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Description of contents

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REPORT

23 March 1950

FROM : Judge NAGAI Kiyoshi
 TO : Chief of L & G Section
 SUBJECT: Judgment concerning the Violations of Food Control Law Involving Accused ITO and 9 others.

1. Reference is to be made to SANIN-NICHINICHIPress dated 16 February 1950
2. Court: KURAYOSHI Branch, TOTTORI District Court
 Judge: FUKUURA Kiyoharu
3. Public Procurator's Office: KURAYOSHI Branch, TOTTORI District Procurator's Office
 Procurator in charge: NAWADA Kunitaro
4. Counsel: YAMASAKI Sueharu
5. Charge: Violation of Food Control Law
 Applicable Articles:
 Art. 3 & Art. 32 of Food Control Law (Law No. 40, 1942)
 Art. 3 of Executive Rule for Food Control Law (Ministerial Ordinance of Agriculture & Forestry No. 103, 30 Dec. 1947. Edictum of TOTTORI Prefecture No, 444, 4 Sept. 1948)
6. Date of Indictment: 31 August 1949
7. Judgment: All the accused were found guilty on 14 Feb. 50.
8. The judgment became irrevocable on 1 March 1950.
9. Development of Trial: Public trial was conducted 5 times.
 The number of witness was 4
 Inspection of Evidences was conducted on the spot 1 time.
10. The fact constituting the offence charged;
 All the accused are farmers who produce rice, wheat etc. dwelling at Oaza-Kamoko-chi Kamiogamo-mura Tohaku-gun Tottori Prefecture. The village-headman notified that they should sell the rice-crop of 1948 to the government as much as the following amount (so-called quota of delivery). But they failed to sell the under mentioned amounts till the date 28 Feb. 1949 designated by the prefectural governor (so called undelivered amount).

NAMES OF ACCUSED	AGE	QUOTA OF DELIVERY <small>Sho, Go</small>	DELIVERED AMOUNT <small>Sho, Go</small>	UNDELIVERED AMOUNT	SENTENCE Fine	PENALTY DEMANDED BY PROCURATOR
ITO Nobuaki	24	1888,2	1400,0	488,2	¥ 1500	Penal Servitude 6 Months
HIROTA Ryuichi	43	1415,9	960,0	450,9	ditto	ditto
NICHIDA Teruyoshi	38	620,1	80,0	540,1	ditto	ditto
KAWATO San	42	1455,7	1080,0	375,7	ditto	ditto
KAWATA Toshizo	43	3725,9	2880,0	845,9	ditto	ditto
KAWATA Gensaku	26	398,8	200,0	98,8	¥ 1000	Fine of ¥ 5000
YAMAMOTO Gensaku	33	1111,5	995,0	116,5	ditto	ditto
UEDA Shinshichi	31	907,8	680,0	227,8	ditto	ditto
TAMURA Sanezo	36	304,4	106,0	144,4	ditto	ditto
KAWATA Kamezo	56	2442,3	2200,0	242,3	ditto	ditto

CONVERSION TABLE

1 Koku = 10 To = 5.119 Bushel

1 To = 10 Sho

1 Sho = 10 Go

1 Bushel = 0.195 Koku

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

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(Judgement for the case of incomplete delivery of rice involving Ito Enmei and other 9)

1. Contents of trial

(1) Form of written judgement and explanation of evidences.

In the judgement of this case, the judge found the whole of causes indicted by the procurator guilty. But no lodging of appeal has been made by both the defendant and procurator. Furthermore, as they have not requested a copy of the written judgement within fourteen days as from the date of declaration of judgement, the judge has not made up a written judgement by adopting a form of the so-called protocol for document of judgement in conformity with the provision mentioned in paragraph 1, Article 219, Regulation of Criminal Procedures.

Accordingly, there is no explanation in regard to the evidence of the fact on which the acknowledgment of guilty as well as the amount of punishment were based, and so it is unknown by what evidence the judge made a pronouncement of guilty and decided the amount of penalty to be imposed on. Reference: Paragraph 1, Article 219, Regulation on Criminal Procedures.

(2) Point of issue.

Insistence on the part of defendant and defense counsel. Owing to the drought in 1948, consequently little crop, no quota of delivery of rice could be completely met ^{without delivery of} ~~unless~~ even the retention-rice ~~was made to be delivered~~; the cause of which exists in that the corrective allotment ensuing for the pre-plant allotment didn't meet the actual state of things, namely that the corrective allotment was made only formally and equally, not making clear the extent of crop affected by the disaster, - incidentally, according to law, correction is granted to the extent of 80% of the pre-plant allotment. Accordingly, though it is true that the defendant didn't deliver the goal of amount as shown in the fact of public action, the defendant and etc., are of no guilty because of this having been caused by the force majeure or irresistible force. (The defense counsel hasn't made clear himself on which of the following reasons he insists: a. non-delivery on the part of the defendant shall be act of emergency refuge as mentioned in para. 1, Article 37, Criminal Law. b. There is no prospect and possibility affecting Criminal Law in the act of non-delivery on the part of the defendant. c. This is an invalid administrative action of the village mayor who makes the impossibility of delivery quota an object.)

The defendant and the defense counsel insist upon that "When they (defendant and etc.) were conveying rice for delivery, they heard from the Mayor of Kami-Ogamo village

1. Contents of trial, (2) (Cont'd)

that even if they deliver even rice in retention, it will be unable to be guaranteed ~~as~~ same as that of 1947 that the reduction - distribution will be immediately initiated. Therefore, they refrained from the delivery of the pending delivery-quota."

In regard to this point, the testimony in the court of Nogi Hisaichi, Mayor of Kami-Ogamo-mura, is as follows; "In case of collection of crop for the farmers of non-delivery, as I had previously known of that at minimum food for 15 days shall be remained to be kept, I uttered to the village-men to the effect that you are desired to deliver after leaving food enough to be used in your houses. As for the reduction - distribution, there is a previous instance in 1947, but I can't guarantee it surely."

Against the insistence of the defendant and the defense counsel, the procurator stressed that "Although the corrective quota may have not been more or less proper, consequently may have been heavy for the defendant and etc., the delivery of the quota still incomplete was to be possible because of the village members of the food adjustment committee and the disaster investigation committee having corrected the quota upon making an actual investigation on the spot."

(3) Main point of trial.

The judge placed a main point of trial in clarifying as to whether or not there had been a disaster of drought giving affect on the crop as stressed by the defendant side, based upon which, he (judge) conducted an actual investigation for the circumstance of irrigation of the rice field of the defendant. However, as to the actual amount of crop for the year of 1948, there is no evidence except the written certificate in regard to the amount of crop by the village-mayor for the application submitted by the defendants. No effort has been made for the scrutinization and clarification of this point in the course of trial. Namely no calculation of amount of crop by the identification of a specialist, has been conducted. It is considered to be ordinary that no identification of this point is requested in the first instance of trial and that this_A handed over to the second trial.

(4) Witness - each is a witness applied by the defense - counsel.

A. The gist of testimony by Hirose Kakuzo, a member of Kami-Ogamo-mura Disaster Evaluation Committee.

The area where the paddy-field of the defendant and etc., locate, suffers from the shortage of water, and sometimes, water is supplied only once per 3 or 4 days. The damage of the defendant and etc. caused by the dearth of water was especially big, 1947. These paddy-fields were re-

1. Contents of trial, (4)A. (Cont'd)

claimed about 30 years ago, and use water in the irrigation pond, and are high in the percentage of absorption owing to usually little water. In case the amount of diminution of crop by the disaster exceeds that of usual years by 30%, the agricultural cooperative union will conduct an actual investigation, and the amount of crop diminution will be deducted from the pre-plant delivery quota, and the disaster insurance money will be paid in conformity with Item One, Article 109, of Agricultural Disaster Compensation Law (Remarks: Law No. 185, 1947). And to the defendant and etc., insurance money has been paid. But it is not because of the paddy-fields of the defendant having been investigated wholly.

Incidentally, the disaster evaluation committee-member submitted as materials the result of investigation pertaining to the disaster to the village food adjustment committee but the same adjustment committee hasn't made a report of actual state of things for the corrective quota to the Japanese Authorities. But this is not a responsibility on our part.

In conclusion, the incomplete delivery of rice on the part of the defendants is pondered to be caused from the impossibility of delivery due to the actual amount of crop having been less than the quota, but not from the side-distribution of rice in blackmarket and not from the bad characters of the defendants.

B. The gist of testimony by Yamane Tamotsu, chief of Economic Section of Tohaku District Office.

I have never conducted an actual investigation on the disaster of drought in Kami-Ogamo-mura, but have heard that such had occurred. I think that the fundamental cause of this case is that the corrective quota didn't go successfully. I have not heard that it was a so-called correction equally made to farmers (without investigation of actual status of crop.)

In conclusion, I am not directly concerned with individual quota, therefore, I don't know of the actual situation.

C. Gist of testimony of Nogi Hisaichi, Head of Kami-Ogamo-mura Village.

I have been a mayor since April, 1947, and is concurrently served as chairman of Village Food Adjustment Committee and chairman of Agricultural Cooperative Union.

The Rice-fields of the defendant, etc., are no good in the facility of water. In the year of 1947, due to little

1. Contents of trial, (A)C. (Cont'd)

crop, the reduction-distribution was conducted. (Next, in regard to the testimony that the reduction - distribution can't be guaranteed, reference is made to the above mentioned items.)

In regard to the damage of the defendant, etc., I pondered that it is right to depend on the figure shown by the disaster evaluation committee of the Agricultural Cooperative Union. As for the village, it completed the quota in figure, and desired an administrative conclusion not taking a compulsory procedures for the defendant, etc., because it (village side) worried about whether or not the procedures of distribution would go successfully.

D. The gist of testimony of Ito Kozo, a member of disaster evaluation committee.

I am father of Ito Enmei, a defendant. The written certificate of Village-mayor in regard to the amount of diminution of crop caused by the disaster submitted by the defendant and etc., is considered to have been made up on the basic of the materials of the Disaster Evaluation Committee.

- (5) The result of the actual investigation on the spot by the judge is written very complicately, but in a word, the water facility in the paddy-field of the defendant, etc., is generally bad, among which the paddy-field of Yamamoto Gensaku is deemed to be worst in the water facility, and that of Ito Enmei, a defendant is not deemed to be bad in the convenience of water and that of Hirota Ryuichi, a defendant, is recognized somewhat good in water condition as compared with the paddy-fields of the other defendants.
- (6) The article of the San-in Nichinichi Press containing the alleged explanation of the chief judge that despite that the corrective reduction should be made administratively on delivering food for the time being, it is a violation that the defendants had failed to do this procedures and made an incomplete delivery, is not described in the record. As to this, it is probably considered that a press-man had announced in the newspaper the opinion of the judge delivered at the time of proclamation of judgement. If so, no description thereof in the record of the case, nor that in the protocol for documents of judgement because it was based upon the form thereof, is required.