The Contents

1. An Introduction
2. The Circumstances under which the Provisions of the Article 15 relating to the Prohibition of "Political Activities" were made and the legal authority based upon the SCAP's Memorandum.
3. The Definition of the "Political Activities" provided in the Paragraph 1 of the Article 15.
4. The Definite Category of the "Political Activities".
5. On the "Political Activities" of"Persons Latently under the Memorandum".
6. On the "Political Activities" of Persons falling under the Memorandum temporarily retained or reinstated in their respective office.
7. Punishment Provisions.

****

1. An Introduction

The most important of all the prohibited matters from which those persons who fall under the Memorandum are barred are the so-called "political activities, which are prescribed in Article 15 of the Imperial Ordinance No. 1 of 1947. It is, however, simply provided in Paragraph 1 of the said Article that" any person who falls under the Memorandum shall be prohibited from filing a notification of recommendation for any candidate for any elective position in the public service (including the signing of notification of candidacy or notification of recommendation of any candidate) or to engage in any election campaign or other form of political activity", and therefore it may be possible that the definition or category of "political activities" comes to be variously discussed. There is indeed seen a difference in opinion as to the matter even between the first trial and the second trial, as has been shown in some cases which were so far put on trial.

Moreover, it must be noticed that this article had not yet laid down, when the original Imperial Ordinance was promulgated on January 4, 1947, but was later inserted in the Ordinance, when it was amended by the Imperial Ordinance No. 77, on March 12, 1947, and this is also raising discussions as its propriety.

2. The Circumstances under which the Provisions of the Article 15 relating to the Prohibition of "Political Activities" were made and the legal Authority based upon the SCAP's Memorandum.

The provisions of the Article 15 relating to the prohibition of "political activities" were inserted later by the revised Imperial Ordinance No. 77 of March 12, 1947, but there is no such phrasing as aiming to prohibit any person who falls under the Memorandum from engaging in any form of "political activity" in the Memorandum upon which the Imperial Ordinance No. 1 of 1947 is based, namely in the Memorandum of the Supreme Commander for the Allied Powers dated January 4, 1946 concerning" Removal and Exclusion of Undesirable Personnel from Public Office". (SCAPIN-550). Thus there is a view that such prohibition provisions are invalid because they are not supported by the Memorandum in any way and are quite unconstitutional in putting restrictions upon or prohibiting the freedom of individual persons merely by an Imperial ordinance, and it is therefore considered necessary to make clear the circumstances under which these provisions were inserted in the Ordinance and the connection between the provisions and the Memorandum as well.

These provisions were drawn up originally for the purpose of preventing every possible activity of those

persons who fall or latently fall under the Memorandum at the general election held in April, 1948, in additional expectation of excluding the general political influence to be exerted by those persons falling under the Memorandum and thereby driving home the purport of the Memorandum of January 4 of 1946.

We must now remember that the Memorandum, citing in its first paragraph the sixth paragraph of the Potsdam Declaration which states that "There must be eliminated for all time the authority and influence of those who have deceived and misled the people of Japan into embarking on world conquest, for we insist that a new order of peace, security and justice will be impossible until irresponsible militarism is driven from the world", desires to remove all the leaders who have misled the people along this line from public office (see Paragraph 5 of the Memorandum) or to prohibit them from taking government service (see Paragraph 6 of the Memorandum) and thereby designs to wipe out the power and root out the influence of such leaders completely from the general politics. It is also understood that the Memorandum thus requires Japanese Government to take the necessary and adequate steps for the accomplishment of the purpose mentioned above.

The provisions prohibiting those persons who fall or latently fall under the Memorandum from engaging in any

form of "political activity" were inserted in the Imperial Ordinance No. 1 of 1947 under these circumstances, taking into consideration the full purport of the Memorandum and it does not matter whether there is such a phrasing as "political activity" or not in the Memorandum. All of the so-called Potsdam Cabinet Orders issued in pursuance of the Memorandum have not been laid down in literal translation of every word and phrase of the Memorandum, but have been or are to be made as Cabinet Orders (formerly as Imperial Ordinances) on the responsibility of Japanese Government, seeing that they should not deviate from the purport and object of the Memorandum.

It must be, in this connection, pointed out that it has been as a matter of course, prescribed in the Article 1 of the Imperial Ordinance No. 1 of January 4 of 1947 that "Removal and exclusion from public service of undesirable personnel in pursuance of the Memorandum of the Supreme Commander for the Allied Powers dated 4 January 1946 on the removal and exclusion of undesirable personnel from public office (including extention of scope and criteria of screening as supplemented thereafter in the form of additional interpretations of the Memorandum: called the Memorandum hereafter) shall be dealt with in accordance with the provisions of this Ordinance" and it has been also stated clearly that the extention of scope and

criteria of screening as supplemented thereafter in the form of additional interpretations of the Memorandum is included in the Memorandum. Further in connection with the insertion of the provisions prohibiting any form of "political activity" into the Article 15 of the Imperial Ordinance No. 1, it must be also pointed out for reference that the verbal instruction was given to us by G. H. Q. that the insertion of the above-said provisions should be recognized as reasonable, as a matter of course, as a result of the interpretation of the purport of the Memorandum, without being based upon any new Memorandum of SCAP.

3. The Definition of the "Political Activities" provided in the Paragraph 1 of the Article 15.

(1) It is necessary for us to take into consideration the circumstances under which the Provisions were made and the purport of the Memorandum as well, which were already stated in the preceeding chapter of this report, if we want to discuss the definition and the category of "Political Activities". We can not but understand th that the definition and the category thereof cover a wild range inasmuch as the provisions, as was previously stated, aim to exclude every possible political influence exerted by the purged persons.

(2) Generally speaking, politics is an indispensable function of unity and promotion for the existence and activity of our community and the function which deals with politics in concrete form is administration. The province of politics is to function so as to unify and promote the Social life, but if there is no action to put it in definite shape, that is there is no administration or official business, politics can not be allowed to exist at all. Therefore the function of politics, in reality, consists of the combination of the above-said

two actions ; in other words the so-called administrative work and official business are combined with each other and constitute the function of politics. It is thus regarded as participation in politics to be concerned in either.

The community which can be regarded as an object of the above-mentioned political function is not necessarily restricted to the state. The politics of the state is indeed the main feature of all the political function, but the international politics among the international society or the politics of any local autonomous public body are also included in the political funcion.

Further the religious world, the academical circle or other societies have also their own politics, but they are quite different in character, in the academical sense of the word or in their general phrasology, from the political function mentioned above, and so it is considered they must be treated as different conception from the latter. They can be, however, the objects of the research in the "political activities" so far as the respective politics of these special societies is concerned with the political administration of the international society, the state or the local public bodies.

(3) The "political activity"so far mentioned is apt to be understood as an active, positive and continued act, but it is merely translated from "political activity in English language and there needs no sticking to such an interpretation. It is indisputable that to those who are accustomed to the expression of laws in the continental style, such an expression of the prohibition provisions as has been herein shown may seem to lack somewhat clearness and be difficult to understand conceptionally. In the latter case, however, a stress is laid more on the state or consequence of an action than on an action itself and the action therein mentioned seems to have a realistic and concrete concept. Therefore it may occur that a single temporarizing action is regarded as an political activity or a negative and concealing action is also taken for a political activity.

(4) It is provided in paragraph 1 of the Art. 15 of the said Imperial Ordinance that "Any person who falls under the Memorandum shall be prohibited from filing a notification of recommendation for any candidate for any elective position in the public service (including the signing of notification of candidacy or notification of recommendation of any candidate) or to engage in any election

campaign or other form of political activity" and therefore it is clear that" filing a notification of recommendation for any candidate for any elective position in the public service " or "any election campaign" indicates an example of the political activity, but these examples must not be interpreted in such a narrow sense as they mean the "political activity" "similar" to or "equivalent" to the "filing of a notification of recommendation for any candidate for any elective position in the public service" or "any election campaign", but must be understood as examples of the political activity in the general sense of the word.

The paragraph 1 of Article 15 written in English in cited for reference as follows :

"Any person who falls under the Memorandum shall be prohibited from filing a notification of recommendation for any candidate for any elective position in the public service (including the signing of notification of candidacy or notification of recommendation of any candidate) or to engage in any election campaign or other form of political activity.

(5) A reference will be here made as to how the concerned provisions found in other legislations

should be taken into consideration in the interpretation of the term "political activities".

The National Public Service Law has provided, in relation to the restriction of political actions by those in public service, as "persons in civil service are prohibited from asking or receiving any monetary contributions or other benefits for the purpose of conducing to any political parties or any political aims, or from concerning themselves, in whatever ways, with such actions ; also they are restrained f from any political actions defined by the Personnel Board except the exercise of the right or suffrage";

"persons in civil service are restricted from any candidacy for any elective positions"; and "persons in civil service are prohibited from taking, in any parties or other political organizations, the position of any officer, political advisor or any similarly commissioned member".

In Article 1 of the Political Fund Regulation Law it is mentioned that "this law is intended to contribute to a healthy development of democratic government by promoting fairness in political activities of parties, associations or other organizations or of candidates for public positions, and by securing justness in public elections" ; and in Article 111 of the same law it is defined that "parties

mentioned in this law are organizations whose original purpose consists in promoting, supporting or opposing any political doctrines or measures, or in proposing, favouring or excluding any candidates for any public positions" ; and that "associations and other organizations mentioned in this law are organizations which are not political parties and whose purpose consists in supporting or opposing any political doctrines or measures, or in proposing, favouring or excluding any condidates for any public positions".

And in Article V of the Imperial Ordiance No. 101 of 1946 (concerning the prohibition of formation of certain political parties, associations and other organizations) it is mentioned, in relation to the range of political organizations of which official declaration of formation is required, that "any political parties, associations or other organizations, whose purpose or activity falls under any of the following items, shall not be formed or be allowed to practise any such activity except when they have filed the necessary declation prescribed in paragraph 2 hereof :

(1) Proposing or supporting any candidates for any public offices.

(2) Making any such actions as influence any policies of the government.

(3) Discussing on relations between Japan and foreign countries".

The definitions in these laws and ordinance can certainly serve for reference in considering implications of the term "political activities"; but inasmuch as these legislations have originated from different purposes or aims, there is no reason why we should confine our interpretation of the term to some common category on all occasions. All phraseologies in laws and ordinances ought to be interpreted upon the criteria of their respective purposes or aims in legislation, and it is no wonder if they use the same words and yet imply different meanings by those same languages. For such reason, the category of actions to be implied by the term "political activities" in the Imperial Ordinance No. 1 of 1947 should be determined quite independently in strict pursuance of the Ordinance's original aim and the spirit of the Memorandum underlying it.

(6) To state further, an offence against the prohibition clauses connected with "political activites" is not ruled under the category of "crime with purpose" ; therefore, it is not essential, in its judgment, that there should be any particular political intention or purpose ; except that the fact which constitutes the offence must be recognized accurately.

4. The Definite Category of "Political Activities".

Concretely speaking, what kind of actions come under the category of "political activities" in the light of the abstract idea based upon the purport of the above-mentioned Ordinance ? For your reference, I will quote here some actions which so far have been called into question in actual affairs.

Generally speaking, actions which so far have been interpreted as "political activities" can be classified into the following three categories :

A. Activities concerning election.

B. Actions concerning support of, or opposition to, any political organization.

C. Actions concerning discussion and criticism of any policy, or actions concerning participation in realizing any policy.

Again, I will state here the above three items in more detail.

A. Activities concerning election.

(Note : To exercise the right to vote is excepted from the category of activities concerning election because of its being a fundamental human right).

To be more particular, activities concerning election are subdivided into the following eight actions :

(1) To file a notification of recommendation of any candidate for any elective position in the public service (including the signing of notification of candidacy or notification of recommendation of any candidate)

This is clearly prescribed in paragraph 1 of Art 15. By "Elective position in public service" is meant "public office" to be elected through popular direct elections. It includes "Diet membership" "Prefectural governorship" "Mayorship of a city" and "Mastership of a town and village" provided by the Lower House Member Election Law, the Upper House Member Election Law, and the Local Selfgovernment Law, "Agricultural Land Committee-membership" provided by the Agricultural Law and "Educational Committeemembership" provided by the Educational Committee Law and others.

Not only filling of notification of recommendation of any candidate but also signing of notification of candidacy or notification of recomendation of any candidate are prohibited. To sign jointly with others

at the request of them is also prohibited. In the recent election of the member of the Educational Committee, joint signature action was treated as a violation of the Ordinance. At that time a question was raised as to whether the notification of the recommendation of a candidate was valid or invalid in case where the joint signatures affixed to it by a purgee fills the quorum of it. The decision was reached in this connection that "joint signature action" itself was valid even though it was a violation of the Ordinance for a purgee to sign the notification jointly with another persons.

(2) To get signatures from person to person for the sake of any candidate and to have any other person gotten signatures for the sake of candidate are more powerful electoral activities than "joint-signature action" itself. These actions are interpreted as "political activities".

(3) In connection with the above (2), it is interpreted as "political activity" for a purgee to engage in any get-signature movement, demanding removal of chief of any local body and others (so-called"recall"). However we deem it can be justified for purgees to affix their signatures to the notifications as an expression of their intention of agreement, for it is nothing but an expression of intention which general electors can rightly exercise

in the present age in which "recall" is admitted and which can be interpreted to be equal to the exercise of the right to vote.

Furhter, there is no provision in this case such as is seen in case where joint signatures are affixed to the notification by candidacy or to the notification of the recommendation of any candidate.

(4). Election campaign.

It is definitely prescribed in paragraph 1 of Art. 15 that any purgee be prohibited from taking part in election campaign.

By "election campaign" is generally meant various activities to be conducted for the direct purpose of enabling any specified person to win the election in a specified election. However by "election campaign" which any purgee is prohibited from engaging in is meant various election campaigns for elective position in public service to be conducted in accordance with Ordinances or Orders. It goes without saying in this connection that any private election which is conducted moderately in any company or organization does not come under the category of the above mentioned "election campaigns" unless the company or organization is a political one.

(5). Can purgees be permitted to be labour offerers in election ?

There seems to be no objection for purgees to be labour offerers in election for it is not a direct election campaign such as making speeches in support of any specified candidate or asking voters to vote for any specified candidate, but a mere mechanical offer of "labour".

However, it is at least an indirect election campaign in a broad sense, and it is interpreted as a political activity for its being an activity concerning election on the ground that offer of labour by purgee is done with the aim of enabling any specified candidate to win election.

(6) Can purgees be permitted to be votes-counting witness or scrutineer ?

By "scrutineer" is meant a person who, together with voting supervisers, takes charge of watching voters casting their votes at a polling place on a voting day. As every Election Control Committee of cities, towns, and villages selects scrutineers with their consent from among those who have been registered in the voters' list of each voting ward, any person who has the right to vote can rightly be scrutineers. As for purgees

however, they are prohibited from engaging in any election campaign with the exception of the exercise of the right to vote, so it will, we deem, be proper for purgees to decline to be elected scrutineers or for the Committees not to select purgees as scrutineers.

It is the same with votes-counting witness as with scrutineer.

(7). To offer campaign funds to any candidate for any elective position in the public service.

It is not what we call an election campaign for purgees to offer campaign funds to any candidate for any elective position in the public service, but it falls under the category of "political activities" on account of its being an activity concerning election.

In this case a clear line must be drawn between political funds and living funds.

(8). To visit the office of Electoral Administration Committee.

Any person falling under the Memorandum is prohibited from making an entrance into any office of the Electoral Administration Committee except in case where it is necessary for the exercise of the right to vote.

(paragraph 5 of Art. 15)

The purport of this provision lies in formally prohibiting purgees from engaging in any political activity in connection with election.

Even such purely technical labour offering actions as taking notification of candidacy of a candidate to the office of the Committee or as visiting the office to ask about the form of the notification of candidacy are also prohibited because to make an entrance into the office of the Committee is one thing and to exercise one's right to vote is another.

In this connection a question has been raised as to the limit within which purgees are permitted to enter in case where the office of Electoral Administration Committee is located not at an office-room of city, town or village office but at a fixed place (for example, at a compartment of Local Section or General Affairs Section).

In this case, the above provisions of Art. 13 prohibiting purgees' entry is applied to the compartment, regarding it as office of the Electoral Administration Committee.

However, the provisions above is not applied to such entry as is made to any other place than the compartment.

B. Actions in opposition to, and for support of political organizations.

(1). The term, political organizations as is quoted here is not meant to indicate political parties only.

A political party is an organization which principally aims to promote and support a principle or measures on political affairs or to oppose them, or which aims to recommend and support candidates for the position of public official or to oppose them (see paragraph 1, article 3 of the political Funds Control Law). A political organization as called generally, on the contrary, is meant an organization which has among its objects, though not principal one, sch contents as supports or opposes a principle and measures on political affairs or as recommends and supports candidates for the position of public official or opposes them.

Accordingly, even those organizations which are, on the surface, religious, cultural and ideological ones, are at the same time regarded as political organizations if they have in their objects such contents as mentioned above. And actions to support and assist these organizations are regarded as "political activities."

In addition, in some cases, activities in concert with such organizations which are not what are called political organizations because they have no objects clearly political are considered as "political activities", for instance, when the organizations have colour of a political party or take, actually, political activities such as labour unions or farmers' associations.

(2). To assume the post of officers in labour unions.

Those persons who were designated as fallen under the Memorandum are prohibitted from assuming the post of officer in labour unions in accordance with the provisions of (2), Article 1 of Welfare, Transportation, Home Ministries Ordinance No. 1 of Dec. 14, 1946 (which article was added by Welfare, Transportation, Home Ministries Ordinance No. 2 of March 14, 1947). It is not questionable at all that those persons join themselves with labour unions as ordinary members instead of officers. But as mentioned already, if the actual activities of the unions turns to be political ones, activities of those persons although as non-commissioned members are regarded as "political activities".

(3) To assume the post of officers in political parties and other political organizations.

The subject action is generally considered as "political activity" in that the action is meant to support political organizations.

Moreover if the organizations are those designated as public offices, assuming the post of officers itself is a violation. And those who had fallen under the provisions of clause B and C of the Memorandum can not assume the post of main officers of political organizations, in accordance with the provisions of Article 4 of the Imperial Ordinance No. 101 of Feb. 22, 1946 (the ordinance concerning the regulations to prohibit the formation of political parties, associations, and other organizations).

(4) To become non-commissioned members of political parties. :

When one fallen under the Memorandum enters newly a political party, the action to enter the party itself is considered as "political activity", as an action for the support of a political party. Yet, it is all right that one who had been a non-commissioned member of a party has not removed his membership of the party even after he was designated as fallen

under the Memorandum. But in this case too, if he takes some activities, these are considered as "political activities".

(5) Actions to induce or assist other persons to enter political parties are considered as "political activities" as actions for the support of the political parties.

(6) To offer funds to political parties and other political organizations.

It is considered as actions to support political parties and falls as a matter of course under the term "political activities", that those who had fallen under the Memorandum offer funds to political parties and other political organizations. As to this action, moreover, there is provided the inhibitory regulations in (3), paragraph 1 of Article 35 of Political Funds Control Law and at the same time in the Article 41 of the same law there are provided the penal regulations against this action that violators should be the subject of confinement for more than 6 months and not more than 3 years.

(7) To comment upon, or criticize those measures which are advocated by political parties and other political organizations.

As to this kind of actions, many cases are in the category of comment upon or critic of political measures as is shown in the following column 3.

For instance, it is considered "political activities" as actions for the support of, or in opposition to, political organizations, to contribute writings or to make speeches, sympathizing with the economic policies which a political party is adopting or on the contrary, to make speeches and to contribute writings, opposing these policies.

C. Actions concerning the discussion and criticism of policies and actions concerning participation in the realization of policies.

As this item constitutes the key to the broad interpretation of "political activities," circumspect and adequate inquiries should be made.

(1) Policies are not confined to national policies.

The discussion and criticism of not only national policies but international policies including the U. N. charter, Far Eastern Commission's policies and Occupation Policies of the Allied Powers, are regarded as falling under the category of political activities.

Also included in political activities are the discussion of the policies of local public entities (prefecture, municipality, town and village), for instance, prefectural, municipal, town and village policies concerning flood damage rehabilitation, roads, education, rice quota delivery

(2) Not only the criticism of and opposition to policies but mere discussion thereof are regarded as political activities.

The support and furtherance of national or administration policies, for instance, words and deeds supporting rice delivery and tax payment movements, are regarded as political activities.

(3) Policies include international polices, national policies and those of the local public entities. It makes no difference whatever whether they are the so-called administrative, economic, criminal, or education policies. To cite an example, a speech discussing or criticizing the economic policies of the country comes under the category of "political activities" in this sense, and in some cases such a speech may be regarded as a political activity for the reason that it supports or opposes a certain political party which is taking such economic measures. With regard to this matter, mention is made in the above 7(2)-7.

(4) Making a speech discussing or criticizing policies, regardless of whether it is delivered at a public gathering or at a ristricted or private gathering, is regarded as a political activity.

(5) The discussion or criticism of policies in newspapers, magazines or any other publications is regarded as a political activity. It makes no difference whether it is made in a speech or printed matters.

(6) The discussion or criticism of policies made from a purely academic point of view is regarded as a political activity in case it is delivered in a speech or made public in the form of publications. It goes without saying that purely academic writings, for instance, general theories of economics or politics, are out of question.

Furthermore, to write a book describing the history of the past, whether it is the history of diplomacy or history of politics, is not regarded as a political activity. I think, however, historical accounts, in which the discussion or criticism of the present policies is interwoven, is to be regarded as coming under the scope of "political activities".

(7) Actions concerning participation, in the realization of policies mean those actions which interfere

in international administration and administration of the state or local public entity.

To put it concretely, they are those actions by which men urge government or public officials to exercise their authority, exert pressure to the administrative authorities in connection with the problem of school-building construction, participate activity in the problem concerning the partition of a village, advise Government or public officials to quit their posts, or exert their influence in composing any disputes between labour and capital.

(8) Activity as the representative of a petition group to the administrative athorities, or as a member thereof.

It is quite all right for purgees to file an appeal with government or public offices in connection with their livelihood or business affairs. However, those activities by which they make efforts to organize a petition group composed of those who are identical in their interests or submit their opinions on the administrative matters of Government or public offices as the representative of such a group or as a member thereof are regarded as "political activities".

For they are actions concerning the interference in government or public administration

(9) How, then, should a purgee who becomes a legally recognized attorney be treated ? It should be questioned first whether it is legal or not for a purgee to become an attorney.

As a purgee-become an attorney in individual cases, his actions are justified as long as he acts within the scope of the legitimate rights of defence or council of which exercise is recognized by the Criminal Code or other laws or regulations. I understand this is only natural in view of general theory of the Criminal Code. (Refer to Art. 35 of the Criminal Code).

However, when he, by overstepping the bounds of legally recognized rights, mediates between disputing labor and capital, or urges any Government or public official to exercise his authority before the former gets a fomal appointment as an attorney, his actions are regardei as "political activity".

There are some people who are opposed to purgee's becoming an attorney for the reason that in such a case the purgee directly intereferes in administrative matters or comes to have relations with public office-holder.

I think that it is desirable that a purgee refrain from becoming a counsel in election cases and making entry into Election Administration Committee to perform

his duties or becoming an attorney Purge Ordinance violation cases from a moral consideration, although any purges may safely and legally do so. (Refer to the above-mentioned 8 of 4-(1)).

5. On the Political Activities of "Persons Latently under the Memorandum".

By "persons latently under the Memorandum" are meant those who are deemed to fall under the provisions of the Memorandum, namely, the criteria for purge, but have not yet been designated to be purged. So far as the Purge Ordinance is concerned, the use of the term "persons falling under the Memorandum" is limited to the cases of those who have been already designated to fall under the Memorandum (this is specified in Article III of the Ordinance); consequently, prohibition clauses for those falling under the Memorandum that are provided in the Ordinance are not applied to those who have not been designated to be purged. For this reason, any action belonging to "political activities" that may be made by a "person latently under the Memorandum" does not at once constitute any offence against the Ordinance; except that such actions are subjected to the following rules:

(1). When it is found that a "person latently under the Memorandum" is making any "political activity", such action is ordered stopped by the prime minister or governor of the concerned prefecture, and the person is caused to undergo the examining

of his qualification for public offices by presenting the necessary document therefore (Par.2, Art.XV); in this case the prime minister or the prefectural governor is bound to decide as to the "person latently under the Memorandum" whether he is to be formally designated as a person falling under the Memorandum or be confirmed as not (Par. 3, Art.XV).

(2). When a "person lentently under the Memorandum" was ordered to suspend his political activity", all his activities of such nature are prohibited until the time that he is confirmed as one not falling under the Memorandum by the prime minister or the governor of the concerned prefecture; if in such a case he acts in that way in violation of the prohibition rule, he is subjected, none the less than the cases of persons falling under the Memorandum, to an adequate punishment (Par.1 (7), Art.XVI).

6. On the "Political Activities" of Persons Falling under the Memorandum Temporarily Retained or Reinstated in their Respective Office.

It has been provided that when there exists some difficulty in the replacement of a purged person with

another individual in relation to the former's public office, the prime minister may admit the former to continue or resume the said office for a particular limited period (Par.IV, Art.III). However, the exception made due to a difficulty in replacement here mentioned is limited to either of the following two cases specified in the Memorandum, namely: "Postponement of removal in the case of individuals who are absolutely required to insure demobilization of the Japanese armed forces in the outlying theaters or to carry out the provisions of this directive" (Par.VIII) or "temporary reinstatement in order to carry on indispensable peaceful executive activities" (Par.IX); (Art.3, Cabinet and Home Ministry Ordinance No.1 of 1947). In actual instances, there have been only a few cases of application of these provisions, including cases of some former regular officers of the army and navy serving in the Demobilization Bureau of the Welfare Ministry and in the demobilization service sections of prefectural governments.

Those who have been permitted temporarily to stay or to be reinstated in their office, are deemed, so far as the office is concerned, as individuals not falling under the Memorandum for the period during which they continue at their office (Par.5, Art.III of the Ordinance);

and accordingly, only within the authority of such office they are allowed to criticize policies or to concern themselves in actual administrative lines, beyond which limits, however, any discussion or criticism on policies or any political activity including such action as is connected with any election or with support or exclusion of any political organization, that was referred to already, is understood to be prohibited in quite the same way as in the case of general purged persons.

7. Punishment Provisions.

With respect to the punishment of those who have fallen under the Memorandum and yet have acted in the line of "political activities", they are to be imposed, under Paragraph 1 (7), Article XVI of the Purge Ordinance, to penal servitude or imprisonment not exceeding three years or to a fine not exceeding 15,000 yen; besides, there are clauses concerned with such action in the Political Fund Regulation Law, the Law on the Election of Members of the House of Representatives, and the Welfare, Transportation and Home Ministries' Ordinance No.1 of 1946 (relating to the exclusion of undesirable personnel from any executive positions in labour organizations). In that case, however, the punishment

to be imposed is adopted from among the penalties aforementioned, and any concurrent imposition of them is not to be enforced.

Any individual who is an accomplice in a crime of a purged person committed as to prohibited "political activities" and who is not a "person latently under the Memorandum" is subjected to the same punishment regulation as that for purged persons condemned for such offences, and further he is removed from his present public office and prohibited from his future assumption of any public posts as well as from taking candidacy for any elective public offices; and if he is actually in such candidacy at the time, he is deemed to automatically abandon the same position. That is, in so far as qualification for public offices is concerned, such a person is subjected to the same restrictions as those falling under the Memorandum; however, in consideration of his orginal status of not being a "purged person", any further application of restriction clauses other than those concerning qualification for public offices is exempted for him after his having undergone the imposed penalty.

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Legal Section

17 March 1949

MEMORANDUM FOR THE RECORD:

SUBJECT: Decisions of Japanese Courts on Violations of the Purge Ordinance.

1. A conference was held on 14 March 1949 between Messrs. Rizzo and Matsukata, GS, the undersigned, and Acting Chief Justice Tsukazaki, Associate Judge Kuriyama, Secretaries Higuchi and Ishi, and interpreter Satagawa, all of the Supreme Court.

2. Mr. Rizzo, in his introductory remarks, pointed out that it has been the established policy of GHQ to let the Japanese authorities carry out their own governmental affairs with a minimum of interference by the Occupation. Even when objectives of the Occupation are involved, the Japanese authorities are used to execute SCAP policies. Up to now all three branches of the Government have performed their duties in this respect with gratifying ability and energy. This is also true, generally speaking, of the way the courts have helped to enforce the Purge Directive and the Imperial Ordinances which implement it. SCAP could have entrusted this task to Occupation courts, but in consistency with the policy previously outlined and also in the interest of the prestige of the Japanese judiciary, it appeared preferable to rely on the domestic courts.

3. Mr. Rizzo then explained that he had called the representatives of the Supreme Court because of G.S.'s grave concern about and serious criticism of the recent decision of the Tokyo District Court in the case against a purgee, Matsuoka, Matsukei. He characterized as "impossible" the interpretation given by the Court in this case to the term "any other form of political activity" used in the Purge Ordinance. He stated that this decision, if not reversed as soon as possible, would threaten to make enforcement of the purge, one of the main political objectives of the Occupation, illusory. The purpose of our meeting was to consult the judges concerning ways and means to avoid this result without interference in a pending trial. Mr. Rizzo referred to the undersigned as the strongest advocate of judicial independence in Japan, and made the statement that, representing Legal Section, I concurred in the opinion of GS.

4. Acting Chief Justice Tsukazaki expressed his gratitude for the general confidence which Mr. Rizzo had voiced in the Japanese judiciary. As to the Matsuoka decision he emphasized that he had not yet seen the complete record and could therefore not come to any final conclusion. The undersigned answered that our criticism was not directed against the evaluation of the evidence, but against the application of the law to the facts, as stated in the decision, which could be judged from the decision itself without further study of the record.

5. Judge Tsukazaki then argued that the term "political activity" used in the Imperial Ordinance in connection with election campaigning was not completely

Govt Section

unambiguous. It appeared that some of the judges understood it in a rather narrow sense. Therefore, he suggested that an authentic interpretation of what political activity of purgees really meant be given by SCAP in listing the various forms of activities falling thereunder. The undersigned pointed out that this was exactly what we did not want to do. Apart from the consideration that such a directive would openly and officially prejudice the courts, the broad language of the Ordinance was deliberately chosen to cover all types of political activities. Any listing of specific acts however exhaustive would inevitably result in unintended omissions. The undersigned reminded the judges of the fact that the Japanese Criminal Code repeatedly uses definitions of a general nature and that a constructive application and interpretation of such terms was the proper task of the courts. Mr. Rizzo elaborated this idea in referring to the example of the United States, where the statute is only the beginning, while the law is actually created as well as continuously developed by the courts. The undersigned admitted that there may be a marginal field of uncertainty as to whether specific types of human behavior should be regarded as political activity; that, however, the acts committed by the defendant Matsuoka were clearly not within this marginal field. That was particularly true of his helping to influence the Democratic Liberal Party to refrain from an investigation of the Showa Denko scandal as well as of his financial support of the Party Magazine. Judge Tsukazaki replied that he personally agreed with me regarding the first count.

6. Mr. Rizzo then stressed the point that the courts, in rendering judgment in purge cases had not only to apply the Japanese law, but also the SCAP directive which is implemented by that law. Therefore, they must be familiar with the letter and understand the spirit of the Purge Directive. He raised the question as to whether the Supreme Court could give general instructions to the inferior courts including the proper interpretation of both the directive and the Imperial Ordinance. Judge Tsukazaki did not think this possible. He stated that the Supreme Court could interpret the law only when deciding individual cases properly brought before it. Thereupon both Mr. Rizzo and the undersigned suggested that the Matsuoka case should be given highest priority; that the Tokyo High Court, where it was now pending on appeal, should accelerate it as much as possible; and that when it comes to the Supreme Court in the last instance, the Supreme Court give it first preference, use it as a test case and in its decision establish general principles and standards for the interpretation of the Purge legislation, particularly of the meaning of "political activity".

7. This suggestion was accepted by Judge Tsukazaki who promised to do everything in his power to speed up the trial. The conference was concluded by Mr. Rizzo thanking the judges, on behalf of General Whitney, for their cooperation. The judges, on their part, expressed their gratitude for the way the matter had been handled by the representatives of GHQ.

ALFRED C. OPPLER
Chief, Legislation and Justice
Division

(4)

Extracts from the Law of Census Registration.

Article CXVII. (Extracted from the old law)

In case a death has occurred, persons mentioned below shall be held liable, according to the order in which they are mentioned here, for filing the required report on the dead person ; the said order, however, need not necessarily be followed in the execution of the report :

1. The head of the family of the dead one.
2. A person who inhabited the same house with him at the time of his death.
3. The owner of the house in which he died or the controller of the house or the land in or on which the death occurred.

Article LXXXVII. (Extracted from the revised law)

In case a death has occurred, persons mentioned below are held liable, according to the order in which they are mentioned here, for filing the required report on the dead person ; the said order, however, need not

necessarily be followed in the execution of the report :

1. A person who is a relative of the dead one and who inhabited the same house with him at the time of his death.

2. Any other cooccupant.

3. The owner of the house or the land in or on which he died or the controller of such house or land.

for Ed Baerwald

Publicity by Purge Bob

SCREENING RULES FOR ~~XXXXXXXX~~ ELECTION ANNOUNCED

The Inspection Section of the Prime Minister's Office yesterday issued the following statement regarding procedures for screening candidates for the general election, according to YOMIURI:

1. Persons cleared of the purge by incumbent premiers on and after January 1947 (including those whose appeals against provisional designation were accepted) and those purged by premiers or prefedtural governors but cleared by screening committees are required, as candidates, to present copies of their confirmations to election supervisors and questionnaires (Japanese language version only) to election control committees. This will save rescreening.

2. The foregoing procedure will be dispensed with for those who ran in elections for either House of the Diet, prefectural governor, and assemblies after April 1947, and whose questionnaires are still in the custody of the election control committees for the coming election.

3. Those who have not as yet received confirmations or lost them are required to apply as early as possible to the Inspection Section of the Prime Minister's Office Secretariat for such documents. Such persons must file applications for confirmations, containing the applicants' names ~~(With Kuma attached)~~, current addresses, dates of birth, jobs at the time of their screening, and the dates at which their questionnaires were filed, or the dates of their clearance as announced by the Official Gazette. Clearance as the result of appeals is also to be mentioned.

4. Rescreening is necessary for those who were cleared in 1946 and for those who were cleared by prefectural governors on and after January 1947.

5. Persons who have not as yet been confirmed by premiers (excepting those cleared by premiers on and after January 1947, those whose appeals were accepted, and those who were cleared by appeal committees) must, if they are desirous of being candidates, present three copies of questionnaires (both in English and Japanese). Questionnaires are obtainable at the Inspection Section of the Prime Minister's Office and from screening officials of prefectural governments.

FAR EASTERN COMMISSION

PURGE POLICY IN JAPAN
U. S. Statement
(Reference: FEC-015)

ENCLOSURE "A"

U. S. STATEMENT ON PURGE POLICY

The U.S. Government has advised the Supreme Commander for the Allied Powers in Japan that paragraphs 5b, 23 and 40 of the United States "Basic Initial Post-Surrender Directive to the Supreme Commander for the Allied Powers for the Occupation and Control of Japan", in which there are set forth certain details regarding the implementation of a purge program, are rescinded, and that those parts of the Far Eastern Commission "Basic Post-Surrender Policy for Japan" having to do with the purge, and other pertinent FEC policy decisions, are the only directives to SCAP in force regarding a purge program. The United States "Basic Initial Post-Surrender Directive" was circulated as FEC-015 to Members of the Commission on March 11, 1946, for their information.

ENCLOSURE "B"

RESCINDED PROVISIONS OF U.S. BASIC INITIAL POST-SURRENDER DIRECTIVE TO SUPREME COMMANDER FOR THE ALLIED POWERS FOR THE OCCUPATION AND CONTROL OF JAPAN (FEC-015)

Paragraph 5 b

5 b. Except as indicated in paragraph 7 c*below, in no circumstances will persons be allowed to hold public office or any other positions of responsibility or influence in public or important private enterprise who have been active exponents of militant nationalism and aggression, who have been influential members of any Japanese ultra-nationalistic, terroristic or secret patriotic society, its agencies or affiliates, who have been influential in the activities of the other organizations enumerated in paragraph 5 g* below, or who manifest hostility to the objectives of the military occupation.

Paragraph 23

23. You will prohibit the retention in or selection for positions of important responsibility or influence in industry, finance, commerce, or agriculture of all persons who have been active exponents of militant nationalism and aggression, of those who have actively participated in the

Paragraph 23 (Con't.)

organizations enumerated in paragraph 5 g* (page 141, Political and General Part) of this directive, and of any who do not direct future Japanese economic effort solely towards peaceful ends. (In the absence of evidence, satisfactory to you, to the contrary, you will assume that any persons who have held key positions of high responsibility since 1937, in industry, finance, commerce or agriculture have been active exponents of militant nationalism and aggression.)

Paragraph 40

40. You will remove and exclude from positions of important responsibility or influence in all public and private financial institutions, agencies or organizations all persons who have been active exponents of militant nationalism and aggression or who have actively participated in the organizations enumerated in paragraph 7* of this directive. It may be generally assumed in absence of evidence to the contrary that any persons who have held key positions in any such institutions, agencies, or organizations are active exponents of militant nationalism and aggression. You will also prevent the retention in or selection for places of importance in the financial field of individuals who do not direct future financial effort solely towards peaceful ends.

*See Appendix

A P P E N D I X

PROVISIONS OF U. S. BASIC INITIAL POST-SURRENDER DIRECTIVE TO SCAP (FEC-015) TO WHICH REFERENCE IS MADE IN ENCLOSURE "B"

Paragraph 5 g

5 g. Throughout Japan you will assure the dissolution of the Political Association of Great Japan, the Imperial Rule Assistance Association (Taisei Yokusankai), the Imperial Rule Assistance Political Society (Taisei Seijikai), their affiliates and agencies or any successor organizations, and all Japanese ultra-nationalistic, terroristic and secret patriotic societies and their agencies and affiliates.

Paragraph 7

7. Arrest and Internment of Japanese Personnel

a. The following will be arrested as rapidly as practicable and held as suspected war criminals, pending further instructions concerning their disposition:

(1) All members of the Supreme Military Council, the Board of Field Marshals and Fleet Admirals, the Imperial General Headquarters, and the Army and Navy General Staffs;

(2) All commissioned officers of the Gendarmerie (Kempei), and all officers of the Army and Navy who have been important exponents of militant nationalism and aggression.

(3) All key members of ultra-nationalistic, terroristic and secret patriotic societies; and

(4) All persons who you have reason to believe are war criminals or whose names or descriptions are contained in lists of suspected war criminals which have been or may be furnished to you.

b. All persons who have played an active and dominant governmental, economic, financial or other significant part in the formulation or execution of Japan's program of aggression and all high officials of the Political Association of Great Japan, the Imperial Rule Assistance Association, the Imperial Rule Assistance Political Society and their agencies and affiliates or successor organizations will be interned pending further disposition. You may intern other civilians as necessary for the achievement of your mission.

c. You may, however, for a brief period of time, utilize the closely supervised services of these persons within the categories enumerated in subparagraphs 7 a (1) and (2) above, who are absolutely required by you to insure the demobilization of the Japanese armed forces.

d. You will receive further instructions concerning your responsibility with relation to war criminals, including those who have committed crimes against peace and crimes against humanity.

e. No differentiation shall be made or special consideration be accorded to civilian or military personnel arrested as war criminals either as to manner of arrest or conditions of detention, upon the basis of wealth, or political, industrial, or other rank or position.

f. All nationals of countries except Japan with which any of the United Nations are or have been at war in World War II (Bulgaria, Finland, Germany, Hungary, Italy, Rumania, and Thailand) will be identified and registered and may be interned or their activities curtailed as may be necessary under the circumstances. Diplomatic and consular officials of such countries will be taken into protective custody and held for further disposition.

g. Property, real and personal, owned or controlled by persons who have been detained or arrested under the provisions of paragraph 7 will be taken under your control pending directions as to its eventual disposition.

Appendix
FEC-331 - END

Promulgated 8 Feb 49

Cabinet Order No. 39.

Cabinet Order concerning Special Remission for Persons Designated as falling under the Memorandum in accordance with Imperial Ordinance relating to the Exclusion, Retirement, Resignation, etc. in respect to Public Offices.

In accordance with Ordinance concerning the Orders to be issued in consequence of the Acceptance of the Potsdam Declaration (Imperial Ordinance No. 542 of 1945), the Cabinet establishes this Cabinet Order,

(Application for Special Remission of Designation)

Article 1. Any person, who has been designated as falling under the Memorandum in accordance with the provisions of Imperial Ordinance No. 1 of 1947 relating to the Exclusion, Retirement, Resignation, etc. in respect to Public Offices (hereinafter referred to as "Ordinance No. 1"), (including those who were defined to have been designated as falling under the Memorandum mentioned in Ordinance No. 1 in pursuance of the provisions of Article 5 -(4) of the Ordinance concerning the Prohibition against the Organization of Political Parties Societies and other Associations (Imperial Ordinance No. 101 of 1946); hereinafter referred to as "persons falling under the Memorandum", may submit application for special remission of the designation, if they deem such designation involves gross injustice, to the Prime Minister.

Article 2. The validity of the designation as a person falling under the Memorandum shall not be affected by the presentation of the application for special remission as prescribed in the preceding Article.

(Submission of Written Application)

Article 3. Any person, who intends to submit an application for special remission pursuant to the provisions of Article 1 (hereinafter referred to as the appelant), shall present to the Prime Minister a written application for special remission.

2. The appelant shall in accordance with the Prime Minister's Ordinance concerned, clarify the reasons why he deems his designation involves gross injustice in the written application under the provision of preceding paragraph, and shall submit together with required documents in evidence and his questionnaire.

3. The appelant shall submit the written application for special remission in order that it reaches the person who made the designation concerned within three months from the day of the promulgation of the present Cabinet Order (in case of persons whose designation will be made after the promulgation of the present Cabinet Order: within three months from the day of their designation).

4. If the designation as a person falling under the Memorandum has been made by a Prefectural Governor or the Attorney-General, the written application as mentioned in paragraph 1 shall be submitted by way of the Prefectural Governor concerned or the Attorney-General. The Prefectural Governor or the Attorney-General shall forward the documents partaining to application for special remission, immediately on receipt of such documents, to the Prime Minister, together with an explanatory statement.

5. The Prime Minister shall, upon receipt of the documents pertaining to application for special remission of the persons designated by the Prime Minister, immediately forward them with an explanatory statement, and shall, upon receipt of a written application and an explanatory statement in accordance with the preceing paragraph, thereupon forward them, to the Public Office Qualifications Appeal Commission (hereinafter referred to as "the Commission").

(Special Remission)

Article 4. The Prime Minister may make special remission of the designation of the person concerned as falling under the Memorandum, in the light of the result of examination made by the Commission.

Article 5. The special remission of the designation as a person falling under the Memorandum shall be made by the Prime Minister through his notification to the person concerned.

(Invalidity of Designation)

Article 6. In case where special remission of the designation in regard to a person falling under the Memorandum has been made, the relative designation shall lose its validity on and after the day of such remission. In this case, the provision of paragraph 1 of Article 5 of Ordinance No. 1 (as well as the corresponding provisions of Imperial Ordinance No. 109 of 1946 as amended by the said Ordinance) shall be deemed as not having been applied.

(Announcement)

Article 7. The Prime Minister shall, on having made special remission of the designation of a person as falling under the Memorandum or rejection of application in the light of the result of examination of the Commission, immediately make an announcement to that effect.

(Constitution of Commission)

Article 8. The Commission shall belong to the jurisdiction of the Prime Minister, and shall be composed of not more than seven members.

2. In the case of necessity for enquiring into or deliberating on special subjects, temporary members may be appointed; provided that they shall not partake in the Commission's decision.

3. The chairman of the Commission shall be appointed by mutual election of members.

4. The members and the temporary members shall be appointed by the Prime Minister from among learned and experienced persons.

(Proceedings)
(Precedings of Commission)

Article 9. A quorum of five or more members including the chairman shall be required for holding a meeting of the Commission.

2. The decision of the Commission shall be made by a majority vote of the members present including the chairman. In case of a tie, the decision of the chairman shall be binding.

(Explanation at Commission)

Article 10. If necessary for the Purpose of examination, the Commission may demand the Prime Minister or the Prefectural Governor concerned to make explanations on the reasons for having designated the person concerned as falling under the Memorandum, or may cause the necessary data presented or the facts explained by the appellant or other persons concerned.

(Duty to keep Secrecy)

Article 11. The chairman and members as well as the temporary memberw shall be under obligation not to disclose any information relating to the Commission's examination, except for such subjects as are released by the Prime Minister.

Article 12. The Commission shall have a secretariat. The secretariat shall be staffed with the undermentioned personnel:

Chief of the secretariat,

Secretaries of the Prime Minister's Office:

Full-time 2nd class: 12 persons (one of them may be replaced by a 1st class official)

Full-time 3rd class: 24 persons

2. The chief of secretariat shall be appointed by the Prime Minister from among the 1st or 2nd class secretaries of the Prime Minister's Office as prescribed in the preceding paragraph.

3. The chief of secretariat shall take charge of the affairs of the secretariat under the directions of the Commission's chairman.

4. The secretariat may, in addition to the personnel as prescribed in paragraph 1, have personnel necessary for help within the limit not exceeding 24 persons.

(Procedures of Examination)

Article 13. The prodedure of examination and other matters required in relation to the Commission's affairs shall be determined by the chairman.

(Penal Provisions)

Article 14. Any person who comes under any of the following items shall be liable to penal servitude or imprisonment not exceeding 3 years or to a fine not exceeding 100,000 yen:

(1) Any person who has submitted the statement of reasons or documentary evidences, mentioned in Article 3, with false contents or with relevant facts concealed;

(2) Any person who, having been demanded in accordance with the provision of Article 10 to present data or to make explanations of facts, has failed to do so;

(3) Any person who, having been demanded in accordance with the provision of Article 10 to present data or to make explanations of facts, in reference to important matters, has presented data with false contents or with relevant facts concealed, or has made false explanations or has explained without disclosing full facts.

Supplementary Provisions:

1. The present Cabinet Order shall come into force as from the day of its promulgation.

2. Any application for rescission of the designation as a person falling under the Memorandum, which has been submitted to the Prime Minister after May 10, 1948 and prior to the enforcement of the present Cabinet Order, shall be regarded as an application for special remission presented in accordance with Article 1 paragraph 1.

Cabinet Order No.

1 Feb 49
Submitted by AG Nada

Cabinet Order concerning Special Remission for Persons Designated as falling under the Memorandum in accordance with Imperial Ordinance No. 1 of 1947 concerning Exclusion, Retirement, Resignation, etc. in respect to Public Offices.

The Cabinet, in accordance with the Imperial Ordinance No. 542 of 1945 concerning the Orders to be issued consequent upon the acceptance of the Potsdam Declaration, hereby enacts the present Cabinet Order.

Article 1. Persons, who have been designated as falling under the Memorandum in accordance with the provisions of the Imperial Ordinance No. 1 of 1947 concerning exclusion, retirement, resignation, etc. in respect to public offices (hereinafter referred to as the Ordinance No. 1), (including those who were defined to have been designated as falling under the Memorandum mentioned in the Imperial Ordinance No. 1 of 1947 in pursuance of the provisions of the Imperial Ordinance No. 101 of 1946, Item 4 of Article 5; hereinafter referred to as persons falling under the Memorandum), may submit application for special remission of the designation, if they deem such designation involves gross injustice, to the Prime Minister, within three months of the promulgation in the case of persons who have been designated after the promulgation of the present Cabinet Order).

The Prime Minister, in case where an application as mentioned in the preceding Paragraph is received, may make special remission of the designation of the person concerned as falling under the Memorandum, in the light of the result of examination made by the Public Office Qualifications Reexamination Commission, (hereinafter referred to as the Commission).

Article 2. Any person, who intends to submit an application for spcial remission pursuant to the provision of Paragraph 1 of the preceding Article, must present to the Prime Minister a written application, clarifying the reasons therefor, together with required documents in evidence.

If, in the case of the preceding Paragraph, the designation as a person falling under the Memorandum has been made by a Prefectural Governor or the Attorney-General, the written application as mentioned in the same Paragraph must be submitted by way of the Prefectural Governor concerned or the Attorney-General. In this case, the Prefectural Governor concerned or the Attorney-General must forward the documents pertaining to application for special remission, immediately on receipt of such documents, to the Prime Minister, together with an explanatory statement and the questionnaire of the person concerned.

The Prime Minister, immediately upon receipt of the documents pertaining to application for special remission as prescribed in Paragraph 1, must forward them to the Commission, together with an explanatory statement, (in the case of the preceding Paragraph a statement prepared by the Prefectural Governor concerned or the Attorney-General), and the questionnaire of the person concerned.

Article 3. The validity of the designation as a person falling under the Memorandum shall not be affected by the presentation of the application for special remission as prescribed in Paragraph 1 of Article 1.

Article 4. The special remission of the designation as a person falling under the Memorandum shall be made by the Prime Minister through his notification to the person concerned.

In case where special remission of the designation in regard to a person falling under the Memorandum has been made, the relative designation

Article 2. Any person, who intends to submit an application for special remission pursuant to the provision of Paragraph 1 of the preceding Article, must present to the Prime Minister a written application, clarifying the reasons therefor, together with required documents in evidence.

If, in the case of the preceding Paragraph, the designation as a person falling under the Memorandum has been made by a Prefectural Governor or the Attorney-General, the written application as mentioned in the same Paragraph must be submitted by way of the Prefectural Governor concerned or the Attorney-General. In this case, the Prefectural Governor concerned or the Attorney-General must forward the documents pertaining to application for special remission, immediately on receipt of such documents, to the Prime Minister, together with an explanatory statement and the questionnaire of the person concerned.

The Prime Minister, immediately upon receipt of the documents pertaining to application for special remission as prescribed in Paragraph 1, must forward them to the Commission, together with an explanatory statement, (in the case of the preceding Paragraph a statement prepared by the Prefectural Governor concerned or the Attorney-General), and the questionnaire of the person concerned.

Article 3. The validity of the designation as a person falling under the Memorandum shall not be affected by the presentation of the application for special remission as prescribed in Paragraph 1 of Article 1.

Article 4. The special remission of the designation as a person falling under the Memorandum shall be made by the Prime Minister through his notification to the person concerned.

In case where special remission of the designation in regard to a person falling under the Memorandum has been made, the relative designation

shall lose its validity on and after the day of such remission. In this case, the provision of Paragraph 1 of Article 5 of the Ordinance No. 1 (as well as the corresponding provision of the Imperial Ordinance No. 109 of 1946 as amended by the said Ordinance No. 1) shall be deemed as not having been applied.

Article 5. The Prime Minister, on having made special remission of the designation of a person as falling under the Memorandum or taken other steps in the light of the result of examination of the Commission, must make an announcement accordingly.

Article 6. The Commission shall belong to the jurisdiction of the Prime Minister, and shall be composed of not more than seven members.

In the case of necessity for enquiring into or deliberating on special subjects, temporary members may be appointed, provided that they shall not partake in the Commission's decisions.

Article 7. The chairman of the Commission shall be appointed by mutual election of members.

The members shall be appointed by the Cabinet.

The temporary members shall be appointed by the Cabinet.

Article 8. A quorum of five or more members including the chairman shall be required for holding a meeting of the Commission.

The decision of the Commission shall be made by a majority vote of the members present including the chairman. In the case of a tie, the decision of the chairman shall be binding.

Article 9. If necessary for the purpose of examination, the Commission may demand the Prime Minister or the Prefectural Governor concerned to make explanations on the reasons for having designated the person concerned as falling under the Memorandum, or may cause the necessary data presented or the facts explained by the designated person or other persons concerned.

Article 10. The chairman and members as well as the temporary members shall be under obligation not to disclose any information relating to the Commission's examination, except for such subjects as are released by the Prime Minister.

Article 11. The Commission shall have a secreteriat, for the purpose of disposing of its affairs.

The Secretariat shall be staffed with the undermentioned officials:

Chief of the secretariat,

Secretaries of the Prime Minister's Office,

Full-time officials of 2nd rank: 12 (one of them may be replaced by a 1st rank official)

Full-time officials of 3rd rank: 10

The chief of secretariat shall take charge of the affairs of the secretariat under the directions of the Commission's chairman.

The secretariat members shall be composed of the secretaries of the Prime Minister's Office as prescribed in Paragraph 2.

The secretariat members may be appointed or commissioned by the Prime Minister from among officials of the Ministries concerned or from among learned and experienced persons at large.

Article 12. The procedure of examination and other matters required in relation to the Commission's affairs shall be determined by the chairman.

Article 13. In case where, in accordance with the provision of Article 9, the attendance of persons concerned is demanded, such persons shall be supplied with the necessary travelling expenses and daily allowance, as prescribed by Order.

Article 14. Any person, who submits the statement of reasons or documentary evidences, mentioned in Article 2, with false contents or with relevant facts concealed, shall be liable to a penal servitude of not exceeding three years or a fine of not exceeding ¥15,000.
Any person, who, having been demanded in accordance with the provision of Article 9 to present data or to make explanations of facts, fails to do so, or, in reference to important matters, presents data with false contents or with relevant facts concealed, or makes false explanations or explains without disclosing full facts, shall be treated likewise.

Supplementary Provisions

The present Cabinet Order shall take effect as from the day of its promulgation.

Any application for rescission of the designation as a person falling under the Memorandum, which has been submitted to the Prime Minister prior to the enforcement of the present Cabinet Order, shall be regarded as an application for special remission presented in accordance with Paragraph I of Article 1.

Government Section
Public Affairs Division

1 February 1949

GOVT SEC

MEMORANDUM FOR THE CHIEF, GOVERNMENT SECTION

SUBJECT: Far Eastern Commission Policy Concerning the Purge

1. The Far Eastern Commission policy decisions with regard to Trade Unions and Farmers' Cooperatives, the latter approved only six weeks ago, indicate full and specific acceptance of the purge program as basic policy. Both decisions state explicitly that persons subject to the purge directive of 4 January 1946 are unacceptable as officers of trade unions or of cooperatives. (See Tabs A and B.)

2. Throughout the first year following issuance of the purge directive the Commission received and distributed much detailed information concerning progress of the purge program. This material was culled from official radio reports from the Headquarters, from Japanese newspaper and radio reports. The most comprehensive of these reports was contained in General Whitney's statement to the Allied Council concerning implementation of the purge on 17 April 1946, which was distributed to the members of the Commission. (C4-010, 16 May 1946, See Tab C2.) A full progress report was submitted to Committee No. 4 by the United States member on 21 August 1946. (See Tab C3.) Following examination of this report, the Committee decided that "no further action was required on this matter, subject to the right of any member of the Committee to raise the issue later". (See Tab C4.)

3. The Soviet representative subsequently suggested to the Commission that it accept a policy decision calling for more speedy completion of the purge and recommending deletion of paragraph 5 of "Directive No. 550 of January 4, which permits the Japanese government under the pretext of 'irreplaceability' to keep in public office persons who fall undoubtedly under the purge directive of January 4". (See Tab C5.) In the course of discussion the Commission agreed "to postpone further consideration of this subject" pending receipt of information concerning points raised by the Soviet representative and on "other developments subsequent to the first report by the United States government on the purge". (See Tab C6.) The Headquarters did not receive another request for a formal report, but the Commission subsequently reproduced and distributed to all Commission members information copies of "Plan of Japanese Government for Purge of Local Government Agencies" (MI-066/1, 11 December 1946), "Plan of Japanese Government for Further Application of the Purge" (MI-066/2, 6 January 1947), and "Imperial Ordinance No. 1 of 1947 Re Purge" (C4-007/4). These reports were accepted without dissent or comment.

685

4. An examination of the record of deliberations preceding final agreement on the Basic Post-Surrender Policy, announced by the Far Eastern Commission on 19 June 1947, reveals that the Commission evidently considered it unnecessary at any time to discuss that portion of the document which requires that "persons who have been active exponents of militarism and militant nationalism will be removed and excluded from public office and from any other position of public or substantial private responsibility". This provision remained substantially the same throughout the year that the document was under consideration. (See Tab D.) Since Commission members were fully informed concerning progress of the purge, mere acceptance was apparently considered sufficient.

5. Examination of Far Eastern Commission records reveals that the purge principle has been consistently recognized and accepted. The Policy for Revision of the Educational System, for example, issued on 27 March 1947, provides that "exponents of ultranationalistic, militaristic, or totalitarian ideas should be forbidden to teach or engage in other employment connected with education". (See Tab E.) A year later the principle was recognized in FEC-017/21, 30 March 1948, in the policy decision concerning Control of Japanese Military Activity, which forbids employment in the public service of career military personnel. (See Tab F.) The fact that the purge provisions of these policy decisions remained unchanged and undiscussed throughout the period of deliberation by the FEC and by its Committees suggests that the principle was so fully accepted that it did not warrant discussion.

6. Review of the radios received and dispatched during 1946 reveals that the Far Eastern Commission took an active interest in the purge. On several occasions it requested specific information concerning progress of the program or inquired concerning the status of certain individuals under SCAPIN 550. Copies of all these radios are included in Tab G.

7. Appended as Tab H are copies of documents, or extracts therefrom, which bear on the question of purge application.

OSBORNE HAUGE
Chief, Public Affairs Division

File Career Ministers

Attorney-General's Office Ordinance No.

January , 1949

The following amendments shall partially be made to the Ministry of Home Affairs Ordinance No. 30 of June 20th, 1946 concerning the investigation of the former commissioned officers of the Regular Army or Navy or the Special Volunteer Reserve.

Attorney-General

UEDA Shunkichi

In Article 2-2 "the Family Registration Law Article 117" shall read "the Family Registration Law Article 87".

Supplementary Provisions

This Ordinance shall come into force as from the day of its promulgation.

COPY

EXTRACTS FROM FEC-015

5. Political and Administrative Reorganization

b. Except as indicated in paragraph 7 c below, in no circumstances will persons be allowed to hold public office or any other position of responsibility or influence in public or important private enterprise who have been active exponents of militant nationalism and aggression, who have been influential members of any Japanese ultra-nationalistic, terroristic or secret patriotic society, its agencies or affiliates, who have been influential in the activities of the other organizations enumerated in paragraph 5 g below, or who manifest hostility to the objectives of the military occupation.

7. Arrest and Internment of Japanese Personnel

c. You may, however, for a brief period of time, utilize the closely supervised services of those persons within the categories enumerated in subparagraphs 7 a (1) and (2) above, who are absolutely required by you to insure the demobilization of the Japanese armed forces.

ELIMINATION OF CERTAIN ELEMENTS IN THE JAPANESE ECONOMIC SYSTEM

23. You will prohibit the retention in or selection for positions of important responsibility or influence in industry, finance, commerce, or agriculture of all persons who have been active exponents of militant nationalism and aggression, of those who have actively participated in the organizations enumerated in paragraph 5 g (page 141, Political and General Part) of this directive, and of any who do not direct future Japanese economic effort solely towards peaceful ends. (In the absence of evidence, satisfactory to you, to the contrary, you will assume that any persons who have held key positions of high responsibility since 1937, inindustry, finance, commerce or agriculture have been active exponents of militant nationalism and aggression).

1-A-2.

FINANCIAL

40. You will remove and exclude from positions of important responsibility or influence in all public and private financial institutions, agencies or organizations all persons who have been active exponents of militant nationalism and aggression or who have actively participated in the organizations enumerated in paragraph 7 of this directive. It may be generally assumed in absence of evidence to the contrary that any persons who have held key positions in any such institutions, agencies, or organizations are active exponents of militant nationalism and aggression. You will also prevent the retention in or selection for place if importance in the financial field of individuals who do not direct future financial effort solely towards peaceful ends.

FAR EASTERN COMMISSION

PRINCIPLES FOR JAPANESE FARMERS' ORGANIZATIONS
Directive Serial No. 97
(Reference: 277 series)

XXX

"13. No member should hold office in a cooperative if (1) he is engaged in activities which are likely substantially to compete with the activities of the cooperative, or (2) he is subject to the purge directive of January 4, 1946, or subject to subsequent purge directives by the Supreme Commander for the Allied Powers.

file
Imp ordenance No. 1.

December 29 , 1948.

TO : Major Napier, Government Section, G.H.Q.

FROM : Director, Special Examining Bureau,
Attorney-General's Office.

SUBJECT : On the Meaning and Scope of the Term "Political Activity "Mentioned in Article XV, Imperial Ordinance No. 1 of 1947.

We wish to inform you that the accompanying notification has been forwarded by the Bureau Director to governors of prefectures on the interpretation of Article XV, Imperial Ordinance No. 1 of 1947.

M. Yoshikawa
Director of Special Examining Bureau,
Attorney-General's Office.

TOKUSHIN-KAN

No. 752

December 15, 1948.

TO : Prefectural Governors.

FROM : Director, Special Examining Bureau, Attorney-General's Office.

SUBJECT : On the Meaning and Scope of the Term "Political Activity" Mentioned in Article XV, Imperial Ordinance No. 1 of 1947.

In connection with political activities of those persons who have been purged under the Memorandum, concerning which questions appear to have been briskly raised of late, there exist many difficult points in determining at each material instance what should constitute the political activity mentioned herein, and as to the same problem an inquiry has lately been made by the Diet to this office. Under the circumstances, we reviewed the matter from all directions and have reached the conclusion that the following shall be, for the time being, our interpretation of the term in question, which we wish to have you understand:

The reason why the political activities of those who have fallen under the Memorandum are prohibited is because by doing so it is intended to prevent, in conformity with the aim of the Allied Memorandum of Jan. 4, 1946 and the Imperial Ordi-

nance No. 1 of 1947, all the influence of those persons on politics; consequently, the range covered by the term "Political activity" has been understood by all related quarters to be to be very extensive. And while it is to be determined in the spirit of the law with each material case what should come under "political activity" in the application of the Imperial Ordinance No. 1 of 1947, the remarkable factors that have hitherto been deemed as political actions are as follows :

a. Any activity relating to elections.

b. Any action made in support of, or opposition to, any political group.

c. Any action on the publication, discussion or criticism of any administrative policy or on the realization thereof.

Restricted

Excerpt from: JCOS NR: W 81395 19 DEC 48

(Farmers' Cooperatives)

"13. No member should hold office in a cooperative if, ...

(2) He is subject to the Purge Directive of Jan 4, 1946, or subject to subsequent purge directives by SCAP."

- - -

Restricted

Received Kyoto 28 Oct 48

The general condition of the cases concerning the Imperial Ordinance No. 1 of 1947. (the Imperial Ordinance relating to the Exclusion, Retirement, etc. in respect of Public Service)

1. The condition of disposition of the cases (as of September 30, 1948):

Filed	100 cases	
Indicted	30 "	(summary orders demanded against 5 cases among these)
Not indicted, etc.	44 "	
Pending	26 "	

2. The variety of the cases:

(a) The offences of making the false entries on relevant or material matters in the questionnaires (Article 7, Para. 1) have occupied the greater part of such cases at first, but the offences concerning political activities by the persons who fall under the Memorandum (Article 15) have increased gradually and, furthermore, there have arisen the cases in which the persons falling under the Memorandum have been indicted on the charge of exercising the control over the individuals who hold public office (Article 12) or frequenting the office where they served until their retirement (Article 13).

(b) Besides, concerning whether it is necessary or not to enter previous conviction as the relevant or material matters in the questionnaire, it is worthy of notice that the judgment of "not guilty" was rendered by the Supreme Court on Sept. 8, 1948 about the Jokoku appeal case in contravention of the Imperial Ordinance No. 1 of 1947 against MAENO, Yosakichi, Mayor of Asahigawa city, on the ground that the false statement shall not be the object of

punishment, in case the matter to be entered, even if it is included in the items of the questionnaire, is not substantially connected with the screening whether or not a person falls under the Memorandum.

(c) The cases concerning the offences in contravention of the Cabinet Order No. 62 of 1947 (the Cabinet Order relating to the Removal, Prohibition of Reinstatement, etc. of Member of the Educational Service) are of similar nature, and it may be added that there have been two indictment cases as to the violation of the above Cabinet Order (the false statements made in the questionnaire and the getting of a position in the teaching profession by the unacceptable).

3. The attention concerning such case

The public attention was drawn to the importance of the cases of this kind by the "Talk by the Procurator General" on August 7, but a further discretion in demeanor is hereby requested on the part of those who fall under the Memorandum so as to prevent the possibility of the recurrence of such unfortunate cases.

September 3 , 1948.

FOR : Major Napier, Government Section, G.H.Q.

SUBJECT: Concerning the revision of the Imperial Ordinance No. 101.

From our experiences of the application of the Imperial Ordinance No. 101 we should like to make some amendments to it this time as in the annexed paper. We have hereby the pleasure of laying the matter before you for your approval.

R. Takeuchi

Director of Special Examining Bureau,

Attorney-General's Office.

~~ANNEXED PAPER~~

In the amendments we are going to make this time we want (I) to establish the regulations concerning observation business so as to give the legal authority to the activities of organs concerned for the prevention of dicovery of the offences against this Ordinance, (2) to strike out the regulations concerning the receipt and custody of property (the former Article 3 and Article 5-2) followed by the establishment of the Cabinet Order concerning "the custody and disposal of the property of dissolved organizations" (the Cabinet Order No. 238 of 1948) (in consequence, part of the Memorandum dated January 4, 1946, shall be realized by this Cabinet Order), and (3) to make the adjustment of the phraseology which has been left in abeyance and simplify the arrangements of the text which have hitherto been complaint as difficult to understand, and so we have ventured to amend the full text concerning a wide range and have rewritten it all in the spoken language mixed with"hira-gana" (cursive characters) to Chinese characters.

The purport of the amendments is as follows:-

Article 1 (newly established).

By giving the purpose we have tried to make the nature of this Order clear and to make the reader understand it easily.

Article 2 (the former Article 1, Paragraph 1)
Article 3 (the former Article 1, Paragraph 2)

In order to make easy to understand we have arranged to divide it into two, namely, the prohibition of organization and the prohibition of activity.

Article 4

Paragraph 1 (the former Article 2)

With the exception of the change of text number there is no substantial change in it.

Paragraph 2 (the former Article 4, Head 1, (a) in the parentheses).

The former position was not free from inconvenience and indistinctness and it should, of course, be in the new position.

Article 5 (the former Article 4).

It has been amended, "provided that the organization which is specially designated or approved by Attorney-General shall be excluded." This corresponds to the Attorney-General's Office Ordinance in which special instances concerning this Article have been prescribed as in the different draft, "Re Exception to be made on the provisions of Article 4 of the Imperial Ordinance No. 101 of 1946." What in the (a) parathesses of the former Article 4, Head I has been transferred to Article 4, Paragraph 2.

Article 6 (the former Article 5, Paragraph 1).

In Article 2, "Government" has been made "the Government or local public bodies." and the range of the organizations required to file the declaration has been expanded.

In respect to this Article a different draft notification "On the Range of Organizations, of which Official Enrollment is Mended" has already been submitted to you.

Article 7 (the former Article 5, Paragraphs 2 and 5).

Paragraph 1 (the former Paragraph 2).

The text, "shall report changes in these matters to the authorities within seven days" has been mentioned in Paragraph 2

Extending the term of seven days to twenty days including the case of dissolution.

Sevem days are too short, and it is non-reality from the viewpoint of the present condition of communications. It is not observed and so it has been extended. It is true that the declaration in the case of dissolution was filed before, but any regulations about it is not mentioned and therefore the regulations have been provided.

Paragraph 3 (newly established).

It is necessary to have the regulations which should be the legal authority, and therefore we have inserted it.

Paragraph 4 (the former Paragraph 3).

Paragraph 5 (newly established).

It is indispensible for us to have the organ magazine or paper which shows the nature of the organization as it is. In consequence, as far as the organization required to file the the declaration we have established a paragraph so as to collect it automotically.

Article 8 (newly established).

This Ordinance has participated together with the Imperial Ordinance No. 1 of 1947 in the important Role for the demodratization of Japan. However, the legal authority has hitherto been lacked for the investigation to dicover or prevent the offences against this Ordinance or to acertain the truth of the declaration, and the authorities of the metropolis, district, urben or

rural prefecture have met with various difficulties, and the investment of this authority has often been demanded.

With regard to the application of this Article, we shall be very cautious to cause the competent officials carry their identity cards and also give them the instructions not to infringe upon people's rights by deviating from the necessary limits.

Article 9 (newly established).

As it is mentioned concerning the purpose in Article 1, "throwing the contents of the political organization open to the general public" so we have made it clear regarding the inspection.

Article 10 (the former Article 5-3)

"Any organizations whose objects or activities as come under any of the Heads of Article 1, Para. 1, and which are dissolved by the order of the Supreme Commander for the Allied Powers of by the Government". has been struck out as it is not necessary, but there is no substantial change.

Article 11 (the former Article 5-4)
(the former Article 5-5)

We have put it together to be one but there is no substantial change.

Article 12 (the former Article 6)
(the former Article 7-2)

The offence against Article 9 has newly been prescribed. The former paragraph 3 has been struck out as it is not necessary concerned with the reciept of property, and the former Article 7-2 has been inserted as Head 4.

Article 13 (the former Article 7).

Article 14 (the former Article 8).

ANNEXED PAPER

1948.

CABINET ORDER NO.

Cabinet Order for the amendments of the matters concerning the prohibition of the formation of the political party, association, society or other organization in accordance with the Imperial Ordinance No. 542 of 1945 concerning the orders to be issued in consequence of the acceptance of the Potsdam Declaration.

The Cabinet shall hereby establish the Cabinet Order for the amendments of the matters concerning the prohibition of the formation of the political party, association, society or other organization in accordance with the Imperial Ordinance No. 542 of 1945 concerning the orders to be issued in consequence of the acceptance of the Potsdam Declaration (of the said Imperial Ordinance).

The following amendments shall be made to the matters concerning the prohibition of the formation of the political party, association, society or other organization (the Imperial Ordinance No. 101 of 1946) in accordance with the orders to be issued in consequence of the acceptance of the Potsdam Declaration.

(Organization Control Ordinance)

(The purpose of the present Cabinet Order).

The purpose of the present Cabinet Order shall be comprised in the prohibition of the formation of any secret, militaristic, ultra-nationalistic or anti-democratic political party, association, society or other organization and the similar effect of the activity, and at the same time it is comprised in the healthy promotion and development of peaceful democratic organization and activities by throwing the contents of the political organization open to the general public.

(Organization under the prohibition of formation).

Article 2. It shall be prohibited to form any political party, association, society or other organization whose purpose or the effect of whose activity falls under one of the following Heads:

1. Resistance or opposition to the Occupation Forces or to orders issued by the Japanese Government in response to directions of the Supreme Commander for the Allied Powers.

2. Support or justification of aggresaive Japanese military action abroad.

3. Arrogation by Japan of leadership of other Asiatic, Indonesian or Malayan peoples.

4. Exclusion of foreign persons in Japan from trade,

4. (cont'd)

commerce or the exercise of their professions.

5. Opposition to a free cultural or intellectual exchange between Japan and foreign countries.

6. Affording military or quasi-military training, or providing benefits, greater than similar civilian benefits, or special representation for persons formerly members of the Army or Navy, or perpetuation of militarism or a martial spirit in Japan.

7. Alteration of policy by assassination or other terroristic programs, or encouragement or justification of a tradition favoring such methods.

(Prohibited activity).

Article 3. It shall be prohibited for any political party, association, society or other organization or any individual or group to make any activity which falls under one of the Heads of the preceding Article.

(Dissolution of organization).

Article 4. (1). Any organization which falls under the provisions of the preceding two Articles (including one regarded as an organization mentioned in Article 2 in accordance with the provisions of Article 5) or any organization which has not filed the declaration in accordance with the provisions of Article 7 and is designated by the Attorney-General shall be dissolved.

Article 4 (cont'd).

(2). Any organization mentioned in the preceding paragraph which was dissolved prior to the designation as in the preceding two Articles (including that prior to January 4, 1946) is designated by the Attorney-General shall be regarded as dissolved in accordance with the provisions of the preceding paragraph.

(Organization regarded as the organization whose formation is prohibited).

Article 5. Any organization which falls under one of the following Heads shall be deemed as the organization mentioned in Article 3, provided that the organization which is specially designated or approved by the Attorney-General shall be excluded.

1. If any of its principal officers falls under one below mentioned:

(a) A constituent member of the organization dissolved in accordance with the provisions of Article 4.

(b) Former commissioned officers of the Imperial Japanese Regular Army or Navy or the Special Volunteer Reserve, who have been on active duty after the date of January 1, 1930.

(c) Any person who has served in or with the military police (Kempeitai), the TOKUMU KIKAN, KAIGUN TOKUMUBU or other special or secret

Article 5, 1 (c) (cont'd)

intelligence of military or naval police organizations.

2. More than a quarter of its whole constituent membership is occupied by persons who were formerly constituent members of any organization which was dissolved under the provisions of Article 4.

(Organization required to file the declaration).

Article 6. The formation or activity of any political party, association, society or other organization whose purpose or activity consists of one of the following Heads shall be prohibited, unless it shall first have filed a declaration prescribed in Article 7.

1. Proposing or supporting candidates for public office.

2. Acting to influence the policy of Government or local public bodies.

3. The discussion of the relations between Japan and foreign powers.

(Method of filing the declaration).

Article 7. (1). Principal members of the organizations mentioned in the preceding Paragraph shall file in advance the declarations of matters mentioned in the following Heads in the office of the mayor of a city or of the town or village head (or the head of a ward in that part of Tokyo Metropolis where wards are the administre-

Article 7, (1) (cont'd)

tive units) in which it has or intends to have its principal office.

1. The name.

2. The purpose.

3. The address of the principal offices.

4. The names and addresses of the officers together with a statement as to their military or police service and the names of all organizations of which they are or have once been constituent members.

5. The names and addresses of substantial financial supporters and the amounts of their respective contributions.

6. The names and addresses of the constituent members, and the names of all political or ideological organizations with which they were previously affiliated.

(2). In the case where any change takes place in the item of declaration or the organization is dissolved the declaration shall be made within 20 days.

(3). Necessary items for the declaration concerning the preceding two Paragraphs shall be specified by the Order.

(4). The provisions of Paragraph 1, Head 6 of the present Article shall not apply to trade unions and similar kind of organization of workers or employees.

(5). In the case where the organization which must file the declaration under the preceding Article publishes

Article 7, (5) (cont'd)

its organ magazine or paper, three copies shall be submitted every time it is issued to the Attorney-General through the governor of the metropolis, district or urban or rural prefecture.

(Inspection of the declaration).

Article 8. The mayor of a city, the head of a town or village, the governor of the metropolis, district, urban or rural prefecture or the Attorney-General shall respectively arrange as specified by the Order to submit the declaration in the preceding Article for general inspection.

(Investigation of the Attorney-General).

Article 9. (1). The Attorney-General shall be authorized to make necessary investigation to ascertain whether the Articles and Paragraphs of the present Cabinet Order are observed or not.

(2). The Attorney-General shall be authorized to cause the governor of the metropolis, district or urban or rural prefecture to transact part of the business prescribed in the preceding paragraph.

(3). The Attorney-General or the governor of the metropolis, district or urban or rural prefecture shall be authorized to cause competent officials to summon, in case of necessity for the investigation concerning Paragraph I of the present Article, the responsible persons or the persons concerned to make the investigation or dis-

Article 9, (3) (cont'd)

patch them to any place of necessity and have them execute the inspection of books and other matters of necessity or the submission of materials.

(4). The national officials or public officials prescribed in the preceding Paragraph shall carry their identity cards to show them at the request of the persons concerned.

(Removal from public office after the dissolution of organization).

Article 10. (1). Any person who had connection after May 11, 1948, as specified in the following Heads, regardless of the length of period, with the head office or branch office of the metropolis, district or urban or rural prefecture (including the jurisdiction of chief of the district branch office), city, town or village of any organizations which have come under the organizations mentioned in the provisions of Article 4 shall be removed from public office as similar kind of the persons applicable to the Memorandum in accordance with the provisions of the Imperial Ordinance concerning the removal and exclusion of undesirable personnel from public office (the Imperial Ordinance No. 1 of 1947; the Imperial Ordinance No. 1 to apply hereafter).

1. Founder, Officer or Director.
2. Holder of important office.
3. Compiler of all publications or organ magazine or paper.
4. Voluntary contributor of a large sum of money.

Article 10, (cont'd)

(2). With reference to the scope of the organizations in the preceding Paragraph and officers and staff members, the Attorney-General shall specify it and announce it publicly in the Official Gazette.

Article 11. Any person coming under the provisions of the preceding Article shall be required at the time of designation under the provisions of Paragraph 2 of the preceding Article, as one to be designated to be applicable to the Memorandum in accordance with the Imperial Ordinance No. 1, and shall retire from the public office, and the said Ordinance shall all apply with the necessary modification to the other persons concerned.

(Punishment).

Article 12. Any person mentioned below shall be liable to imprisonment with hard labour or imprisonment for a term not exceeding ten years or may be liable by the extenuating circumstances into consideration to a fine not exceeding 75,000 yen.

1. If he contravenes the provisions of Articles 2 and 3.

2. If he fails to file the declaration in accordance with the provisions of Article 7 or makes false entries in the declaration.

3. If he refuses to appear in person in response to summon, to allow the competent officials to enter any place of necessity for investigation or to evade to submit materials.

Article 12, (cont'd)

4. If any person coming under the provisions of Article 10 fails to take steps to retire from office or takes up any public office by concealing the fact which comes under it.

Article 13. (1). If any principal officer or substantial financial supporter, or any adviser or councillor (including positions of similar or equivalent authority; the name to apply hereafter) or constituent member who is applicable to the Memorandum as prescribed in the Imperial Ordinance No. 1, makes the formation or supports the formation of any new organization mentioned in the said Paragraph whose purpose or the effect of whose activities comes under one of the Heads of Article 2 shall be liable to the punishment twice as large as the punishment prescribed in the preceding Article.

(2). Any person mentioned in the preceding Paragraph becomes a principal officer, adviser or councillor, constituent member or influential financial supporter he shall be deemed to have made the formation of the new organization mentioned in the said Paragraph.

Article 14. In case representatives of a judicial person, or agents, employees or other workers of a judicial or natural person have committed offences mentioned in Article 12 in connection with the activities of the judicial or natural person in question, not only the offenders shall be punishable but also the judicial or natural person concerned shall be liable to the fine provided in that Article.

Supplementary Provisions.

(1). The present Cabinet Order shall come into force as from the day of its promulgation.

(2). The previous designation in accordance with the provisions of Articles 2 and 4 of the Imperial Ordinance No. 101 of 1946 shall be deemed as the designation in accordance with the provisions of Article 4 of the present Cabinet Order.

(3). The declaration in connection with the provisions of Article 5 of the Imperial Ordinance No. 101 of 1946 shall be deemed as the declaration in accordance with Article 7 of the present Cabinet Order.

(4). The public announcement in accordance with Article 5--3 of the Imperial Ordinance No. 101 of 1946 shall be deemed as the designation in accordance with Article 10 of the present Cabinet Order.

(5). In Article 1 of the Cabinet Order concerning the administration and disposal of the dissolved organizations of the Cabinet Order No. 238, "Article 2 (the Imperial Ordinance No. 101) concerning the prohibition of the formation of the political party, association, society and other organization" shall read "Article 4 (of the Cabinet Order No. of 1948) of the Organization Control Ordinance", and Article 4 and the rest of the said Cabinet Order in the parenthesis shall be deleted. In Article 4,6, and 15, "Article 2 or Article 4, Head 1, (a) of the Imperial Ordi-

Supplementary Provisions (cont'd)

nance 101 of 1946" shall read "Article 4 of the Organization Control Ordinance".

(6). Paragraphs 3 and 4 of the Supplementary Provisions of the Cabinet Order (the Cabinet Order No. 328 of 1947) by which the amendments were partially made to the Imperial Ordinance No. 101 of 1946 concerning the prohibition of the formation of the political party, association, society or other organization shall be deemed as remained in force after the enforcement of the present Cabinet Order.

Received Suzuki

August 30, 1948

TO : Major Napier, Government Section, G.H.Q.

FROM : Director of Special Examining Bureau, Attorney General's Office.

SUBJECT: On the Range of Organizations, of which Official Enrollment is Needed.

Regarding the sphere of organizations of which official registration is required under Article 5, Imperial Ordinance No. 101 of 1946 (pertaining to the prohibition of organization of political parties, associations, etc.), it has been so far treated, through the approval of Lieutenant-Colonel Roost given on July 23, 1946, upon a narrow interpretation of that Article as is known from the Annexed Paper I.

However, in order that the purpose of this Article, which aims to make widely known the respective characters of various political organizations as well as to prevent the formation of such groups as may be against the purport of this Ordinance, be thoroughly fulfilled, it is desirable that a possibly large category of organizations should undergo the process of official enrollment at time of establishment.

For this purpose, our Bureau has hitherto endeavoured with effect to induce a considerably wide range of outside organizations to submit voluntarily, not according to the said provision, their declaration of organization to this office. But, with the progress of various situations, such free method has come to be found insufficient and the procedure of registration forced on a wider range of organizations upon a sound legal ground has become necessitated.

Therefore, we would now expect to attain more perfect administration of the Ordinance by designating wider categories of organizations, as those that are required to file necessary declarations, upon a broader interpretation of the said Article. A plan of the concerned notification is attached hereto (Annexed Paper II), and we expect that your approval will be given to it.

Director, Special Examining Bureau,

Attorney-General's Office.

(Annexed Paper I)

July ____ 1946

From : Directors of Police & District Bureaus, Home Ministry.

To : Prefectural governor, respectively

Subject: Re. enforcement of Art. V, Imperial Ordinance No.101 of 1946 (Subject: Concerning Prohibition of Political Parties, Associations, Societies and Other Organizations).

In regard to the above subject, as it has been decided to put into practice as follows as a result of arrangement with G.H.Q., it is requested to take appropriate measures to make known to the public immediately to the effect and to see to be effected all right in the operation thereof.

I. The organizations requested to file a declaration in compliance with the provisions of Art. V shall be limited to those so-called political organizations whose primary purpose or activity consists of each or some of the following items:

1. Proposing or supporting candidates for public office.

Public office mentioned here indicates exclusively the one set up on national basis - that is, for the time being, limited to a member of national assembly, accordingly it does not include a prefectural governor, member of a local assembly, mayor, headman of a town and a village etc.

2. Influencing the policy of Government.

The said Government signifies only Central Government; therefore, those organizations relative to exclusively local policies of a prefecture, city, town and village need not to file a declaration.

3. The discussion of the relations between Japan and foreign powers.

II. As filing a declaration is needed for those political organizations whose primary purpose or activity consists of each or some items enumerated above, the economical, cultural, study or mutual aid organizations whose objects are outside of politics need not to file a declaration even if in the case when their activity comes temporarily under any item mentioned in the preceding paragraph.

III. Labor unions and quasi-labor unions (for example, such as farmers' unions) need not file a declaration, for the time being, whatever political activity they may perform.

[With respect to the purports of the foregoing paragraphs II and III, they were amended on 28 February 1947, through the approval given by Lieutenant-Colonel Roost, so as those organizations specified therein, ~~in~~ when they proposed candidats for any public offices at time of elections, should also file the necessary declaration for that term only.]

(ANNEXED PAPER II)

TO : Prefectural Governors.

FROM : Director, Special Examining Bureau, A.G. Office.

SUBJECT: Re Enforcement of Art. 5, Imperial Ordinance No. 101 of 1946 (Pertaining to Prohibition of Organization of Political Parties; Associations, etc.)

With respect to the subject matter, a notification (Home Ministry Local-B No. 416, Aug. 1, 1946) has already been forwarded to you from Directors of Local, and Police Bureaus, Home Ministry as to the criteria of treatment of the said Ordinance; however, in order to meet the progress of various situations after that time, as well as to attain a more perfect administration of the Ordinance, we have consulted the matter with the related quarters of G.H.Q., in consequence of which it has been decided that the treatment of the said Ordinance shall be based hereafter upon the following standards. We therefore desire that you will take appropriate measures immediately to make this generally known and leave nothing regrettable in the treatment of this Ordinance.

1. The organizations that are required to file necessary declarations with this office in accordance with the provisions of Art. V of the said Ordinance shall be limited to those so-called political organizations and groups of people with any particular ideology, whose primary purpose or activity falls under any of the following items:

(1) Proposing or supporting candidates for public offices.

Public offices mentioned here include not only the membership of the Diet, but also the positions of prefectural governor, member of a prefectural assembly, mayor of a city, headman of a town or village, and member of the assembly of a city, town or village.

(2) Making any action which influences policies of a government.

A government mentioned here implies not only the Central Government, but also that of a prefecture, city, town or village.

(3) Discussing on relations between Japan and other nations.

By "relations" are here meant those of political, ideological, economic, and cultural fields extensively.

2. Inasmuch as the organizations that are liable to file necessary declarations are limited to political organizations and groups of people with any particular ideology, a mere financial, cultural or academic organization, a society for mutual help, a labour union or the like, such as a farmers' society, whose purpose is other than those specified above, is not requested to file any declaration, except when it makes any activity in connection with any public election, and even in case that the activities of such an organization should fall temporarily under (2) or (3) of the preceding items.

3. The notification "Home Ministry Local-B No. 416, Aug. 1,

1946" shall be retracted.

4. In the notification "I.B.H.M. No. 7, March 13, 1947", Par. 1, Item (1) shall be so read as to be in accordance with Par. 1, Item (1) of this notification.

5. Those organizations that are newly made liable for filing a declaration of organization by the present notification shall be so directed by your office as will finish the necessary proceeding not later than , 1948.

Director, Special Examining Bureau,

Attorney-General's Office.

Received Suzuki

August 30, 1948

TO : Major Napier, Government Section, G.H.Q.

FROM : Director, Special Examining Bureau, Attorney-General's Office.

SUBJECT: Re Exceptions to be Made on the Provisions of Art. IV, Imperial Ordinance No. 101 of 1946.

The range of organizations to which the Article IV of the Imperial Ordinance No. 101 of 1946 is applicable is considered too extensive and almost unlimited. For illustration we will compare the case with that of the Imperial Ordinance No. 1 of 1947, the one which is called Purge Ordinance:

The persons who have been purged under the latter ordinance, except those falling under Item C in the Memorandum, are allowed to take any principal positions in any organizations, if the concerned positions are not ones that have been designated as public offices; whereas any former members of so-called dissolved organizations, most of whom are persons not falling under the Purge Ordinance, can never assume any principal offices in any other organizations. In other words, it often occurs that when persons who have fallen under the Purge Ordinance can assume any executive positions in an organization, other persons not falling under the same ordinance (namely, former members of dissolved organizations) are barred from taking the similar

posts in the same organization.

Needless to say, not all such instances are entirely unreasonable without exception; nevertheless, it may be proper, we contemplate, that some organizations be excluded from those specified in Article IV and that some exceptions be admitted as to the appliance of the said Article, in consideration of the character of respective organizations and the respective careers of the persons who intend to be principal officers or other members of any organizations (that is, whether they were executive members of any dissolved organizations or they were mere ordinary members thereof and consequently have been affected very little or not in the least by the particular colours of such organizations).

Upon such assumption, we here divide all the organizations that become the objects of the Article IV into the three categories that follow:

a. Organizations to which the Article IV is plainly applicable.

b. Organizations concerning which exceptions are admitted in the application of the Article IV, in consideration of the respective characters of themselves and of the persons composing the principal officers and other members thereof (namely, those coming under Article I, Item 2 in the Draft of the Attorney-General's Office Ordinance concerned, attached hereto).

Note:

Approval for the formation of these organizations is to be given after deliberation effected for each individual case.

c. Organizations excluded from the appliance of the Article IV on account of their peculiar characters (namely, those coming under Article I, Item 1 in the said Draft).

Note:

These include purely religious organizations, tea-ceremony groups, etc.

Any organization (other than those belonging to the category a) that is given to be questioned will be fully scrutinized by our office in the light of the standards that have been hitherto set by your quarter, and, after consulting your opinion, be finally determined to which of the categories a, b and c it ought to belong.

In connection with this plan, we wish to proclaim an Attorney-General's Office Ordinance as shown in the accompanied paper, based on the terms "unless specially designated by the Attorney-General" in the provision of the said Article IV.

We should like to have it understood by you that by taking this measure and making the provisions thoroughly familiar to the public, we believe that all latent cases of offence as to the provisions of the Article IV will be eliminated.

Director, Special Examining Bureau,

Attorney-General's Office.

Attorney-General's Office Ordinance No. _____

1+3 please

Date

I hereby promulgate this ordinance, based on a provision in Article IV, Imperial Ordinance No. 101 of 1946, concerning the exceptions to be made on the provisions of Article IV, Imperial Ordinance No. 101 of 1946 Pertaining to the Prohibition of Organization of Certain Political Parties, Associations, etc., based on the Imperial Ordinance No. 542 of 1945 Pertaining to the Orders to be issued in consequence of the Acceptance of the Potsdam Declaration.

Attorney-General.

Exceptions to Be Made on the Provisions of Article IV, Imperial Ordinance No. 101 of 1946.

Article I.

In accordance with a provision in Article IV, Imperial Ordinance No. 101 of 1946 (hereafter will be called the "Ordinance"), the following organizations shall be designated as those not regarded as coming under Article I, Paragraph 1 of the "Ordinance".

1. Organizations whose objectives are purely economic, religious or cultural, or the like, and which are specially designated by the Attorney-General.

2. Organizations which are similar to those specified

in the preceding paragraph, and to which permission of formation is given by the Attoney-General.

Article II.

When an organization which has been designated or permitted its formation under the provisions of the preceding Article, but has acted, or is suspected of acting, in offence against any of the provisions of Article I of the "Ordinance", its designation or the permission to it shall be cancelled. In case that any act of such an organization has gone beyond the limit within which it was designated or permitted its formation, the designation or the permission shall also be cancelled.

Article III.

The representative person of any organization which intends to obtain the permission under the provision of Article I, Item 2 of this ordinance, must prepare two copies of the note of application of Japanese and English texts respectively, which contains the necessary statements specified below, and submit them to the Attorney-General through the governor of To, Dō, Fu or Ken where the main office of the organization is located.

a. Name of organization.

b. Objective and business.

c. Outline of formation.

d. Address of main office.

e. Details as to establishment and activity.

f. Names and addresses of principal members.

g. Reason for claiming the permission.

h. Any other matters deemed necessary.

When any change occurs on the matters stated in the note of application submitted by an organization, whose formation has been permitted under the provision of Article I, Item 2 of this ordinance, a note of application must be submitted anew for permission, in accordance with the provision in the preceding paragraph.

Supplementary Provision.

This ordinance shall be enforced as from the day of its promulgation.

Page 1 -

22 July 1948

MEMORANDUM FOR THE RECORD

SUBJECT: Administration of SCAPIN 550 re Former Career Army and Navy Officers and Former Kempei Tai in the Government Service

A. DEMOBILIZATION AND REPATRIATION

1. The employment of career military and naval personnel in the demobilization and retatriation machinery of the Japanese Government has since the issuance of SCAPIN 550 been under the operational supervision of G-2, COMNAVFE, and Government Section as the principal responsible SCAP agencies.

2. In July 1947, in order to provide closer check on the demobilization and repatriation structure the Japanese Government was instructed to submit individual applications for retention of all former career military and naval personnel for whom retention was deemed essential.

3. SCAPIN 1791, dated 4 October 1947, directed the Japanese Government "to undertake a complete and comprehensive study and survey of the organization, personnel, functions, and operating procedures of all boards, bureaus, and agencies of the Japanese Government now engaged in or charged with responsibility for demobilization, repatriation, investigation, or research of matters pertaining to the war or personnel serving in the Japanese armed forces or in any manner connected with former Japanese military organizations and to submit not later than 1 January 1948 to the Supreme Commander for the Allied Powers for approval, a detailed plan for the effective ultimate elimination of separate demobilization agencies and the efficient and gradual adsorption of all necessary remaining functions and operations connected with demobilization and demilitarization into the permanent administrative structure of the Japanese Government. Implementation of such plan shall in no event be undertaken until the Supreme Commander for the Allied Powers has given final written approval but such plan will be so devised as to initiate such elimination and absorption within four months after the date of submission. Such plan will insure the continued efficient execution of existing directives and instructions of the Supreme Commander for the Allied Powers relating to demobilization and demilitarization. Such plan will provide for the control of the policies of agencies thereafter engaged in demilitarization and demobilization by persons not subject to the provisions of SCAPIN 550 and will insure the speedy elimination of remaining ex-military officers subject to SCAPIN 550, approval for whose retention has not been specifically granted in each individual case by the Supreme Commander for the Allied Powers."

4a. After several authorized postponements the Japanese Government submitted a reorganization and reduction plan on 4 May 1948. This plan was approved by SCAP on 14 May 1948 and Memorandum for Japanese Government (SCAPIN-A) directed the Japanese Government "to take all steps necessary to put the plan into effect by 31 May 48".

b. According to Memo for the Record, subject: Demobilization, dated 21 May 48, Mr. Hussey of Government Section informed the CLCO that this plan had been approved and of the effective date.

c. SCAPIN-A and complete reorganization and reduction plan of the Japanese Government are to be found under Tab A of the Memo for the Record cited in b above.

5a. Attached as Tab A hereto is a composite chart of the numbers of former career army and navy officers in the demobilization and repatriation organizations as of 31 May 48, the numbers of persons to be dismissed monthly, and the personnel levels from June 48 thru Mar 49.

b. Also included in this file are name lists of the former career army and navy officers in the demobilization and repatriation agencies on 1 June 48 (Tab B).

c. Monthly lists of persons dismissed from such agencies will be filed under Tab C as received and deletions will be noted on original lists (Tab B) as effected.

6. It has been agreed that as part of the over-all reorganization and reduction plan that at the end of March 1949, at which time the numbers of career army and navy officers in these agencies will have been reduced to fifty percent of the June 1, 1948 totals, further consideration of the demobilization and repatriation machinery of the Japanese Government will be undertaken.

B. OTHER GOVERNMENT SERVICE

1a. Radio W 97791 from JCOS dated 18 Mar 48, item 13 clarifies policy with regard to employment of former career military and naval officers and gendarmerie in government service as follows:

> "For the purpose of prevention of the revival of Japanese militarism, persons who have at one time fallen within any of the following categories should not be nominated or employed in the government service, public office, or educational institutions except as they may be necessary in performing duties essential to the demobilization of repatriated military and naval personnel.
>
> "a. Generals, admirals, and all other senior officers and all career officers of the Army, Navy, and gendarmerie;
>
> "b. Other officers of the Army, Navy and gendarmerie, including members of the reserve, if their employment would harm the cause of peace and security;

"c. Officials of ex-officers; and other military associations and of bodies closely associated with the Armed Forces.

"The Supreme Commander for the Allied Powers may authorize the nomination or employment of a person coming within categories a and c if his record shows that he has been an opponent of Japanese expansionism and totalitarianism."

b. The Japanese Government was informally notified that this policy was to be immediately applied to all agencies of the Government both on the national and local levels, and to include official and non-official positions. They were further instructed that these removals were to be accomplished by 30 April 1948, and that certifications would be required from all responsible organizations in the Japanese governmental structure that these instructions had been carried out.

2a. Over the signature of TOMABECHI, Gizo, Chief Cabinet Secretary, a certificate was received from the Japanese Government on 19 July 48 to the effect that no former career army or navy officers or former Kempei Tai are in the employe of the Japanese Government on the national level, in either official or unofficial capacity, except those engaged in demobilization or repatriation or in positions connected with operations of the Allied Forces and whose retentions have been recommended by SCAP sections concerned.

b. Certificates from the responsible officials of central government ministries and agencies were submitted on the same day in support of covering certificate mentioned in a above.

c. Certificates from the prefectural governors covering the local level status of the same subject are expected to be submitted to Government Section by the end of May.

d. Above certificates are found under Tab D.

3. Certain individuals or groups of individuals, of specialist categories (i.e., meteorologists, etc. employed by the 43rd Weather Wing) have been recommended for retention on the operational level, and a memorandum covering such exceptional retention requests is being prepared for consideration by the Chief of Staff.

Robert W Borman

ROBERT W BORMAN
Capt Inf
CHIEF, STATISTICS AND REVIEW BRANCH