. C. C.
6	From: G-1 To: PM Lt Col Hampton/rm 26-5937 Date: 24 December 1950 1. Returned for your file as requested in C/N 3 above. 2. Your attention is invited to C/N 5 and Incl No. 2 which indicates that the Japanese police do have authority to act against slot machines. 3. Request that such places of business as cited in C/N 1 above be checked periodically by the proper authority to see that slot machines are not reinstalled in violation of the Japanese Criminal Code. 2 Incls n/c for W. A. B.
7	From: PM To: CAS Mr. Woods 26-5701 Date: 28 Dec 1950 1. Attention is invited to the opinion of the Legal Section as expressed in checknote 5, supra, and the opinion of the Attorney General of the Japanese Government, attached as Inclosure 2. 2. Attention is invited to the instructions of the Assistant Chief of Staff, G-1, contained in paragraph 3, checknote 6, supra. It is requested that Provost Marshal be informed of the results obtained thereby. 2 Incls n/c R.T.C.

General Baker,
F.I.B.

27 November 1950

Dear Sir.

I have during the past week noted that slot machines are being operated on the premises occupied by the Tokyo Drive-In. I have also noticed that slot machines are being operated on the premises occupied by Hibya Inn. I understand that both establishments are authorized to do business with occupation personnel and that one of the provisions of the license is that the licensee shall comply with the Japanese law. It is my understanding that the slot machines in the manner operated by Tokyo Drive-In and the Hibya Inn is a violation of Article 185 of the Criminal Code of Japan.

Frank G. Thull

Incl 1

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

CHECK SHEET

(Do not remove from attached sheets)

-2279

File No.: Subject: Use of Slot Machines -2279

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7	Mr. Woods 26-5701 **From: PM To: CAS Date: 28 Dec 1950** **1. Attention is invited to the opinion of the Legal Section as expressed in checknote 5, supra, and the opinion of the Attorney General of the Japanese Government, attached as Inclosure 2.** **2. Attention is invited to the instructions of the Assistant Chief of Staff, G-1, contained in paragraph 3, checknote 6, supra. It is requested that Provost Marshal be informed of the results obtained thereby.** **2 Incls** **n/c** RTC - - - - - - - - - - - - - - - - - R.T.C. - - - - - - - - - - - - -

FEC AGO Form No 37

0931—FEC Printing Plant—2/50—50M

(Stamp)
Received
21 Dec 1950
G-1
GHQ

(Stamp)
Dispatched
24 Dec 1950
G-1
GHQ

(Stamp)
Received
24 Dec 1950
OCPM
GHQ-AFPAC
16646

General Baker,
F.I.B.
Dear Sir.

27 November 1950

I have during the past week noted that slot machines are being operated on the premises occupied by the Tokyo Drive-In. I have also noticed that slot machines are being operated on the premises occupied by Hibya Inn. I understand that both establishments are authorized to do business with occupation personnel and that one of the provisions of the license is that the licensee shall comply with the Japanese law. It is my understanding that the slot machines in the manner operated by Tokyo Drive-In and the Hibya Inn is a violation of Article 185 of the Criminal Code of Japan.

Frank G. Thull

Incl 1