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HEADQUARTERS
CHUGOKU CIVIL AFFAIRS REGION
APO 182
BUCK SLIP

14 Dec. 1950

FROM: Legal & Government

TO : (NUMERICALLY) (INITIAL THROUGH
YOUR NUMBER)

L & G who made these translations of any value especially any thing legal should be certified by the translator that it is true and correct to the best of his knowledge

CHIEF	ECON
DEPUTY	L&G
ADM	CF
PERS	PH
SP & CLK	SW
SUB-IND	TRANS
MC	MESS
APO 182	

FOR: SEE ME

ACTION INFORMATION

COMMENTS APPROVAL

SIGNATURE PROOF READING

FWDG IND LTR REPLY

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MIMEOGRAPH IN COPIES

REMARKS :

Policy File

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

31 August 1950

SUBJECT: Processing of Adverse Reports on NPR personnel
TO : Chief, Chugoku Civil Affairs Region
APO 182

1. A Prime Minister's Office Ordinance is in the process of enactment. This ordinance contains general rules and regulations governing the discipline and conduct of members of the National Police Reserve, the disciplinary action which may be taken for infractions thereof and the procedures for appeal from such disciplinary action.

2. Pending the enactment of this Ordinance it is desired to establish an S.O.P. covering action to be taken by camp commanders during the initial phase of the organization of the NPR.

3. In the event charges are made against a member of the JNPR within the jurisdiction of your command by a representative of the municipal or prefectural police the accuser will be instructed to forward a complete history of the charges to the National Rural Police Headquarters in Tokyo for investigation. In the event the charges are well founded the Tokyo Headquarters of the National Rural Police will forward the information to CASA control and advisory Group through G-2, PSD, Liaison Officer. Upon receipt of this information a decision will be made as to the type of disciplinary action to be taken and subsequent instructions forwarded to your command.

4. In the event a member of the National Police Reserve within the jurisdiction of your command does not conduct himself in accordance with the general rules of discipline and good conduct as prescribed in existing United States Army Regulations, an immediate report will be made to this headquarters and you will be notified as to the disciplinary action you may take.

5. In the event of infractions of a serious nature occurring in the JNPR units or camps under your jurisdiction, you are authorized to effect a suspension of the individual concerned for a period not to exceed 15 days. This suspension shall be effected by and through the appro-

priate Japanese supervisor of the individual concerned. During the 15 day period, you will assure an investigation of the incident is conducted and submit a report of such investigation and recommendations to this headquarters, for necessary action by the Director General of the JNPR. Personnel of the National Police Reserve who are thus suspended will turn in their equipment and will not be required to enter into any activities during the period of their suspension. Following decision of the Director General in each case, you will be notified and requested to give effect to the decision of the Director General through the appropriate supervisor who initially effected the suspension. No salary or allowances payments will be permitted to be made to the individual during the period of his suspension.

FOR THE CHIEF, CIVIL AFFAIRS SECTION:

/s/ Frank Kowalski, Jr
/t/ FRANK KOWALSKI, JR
Colonel, Infantry
Executive Officer

Hashedata

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

11 September 1950

CAS(Anx)-P

SUBJECT: Disciplinary Action as it Affects NPR Enrollees

TO : Chief, Chugoku Civil Affairs Region
APO 182

1. Reference letter dated 31 August 1950, General Headquarters, Supreme Commander for the Allied Powers, Civil Affairs Section (Annex), subject: Processing of Adverse Reports on NPR Personnel.

2. An NPR enrollee who is absent without leave from the camp to which he is assigned will be carried on the rolls for a period of ten days. On the eleventh day the enrollee's name and serial number will be reported to this headquarters (Personnel Division) by telephone. NPR Headquarters will approve the release and the enrollee will be discharged.

3. Camp commanders are directed to turn over NPR enrollees to any authorized police official provided the police official has a legal warrant for the enrollee's arrest. This directive is not in conflict with principles which refers to an allegation (other than warrant for arrest) made against an enrollee.

FOR THE CHIEF, CIVIL AFFAIRS SECTION:

/s/ J.S. O'brien
/t/ J.S. O'BRIEN
CWO USA
Adm Off

Policy 06.010
HEADQUARTERS
CHUGOKU CIVIL AFFAIRS REGION
APO 248

Lt G
File
7 April 1950

MEMORANDUM FOR: Section Chiefs

SUBJECT : Special Report

1. In order to assure uniformity in special reports initiated by this headquarters, the attached model Special Report is made available for your reference.

2. Your attention is particularly invited to the six basic paragraphs:

- a. Reference
- b. Purpose
- c. Background
- d. Discussion
- e. Conclusions
- f. Recommendations

3. The basic report should be brief, but it may be supported by detailed inclosures. Conclusions and recommendations particularly should be concise and specific.

1 Incl:
Model Special Report

FK
FRANK KOWALSKI, JR.
Colonel, Infantry
Chief

HEADQUARTERS
CHUGOKU CIVIL AFFAIRS REGION
APO 248

50/PW/SI/#3

5 April 1950

SUBJECT : Special Report - Seamen's Insurance
Medical Care Certificate

TO : Chief
Civil Affairs Section
APO 500 ^{← HQ, SCAP}

PREPARED BY: Mr. George Okamoto, DAC GS-6, Public Welfare Section

1. REFERENCE:

a. Article 25, Enforcement Regulation of the Seamen's Insurance Law (Welfare Ministry Ordinance No. 5 of 1940), dated 27 February 1940. (See Inclosure 1).

b. Articles 26, 27, 28, 45 and 46 of Enforcement Regulations of the Seamen's Insurance Law (Welfare Ministry Ordinance No. 15), dated 19 April 1949. (See Inclosure 1).

2. PURPOSE:

a. To report inadequacies in present procedures in the payment of medical bills of persons insured under Seamen's Insurance.

b. To propose an effective system of procedure which will eliminate possibilities of fraudulent use of Seamen's Insurance by ineligible.

3. BACKGROUND:

Surveys made by this headquarters disclosed that:

- a. Shipowners were issuing
- b. Some of the shipowners have (See Inclosure 2).
- c. The Insurance Sections and
- d. There is no way to check (See Inclosure 3).

50/PW/SI/#3

Subj: Special Report - Seamen's Insurance Medical Care Certificate

- e. Since the shipowners are not (See Inclosure 4).
- f. Although there are provisions

4. DISCUSSION:

a. Seamen's Handbook

- (1) If the cooperation (See Inclosure 7).
- (2) Seamen's Handbook is (See Inclosures 5 & 6).

5. CONCLUSIONS:

- a. Considerable evidence indicates that at present any medical care certificates which have not been returned may be used fraudulently.
- b. The present system of issuance needs complete revision.

6. RECOMMENDATIONS:

a. It is recommended that instructions be issued to the Welfare Ministry that the present medical care certificates be abolished, that private employers may no longer issue certificates, and an insurance card similar to that attached as Inclosure 7 be issued by the prefectural insurance section to the insured and dependents respectively.

b. It is further recommended that the Welfare Ministry secure the cooperation of other Ministries to the end that the following directives are issued:

- (1) The Maritime Bureau should be instructed to check page 49 of Seamen's Handbook to see if necessary entries are made when the master of the vessel submits Handbook together with application for the certification that contract of engagement of a mariner has been terminated.
- (2) Masters of vessels or shipowners be required to fill in page 49 of Seamen's Handbook.
- (3) The Social Insurance Medical Fee Payment Fund should send all paid seamen's insurance medical bills to the Prefectural Insurance Section concerned so that a check can be made as to eligibility.

50/PW/SI/#3

Subj: Special Report - Seamen's Insurance Medical Care Certificate

- (4) Seamen should be required to submit insurance card and Seamen's Handbook when applying for medical care.
- (5) Shipowners or masters of vessels should be responsible for the return of insurance cards issued to insured and dependents when insured becomes disqualified.
- (6) Shipowners may issue "temporary medical care certificates" in case of emergency in lieu of the insurance card which is to be issued by the prefecture. (See Inclosure 8).

FRANK KOWALSKI, JR.
Colonel, Infantry
Chief

8 Incls:

1. Cpy Arts 25, 26, 27, 28, 45, & 46, Enforcement Regulations of Seamen's Insurance Law
2. Medical Care Cert. Stamped Validity Date
3. Seamen's Medical Bill
4. Taiyo Fishing Co's Req for Medical Care Form
5. Page 49 of Seamen's Handbook
6. Page 47 of Seamen's Handbook
7. Insurance Card (Proposed)
8. Temporary Medical Care Certificate

INCL. 1
ARTS. 25, 26, 27, 28,
45, & 46, ENFORCEMENT
REGULATIONS OF
THE SEAMEN'S
INSURANCE LAW

INCL.2
MEDICAL CARE
CERTIFICATE
STAMPED
VALIDITY DATE

INCL. 3
SEAMEN'S
MEDICAL
BILL

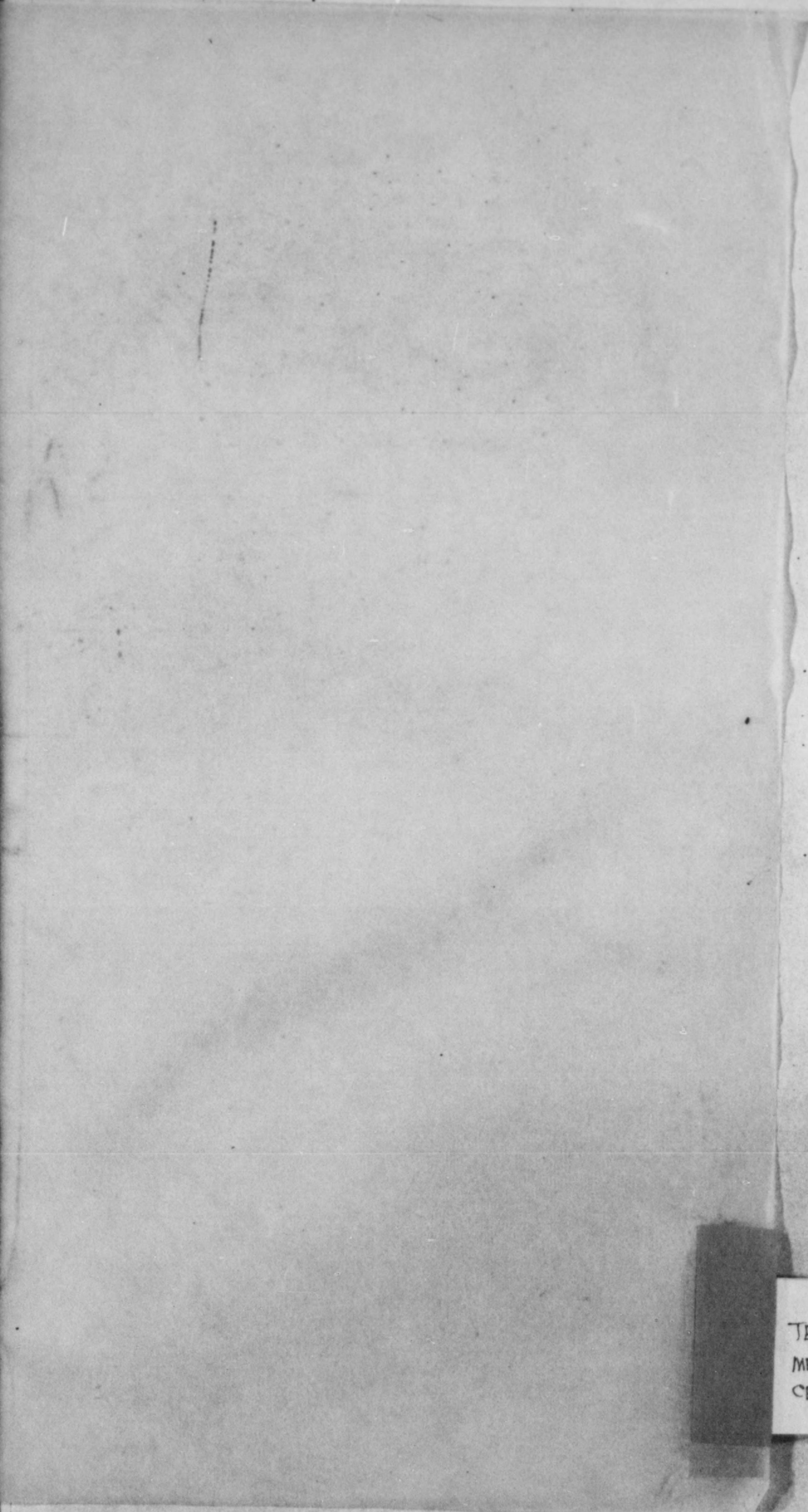
INCL. 4
TAYO FISHING
CO'S REQUEST
FOR MEDICAL
CARE FORM

INCL. 5
PAGE 49 OF
SEAMEN'S
HANDBOOK

INCL. 6
PAGE 47 OF
SEAMEN'S
HANDBOOK



INCL 7
INSURANCE
CARD
(PROPOSED)



INCL. 8
TEMPORARY
MEDICAL CARE
CERTIFICATES

L+G

C O P Y

GUIDE FOR LIAISON INSPECTIONS OF CIVIL AFFAIRS REGIONS

1. Decide the objectives of your visit. In making this decision, consult previous reports on the region and determine what individuals have not been observed. Then plan to cover their operations unless a special problem utilizes all your time.
2. Notify your counter-part in the region, as soon as you have received written notice of your trip, as to the purpose of your visit. If your visit requires additional travel in the region, ask him to arrange and coordinate it for you. If you contemplate accompanying a region member on one of his field trips, follow the schedule that he has set up for himself. It is imperative that you always keep in mind that your primary purpose is to observe the operations of, and lend assistance to, our Civil Affairs personnel.
3. Upon arriving at region headquarters, report to the section chief or his acting chief, also report to the commanding officer or the deputy chief and state the object of your visit.
4. Make sure that the plan of your visit allows adequate time for critique of your findings on the last day with the chief of your counterpart section in the region and the commanding officer or the deputy chief.
5. In observing the operations of our Civil Affairs personnel in field work, let them "carry the ball." Don't run their meetings for them, but act as their guest and observer. Anything you do should be at their request and for their benefit.
6. If large meetings of Japanese are to be attended, determine from your host whether he expects you to give a formal talk. If so, discuss your talk, if possible, ahead of time with the interpreter who will be used. Without such preparation, the average interpreter, who will be unaccustomed to you and to your manner of speaking, may misinterpret a point, which will do more harm than good.
7. Upon the completion of your observations of the performance of each individual, critique him on your observations.
8. Upon completion of your inspection, critique the chief or the acting chief as to your findings. The critique of the individuals concerned may be done separately or at the same time that you critique the chief of your counterpart section. If you have found anything unfavorable, discuss it openly and make suggestions or recommendations. If these are not accepted, do not argue, merely indicate that the recommendation will be included in your report.
9. Report your findings to the commanding officer or his deputy and include all the good and the unfavorable points and any suggestions or recommendations that you have discussed with or made to your counterpart personnel. Do not report any unfavorable conditions or circumstances upon your return that you have not reported to or discussed with the commanding officer or his deputy.

C O P Y

10. Prepare a written report, using the form attached as a guide. The original will be submitted to the Deputy Chief, Civil Affairs Section, not later than one week after return. Verbal reports covering important items requiring immediate action will be submitted without delay.

11. The contents of the report should show that Civil Affairs personnel are doing, not what the Japanese are doing. Any description of Japanese programs should be included only to reflect the work of the Civil Affairs personnel, unless there is an urgent matter concerning Japanese programs or problems to be reported which should be handled separately. The report will not be a duplication of the Region's Monthly Activities Report.

FORM FOR LIAISON REPORTS

1. Authority:

(L.O. with Hq & Date), and name of inspector or inspectors.

2. Purpose:

(Example: The purpose of the trip was to confer with Kinki CA Economics personnel on the Surveillance of Economic Programs, etc.).

3. Itinerary:

<u>Date</u>	<u>Place</u>	<u>Activity</u>
10 Aug.	Kinki CA, HQ	Conferred with Col Ayotte, C.O., Mr. Goldsby, Chief of Economics, and Mr. Ridge, Chief of NR.
11 Aug.	Nara Experimental Farm, Nara	With Mr. Ridge and Miss Bull, conferred with Okada, Pref. Chief of Agri. Extension, Suzuki, Chief of Nara Experiment Farm, and Nara Agri. Extension agents on Extension Program.

4. Summary:

(A summary of findings should be included only if report is to be more than 4 pages long).

5. Discussion:

(Discuss observations of particular problems investigated, and observations of CA personnel's method of operation in the program covered with any pertinent comments on how this operation affects the program, or where our people were weak. Also any comments on the program itself would be in order.)

6. Conclusions:

(This should be confined to conclusions as to the type of work being done by the CA personnel, conclusions as to the progress of the program, and/or conclusions as to the findings of the special situation that you went to investigate).

7. Recommendations:

(Use the applicable statement as follows if you have any recommendations. If you have none, then say none).

a. The following recommendations were made to the Kinki CA Economics Personnel and C.O. of team.

b. The following recommendations are being made to SCAP Sections for action on problems uncovered on this trip.

c. The following recommendations are made for action by Chief of Economics Division or higher CA authority.

C O P Y

L+9

GENERAL HEADQUARTERS
 SUPREME COMMANDER FOR THE ALLIED POWERS
 Economic and Scientific Section
 Labor Division

Brief of opinion rendered by Associate Justice Jackson, U. S. Supreme Court, concerning constitutionality of federal legislation requiring affidavit as to membership in Communist Party. The U. S. Supreme Court upheld the constitutionality of the legislation. (Prepared by Legal Section, GHQ, SCAP)

(1)

American Communications Association, CIC et al
 vs
 Charles T DOULS, National Labor Relations Board

(2)

United Steel Workers of America et al
 vs
 National Labor Relations Board

1. These cases presented for decision the constitutionality of par 9(H) (Non Communist affidavit provision) of the Labor Management Relations Act of 1947.

2. While the court determined such paragraph to be constitutional this brief merely presents the opinion of Mr. Justice Jackson concerning Communism.

"To state controlling criteria definitively is both important and difficult, because those Communist Party activities visible to the public closely resemble those of any other party. Parties, whether in office or out, are often irresponsible in their use and abuse of freedoms of speech and press. They all make scapegoats of unpopular persons or classes and make promises of dubious sincerity or feasibility in order to win votes. All parties, when in opposition, strive to discredit and embarrass the Government of the day by spreading exaggerations and untruths and by inciting prejudiced or unreasoning discontent, not hesitating to injure the Nation's prestige among the family of nations. The Communist Party, at least outwardly, only exaggerates these well-worn political techniques and many persons are thus led to think of it as just another more radical political party. If it were nothing but that, I think this legislation would be unconstitutional. There are, however, contradictions between what meets the eye and what is covertly done, which, in my view of the issues, provide a rational basis upon which Congress reasonably could have concluded that the Communist Party is something different in fact from any other substantial party we have known, and hence may constitutionally be treated as something different in law.

I

From information before its several Committees and from facts of general knowledge, Congress could rationally conclude that, behind its political party facade, the Communist Party is a conspiratorial and revolutionary junta, organized to reach ends and to use methods which are incompatible with our constitutional system. A rough and compressed grouping of this data would permit Congress to draw these important conclusions as to its distinguishing characteristics.

1. The goal of the Communist Party is to seize powers of government by and for a minority rather than to acquire power through the vote of a free electorate. It seeks not merely a change of administration, or of Congress, or reform legislation within the constitutional framework. Its program is not merely to socialize property more rapidly and extensively than the other parties are doing. While the difference between other parties in these matters is largely as to pace, the Communist Party's difference is one of direction.

C O P Y

The Communist program only begins with seizure of government, which then becomes a means to impose upon society an organization or principles fundamentally opposed to those presupposed by our Constitution. It purposes forcibly to recast our whole social and political structure after the Muscovite model of police-state dictatorship. It rejects the entire religious and cultural heritage of Western civilization, as well as the American economic and political systems. This Communist movement is a belated counter-revolution to the American Revolution designed to undo the Declaration of Independence, the Constitution, and our Bill of Rights, and overturn our system of free, representative self-government.

Goals so extreme and offensive to American tradition and aspiration obviously could not be attained or approached through order or with tranquility. If, by their better organization and discipline, they were successful, more candid Communists admit that it would be to an accompaniment of violence, but at the same time they disclaim responsibility by blaming the violence upon those who engage in resistance or reprisal. It matters little by whom the first blow would be struck; no one can doubt that an era of violence and oppression, confiscations and liquidations would be concurrent with a regime of Communism.

Such goals set up a cleavage among us too fundamental to be composed by democratic processes. Our constitutional scheme of elections will not settle issues between large groups when the price of losing is to suffer extinction. When dissensions cut too deeply, men will fight, even hopelessly, before they will submit. And this is the kind of struggle projected by the Communist Party and inherent in its program.

2. The Communist Party alone among American parties past or present is dominated and controlled by a foreign government. It is a satrap party which, to the threat of civil disorder, adds the threat of betrayal into alien hands.

The chain of command from the Kremlin to the American party is stoutly denied and usually invisible, but it was unmistakably disclosed by the American Communist Party somersaulting in synchronism with shifts in the Kremlin's foreign policy. Before Munich, Soviet policy was anti-German--"anti-fascist"-- and the Communists in this country were likewise. However, when Stalin concluded a nonaggression pact with Hitler and Nazi Germany and the Soviet Union became partners in the war, the Communists here did everything within their power to retard and embarrass the United States' policy of rendering aid short of war to victims of aggression by that evil partnership. When those partners again fell out and Russian policy once more became anti-German, the Communists in this country made an abrupt and fierce reversal and were unconscionable in their demands that American soldiers, whose equipment they had delayed and sabotaged, be sacrificed in a premature second front to spare Russia. American Communists, like Communists elsewhere in the world, placed Moscow's demand above every patriotic interest.

By lineage and composition the Communist Party will remain peculiarly susceptible to this alien control. The entire apparatus of Communism -- its grievances, program, propaganda and vocabulary -- were evolved for Eastern and Central Europe, whose social and political conditions bear no semblance to our own. However gifted may have been the Communist Party's founders and leaders--Marx, Engels, Lenin and Stalin -- not one of them ever lived in America, experienced our conditions, or imbibed the spirit of our institutions. The Communist Party is not native to this country and its beginnings here were not an effort of Americans to answer American problems. Nor is it the response to a quest by American political leaders for lessons from European experiences. As a consequence, the leaders of the American Communist Party have been otherwise insignificant personalities, without personal political followings or aptitudes for our political methods, adapted by training only to boring their way into the labor movement, minority groups and coteries of naive and confused liberals, whose organizations they have captured and discredited and among whom they lie in wait for further orders.

C O P Y

The Old World may be rich in lessons which our statesmen could consult with advantage. But it is one thing to learn from or support, a foreign power because that policy serves American interests, and another thing to support American policies because they will serve foreign interests. In each country where the Communists have seized control, they have so denationalized its foreign policy as to make it a satellite and vassal of the Soviet Union and enforced a domestic policy in complete conformity with the Soviet pattern, tolerating no deviation in deference to any people's separate history, tradition or national interests.

3. Violent and undemocratic means are the calculated and indispensable methods to attain the Communist Party's goal. It would be incredible naive to expect the American branch of this movement to forego the only methods by which a Communist Party has anywhere come into power. In not one of the countries it now dominates was the Communist Party chosen by a free or contestible election; in not one can it be evicted by any election. The international police state has crept over Eastern Europe by deception, coercion, coup d'etat, terrorism and assassination. Not only has it overpowered its critics and opponents; it has usually liquidated them. The American Communist Party has copied the organizational structure and its leaders have been schooled in the same technique and from the same tutors.

The American Communists have imported the totalitarian organization's disciplines and techniques, notwithstanding the fact that this country offers them and other discontented elements a way to peaceful revolution by ballot. If they can persuade enough citizens, they may not only name new officials and inaugurate new policies, but, by amendment of the Constitution, they can abolish the Bill of Rights and set up an absolute government by legal methods. They are given liberties of speech, press and assembly to enable them to present to the people their proposals and propaganda for peaceful and lawful changes, however extreme. But instead of resting their case upon persuasion and any appeal inherent in their ideas and principles, the Communist Party adopts the techniques of a secret cabal -- false names, forged passports, code messages, clandestine meetings. To these it adds occasional terroristic and threatening methods, such as picketing courts and juries, political strikes and sabotage.

This cabalism and terrorism is understandable in the light of what they want to accomplish and what they have to overcome. The Communist program does not presently, nor in foreseeable future elections, commend itself to enough American voters to be a substantial political force. Unless the Communist Party can obtain some powerful leverage on the population, it is doomed to remain a negligible factor in the United States. Hence, conspiracy, violence, intimidation and the coup d'etat are all that keep hope alive in the Communist breast.

4. The Communist Party has sought to gain this leverage and hold on the American population by acquiring control of the labor movement. All political parties have wooed labor and its leaders. But what other parties seek is principally the vote of labor. The Communist Party, on the other hand, is not primarily interested in labor's vote, for it does not expect to win by votes. It strives for control of labor's coercive power -- the strike, the sit-down, the slow-down, sabotage, or other means of producing industrial paralysis. Congress has legalized the strike as Labor's weapon for improving its own lot. But where Communists have labor control, the strike can be and sometimes is perverted to a party weapon. In 1940 and 1941, undisclosed Communists used their labor offices to sabotage this Nation's effort to rebuild its own defenses. Disguised as leaders of free American labor, they were in truth secret partisans of Stalin, who, in partnership with Hitler, was overrunning Europe, sending honest labor leaders to concentration camps, and reducing labor to slavery in every land either of them was able to occupy. No other important

C O P Y

political party in our history has attempted to use the strike to nullify a foreign or a domestic policy adopted by those chosen under our representative system.

This labor leverage, however, usually can be obtained only by concealing the Communist tie from the union membership. Whatever grievances American workmen may have with American employers, they are too intelligent and informed to seek a remedy through a Communist Party which defends Soviet conscription of labor, forced labor camps and the police state. Hence the resort to concealment, and hence the resentment of laws to compel disclosure of Communist Party ties. The membership is not likely to entrust its bargaining power, its records, and its treasury to such hands. When it does, the union finds itself a more or less helpless captive of the Communist Party. Its officers cease to be interested in correcting grievances but seek to worsen and exploit them; they care less for winning strikes than that they be long, bitter and disruptive. They always follow the Communist Party line, without even knowing its source or its objectives. The most promising course of the Communist Party has been the undercover capture of the coercive power of strategic labor unions as a leverage to magnify its power over the American people.

5. Every member of the Communist Party is an agent to execute the Communist program. What constitutes a party? Major political parties in the United States have never been closely knit or secret organizations. Anyone who usually votes the party ticket is reckoned a member, although he has not applied for or been admitted to membership, pays no dues, has taken no pledge, and is free to vote, speak and act as he wills. Followers are held together by rather casual acceptance of general principles, the influence of leaders, and sometimes by the cohesive power of patronage. Membership in the party carries with it little assurance that the member understands or believes in its principles and none at all that he will take orders from its leaders. One may quarrel with the party and bolt its candidates and return again as much a member as those who were regular. And it is often a source of grief to those who have labored long in the vineyard that late arrivals are taken into the party councils from other parties without scrutiny. Of course, when party organization is of this character, there is little ground for inference that all members are committed to party plans or that they are agents for their execution.

Membership in the Communist Party is totally different. The Party is a secret conclave. Members are admitted only upon acceptance as reliable and after indoctrination in its policies, to which the member is fully committed. They are provided with cards or credentials, usually issued under false names so that the identification can only be made by offices of the Party who hold the code. Moreover, each pledges unconditional obedience to party authority. Adherents are known by secret or code names. They constitute "cells" in the factory, the office, the political society, or the labor union. For any deviation from the party line they are purged and excluded.

Inferences from membership in such an organization are justifiably different from those to be drawn from membership in the usual type of political party. Individuals who assume such obligations are chargeable, on ordinary conspiracy principles, with responsibility for and participation in all that makes up the Party's program. The conspiracy principle has traditionally been employed to protect society against all "ganging up" or concerted action in violation of its laws. No term passes that this Court does not sustain convictions based on that doctrine for violations of the antitrust laws or other statutes. However, there has recently entered the dialectic of politics a cliché used to condemn application of the conspiracy principle to Communists. "Guilt by association" is an epithet frequently used and little explained, except that it is generally accompanied by another slogan, "guilt is personal." **Of course it is; but personal guilt may be incurred by joining a conspiracy.** That act of association makes one responsible for the acts of other committed in pursuance of the association.

- 4 -

C O P Y

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It is wholly a question of the (sufficiency of evidence of association) to imply conspiracy. There is certainly sufficient evidence that all members owe allegiance to every detail of the Communist Party program and have assumed a duty actively to help execute it, so that Congress could, on familiar conspiracy principles, charge each member with responsibility for the goals and means of the party.

Such then is the background which Congress could reasonably find as a basis for exerting its constitutional powers, and which the judiciary cannot disregard in testing them. On this hypothesis we may revert to consideration of the contention of unconstitutionality of this oath insofar as it requires disclosure of Communist Party membership or affiliation."

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

095 (13 OCT 1950)CAS-L

13 OCT 1950

SUBJECT: Transmittal of Letter Concerning Jurisdiction of Japanese
Courts over United Nations NationalsTO: Chief, Chugoku Civil Affairs Region, APO 182
Chief, Hokkaido Civil Affairs Region, APO 309
Chief, Kanto Civil Affairs Region, APO 500
Chief, Kinki Civil Affairs Region, APO 15
Chief, Kyushu Civil Affairs Region, APO 24-5
Chief, Shikoku Civil Affairs Region, APO 1050
Chief, Tohoku Civil Affairs Region, APO 547
Chief, Tokai-Hokuriku Civil Affairs Region, APO 710
Attn: Legal and Government Officer

1. The attached copy of memorandum from the Department of the Army to the Supreme Commander for the Allied Powers concerning exercise of criminal and civil jurisdiction over nationals of members of the United Nations is forwarded for your information.

2. Present procedures pursued in the trial of cases involving United Nations Nationals will be followed until the attached directive can be implemented.

FOR THE CHIEF, CIVIL AFFAIRS SECTION:

1 Incl
a/sJ. A. O'BRIEN
CWO USA
Adm Off

COPY

C O P Y

FROM: DA (JCS)

TO : SCAP

NR : JGS 93051

The fol directive prepared by State Dept to implement the policy adopted by the FEC on 21 Sep 1950, under the provisions of Para II, A, 1, of its terms of reference has been received from Dept of Army for transmission for your guidance in accordance with Para III, 1, of terms of reference of FEC:

DIRECTIVE REGARDING EXERCISE OF CRIMINAL
AND CIVIL JURISDICTION OVER NATIONALS OF
MEMBERS OF THE UNITED NATIONS

"1. Japanese Courts may, in the discretion of the Supreme Commander for the Allied Powers, and subject to the processive relaxation of control of criminal jurisdiction by him, exercise criminal jurisdiction over all Nationals of members of the United Nations (hereinafter referred to as United Nations Nationals) in Japan with the following exceptions:

- A. Members of the Armed Forces of any member of the United Nations:
- B. United Nations Nationals officially attached to or accompanying and in the service of the Occupation forces:
- C. United Nations Nationals on Official business in Japan:
- D. Members of the immediate families and dependents accompanying the above.

"2. The jurisdiction of the Japanese Courts in civil matters should extend to civil actions in which United Nations Nationals are parties plaintiff or defendant, except that no civil jurisdiction of any sort should be exercised by the Japanese Courts in cases in which any of the parties is within the purview of Para 1 above.

"3. Persons falling in the excepted categories listed in Para 1 should only be subject to arrest by the Japanese Police if Allied Police are not present to perform the arrest and if the offense, or threatened offense, involves bodily harm or serious damage to property. Persons arrested in such circumstances should be handed over forthwith to the occupation authorities.

"4. When any United Nations National is confined to prison, is awaiting trial, or is otherwise detained in custody in Japan:

- A. The head of the mission charged with the protection of his interests should be informed immediately.

C O P Y

B. The United Nations National concerned should be made aware immediately of his right to inform the mission charged with the protection of his interests of his circumstances and should be given the facilities to communicate with that mission. Any such communication should be forwarded without delay.

C. A representative of the mission charged with the protection of his interests should be permitted to visit without delay, to converse privately with, and to arrange legal representation for, the United Nations National concerned.

"5. Where a United Nations National has been convicted and is serving a sentence of imprisonment, a representative of the mission charged with the protection of his interests should, without limit to the number of visits, have the right to visit him in prison upon giving notice, that need not exceed 24 hours, to the appropriate authority, and to converse with him privately. The representative should also be allowed, subject to the prison regulations, to transmit communications between the prisoner and other persons.

"6.

A. Any sentence imposed by a Japanese Court on a United Nations National should be brought immediately to the attention of the head of the mission charged with the protection of the interests of the United Nations National concerned.

B. The Supreme Commander for the Allied Powers should undertake the review of any capital or life sentence imposed by a Japanese Court with respect to a United Nations National.

C. SCAP may, on his own authority or upon the request of the head of the mission charged with the protection of the interests of the United Nations National concerned, review any other decision of a Japanese Court with respect to a United Nations National and take further action in respect thereto. SCAP should consult regarding any particular case with the head of the mission charged with the protection of the interests of the United Nations National concerned if so requested by the head of the mission.

"7. The Supreme Commander should take such steps as he deems necessary to ensure that the rights of United Nations Nationals subject to Japanese jurisdiction are protected.

"8. The term, "United Nations Nationals", as used in this document includes, wherever applicable, organizations and corporations of present or future members of the United Nations as well as natural persons.

"9. This policy decision shall supersede the Far Eastern Commission Policy Decision of 15 Aug 1946.

EXERCISE OF CRIMINAL AND CIVIL
JURISDICTION OVER NATIONALS OF
MEMBERS OF THE UNITED NATIONS

"In approving the foregoing directive, certain mbrs of the Commission made statements which they requested be sent to you. These remarks are contained in the excerpts from Verbatim Transcript of 200th Mtg of FEC on 21 Sep 1950 quoted below:

EXERCISE OF CRIMINAL AND CIVIL
JURISDICTION OVER NATIONALS OF
MEMBERS OF THE UNITED NATIONS
(371 SERIES * * *)

"Dr. Lee (China): I wish to avail myself of this opportunity to recall the fact that the meeting of the Steering Committee held on Tuesday last, the Chinese representative called attn to the nbr of cases that may still be pending before the occupation courts on the date of the coming into force of this policy decision. The point was raised as to whether these cases should be handed over to the Japanese Courts. Opinion was expressed by 2 or 3 members of the committee--and 3 was no dissension from it--that it would be both unwise and impracticable to effect such a transfer. Now my delegation would like to record the understanding that substantive cases of such a category should continue to be handled by the occupation courts until they are disposed of.
(* * * * *)

"Mr. Chairman, India is in support of the paper with the following understandings:

"1. The understanding is that the excepted categories in this paragraph should not be broader than similar excepted categories in Law No 15 for Germany.

"7. The understanding is that the term "Rights" will mean only the rights of United Nations Nationals contained in the paper and not extraterritorial rights.

"Mr. Hamilton, Chairman, (United States): I might recall that in the Committees the first statement was somewhat broader than that made; it was to the effect that these categories were generally the same. It had been pointed out that the political systems in force--the set-up in Germany and the setup in Japan--are not completely parallel.

"Mr. Kirpalani (India): I think that if we could take it that generally and in spirit they are not broader, that would satisfy the requirement. (* * * * *)

"Mr. Graves (United Kingdom): In an earlier edition of the paper, in C 6-371/14, in the relevant para, there was an additional sub para which read:

"SCAP should ensure that the prison regime applicable to United Nations conforms to Humanitarian principles and that, from the point of view religion, hygiene, and nutrition, the regime is adapted to the customs and needs of the person detained."

"That sub para, Mr. Chairman, is not in the present paper. But it would be our wish and we hope that it might also be the desire of the other members of the Commission that SCAP's attn should be drawn to that and that those broad provisions which I just read out should be regarded as necessary performance of the sub paras 6 A, B, C. We should therefore like that point of view to be put forward, not as part of the paper but as remarks accompanying the policy decision if and when it gets to SCAP. And if those remarks are endorsed by colleagues on the Commission so much the better. These are the only remarks we have to make on the paper and if it comes to a vote I shall vote in favor of it.

"Mr. Millet (France): Mr. Chairman, I wish to associate myself and my delegation with the remarks just made by the UK delegate.

"Mr. Mauchlin (Netherlands): I too, Mr. Chairman.

"Mr. McNicol (Australia): The same here, Mr. Chairman.

"Mr. Dunlop (New Island): I, also, Mr. Chairman."

FEC has agreed to release to press the policy decision upon which the foregoing directive is based. Unless you advise to contrary release will be at 1700 Z 3 Oct. This msg declassified concomitantly.

NO SIG

C O P Y

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

095 (13 OCT 1950)CAS-L

13 OCT 1950

SUBJECT: Transmittal of Letter Concerning Jurisdiction of Japanese
Courts over United Nations NationalsTO: Chief, Chugoku Civil Affairs Region, APO 182
Chief, Hekkaide Civil Affairs Region, APO 309
Chief, Kanto Civil Affairs Region, APO 500
Chief, Kinki Civil Affairs Region, APO 15
Chief, Kyushu Civil Affairs Region, APO 24-5
Chief, Shikoku Civil Affairs Region, APO 1050
Chief, Tohoku Civil Affairs Region, APO 547
Chief, Tokai-Hokuriku Civil Affairs Region, APO 710
Attn: Legal and Government Officer

1. The attached copy of memorandum from the Department of the Army to the Supreme Commander for the Allied Powers concerning exercise of criminal and civil jurisdiction over nationals of members of the United Nations is forwarded for your information.

2. Present procedures pursued in the trial of cases involving United Nations Nationals will be followed until the attached directive can be implemented.

FOR THE CHIEF, CIVIL AFFAIRS SECTION:

1 Incl
a/sJ. A. O'BRIEN
CWO USA
Adm Off

C O P Y

C O P Y

FROM: DA (JCS)

TO : SCAP

NR : JGS 93051

The fol directive prepared by State Dept to implement the policy adopted by the FEC on 21 Sep 1950, under the provisions of Para II, A, 1, of its terms of reference has been received from Dept of Army for transmission for your guidance in accordance with Para III, 1, of terms of reference of FEC:

DIRECTIVE REGARDING EXERCISE OF CRIMINAL
AND CIVIL JURISDICTION OVER NATIONALS OF
MEMBERS OF THE UNITED NATIONS

"1. Japanese Courts may, in the discretion of the Supreme Commander for the Allied Powers, and subject to the processive relaxation of control of criminal jurisdiction by him, exercise criminal jurisdiction over all Nationals of members of the United Nations (hereinafter referred to as United Nations Nationals) in Japan with the following exceptions:

- A. Members of the Armed Forces of any member of the United Nations:
- B. United Nations Nationals officially attached to or accompanying and in the service of the Occupation forces:
- C. United Nations Nationals on Official business in Japan:
- D. Members of the immediate families and dependents accompanying the above.

"2. The jurisdiction of the Japanese Courts in civil matters should extend to civil actions in which United Nations Nationals are parties plaintiff or defendant, except that no civil jurisdiction of any sort should be exercised by the Japanese Courts in cases in which any of the parties is within the purview of Para 1 above.

"3. Persons falling in the excepted categories listed in Para 1 should only be subject to arrest by the Japanese Police if Allied Police are not present to perform the arrest and if the offense, or threatened offense, involves bodily harm or serious damage to property. Persons arrested in such circumstances should be handed over forthwith to the occupation authorities.

"4. When any United Nations National is confined to prison, is awaiting trial, or is otherwise detained in custody in Japan:

- A. The head of the mission charged with the protection of his interests should be informed immediately.

C O P Y

B. The United Nations National concerned should be made aware immediately of his right to inform the mission charged with the protection of his interests of his circumstances and should be given the facilities to communicate with that mission. Any such communication should be forwarded without delay.

C. A representative of the mission charged with the protection of his interests should be permitted to visit without delay, to converse privately with, and to arrange legal representation for, the United Nations National concerned.

"5. Where a United Nations National has been convicted and is serving a sentence of imprisonment, a representative of the mission charged with the protection of his interests should, without limit to the number of visits, have the right to visit him in prison upon giving notice, that need not exceed 24 hours, to the appropriate authority, and to converse with him privately. The representative should also be allowed, subject to the prison regulations, to transmit communications between the prisoner and other persons.

eg.

A. Any sentence imposed by a Japanese Court on a United Nations National should be brought immediately to the attention of the head of the head mission charged with the protection of the interests of the United Nations National concerned.

B. The Supreme Commander for the Allied Powers should undertake the review of any capital of life sentence imposed by a Japanese Court with respect to a United Nations National.

C. SCAP may, on his own authority or upon the request of the head of the mission charged with the protection of the interests of the United Nations National concerned, review any other decision of a Japanese Court with respect to a United Nations National and take further action in respect thereto. SCAP should consult regarding any particular case with the head of the mission charged with the protection of the interests of the United Nations National concerned if so requested by the head of the mission.

"7. The Supreme Commander should take such steps as he deems necessary to ensure that the right of United Nations Nationals subject to Japanese jurisdiction are protected.

"8. The term, "United Nations Nationals", as used in this document includes, wherever applicable, organizations and corporations of present or future members of the United Nations as well as natural persons.

"9. This policy decision shall supersede the Far Eastern Commission Policy Decision of 15 Aug 1946.

EXERCISE OF CRIMINAL AND CIVIL
JURISDICTION OVER NATIONALS OF
MEMBERS OF THE UNITED NATIONS

"In approving the foregoing directive, certain mbrs of the Commission made statements which they requested be sent to you. These remarks are contained in the excerpts from Verbatim Transcript of 200th Mtg of FEC on 21 Sep 1950 quoted below:

EXERCISE OF CRIMINAL AND CIVIL
JURISDICTION OVER NATIONALS OF
MEMBERS OF THE UNITED NATIONS
(371 SERIES * * *)

"Dr. Lee (China): I wish to avail myself of this opportunity to recall the fact that the meeting of the Steering Committee held on Tuesday last, the Chinese representative called attn to the nbr of cases that may still be pending before the occupation courts on the date of the coming into force of this policy decision. The point was raised as to whether these cases should be handed over to the Japanese Courts. Opinion was expressed by 2 or 3 members of the committee--and 3 was no dissension from it--that it would be both unwise and impracticable to effect such a transfer. Now my delegation would like to record the understanding that substantive cases of such a category should continue to be handled by the occupation courts until they are disposed of.
(* * * * *)

"Mr. Chairman, India is in support of the paper with the following understandings:

"1. The understanding is that the excepted categories in this paragraph should not be broader than similar excepted categories in Law No 13 for Germany.

"7. The understanding is that the term "Rights" will mean only the rights of United Nations Nationals contained in the paper and not extraterritorial rights.

"Mr. Hamilton, Chairman, (United States): I might recall that in the Committees the first statement was somewhat broader than that made; it was to the effect that these categories were generally the same. It had been pointed out that the political systems in force--the set-up in Germany and the setup in Japan--are not completely parallel.

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"SCAP should ensure that the prison regime applicable to United Nations conforms to Humanitarian principles and that, from the point of view religion, hygiene, and nutrition, the regime is adapted to the customs and needs of the person detained."

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"Mr. Millet (France): Mr. Chairman, I wish to associate myself and my delegation with the remarks just made by the UK delegate.

"Mr. Mauchlin (Netherlands): I too, Mr. Chairman.

"Mr. McNicol (Australia): The same here, Mr. Chairman.

"Mr. Dunlop (New Island): I, also, Mr. Chairman."

FEC has agreed to release to press the policy decision upon which the foregoing directive is based. Unless you advise to contrary release will be at 1700 Z 3 Oct. This msg declassified concomitantly.

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

353.81 (9 Oct 1950)CAS-PW

9 October 1950

SUBJECT: Public Assistance for Indigent United Nation's Nationals

TO : Chief, Hokkaido Civil Affairs Region, APO 309
Chief, Tohoku Civil Affairs Region, APO 547
Chief, Kanto Civil Affairs Region, APO 500
Chief, Tokai-Hokuriku Civil Affairs Region, APO 710
Chief, Kinki Civil Affairs Region, APO 15
Chief, Chugoku Civil Affairs Region APO 182
Chief Shikoku Civil Affairs Region, APO 1050
Chief, Kyushu Civil Affairs Region, APO 24-5

1. The problems of indigent United Nation's Nationals which have been reported to this Headquarters by the Civil Affairs Regions have resulted in a thorough restudy with Welfare Ministry officials of present policies. The Japanese Government under the terms of SCAPIN 775, 27 February 1946, is responsible for providing adequate food, clothings, shelter and medical care to all indigent persons without discrimination or preferential treatment.

2. The Welfare Ministry has agreed to review its present regulations and procedures with respect to assistance to United Nation's Nationals and/or their dependents and to issue further instructions as necessary to implement assistance to such Nationals in accordance with the terms of SCAPIN 775 and policy outlined as follows:-

a. Any indigent United Nations' National and/or his or her dependents residing in Japan will be assured of the basic necessities of life including food, clothing, housing and medical care from the Japanese Government.

b. Any indigent United Nations' National and/or his or her dependents residing in Japan in need of the basic necessities enumerated in para 2a above, will make application direct to the Japanese Welfare agencies having jurisdiction over the administration of national welfare laws, including the Daily Life Security Law and the Child Welfare Law, in the community in which the United Nation's National and/or his or her dependents reside.

SUBJECT: Public Assistance for Indigent United Nations' Nationals

c. Upon receipt of the application for assistance from the United Nations' National and/or his or her dependents, the responsible Japanese Welfare officials will communicate through appropriate channels with the Mission of the country of which the United Nations' National claims citizenship for the purpose of:

- (1) Verifying the fact of United Nations' citizenship, and
- (2) Verifying existence of resources, or lack thereof, which are available to the United Nations' National and/or his or her dependents directly through the Mission or indirectly from agencies to which the Mission has access because of National identification.

d. The appropriate channel through which responsible Japanese Welfare officials will communicate with United Nations Missions is specified as the Civil Affairs Region Headquarters of the area in which the United Nations' National and/or his or her dependents reside.

e. Should any delay be occasioned in negotiations between the Japanese Welfare officials and the local Consul or Branch Mission, the Japanese officials will grant such emergency assistance as the United Nations' National and/or his or her dependents may require, subject to later withdrawal or adjustment in the event resources are made available through the local Consul or Branch Mission.

f. In no event will Japanese Welfare officials refuse to grant assistance to a needy United Nations' National, or delay the granting of assistance of an emergency or continuing nature, because of citizenship.

FOR THE CHIEF, CIVIL AFFAIRS SECTION:

J. A. O'BRIEN
CWO USA
Adm Off

COPY

Apr 23 - 1949

13. On Limits Area. In the interests of aiding in the economic rehabilitation of Japan and expanding recreational facilities, all Japanese hotels, inns and theaters are placed "on limits". Occupation personnel when utilizing such facilities which do not supply food and drink procured from authorized sources will provide their own food and drink from authorized sources. The local occupation force commander in the area is authorized to place "off limits" any hotel, inn or theater for cogent reasons only, by posting upon the exterior of the premises a sign: "Off Limits to Occupation Personnel, by order of ***." Members of foreign missions are authorized to utilize for recreational purposes without restriction Japanese hotels other than those operated by the occupation.

14. Off Limits Areas. a. The following areas and installations in Japan are "Off Limits" to occupation personnel, except in the conduct of their official business:

- (1) All eating and drinking establishments and public bath houses except those operated by occupation forces or approved by the local occupation force commander in the area, or by other agency duly authorized by the Supreme Commander for the Allied Powers for the purpose, and visibly designated by posting upon the exterior of the premises a sign: "Approved for Occupation Personnel, by order of ***."

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
AND
FAR EAST COMMAND

AG 014.39 (15 Sep 50)GA

APO 500

STAFF MEMORANDUM)

16 September 1950

NO.....48)

(SCAP & FEC)

IMMIGRATION

1. Reference. a. Memorandum for the Japanese Government, AG 014.331 (3 Feb 50)GA, SCAPIN 2082, subject: Immigration Service, 20 February 1950.

b. Memorandum for the Japanese Government, AG 014.39 (15 Sep 50)GA SCAPIN 2122, subject: Immigration, 15 September 1950.

c. Letter, General Headquarters, Far East Command, AG 014.39 (15 Sep 50)GA, subject: Suppression of Unlawful Immigration Into the Ryukyus, 15 September 1950.

2. The purpose of this memorandum is to establish the responsibility and functions of various staff sections of General Headquarters with regard to the surveillance, supervision, and coordination of the implementation of the directives referred to in paragraph 1.

3. The Assistant Chief of Staff, G-1, General Headquarters, is assigned primary responsibility for the staff coordination and supervision of the formulation of policies and staff surveillance of the implementation of directives and instructions of the Supreme Commander for the Allied Powers and the Commander-in-Chief, Far East, pertaining to immigration matters in Japan and the Ryukyus.

4. The Assistant Chief of Staff, G-2, General Headquarters, is responsible for:

a. Recommending, and, in coordination with the Assistant Chief of Staff, G-1, General Headquarters, establishing such procedures for the intelligence exploitation of individuals detained for unlawful immigration as are deemed necessary to insure the security of the occupation mission of the Supreme Commander for the Allied Powers and the Commander-in-Chief, Far East.

b. Establishing procedures in coordination with the technical services for the technical intelligence processing of arms, military material, supplies, and equipment, including combatant aircraft and surface vessels, taken into custody by the Japanese Government in compliance with the provisions of the directives referred to in paragraph 1.

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5. The Assistant Chief of Staff, G-3, General Headquarters, is responsible, should the security or political situation dictate, for General Staff supervision and coordination for the employment of military forces under command of the Supreme Commander for the Allied Powers or Commander-in-Chief, Far East, to augment the operating agencies of the Japanese Government or the Military Governor of the Ryukyus in preventing or controlling the unauthorized entry of individuals into Japan and the Ryukyu Islands.

6. The Assistant Chief of Staff, G-4, General Headquarters, is responsible for:

a. The preparation and implementation of plans and procedures to provide agencies, implementing the provisions of directives referred to in paragraph 1, with supplies and equipment which are considered by the Supreme Commander for the Allied Powers or Commander-in-Chief, Far East, as necessary for the prevention or control of unauthorized entry but which are not within the capabilities of these agencies to provide.

b. The preparation and implementation of plans and procedures in coordination with the Assistant Chief of Staff, G-2, for disposing of arms, military material, supplies, and equipment, including combatant aircraft and surface vessels which have been taken into custody in implementation of the provisions of the directive referred to in paragraph 1b.

7. The Chief, Diplomatic Section, General Headquarters, is designated as the representative of the Supreme Commander for the Allied Powers to procure on behalf of the Japanese Government, clearances necessary to effect the travel from Japan of those individuals who through legal or administrative processes have been directed to be deported, and to negotiate with foreign governments, on behalf of the Japanese Government, the immigration of refugees who have perpetrated an unlawful entry into Japan.

8. The Chief, Civil Affairs Section, General Headquarters, is responsible for the surveillance of the procedures and operations established by the Japanese Government in implementation of paragraph 2, reference b, or in implementation of such policies or procedures as may subsequently be established by appropriate staff sections of General Headquarters in consonance with their responsibilities enumerated herein.

9. Information relative to identify of unlawful immigrants and circumstances surrounding their entry, referred to in paragraph 2c(3), reference b, will be submitted to the Assistant Chief of Staff, G-1, General Headquarters, for processing to appropriate staff sections for such actions within the purview of their respective staff responsibilities as is deemed warranted.

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1 10. Reports referred to in paragraph 2d, reference b, will be forwarded to Diplomatic Section, General Headquarters, for appropriate action in attempting to secure clearance for entry of individuals reported into a country other than Japan or Ryukyu Islands and issuance of necessary disposition instructions to the Japanese Government. Those cases in which clearance cannot be obtained will be reported to the Assistant Chief of Staff, G-1, General Headquarters, for necessary action

BY COMMAND OF GENERAL MacARTHUR:

OFFICIAL:

EDWARD M. ALMOND,
Major General, General Staff Corps,
Chief of Staff.

K. B. BUSH,
Brigadier General, USA,
Adjutant General.

COPY

*Restricted*HEADQUARTERS
SOUTHWESTERN COMMAND
APO 317

L+6

SA 323

26 September 1950

SUBJECT: Movement of Headquarters Southwestern Command

TO: Commanders, all Posts, Camps, Installations, and
Activities, Southwestern Command Area

1. Headquarters Southwestern Command, will close at Kobe Base, APO 317, and open at Osaka, Honshu, Japan, APO 15, at 1800 hours, 27 September 1950.
2. Correspondence, electrically transmitted messages, etc., intended for the Commanding General, Southwestern Command will be addressed to APO 15, effective on and after 28 September 1950.
3. Telephone directory for Headquarters, Southwestern Command will be distributed as soon as possible to all personnel concerned.

BY COMMAND OF BRIGADIER GENERAL CLARKE:

*Geoffrey Clark*GEOFFREY CLARK
Lt Colonel AGC
Adjutant General*Restricted*

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
APO 500

AG 004 (26 Jun 50)PM

25 July 1950

SUBJECT: Entry Requirements and Business Activities in Japan

TO: Commanding General, Eighth Army, APO 343
Commanding General, Headquarters and Service Group,
General Headquarters, Far East Command, APO 500
Commanding General, Far East Air Forces, APO 925

1. References.

a. Circular 11, General Headquarters, Supreme Commander for the Allied Powers, 16 June 1950.

b. Memorandum for the Japanese Government, AG 004 (26 June 50) FIB, SCAPIN 2105, subject: Entry Requirements and Business Activities in Japan, 26 June 1950.

2. Registration. a. Registration by local provost marshals of persons entering Japan, formerly effected in accordance with the provisions of paragraph 3f, Circular 22, General Headquarters, Supreme Commander for the Allied Powers, 13 September 1949, was terminated on 1 July 1950, in accordance with the provisions of paragraphs 1a(3) and 15, Circular 11, General Headquarters, Supreme Commander for the Allied Powers, 16 June 1950. Effective 1 July 1950, responsibility for the registration of all persons entering or exiting Japan, except: (1) Occupation personnel, and (2) Persons whose stay in Japan is less than seventy-two (72) hours, rests with the Japanese Government, in accordance with the provisions of paragraphs 3d through 3h, reference 1b.

b. Registration records maintained by addressee commanders in accordance with the provisions of paragraph 3f, Circular 22, General Headquarters, Supreme Commander for the Allied Powers, 13 September 1949, and previous directives pertaining thereto, may be retained until 1 September 1950, at which time they will be forwarded to the Commander-in-Chief, Far East, ATTENTION: Provost Marshal, for appropriate disposition.

c. In accordance with the provisions of paragraphs 3d through 3f, reference 1b, the Japanese Government maintains, in Tokyo, a central records

AG 004 (26 Jun 50)PM, 25 Jul 50

Subj: Entry Requirements and Business Activities in Japan

depository containing the required information pertaining to all persons subject thereto who have entered into and exited from Japan. These records are personal and confidential in nature and are available only to duly authorized personnel. The Provost Marshal, General Headquarters, Far East Command, has established liaison with the Japanese Government and will, upon request, obtain such of this information as may be required by addressee commanders where such information may not be available from the local office of the Japanese Immigration Service. All such inquiries will be addressed to the Commander-in-Chief, Far East, ATTENTION: Provost Marshal. In cases of emergency, telephone requests may be directed to the Provost Marshal, General Headquarters, Far East Command.

3. Enforcement. Paragraph 3h, reference 1b, delegated to the Japanese Government authority for inspections or other necessary examinations of foreign business activities in Japan. In accordance therewith, primary responsibility for enforcement of regulations and statutes pertaining to business activities in Japan rests with the Japanese Government. It is the policy of this headquarters that maximum use will be made of existing Japanese Government agencies in the investigation of incidents or offenses relating to business activities of foreign nationals and foreign controlled firms in Japan. Minimum use will be made of occupation force law enforcement agencies in this activity in order that their services may be available for such other missions as may be assigned. In the implementation of this policy, the Japanese Government has been instructed to request the assistance of occupation force authorities in cases in which their enforcement personnel are prevented or restricted from carrying into execution the provisions of reference 1b because of lack of criminal jurisdiction over foreign nationals. Such requests for assistance will be made through the nearest Civil Affairs Region, GHQ, SCAP; the assistance to be rendered will include whatever action is necessary, compatible with existing instructions, to include additional investigation, arrest and trial, as appropriate. However, the foregoing will not be construed to relieve addressee commanders of the responsibility for the enforcement of the provisions of any existing SCAP directives or instructions when violations relating thereto are disclosed during the course of routine prosecution of other responsibilities.

4. The exercise of enforcement measures by the Japanese Government over violations of the provisions of the references cited in paragraph 1, above, applies only in instances involving violations of the provisions governing the conduct of business activities by foreign nationals in Japan, and will not be construed to relieve addressee commanders of their

AG 004 (26 Jun 50)PH, 25 Jul 50

Subj: Entry Requiroments and Business Activities in Japan

responsibility of exercising criminal jurisdiction in all instances of
criminal viciations committed by foreign nationals residing in Japan.

BY COMMAND OF GENERAL MacARTHUR:

A J Rehe
B

A J REHE
Major, AGD
Asst Adj Gen

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Policy

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GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
AND
FAR EAST COMMAND

AG 010 (30 Jun 50)GC

APO 500
13 July 1950

STAFF MEMORANDUM)

NO.....39) (SCAP & FEC)

PROCEDURES FOR INSURING ENFORCEMENT OF
DIRECTIVES TO JAPANESE GOVERNMENT

1. Rescissions. a. Staff Memorandum 76, General Headquarters, Supreme Commander for the Allied Powers and Far East Command, 1947.
 - a. Staff Memorandum 28, General Headquarters, Supreme Commander for the Allied Powers and Far East Command, 1949.
2. Current Occupation Instructions, General Headquarters, Supreme Commander for the Allied Powers, charge the Civil Affairs Section with responsibility for surveillance over Japanese compliance with directives of the Supreme Commander for the Allied Powers. Occupation force commanders exercise surveillance over local Japanese agencies only as specifically directed by the Supreme Commander for the Allied Powers. In consonance with this policy, chiefs of staff sections will reappraise continuously the requirements for surveillance by occupation force commanders with a view toward maximum reduction.
3. Chiefs of staff sections initiating SCAPIN directives to the Japanese Government will:
 - a. Determine the minimum surveillance over local Japanese agencies that will be necessary, bearing in mind the policy indicated in paragraph 2. Necessary surveillance will be one or a combination of the following:
 - (1) Surveillance by the Civil Affairs Section. This will be the normal procedure.
 - (2) Surveillance by other agencies of the occupation forces when such type of surveillance is required for the attainment of occupation objectives. In this case, chiefs of staff sections after coordinating with the Chief, Civil Affairs Section, will prepare command instructions to the appropriate occupation force commander concurrently with the directive to the Japanese Government. These command instructions will specify the manner in which surveillance of Japanese compliance with the directive will be accomplished and will make reference to the SCAP index number

(SM 39)

of the directive to which they are related. Chiefs of staff sections will also keep the appropriate occupation force commander informed of any known plans or actions taken subsequently by the Japanese Government to implement the directive.

- (3) Technical surveillance by representatives of the staff section after coordination with the Chief, Civil Affairs Section.
- (4) Partial surveillance, i.e., where a report or an action is directed and its accomplishment is self evident.

b. Be responsible for processing all surveillance reports received and initiating any resultant actions to be taken by the Japanese Government.

4. Certain operational functions pertaining to the Japanese national government, which are or may be charged specifically to staff sections from time to time, will continue to be carried out by the staff sections concerned without change in procedure.

BY COMMAND OF GENERAL MacARTHUR:

EDWARD M. ALMOND,
Major General, General Staff Corps,
Chief of Staff

OFFICIAL:

/s/ K. B. Bush
K. B. BUSH
Brigadier General, USA,
Adjutant General.

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

21 JUL 1950

333.5 (5 Jul 50)CAS-1

SUBJECT: Policy on payment of Frozen Funds of repatriates

TO: Chief, Chugoku Civil Affairs Region, APO 182
Chief, Hokkaido Civil Affairs Region, APO 7-5
Chief, Kinki Civil Affairs Region, APO 25-1
Chief, Kyushu Civil Affairs Region, APO 21-5
Chief, Shikoku Civil Affairs Region, APO 1050
Chief, Tohoku Civil Affairs Region, APO 7
Chief, Tohoku-Hokuriku Civil Affairs Region, APO 710
Attn: Legal and Government Officers

The following is furnished for your information:

1. SCAPIN 348, dated 26 November 1945, permitted Japanese Nationals being repatriated to Japan to bring in with them postal savings pass books of the Japanese Postal Savings System issued in Japanese yen in Japan, Korea, Taiwan, Kwantung Province, and at the North China Post Office. This SCAPIN also permitted withdrawals to be made against such postal savings pass books.
2. Ministry of Finance Notification No. 400, dated 6 December 1945, contained instructions for compliance with SCAPIN 348 and also placed a limitation on withdrawals of ¥500 per family per month.
3. SCAPIN 540, dated 3 January 1946, permitted Japanese Nationals being repatriated to Japan to bring in with them Japanese Army and Navy field-postal savings pass books and also permitted withdrawals to be made against such postal savings pass books.
4. Ministry of Finance Notification No. 6, dated 17 January 1946, contained instructions for compliance with SCAPIN 540 and placed a limitation of \$1,000 to be withdrawn from the deposit balance at a field post office or naval post office.
5. Ministry of Finance Notification No. 343, dated 18 May 1946, rescinded Ministry of Finance Notification No. 400, dated 6 December 1945, and permitted complete withdrawals in Japan against postal savings pass books (exclusive of military postal savings pass books) issued by the Japanese Government in Karafuto, Kuriles, South Sea or South West Islands

333.5 (5 Jul 50)CAS-L

Subj: Policy on Payment of Frozen Funds of Repatriates

21 JUL 1950

(located south of 30 degrees north latitude), provided deposits were made on or prior to 30 September 1945. The same notification permitted limited withdrawals of ¥500 per month per family in Japan against those postal savings pass books issued by the Japanese Government in Korea, Formosa, Kwantung Province and North China, provided such funds were deposited on or prior to 30 September 1945.

6. Ministry of Finance Notification No. 177, dated 10 June 1948, permitted complete withdrawals on funds deposited in the field post offices or naval post offices on or prior to 15 August 1945, and limited withdrawals to ¥1,500 per person for those deposits made after 15 August 1945.

7. Ministry of Finance Notification No. 374, dated 14 June 1949, removed the restrictions on withdrawals from postal savings pass books issued by the Japanese Government in all overseas areas (except military savings) to include Korea, Formosa, Kwantung Province or North China for those deposits made prior to 30 September 1945. The same notification removed restrictions on withdrawals from military savings accounts deposited in all overseas areas made prior to, or on 15 August 1945; and limited withdrawals to ¥1,500 per person after 15 August 1945.

FOR THE CHIEF, CIVIL AFFAIRS SECTION:



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LG

BRITISH COMMONWEALTH OCCUPATION FORCE

Headquarters
GS 011.1 Ops
15 Jul 50

AMENDMENT No 2 TO
OCCUPATION INSTRUCTION 12/5
DISASTER PLAN

12/5.

Herewith amendment No 2 to Occupation Instruction

[Signature]
Lieutenant Colonel
General Staff

Distribution

Eighth US Army 3
CHUGOKU Civil Affairs Region 10
List 'A'
List 'B'

Restricted.

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AMENDMENT No 2 TO

OCCUPATION INSTRUCTION 12/5

DISASTER PLAN

Para 29, sub para (b) of the above instruction
is amended to include:

"Japan Oil Storage Co."

Restricted.

policy

COPY

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

014.39 (6 Mar 1950)CAS-L

6 March 1950

SUBJECT: Petition on Behalf of Persons Held on an Order of
DeportationTO: Chief, Chugoku Civil Affairs Region, APO 248
Chief, Hokkaido Civil Affairs Region, APO 7-5
Chief, Kanto Civil Affairs Region, APO 500
Chief, Kinki Civil Affairs Region, APO 25
Chief, Kyushu Civil Affairs Region, APO 24-5
Chief, Shikoku Civil Affairs Region, APO 1050
Chief, Tohoku Civil Affairs Region, APO 309
Chief, Tokai-Hokuriku Civil Affairs Region, APO 710

1. When a Civil Affairs Region receives, on behalf of a person subject to Japanese criminal jurisdiction and held under a deportation order, a petition requesting SCAP's permission to remain in Japan, the following procedure will apply:

a. The Japanese National Rural Police will be notified immediately that the petition has been received and that the person petitioned for will not be deported until final decision on the petition has been made. The police will be given pertinent data on the person named in the petition including name, age, sex and last known place of detention.

b. The facts stated in the petition will be transmitted to the appropriate Japanese authorities for verification. The Japanese authorities will be requested to investigate and submit a report on the character and the financial status of the petitioner with a view to determining whether or not the person petitioned for will become a public charge.

c. On the basis of the findings of the above investigation, the Civil Affairs Region will make a recommendation to this headquarters as to whether or not the person petitioned for should be allowed to remain in Japan.

2. This headquarters will notify the appropriate Civil Affairs Region of the final action taken on the petition. No further action will be taken by the Civil Affairs Region except that the petitioner may be informed of the action taken in the event a request is made for such information.

Copy

014.39 (6 Mar 1950)CAS-L

Subj: Petition on Behalf of Persons Held on an Order of Deportation

3. The Japanese Government will be informed by this headquarters of the decision on the petition made by the Supreme Commander of the Allied Powers.

4. A petition on behalf of a person not subject to Japanese criminal jurisdiction will not be accepted by the Civil Affairs Region. The petitioner will be informed that the petition should be submitted to the appropriate Foreign Mission in Japan.

FOR THE CHIEF, CIVIL AFFAIRS SECTION:

/s/ J. A. O'Brien
/t/ J. A. O'BRIEN
CWO USA
Adm Off

CG

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C O P Y

GENERAL HEADQUARTERS
FAR EAST COMMAND
APO 500

AG 370.091 (27 Jul 50)PM

3 August 1950

SUBJECT: Uniform Instructions to Armed, Japanese Security Guards

TO: * * * * *

Commanding General, Headquarters and Service Group,
General Headquarters, Far East Command, APO 500

* * * * *

1. This headquarters has approved the arming of selected Japanese security guards at vital and critical installations in Japan, with riot type shot guns or other types of small arms. In this connection, it is desired that the following policies, designed to minimize incidents involving foreign nationals and to standardize procedures, be included in instructions issued to all Japanese security guards on duty at occupation installations in Japan:

a. Foreign nationals, including occupation force personnel, may be taken into temporary custody by Japanese security guards, but only until such time as they can be delivered to the nearest occupation force security personnel in charge and only under the following circumstances:

- (1) When found in a prohibited area, without proper authorization or refusing to show such authorization.
- (2) When refusing to obey orders given by the guard in the performance of his prescribed duties.

b. Japanese security guards are authorized to use weapons, issued to them while on security guard only, under the following circumstances only:

- (1) To prevent the commission of an act inimical to the security of the installation or property being guarded.
- (2) In self-defense, while on duty.

c. When weapons are used by Japanese security guards under the above circumstances, they will only be fired after warning and as a last resort, after all other reasonable means of preventing security violations have failed. In dealing with any person, Japanese security guards will exercise the minimum degree of force consistent with the fulfillment of their mission.

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Restricted

Restricted

AG 370.091 (27 Jul 50)PM, 3 Aug 50

Subj: Uniform Instruction to Armed, Japanese Security Guards

2. The above information will be disseminated at the discretion of major commanders only to those occupation personnel under their jurisdiction who, by virtue of their duties and/or location, or for other valid reasons, should be so apprised. It is desired that at the same time the attention of occupation personnel be directed to the conditions necessitating this use of Japanese personnel, as well as to the language and other difficulties inherent in such employment and, further, that they be cautioned as to the necessity for co-operating with Japanese guards in the interest of security, and of refraining from any act which might cause an unfortunate incident.

BY COMMAND OF GENERAL MacARTHUR:

/s/ K. B. Bush

/t/ K. B. BUSH

Brigadier General, USA,
Adjutant General

Copies furnished:

C-in-C

C/S

G-2

G-3

CA (Attn: Gen Danforth)

JA

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HEADQUARTERS
CHUGOKU CIVIL AFFAIRS REGION
APO 182

A/LMH/ks

CCAR 113

20 June 1950

SUBJECT: Reimbursement for Cost of Lodging in Japanese Hotels

TO : All Military and DAC Personnel
Chugoku Civil Affairs Region
APO 182

1. References:

a. Letter, AG 113(12 Dec 49) COM-F, GHQ, FEC, APO 500, subject as above, dated 24 January 1950.

b. Letter, CCAR 004 (A-Tr), this headquarters, dated 27 February 1950.

2. For the benefit of all concerned the following information on reimbursement for hotel charges is again published for compliance.

a. In accordance with directives from GHQ SCAP, military and civilian personnel, traveling under orders on official business, will pay charges in Yen for lodging at Japanese Hotels and obtain two (2) copies of receipt from the hotel.

b. Reimbursement in Yen for expenses incurred for lodging when government facilities are not available will be made to individuals concerned traveling under orders on official business.

c. Government facilities are available at the following cities:

Matsue City, Shimane Prefecture
Tottori City, Tottori Prefecture
Okayama City, Okayama Prefecture
Camp Crouch, Yamaguchi City, Yamaguchi Prefecture

3. In this connection, the Deputy Chief, Chugoku Civil Affairs Region, has been appointed as Class A Agent Officer for the following:

a. Conversion of MPC to Yen (for authorized persons only).

CCAR 113, 20 Jun 50

SUBJECT: Reimbursement for Cost of Lodging in Japanese Hotels

b. To make reimbursement, in Yen, for lodging expenses incurred, while on official duty.

4. Individuals, in order to obtain reimbursement for lodging expenses, must present the following:

a. Two (2) copies of travel orders.

b. Two (2) copies of hotel receipts.

The above papers should be presented to the office of the Deputy Chief, Chugoku Civil Affairs Region, and reimbursement will be effected.

5. Indigenous personnel, traveling on official business, must itemize their traveling expenses. The term "miscellaneous" will not be honored by the Class A Agent.

6. Attention is called to the fact that certain legal rates exist for hotel charges. Under no circumstances will charges for food, beverages or entertainment be considered for reimbursement. All individuals will remind hotel managers that charges in excess of legal rates will result in investigation.

7. Authority has been received to pay Foreign Nationals, performing official travel, the same allowances that are authorized at present, for Japanese Nationals employed by Chugoku Civil Affairs Region.

FOR THE CHIEF:

Lewis A. Minichiello

LEWIS A. MINICHIELLO
Lt Col, Infantry
Deputy Chief

ETRA

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

680.2 (29 MAY 1950) DEAS-A

29 MAY 1950

SUBJECT: Clearance of House Guests

TO: Chief, Hokkaido Civil Affairs Region, APO 7-5
 Chief, Tohoku Civil Affairs Region, APO 7
 Chief, Kanto Civil Affairs Region, APO 500
 Chief, Tokai-Hokuriku Civil Affairs Region, APO 710
 Chief, Kinki Civil Affairs Region, APO 25
 Chief, Chugoku Civil Affairs Region, APO 182
 Chief, Shikoku Civil Affairs Region, APO 1050
 Chief, Kyushu Civil Affairs Region, APO 24-5

1. The inclosed copy of letter by the Commander-in-Chief, Far East, subject as above, dated 7 May 1950, is forwarded for your information and guidance.

2. It is desired that the provisions of this letter be brought to the attention of all personnel of your region to whom it may be applicable.

FOR THE CHIEF, CIVIL AFFAIRS SECTION:

1 Incl
 Cy of Ltr, subj: Clearance
 of House Guests (in dup)



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GENERAL HEADQUARTERS
FAR EAST COMMAND
APO 500

AG 680.2(15 Apr 48)GA

7 May 1950

SUBJECT: Clearance of House Guests

TO: Commanding General, Eighth Army, APO 343
Commander, United States Naval Forces, Far East, Navy No. 1165
Commanding General, Far East Air Forces, APO 925
Commanding General, Headquarters and Service Group, General
Headquarters, Far East Command, APO 500

1. Letter, General Headquarters, Far East Command, AG 680.2
(15 Apr 48)GA, subject: Clearance of House Guests, 15 March 1950, is
rescinded.

2. Application for house guests will be submitted to this head-
quarters and will include the following guarantees of the host:

a. That he occupies sufficient space and will provide without
any augmentation of his existing allotment the necessary housing and
logistic support for his guests.

b. That guest will not engage in business.

c. That guest will comply with the applicable local directives.

d. That guest will depart Japan at a time no later than the
period of his clearance.

e. That he will be responsible for the transportation costs
of the guest from Japan.

f. In addition to the guarantees of the host and the statement
of how he intends to provide logistic support, the following information
must also be included in the application:

(1) Address of prospective guest (street or post office
box number, town and state).

(2) Address of host (post office number and location of
billet or dependent house).

(3) Desired length of stay of guest.

(4) Estimated time of arrival of guest and probable method
of travel.

(5) Nationality of guest.

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C O P Y

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AG 680.2 (15 Apr 48) Ch., 7 May 50
Subj: Clearance of House Guests

3. With regard to the host's guarantee that he will provide necessary housing and logistic support, he will fulfill his guarantee by one of the methods described as follows:

a. Those hosts assigned dependent housing will provide billeting and logistic support for their guest in their dependent housing or in commercial facilities on a space available basis.

b. Those persons assigned quarters in mixed billets which are suitable for joint occupancy will provide housing and logistic support for their guest in their assigned quarters on a full reimbursable basis or in commercial facilities on a space available basis.

c. Those individuals who are not assigned quarters in mixed billets or who do not have dependent housing will provide housing and logistic support for their guests in commercial facilities only and not in occupation rest hotels on a space available basis.

4. Commanding officers are not authorized to change or increase assigned quarters or billeting space of the host in order that proposed house guests may be accommodated.

5. Commercial facilities when utilized by the host must be pre-arranged, and a letter from the management of the facility stating that space has been reserved for the period stated must be submitted with the application for house guest.

6. a. In accepting house guests in the occupied areas, the host assumes obligations and responsibilities. In conforming with these obligations and responsibilities, the host will be a host "in fact" who is expected to entertain his guest in accordance with his guarantees by providing full logistic support to include food and lodging without the aid of additional Government facilities. The guests, for all intents and purposes, being dependent upon the occupation host are considered as having acquired the status of members of the occupation and are therefore, amenable to the provisions of all regulations applicable to occupation personnel. The host is specifically responsible for informing the guest of applicable regulations and is responsible for any infraction thereof by the guest.

b. House guests, upon arrival in Japan, will be subject to customs, immigration and quarantine examinations by authorized Japanese Government officials.

c. While in Japan, the guests of occupation personnel may visit Special Service and rest hotels in the same manner as dependents of the host. During such visits the guest must be accompanied, however, by a member of the host's family and such visits will be charged against the host. The rest hotels in Japan are solely for occupation personnel and their families and reservations are allocated on a quota basis.

C O P Y

RESTRICTED

AG 680.2(15 Apr 48)GA, 7 May 50
Subj: Clearance of House Guests

d. Guests, while in Japan, may travel on occupation force trains providing each guest has in his possession a properly issued "Absence and Travel Authority" or travel orders.

c. House guests are permitted to use the postal facilities available to occupation personnel but are not exempt from customs declarations or payment of customs charges for goods transmitted through Army postal facilities. When utilizing Army postal facilities for mailing of parcel post packages, guests must use "United States of America Customs Declaration," Form 2966.

f. Prearrangements, including transportation, necessary to insure the guests departure prior to the expiration of the period for which granted entry into Japan is the irrevocable responsibility of the host. Requests for extension of time of house guests to remain in Japan may nevertheless be given consideration on a case by case basis by the Commander-in-Chief, Far East, upon presentation of cogent reasons for such extensions.

g. If the guests travel to Japan on space available basis under provisions of appropriate Army regulations, the host will still be held responsible for the cost of transportation by commercial carrier of the guests from Japan to the point of origin in the event that accommodations on a space available basis are not available for the return trip. Approval of an application for travel of guests to Japan on a space available basis is not an approval or guarantee by the Commander-in-Chief, Far East, that space available accommodations will be provided or may be utilized by the guest for his return to the zone of interior. Applications for entry of house guests wherein the guarantee of return travel is predicated solely on the use of space available accommodations will not be approved by this General Headquarters.

h. Upon departure from Japan, house guests will be required to accomplish Japanese customs declarations and allow their personal effects and baggage to be inspected by Japanese customs officials, as authorized by the Supreme Commander for the Allied Powers.

7. The above criteria for considering the individual applications for house guests of occupation personnel supersede the provisions listed in letter referenced in paragraph 1 above, and are emphasized in an effort to provide all possible space for dependents awaiting movement to Japan to join heads of families who have had no choice in being separated.

BY COMMAND OF GENERAL MacARTHUR:

Copies furnished:
CG, RYCOM, APO 331
TAG, DA, Wash 25, D. C.
ATTN: Chief, CAD

/s/ K. B. Bush
/t/ K. B. BUSH,
Brigadier General, USA
Adjutant General.

3

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Vol I, No. 3

LEGAL AND GOVERNMENT

Comments on the Local Autonomy Law, Number 3. - The following comments deal with Chapter IV, Elections, Sections I - IV:

Section I (Article 17 to 25) deals with the "common rules" governing all elections to public office, national or local. It states that voters must be Japanese citizens (not including Koreans). It states that they must have reached the age of 20, and that they must have maintained residence in their respective voting districts for at least six consecutive months. Article 19 sets a minimum age requirement of 25 for mayors or local assemblymen and 30 for prefectural governors. An important amendment to this article provides that this date shall be computed as of the date of election, instead of the date of preparation of the election register, as was the case during the April 1947 elections. Article 20 denies the right to vote or hold office to persons adjudged to be incompetent or under sentence to a prison term. A question arose recently regarding two local assemblymen in Oita Prefecture who though convicted on a major offense and given a heavy fine, nevertheless continued to hold office. There is no way at the present time to remove people in this category. Article 21 makes ineligible as candidates for office; election officials, procurators, police or revenue officials, and members of the Public Safety Commission while in office. They may, of course, resign and thereby become eligible. Article 23 lodges complete responsibility in election affairs in local Election Administration Commissions. Direct contact with these commissions by local MG teams, rather than through normal administrative channels, has proved beneficial in the past in enhancing their prestige in the eyes of the Japanese and developing their initiative and sense of responsibility.

Section II provides for the compilation of the election register, inspection by the voters prior to election day, and final decision by the courts on individual disputes over the right to vote.

Section III on polling procedure contains a provision allowing candidates to have a minimum of 3 and a maximum of 10 poll watchers (inspectors) in order to insure fair elections. If less than three poll watchers have been put forward, the balance may be selected by the poll superintendent;

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Legal and Government (Cont'd)

if more than ten poll watchers (no more than three from any one party) have been selected, the maximum number will be selected through a mutual election of the poll watchers concerned. Since under the Japanese system neither the names of the candidates nor their party affiliations appear on the ballot, the voters must write in their choices themselves. To encourage intelligent voting and stimulate the growth of parties as an influential means of expressing more clearly the popular will, many people have advocated the adoption of the "Australian" ballot in Japan. This type of ballot has the names of the candidates and their party affiliations printed on the ballot and is widely used in the United States.

Section IV describes the procedure for counting the votes. The superintendent for the counting of votes is appointed by the local election administrative committee and usually has the additional function of poll superintendent referred to in the preceding section. He is responsible for decisions concerning the validity of all votes cast, including provisional votes by electors whose eligibility has been challenged. Inspectors for the counting of the votes are usually the same persons as the poll watchers previously mentioned, though not necessarily. Article 41 indicates seven types of votes considered invalid.

Section V describes the election meeting which is presided over by an official whose qualifications are the same as those of the poll superintendents. Principal duties of the presiding officer of the election are to investigate reports from the polls and ballot-counting stations and count the total number of votes obtained by each candidate before forwarding the results to the election administration committee concerned for certification of election. All records pertaining to an election must be kept by this committee during the term of office of the elected candidates and made available for reference should any future disputes arise.

Comments on the Size of the Shobodan:- Article 15-2, an amendment to the Law of Fire Defense Organization, states:

"The establishment of, area to be covered by, or organization of, each Shobodan (fire prevention corps) shall be fixed by the mayor of a city or the headman of a town or village in compliance with the local requirements.

In a city, town or village with its Fire Defense Headquarters, the

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Legal and Government (Cont'd)

Shobodan shall act under the control of the Chief of Fire Department or the Chief of the Fire Station and when ordered by the Chief of Fire Department or the Chief of the Fire Station, it may carry out activities even outside of its area.

The fixed number, appointment and dismissal, compensation, duties, and other matters concerning the members of a Shobodan shall be determined by the by-laws of a city, town or village, and the matters concerning their training, ceremony and uniform shall be determined by municipal regulations in line with the model regulations made by the National Fire Defense Board."

The Public Safety Division states that the Shobodan organization should consist of an operating group of firemen and should not be overloaded with unnecessary personnel. The Public Safety Division feels that not more than 25 Shobodan members per 10,000 population are needed and they suggest that municipalities be urged to keep within these limits. Twenty-five men per 10,000 population can be trained in the use of equipment, but larger groups cannot be handled satisfactorily. Large groups of Shobodan tend to increase unnecessarily the expense to the public, and particularly if suitable equipment is not available for their use, they are of little assistance when fire occurs.

Note: Shobodan is an organization of volunteer firemen who operate in the absence of, or who assist as directed by, municipal paid fire departments in fighting fires.

Handling and Use of Dangerous Chemicals.- Beginning in September 1947, a quantity of chloropicrin was shipped to Ishikawa Prefecture for use by the farmers as an insecticide and to fumigate storage buildings. Although chloropicrin is a dangerous chemical, the containers were packed in flimsy crates, and had no instructions concerning proper use or safety precautions. Japanese handling the chemical were not aware of the danger and necessity for safety measures.

The following is an excerpt from the Agricultural Chemical Control Law (Law Number 82, 1 July 48, effective 1 Nov 48):

"Article 7: A manufacturer or an importer, when selling the agricultural chemical which he manufactured, processed or imported, shall indicate

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Legal and Government (Cont'd)

the following matters on its container (or on the package when not selling it in a container).

1. Registered number.
2. The kind, the name, the amount contained, the physical and chemical property, and the effective constituent of the agricultural chemical as well as the kind and amount of other elements contained.
3. The kind of diseases and insects on which it is to be used and the method of using it.
4. In the case of the agricultural chemical that is harmful to man or animal, the name of the antidote (in case there is no anti-dote, state that fact).
5. In the case of the agricultural chemical which is liable to draw fire, explode or injure skin, state that fact.
6. Directions on the method of preserving or using it.
7. The name of the manufacturing plant.
8. In the case of the agricultural chemical that has been manufactured or processed by the manufacturer, the year and month in which it was manufactured, and also the year and month in which it was packed."

Pending the effective date of the law, this headquarters has recommended to SCAP that the appropriate agency of the Japanese Government be directed to take the necessary action to insure that all agencies distributing and using chloropicrin be instructed in the proper use and the safety regulations to be observed.

Investigations Concerning Fires.— The following is an extract from the Code of Criminal Procedure, Book II, Chapter 1:

"Inquiry and Investigation (Sosa). Article 189. Any member of the National Rural Police or of the Police of Autonomous Entities shall act as a judicial police official when and as authorized by law or regulations of the National Public Safety Commission, the Prefectural Public Safety Commission, the Local Public Safety Commission or of the Special Ward Public Safety Commission concerned.

Judicial police officials should, when they deem a crime has been committed, investigate the offender and evidence thereof.

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Legal and Government (Cont'd)

Article 190. Who are to exercise the functions of judicial police officials in regard to forestry, railways or other special matters, and the scope of their functions shall be provided by other law."

It is clear that Article 189 enables the police to act under law or certain regulations of the various Public Safety Commissions for the investigation of offenders and collection of evidence. However, Article 190 points out that persons in other agencies, may exercise police functions, including those in forestry and railways or other special matters, and the scope of their functions shall be provided by other law.

The Fire Service Law, passed at the last session of the National Diet, states in Article 35; "The primary responsibility for the investigation of suspected arson or mishandling of fire shall be upon the fire service executive chief." The law gives further details regarding these duties.

It appears, therefore, from the three articles quoted above, that the executive fire chief definitely has the authority and the responsibility for investigating suspected arson cases and fires which may have been caused through carelessness or neglect. The executive fire chief is expected to cooperate with the police, but such investigations are not to be taken over by the police, although the law does not preclude the police from cooperating and coordinating with the executive fire chief or conducting its own investigations.

Prefectural Control of Fire Defense.- Article 9 of the Law of Fire Defense Organization states, "In order to deal with affairs concerning matters of fire defense of cities, towns and villages, any or all of the following organs may be created, besides Shobodan, according to the necessity:

- a. Fire Defense Headquarters
- b. Fire Station
- c. Organs for training fire department personnel and members of the Shobodan."

It has been reported that in some instances this article has been interpreted to mean that a Shobodan organization must be set-up in order that a, b, and c above, may be created. This is not a correct interpretation. The intent of Article 9 is to give authority to organize a local group of

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Legal and Government (Cont'd)

Shobodan if such a group is necessary for adequate fire protection in the municipality and also give authority to set-up a, b, and c above.

The Law of Fire Defense Organization, under Articles 6 and 7, places the responsibility for public fire protection upon the municipalities themselves through mayors or headmen. It is not the intent of the law to permit any operational control from prefectural level. Article 26 gives prefectures the authority to retain or establish training schools for firemen, and Article 22 provides for channeling of fire defense statistics through the prefectural governor, but no other authority for public fire defense is to be assumed by prefectural offices.

It has been reported that public fire protection in some prefectures, especially those with volunteer (Shobodan) personnel, are still controlled, as in the past, by the prefectural office. This method of operation is not in accordance with the Law of Fire Defense Organization.

Recall Movement Initiated by Agitators. - A movement was started in Akita Prefecture to recall the prefectural governor on the grounds of malfeasance and misfeasance in office. The charges were investigated and it was found that the entire movement was a result of the governor's having appointed a Labor Relations Board without acceding to the demands of an organization called the Joint Labor Council, which is communist-dominated. IX Corps reports that these tactics are not confined to Akita Prefecture alone but are becoming apparent in other prefectures.

There is a definite tendency among the Japanese to sign petitions without examining their contents and without looking into the motives of the individuals circulating the petitions. In Kagawa Prefecture, editorial campaigns against this practice have been effective. In one instance 500 persons requested removal of their names from a petition as the result of an editorial.

Status of the Central Government Branch Offices. - The National Diet recessed without completing action on the problem of the branch offices of the national government. On 2 Jun 48, the House of Councillors passed a resolution placing that body on record as favoring administrative readjustment of these branch offices.

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Legal and Government (Cont'd)

The chairman of the House of Councillors' Committee on Public Safety and Local Government stated that a bill will be drafted in conformity with the resolution and submitted to the Diet at the beginning of the third session.

Tri-Prefecture Public Safety Commission. - The Public Safety Commissions of Aichi, Mie and Gifu prefectures have organized the Tokai Tri-Prefecture Public Safety Liaison Conference. This conference consists of all of the prefectural public safety commissioners of the three prefectures and holds regular meetings every other month. Special meetings may be called by any of the prefectures. The chairmanship is rotated, as is the meeting place. Expenditures for the conference are borne jointly and are to be decided at each meeting.

The purposes of the organization are to improve cooperation and to introduce procedures to produce immediate police aid in cases of emergencies. Discussion at the first meeting included such topics as petitioning for more arms, automobiles and bicycles for the police and establishing more police boxes, better communications, better training, measures to prevent juvenile crime, and cooperation with the people and the fire defense groups. The action taken appears to be in conformity with the Police Law and is a sincere effort for better and more efficient law enforcement.

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LEGAL AND GOVERNMENT

Vol I, No. 4

Audit of Prefecture Expenditures. - The Tokushima Prefecture Assembly arranged for an audit committee, reinforced by four members of the Assembly, to conduct an audit of public finances. Their findings were very explicit, and when presented to the Assembly evoked a firm and unanimous demand that the executive take immediate steps to insure that there will be no recurrence of the malpractices disclosed.

Some of the matters disclosed were building of official residences for divisional chiefs from loan money ostensibly raised for earthquake disaster relief, road repairs and river works (a matter of something over a million yen), food and drink were entered as working and office expenses and nearly three million yen were paid for social expenses. The payment of overtime to members of the General Affairs Division was questioned as surreptitious, irregular and possibly illegal as they were being paid from funds provided by the central government for expenditures in connection with 1947 national elections. Subsidies had been paid in connection with logging roads, although the actual work had scarcely been started. Excessive amounts had been paid to members of the Assembly for travelling expenses. The Tokushima MG Team reports that although there is no evidence of actual embezzlement, there is undoubtable evidence of inefficiency, maladministration and waste of public funds on a grand scale.

Comments on the Local Autonomy Law, Number 4. - The following comments deal with Chapter IV, Elections, Sections VI - IX:

Section VI contains provisions governing candidacy for public office and certification of election. Article 53 states that when the number of candidates exceeds the number of elective positions, an application of candidacy must be filed with the Election Administration Committee concerned. This application must be filed between the day on which public notice of the election date has been given and the third or second day before the election in the case of the prefectural governor and assembly, and the city, town, and village mayors and assemblies respectively. This is an important provision, in that article 72 (which incorporates certain articles of the House of Representatives Election Law) states that candidates may not start campaigning prior to official declarations of candidacy. Anybody may run for office, provided the person deposits a certain sum of money together with his application (except for town and village offices

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which require 30 sponsors per candidate). To discourage an excessive number of candidacies, the deposit is forfeit if the candidate loses, but refunded if he is elected. To be elected, a candidate for assemblyman must receive at least one-fourth of the total number of valid votes divided by the total number of elective offices involved, and in the case of the governor or mayor, three-eighths of the total valid votes. Election ties are decided by drawing lots.

Section VII on Extraordinary Elections provides for mandatory by-elections of assemblymen when vacancies exceed one-sixth of the total number of seats in the election district concerned (if there is no election district, one-sixth of the total number of seats in the assembly) within six months of a regular election. In the latter case, only when vacancies in the assembly exceed one-third is a by-election held. However, a by-election may be held at any time, regardless of the above provisions, if there is to be another election of a mandatory nature in the district concerned. Dates for by-elections are set by the Election Administration Committee. Article 65 provides for run-off elections of the two top candidates when no one has obtained the minimum required vote.

Section VIII provides for lodging of complaints with the local Election Administration Committees and appeals to the prefectural committees, if the complainant is dissatisfied with the decision of his local city, town, or village committee. Appeals may be made to the courts in the case of all election disputes, provided that the above procedure has been followed initially. However, neither the courts nor the Election Administration Committees concerned may invalidate an election, regardless of the findings, unless in their opinion the election results would have been altered thereby.

Section IX adopts most of the provisions and punitive rules contained in the Law for the Election of the House of Representatives. This includes bans on house-to-house canvassing, the use of school children in election campaigns, and provisions for appointment by each candidate of a "responsible disburser" who is held legally liable for the observance of all laws regarding campaign expenditures made by him or by someone else in his behalf.

Firearms for Japanese Police. - In June, the Gumma MG Team reported 60

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cases of attacks on Japanese policemen since the 1st of January and pointed out the inadequacy of firearms in the hands of Japanese police.

A SCAP indorsement, relative to this matter, is quoted as information:

"1. The paucity of firearms for Japanese police throughout Japan is recognized. Distribution of all available weapons has been previously completed, resulting in a ratio of one weapon to approximately each five policemen. There are no additional weapons currently available.

2. Certain limited stocks of former Japanese pistol ammunition have been reconditioned and issued for use by the Japanese Civil Police. When additional arms or ammunition become available and are authorized for issue, complete and equitable distribution will be made.

Police Boats. - The Hiroshima National Rural Police submitted a request to the Chugoku MG Region for additional patrol boats, and advised that the patrol boats in their possession were to be turned over to the Municipal Police. The SCAP indorsement is quoted as information:

"1. The reorganization of the Japanese police system planned the removal of all extraneous functions from police jurisdiction. The former water police have been abolished and their functions absorbed by the National Rural and Municipal Police for normal land police functions and by the Maritime Safety Board (coast guard) for law enforcement on the coastal waters of Japan.

2. Cooperation and coordination between these law enforcement agencies is provided for by law. It is both practical and economical to consolidate water transportation facilities for law enforcement purposes in the organ of government operating on the water. This does not deny use of such facilities, when needed, to other law enforcement agencies as required and requested.

3. Municipal police forces require limited boats to perform land police functions on the water side of docks, wharves and similar structures within the limits of municipal jurisdiction.

4. Instructions have been issued by the national headquarters of the

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National Rural Police for the release of boats held by subordinate units to the Maritime Safety Board and municipalities. Such instructions received SCAP approval prior to issuance."

Procedure for Obtaining Warrants. - In reviewing the procedure for obtaining warrants for search, seizure and arrest, I Corps reported that in some areas police officers obtained warrants directly from a judge, while in other areas the police officers requested the issuance of the warrants through the public procurator.

Representatives of the Supreme Court stated that warrants should be requested through the procurators office in accordance with Ministry of Justice instructions number 7052, 1 May 47. This headquarters pointed out to GHQ, SCAP that it appeared that the chief purpose of the Ministry of Justice instructions was to maintain a kind of supervisory relationship, with the Justice Minister (now Attorney General) supervising the procurator and the procurator supervising the police.

SCAP Legal Section advises that conferences are being held with the interested Japanese agencies to establish a uniform procedure for issuance of warrants. It is anticipated that an agreement will be reached in the near future, at which time joint instructions will be issued to courts, procurators and police agencies.

Rehabilitation Facilities for Released Prisoners. - The Ishikawa MG Team forwarded a report concerning the unsatisfactory rehabilitation facilities for released prisoners. The prisoners receive only a bare minimum for covering the cost of the trip home. This minimum cost is received on a charity basis and then only when it has been proved that the prisoner or his family cannot pay the expenses. The team recommended that the system be revised so that the prisoner would receive his transportation home as a matter of right instead of having to ask for charity and that this allowance be larger than the minimum necessary to get home. GHQ, SCAP advises that proposed revisions to the Prison Law, submitted by the Japanese Government, are being studied at this time. These proposals contain provisions for paid labor allowances, adequate clothing, and travel expenses for released prisoners. It is contemplated that corrective legislation will be submitted to the Diet at an early session.

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Soldiers' Wound Badges and Bereaved Family Badges. - The Nagano MG Team reported that three men wearing wounded soldier badges and dressed in white robes were noticed on a street corner soliciting funds from the public. The prefecture welfare department stated they had received a number of the badges from the Demobilization Bureau of the Welfare Ministry and had presented them to the wounded soldiers.

A SCAP indorsement, relative to this matter is quoted as information:

"1. The Japanese make a clear distinction between decorations (Kunsho) and badges (Kisho). The latter are not awards in recognition of valor, merit or service, and do not entitle the recipient to special benefits or privileges. The Soldiers' Wound Badge (Gunjin Shoi Kisho), as well as the Bereaved Family Badges (Gunjin Izoku Kisho) (for families of soldiers killed in the war), which demobilization and welfare agencies have been awarding, belong to this latter category.

2. The pertinent oral instructions given to Japanese Government representatives on 18 February 1947 by a representative of General Headquarters, Supreme Commander for the Allied Powers, were to the effect that "the granting of allowances and decorations to ex-military personnel and for their families" were to be terminated. The Japanese authorities immediately ceased presentation of all decorations honoring ex-military personnel, but continued distributing to qualified persons the two types of badges mentioned above, believing in good faith that the instruction did not prohibit such action.

3. It is considered that the continued conferment of these two types of badges will do no harm and does not conflict with the objectives of the Occupation. The Japanese authorities will therefore be permitted to present these badges, although they are not to be encouraged to do so.

4. The Japanese Government has been instructed that these badges or medals are not to be publicly displayed or worn in connection with public and/or private welfare fund drives or for the purpose of street solicitation or street begging, and to take appropriate measures to prevent the wearing and display of these badges in such circumstances."

Summary Contempt Procedure. - A number of MG teams have raised the

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question of the Japanese Courts' lack of authority to impose summary penalties for contempt. The SCAP indorsement to a letter from the Saga MG Team on this subject is quoted as information:

"1. The subject matter of the basic letter has been under consideration for some time by Legal Section, this headquarters, and the Supreme Court of Japan.

2. When an independent judiciary was set up under the new Constitution and the Court Organization Law, the authority of the court to exercise its contempt power was neither fully understood nor realized. However, recent events have demonstrated that the courts must have summary control over the order and efficiency of their court room procedure in order to maintain the dignity and prestige of the judicial system.

3. In discussions of this matter with members of the Supreme Court, they recognized the need for the introduction of punishment for contempt into the Japanese law and, while they admit it could be done by Rules of Court, they would prefer that the Court Organization Law be amended by adding to Article 71 the power of the court to punish for contempt as prescribed by rules of the Supreme Court. Such authorization would, in their opinion, have the advantage in that the courts would not be subject to undue criticism for over-exercising their new power under the constitution. A draft of the necessary amendment of the Court Organization Law will be submitted to the next session of the Diet.

4. On 12 August 1948, the judicial assembly of the Supreme Court adopted rule No. 139, containing instructions to all judges of Japan to exercise to the fullest extent the provisions of Article 71 and Article 73 of the Court Organization Law. In their instructions they have pointed out some of the instances of improper conduct on the part of litigants, their attorneys and the activities of courtroom spectators. This instruction coming from the Supreme Court, should carry considerable weight and, pending Diet legislation in the next session, should do much to alleviate what is recognized as a deficiency in the operation of the judicial function."

Tax Attachments and Article 35 of the Constitution. - The Shikoku MG Region recently raised the question of the constitutionality of tax attachments in accordance with the procedure given in the National Tax Collection Act. They pointed out that this procedure does not call for "seizure - made upon separate warrant issued by a competent judicial officer" (Art 35

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of the Constitution), but provides for the competent designated official to give notice, seize, and sell at public auction, property of equal value to the delinquent taxes, assessments or premiums.

The SCAP indorsement pointed out that there are two laws providing procedure in the event of failure to pay national taxes: the National Tax Collection Law (Law No. 21 of 1897) and the Indirect National Tax Penalty Law (Law No. 67 of 1900). Law No. 67 of 1900 governs custom duties, commodities tax, sake taxes, admission taxes and the like, and differs from the National Tax Law in its procedures, to some extent.

Article 10 of the National Tax Collection Law provides that the taxation official shall attach the property of the taxpayer if the demand-charges, arrears and tax are not paid in full by the time limit designated. The notification sent in cases of non payment of national taxes is called "kokuchi", and is a demand for payment of arrears on penalty of attachment by a certain date. There is no provision in the National Tax Collection Law requiring a warrant for such attachment. Further, the law (Article 20) allows a complete search of premises in connection with such an attachment. Some safeguards are provided by the requirement of a witness, registration of the property attached, administrative review, and even suspension of the attachment, if there are good reasons. Provision is also made for a petition or lawsuit to the courts. However, the taxpayer must pursue the administrative remedy of an application for reinvestigation, before he can resort to the court, or to a petition (The Petition Law, Law No. 13 of 1947). The Law for Special Regulations concerning the Procedure of Administrative Litigation (Law No. 81 of 1948) requires the decision on the application for reinvestigation to be made within 3 months.

In the view of the Japanese Government, Articles 31 to 40 of the Constitution are interpreted as applying primarily to criminal process. It is stated that the collection of taxes is the collection of a debt owed the state, and is in the nature of a civil process, in which the state has a particular interest. Article 30 of the Constitution, providing that the people shall be liable to taxation as provided by law, is pointed out in support of the argument that a distinction is made in tax collection cases. It is not unreasonable to construe that Article 35 of the Constitution contemplated primarily criminal procedure, and that it need not be narrowly construed to prevent reasonable searches and seizures in the case of collection of taxes. This question, of course, must be left to final decis-

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ion by the Supreme Court of Japan, and it is felt that, because of the expediency of the procedure, no action should be taken by the Occupation Forces.

The Indirect National Tax Penalty Law grants enforcement officers powers of inspection, search and attachment, but with a warrant of a court, except where the offense is discovered red handed or on the spot. This latter resembles the provision of Article 33 of the Constitution, to the effect that a warrant is not required if the offender is "apprehended, the offense being committed". Some administrative safeguards are provided, such as immediate accounting for the seizure, requirement of witnesses, and provision for the release of the goods in certain contingencies.

The procedure of "tsukoku shobun" or disposition by means of notification, is used in cases of evasion of admission taxes, soft drink taxes and the like. Under this procedure, after investigation by enforcement officials, the Director of the Regional Finance Bureau can notify the offender to pay the tax and penalty or fine provided by law within 7 days. If he disregards the notification, a regular criminal action is brought by a prosecutor, in which all the issues may be tried, and the full criminal penalty is asked by the procurator. A possible objection may lie in the fact that under the "tsukoku shobun" procedure, an administrative official is performing a judicial act by levying a fine, in addition to the arrears and collection charges. The fine is usually a multiple of the taxes evaded, as provided in the specific tax law involved. There is no additional punishment if the notification is ignored but a regular criminal action is begun as stated above. However, this exercise of judicial power, if it is that, is not final in view of the possible choice of the person affected to stand trial. Article 76 of the Constitution says only "nor shall any organ or agency of the Executive be given final judicial powers". Further, it is the view of the Japanese Authorities that the notification procedure is really an agreement with the collector to settle the debt and is in a sense a privilege offered the delinquent to escape a criminal trial, with its accompanying stigma and expense. This procedure is an eminently practical one and appears in as many as 18 other Japanese laws, mostly relating to taxation. The feature of choice by the taxpayer to pay up or stand trial would seem to be an argument in support of the constitutionality of this procedure.

The conclusion is that these various tax collection procedures are not

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patently unconstitutional. Japanese officials should feel free to proceed under these laws until the Supreme Court of Japan decides to the contrary. In any case it appears to be inadvisable for the Occupation Forces to take action to abolish these highly practical procedures.

Transfer of Prisoners Infected with Communicable Diseases. - The Nagano MG Team recently reported an incident in which eleven of a total of fifty prisoners transferred to Nagano Prison from other prisons were infected with communicable diseases.

SCAP advised that this procedure is not in accordance with instructions given to prison wardens by the Attorney General's Office, and the warden of the prison from which the prisoners were sent has been officially reprimanded.

The Attorney General's Office, in cooperation with SCAP, is working on a revision and clarification of the instructions to prison wardens regarding the transfer of prisoners having infectious diseases. When the revisions are completed, the regulations will be published for the information of MG teams.

SEE ALSO:

1. Agricultural Cooperative Association Law (Economics).
2. Japanese National Tax Budget (Finance and Civil Property).
3. Foreign Nationals' Supplementary Rations (Public Welfare).
4. Local Contributions to Relief (Public Welfare).

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Audit of Prefecture Expenditures. - Additional information has been received from the Tokushima MG Team concerning the steps taken to reform prefectural government administration as a result of disclosures by the Audit Committee (Military Government Bulletin, Vol 1, No. 4, page 33).

The report of the Audit Committee, presented to the July session of the assembly, disclosed irregular practices in which millions of yen were involved. Subsidies for construction had been paid although in some instances the work had just begun. Official residences had been built with loans raised for earthquake disaster relief. During negotiations for establishing a monopoly bureau factory in the prefecture, one hundred and fifty persons made trips to Tokyo at public expense. Social expenditure had been listed at over three million yen and, in addition, food and drink had been entered as office and working expenses.

The governor took steps to institute personnel reduction and to increase administrative efficiency. The MG officer conferred with the governor and his senior officials on this subject and a scheme was developed for retraining of employees and a general tightening up of administration. The training was to be carried out during office hours, but with a minimum of inconvenience to the public.

The vice governor and the chief of each division conducted an investigation into the physical administration of each office. Conditions which were disclosed included the following:

a. Supervision of sections and divisions was inadequate and in some instances non-existent. Staff discipline was lax and morale low. There was no evidence of effective personnel management. Every section carried personnel who were superfluous, if considered in the light of the work actually being performed rather than in that of the work available for them to do. All over the office were found persons either not working at all or engaged in unprofitable tasks.

b. Duplication of work due to lack of coordination between divisions, between sections and even between members of a section was frequently encountered.

c. Two thirds of the staff habitually arrived anywhere from one

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quarter to three quarters of an hour late. A greater proportion left the office before the scheduled time and yet full time was credited to all the staff. Absences for trivial causes were frequent and there was no attempt to check upon exploitation of compassionate leave.

d. Allocation of office space was faulty. Some sections had waste space while others were overcrowded. Some sections were dispersed to the detriment of efficiency and public convenience. Advanced proposals for enlargement of the building at considerable cost were found on investigation to be unnecessary or much in advance of any immediate development.

e. Notwithstanding that new furniture was being purchased, ample equipment to equip the entire building twice over was stocked in corridors and odd corners. No attempt was being made to maintain or repair furniture.

f. Arrangement of desks and other furniture was poor, fixtures were cluttered with rubbish and obsolete files, while current files and printed forms were stacked in heaps on tables and on the floor. Three draughtsmen were found working in a dark corridor, with no natural light and only one low-powered lamp.

g. Fire protection and general security matters were very bad. Few office doors had locks in repair. Few, if any, cupboards were locked although a number of thefts after office hours had taken place. Checks indicated that it was possible to gain access unchallenged, to important and irreplaceable documents. Although on duty all night, he did not make a patrol and there was no system of checking whether he remained awake or not. No adequate fire equipment was installed; hoses were not at hydrants but kept in the janitor's room "in case of theft". The duty telephonist was found to be in bed. Although twenty odd persons sleep in various parts of the building, there was no alarm plan or any evidence of any fire drill having been held in the memory of the present employees.

h. The building itself was filthy and parts of it infested with insects and rodents. Cleaners apparently operated without any proper supervision.

Other matters and practices brought to light included the improper use

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of prefectural motor vehicles, due to the absence of a checking system. It was found that officials touring the prefecture on business were accompanied by a retinue of clerks, all drawing travel pay. Despite the clerical inefficiency of the majority of employees, no effort was being made to train the junior employees. There was no telephone SOP, and the switchboard was greatly overloaded.

The following reforms have been effected:

a. Attendance books have been instituted. Those who arrive by the late train will make up the quarter of an hour lost after four o'clock. Those who are unpunctual will be disciplined. This applies to division and section chiefs as well as general staff members.

b. Staff reduction by 15% in August figures has been instituted by nonfilling of vacancies and discharge of casual employees. A bill to effect further reduction is being prepared for the next session of the assembly.

c. Reallocation of office space to avoid congestion and to consolidate sections for efficiency, and relocation of divisions to meet convenience of the public have commenced.

d. Under direction of the chief of the Accounts Section, all surplus and damaged furniture has been removed from the building. Usable furniture is being reissued as needed and repair work has commenced.

e. The Chief of the General Affairs Division and Chief of Accounts Section were charged with fire and security measures. Fire drill, under supervision of instructors from Tokushima Fire Brigade Station, has been instituted. Portable hand extinguishers have been purchased and installed. Hoses have been fitted to hydrants and more hoses are to be purchased. There is a very good alarm and evacuation fire plan in operation. One feature is that obsolete documents have been removed from section offices for classification and storage.

f. Duty personnel will patrol buildings inside and out. Locks on office doors are being repaired and replaced. Divisional and section heads are held personally responsible that rooms are locked at close of duty.

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g. A special clean up of the building was made for five days during August and arrangements were made for periodic insect and rodent control measures. Cleaners have been divided into two groups, one of which will operate before and after office hours, and the other during office hours. Division chiefs are primarily responsible for the cleanliness of their areas. The Chief of the Accounts Section has the overall responsibility.

h. A pool of motor vehicles, under control of the Chief of General Affairs Division and the Chief of the Accounts Section has been inaugurated. Repairs have been made to doors and gates of the garage and a bill is being submitted to the next session of the assembly to provide for additions to the garage so that all vehicles can be locked up in a building under supervision.

The Governor's instructions places the control of the administration, now under the Vice Governor, with the Prefectural Planning Section. A curb has been placed on visits to Tokyo, and intra-prefectural tours are to be confined only to those officials essential to the mission. An important provision is that an official may not leave his post, even on official business, unless arrangements have been made that the routine of his job will be carried on during his absence. Reallocation of section officials is in progress and directions have been issued for training of staffs.

City Administrative Reorganization. - Tokushima-shi, Tokushima-ken, has reorganized its administration. A personnel reduction of 20% has been achieved by abolition of city branch offices and by the reduction of the number of sections in the city hall from sixteen to eight.

Comments on the Board of Education Law. - A member of an assembly, who is a national public official, cannot be elected by the assembly as its member on a board of education. Article 10 of the Board of Education Law states as follows: "Diet members, members of assemblies of local public bodies (excluding the members prescribed in the paragraph 3 of Article 7), national public officials and paid employees of local public bodies cannot concurrently be members of a local board of education." There is no exception for the member of the board of education who is elected by the assembly. A school teacher is a national public official.

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The assembly of the local public body concerned shall determine by by-law the amount of remuneration which shall be paid to the members of the board of education. There is no minimum or maximum fixed by this law or any other.

Article 32 of the Board of Education Law regarding administration, the taking of oaths and other duties is ineffective until such time as the Diet passes a law such as is contemplated in this article. As yet no bill has been introduced.

The presence of a majority of the members of a board of education in actual service is necessary to continue a meeting except that if the board meets for the third time on the same business without a majority, it may continue and conduct the meeting as if a majority of the members in actual service were present. Members in actual service means members actually on the board, not the number which the law says constitutes the board, as directed by Article 36 of the Board of Education Law.

Correction in Enforcement Order of Local Autonomy Law. - Article 182, paragraph 4, of the Local Autonomy Law and Article 134 of the Cabinet Order concerning the enforcement of the Local Autonomy Law, Cabinet Order No. 16, dated 3 May 1947, are in conflict. The law is correct. Only two members of the same political party may be members of the metropolis, district or urban, or rural prefecture election administration committee. Only one member of the same political party may be a member of the city, town or village election administration committee. However, any number of independents may be members of this committee.

* Crime and Fire Prevention Association. - The Gifu MG Team reported that a number of local crime and fire prevention associations were operating in Gifu prefecture. They reported that these organizations had reduced the night crime rate to the point where the predominate number of crimes were committed during daylight hours. The SCAP reply concerning the legality of these organizations is quoted for your information:

"The responsibility for providing adequate police and fire protection is a function of government. Local municipalities, authorized autonomous police forces under the recently enacted police law, must accept this responsibility and maintain law and order through proper use of authorized

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and municipally paid police officials. Operational crime or fire prevention associations, augmenting paid facilities as referred to in basic communications, while not illegal can become instruments of the Oyabun system or vigilante groups. Such groups are largely irresponsible, generally inefficient due to lack of proper training, and are possible vehicles for illegal acts of corrupt individuals. Further, such groups constitute a threat to civil liberties inasmuch as they are not responsible to any government agency for their activities, and thus cannot be controlled.

Municipal police forces should be encouraged to increase patrol activities by reducing the number of personnel engaged in strictly administrative functions and by reducing the number of personnel immobilized in police boxes. Should such remedies prove inadequate, the municipality should request authorization for additional police in accordance with provisions of the National Police Law.

The above is not to be construed as intending the elimination of volunteer fire-fighting groups (Shobodan) in smaller municipalities where adequate paid fire departments do not exist."

Production Control. - A report from the Tokyo MG Team about the losses sustained by management through production control tactics has been forwarded to SCAP.

SCAP pointed out that the question of the legality of the occupation of premises, or production control by workers in connection with labor disputes, is the concern of the Japanese government and people, and is left to the Japanese courts for determination.

A definite Japanese Supreme Court ruling is anticipated shortly since at the present the following actions are in progress: a. There is presently pending an appeal before the Japanese Supreme Court concerning production control affecting the Yamada Production Company, Osaka. The lower court of original jurisdiction had ruled production control legal on 27 November 1947, but this ruling was reversed on 29 May 1948 by the intermediate court of appeal. A final decision in this matter by the Supreme Court is expected before the end of the year. b. In the early part of April, 1948, the Attorney-General's Office commenced legal action against the union involved in the Aikodo Printing Company production control case in Tokyo to test the legality of this dispute tactic. On 8 June 1948, the

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Tokyo District Court found ten workers of the Aikodo Labor Union guilty of various violations of law resulting from action taken during the production control. In his decision Judge Kobayashi stated that production control infringed on the clauses of the new constitution which safeguard private property and, furthermore, it was not a proper act of dispute within the meaning of labor laws. It is understood that this decision is being appealed to higher courts by the defendants.

The SCAP indorsement regarding this matter was concluded with the following paragraph:

"Pending definitive judicial determination, it is noted that cases of physical violence and serious damage to property should not be tolerated by local Japanese authorities, who have adequate authority to control and punish such acts regardless of whether they are involved in a labor dispute."

It is emphasized that the Japanese Supreme Court has not yet rendered a decision on any case involving production control.

Sparks from Annex "A" Reports. - Even a quick glance at the monthly activity reports in Annex "A" from legal and government officers in the field discloses that excellent observing and reporting is being done. Random selection gives many interesting facets of local government throughout Japan.

The Nagano report points out the problem of licensing street stall vendors, to eliminate the existing evils of local Oyabun or boss system even to the gangster elements involved. The common practice is for the street stall vendors associations in Japan not only to collect the license fee but also a rental charge for the use of the public street. In addition, they also collect the taxes which these vendors are to pay in to the local government. In this connection amended Article 243 of the Local Autonomy Law should be studied by the legal and government officers. This amendment provides for an accounting for these tax monies by the association officers. It also provides that in the event the accounting discloses an unlawful conversion of tax monies that the facts must be reported to the public procurator for action. The attorney general's office can proceed against offending associations with a dissolution proceeding if such action is indicated.

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The report from the Aichi MG Team disclosing malfeasance and malpractice in the conduct of certain national branch offices, indicates an alertness on the part of the team to another important phase of the serious problem that national branch offices are creating in the field of local government.

Another issue raised by a Nagano report concerned the increase of local entities requesting contributions to supplement their budget. Here is a problem which is widespread and of interest to all teams. While the practice in itself is not illegal, it can be abused if it is on an "involuntary basis". If force, intimidation, or coercion creeps into the practice, then discontent and dissatisfaction with the present form of government will naturally result. The answer for the time being, therefore, is the passage of by-laws to control and eliminate the abuse of intimidation or coercion on the part of the collecting agencies against the general public. A recent Aichi report discloses that a by-law was passed in July regulating societies and associations engaged in soliciting contributions. It does not appear in the report whether the by-law did cover the activities of branches of local government engaged in this practice. By-laws which would provide for a system of accounting by the officials making the collections, by either publishing or posting lists of contributions, and a system of reporting on the expenditure in detail of these funds, would give the public a feeling of security and confidence that the contributions made were actually going for the purpose for which they were intended. Widest publicity should be given to all these cases. Under such a system in which the voluntary nature of the contribution was assured and a clear-cut accounting was made, Japanese citizens who can afford to assist local government projects would feel free to do so and would be encouraged to give such help as they could in addition to paying their taxes.

The Kochi report for June points out the problem of resignations of public officials. It appears that a member of the assembly was indicted and immediately resigned. A member of the public safety commission, whose corporation was apparently involved in blackmarket activities, also offered to resign. The report discloses that his resignation was accepted by the governor reluctantly after the procurator's office had cleared the commissioner from any personal involvement in the case.

Two important points arise in this type of problem: the elimination of undesirable officials and the stability of the present governmental or-

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ganization. Both principles are equally important if democracy is to survive. A careful approach must be made. The Local Autonomy Law, in Article 127, provides that an official shall be divested of his office "if he is sentenced . . ." Being indicted does not necessarily mean that he will ultimately be sentenced and that the sentence will be confirmed by a higher court. However, in some cases when the evidence is clear and abundant as it was in this instance, the possibility that the assemblyman might not in fact be guilty under the law is not too serious. In the case of the public safety commissioner, however, in which he was cleared in the preliminary investigation by the procurator's office, there is no legal basis for his resignation to be accepted. The fact that he was or is wealthy or the owner of a corporation should have no bearing in considering the matter of resignation. Other resignations have come about through accusations based upon rumor, with the consequent round of petitions and needless elections. Unless it is clear that resignation is indicated and should be accepted, such action should be avoided. The old Japanese custom of resigning from an official post the moment an accusation is made or a petition has been gathered, is not in keeping with the democratic concept of presuming that a man is innocent until he has been proven guilty in the courts set up for that purpose.

The reports on special elections are coming in and are valuable as showing political trends. Some of these reports are following the form prescribed for the general election reports which were quite detailed, comprising as many as three or more pages. On the other hand, some of the reports have been briefed down to one page. The important issue is to give the pertinent facts involved in the special election: the results, the name, occupation and address of the winner, and some comment or evaluation as to the significance of the election for political trends.

The Blood Stained Shirt, - Encouraged by the Tokai-Hokuriku MG Region, the judges, procurators and members of the Nagoya Bar Association produced a mock trial in the form of a play entitled "The Blood Stained Shirt".

The plot was drawn from an actual case which occurred in Wakayama prefecture about 30 years ago. The cast consisted of volunteer judges, procurators and members of the Bar Association, and three professional actors, who were hired to portray the roles of the accused and witnesses. The plot involved the story of a jealous wife who murdered her husband because of

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his attention to another woman. Since the evidence for the prosecution was circumstantial and there were no eye witnesses, the accused exercised her constitutional privilege and refused to answer questions on the ground of self incrimination. The audience reacted to this innovation in Japanese court procedure by tremendous applause.

The curtain rose on a court scene not unlike an average American court with the exception that the accused sat alone in a separate cubicle, in front of the defense counsel. (Counsel still refuses to sit next to their clients because of self degradation.)

The play opened with only a few spectators present and a bailiff in the room. The court arrangement was very good. The guard reprimanded a spectator for smoking in the court room and the accused entered upon the stage, handcuffed, and led by a guard. She took her seat in the cubicle. The defense attorneys entered, followed by the Procurator and Recorder. The bailiff then announced the entrance of the three judges and every one rose in respect to the dignity of the court. The procurator proceeded to read the charges to which the accused responded "not guilty". The procurator opened the case. Counsel for the defense requested the court to visit the scene of the crime. With the acquiescence of the court to visit the scene of the crime, the first act ended.

The second act featured the calling of witnesses. The first witness, a policeman, was questioned by the procurator and cross-examined by the defense counsel and the judges. The second witness, a shopkeeper, was examined and cross-examined and injected much comedy into the performance. The third witness, the woman of whom the accused was so jealous, gave testimony which caused the accused to attempt to manhandle the witness. She was, of course, prevented from doing so by the guards; nevertheless, she gave an outstanding performance in the portrayal of emotional outbursts. The defense counsel cross-examined the witness. The court inquired of the accused if she wished to testify, but she refused.

The procurator and defense counsel made good closing arguments. The judges announced that a decision would be rendered at a later date, and the curtain fell, leaving for the audience to decide whether, upon the evidence presented, the accused was innocent or guilty.

Four performances were given at Nagoya before an audience estimated at

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over 8,000 people. The play was financed by the sale of tickets at 50 yen each, which was sufficient to cover all expenses and which will probably leave a small surplus for the Nagoya Bar Association treasury. Although the public clamored for more performances, the prior commitments of the theatre owners made further showings in Nagoya impossible at this time. The play has been shown already in three other cities before audiences averaging from 2,000 to 2,500 people. Plans are underway to give performances in other prefectures in the Region.

Authorized Quasi Military Organizations. - There have been two instances in the Tokyo-Yokohama area where Koreans have been detected wearing military type uniforms and insignia. The uniforms were of dark brown Japanese army cloth with a shoulder patch showing the South Korean flag, the initials YOR (Youth Organization) and the designation Korea. The jacket was cut to look like the so called Eisenhower jacket. Stripes to designate rank, and peaked caps similar to the Chinese Army cap were worn. The purpose of the organization allegedly was to conduct military training of individuals to be sent to South Korea and to maintain order among Koreans in Japan.

A Joint Chief of Staff directive, number 1380/15, 3 November 1945, directs SCAP to provide for the permanent dissolution of military or reserve organizations which might serve to keep alive military traditions in Japan. It states that all military training on land, sea and in the air will be prohibited.

SCAPIN 178, 22 October 1945, concerning the administration of the educational system prohibits all military education and drill.

SCAPIN 548 prohibits the formation of any organization or group which affords military or quasi military training or perpetuates militarism or a martial spirit.

The formation of such organizations or groups, and the wearing of such uniforms, is prohibited. Furthermore, by Attorney General's office notification No. 51, issued 14 August 1948, the Japanese Government ordered the dissolution of the Korean National Defense Body as an organization existing in contravention to the principles contained in SCAPIN 548, as implemented by Imperial Ordinance No. 101 of 1946. Pursuant to dissolution of the organization, the Japanese Government has directed seizure of its assets and

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designation of the officers as undesirable persons within the terms of SCAPIN 350.

Report of Investigation of Postal Complaints. - The following information is quoted from a letter by GHQ, SCAP, concerning the investigation of complaints about the Japanese mail:

"1. The following information deals with the present procedure followed by the Ministry of Communications in the investigation of complaints received from the mailing public concerning the loss, rifling, tampering, wrong delivery, and delay to mail matter. In order to effect this procedure ten branch offices of the Inspection Division, Ministry of Communications, were established to supervise inquiries and to make criminal investigations of a postal nature.

"2. During the war and for a period after the cessation of hostilities, the Japanese Post Office Service deteriorated a noticeable degree due to inexperienced personnel, shortage of equipment and supplies, and lack of adequate quarters. These circumstances and the critical economic condition of the country resulted in numerous thefts, riflings, and other mistreatment of mail matter.

"3. Preliminary investigation by the Postal Division, Civil Communications Section, General Headquarters, Supreme Commander for the Allied Powers showed conclusively that a modern complaint system should be established and that a group of postal experts should be trained to make postal investigations.

"4. Suitable forms for the acceptance of complaints were prepared and instructions were issued for their use to all postmasters. The new complaint system was established on 1 March 1948 in the Tokyo area only and was gradually enlarged until on 1 September 1948 it embraced the entire country. Under this system, all complaints from the mailing public are given personal attention. The addressee is contacted by the post office to determine whether or not the article has been delivered and the complainant is advised by the Inspection Division as to the result of the investigation. The average time consumed in these investigations is usually about 15 days.

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"5. Branches of the Inspection Division, MOC, have been established in the following cities:

Tokyo	- Ministry of Communications Building
Hiroshima	- Hiroshima Communications Bureau Building
Kanazawa	- Kanazawa Communications Bureau Building
Kumamoto	- Kumamoto Post Office Building
Matsuyama	- Matsuyama Communications Bureau Building
Nagano	- Nagano Post Office Building
Nagoya	- Higashi Post Office Building
Osaka	- Osaka Post Office Building
Sapporo	- Sapporo Post Office Building
Sendai	- Sendai Communications Bureau Building

In the future when any Military Government Team desires to investigate complaints incident to the postal service, the matter can be referred to one of the local Inspection Divisions for attention.

"6. For the information of Military Government Teams, records of investigations disclose that 75% of the letters and parcels reported to be missing are found to have been delivered, and in all cases where depredators have been apprehended, they have been turned over to the Procurator for prosecution."

SEE ALSO:

1. Distribution of Military Government Bulletin (Administration)
2. Arts and Monuments (Civil Education)
3. Criminal Code (Civil Information)
4. Prosecution for Welfare Malpractice (Public Welfare)

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Comments on the Local Autonomy Law, Number 5. - The following comments deal with Chapter V.

Chapter V gives citizens the right to initiate six distinct types of petitions. Section I is merely an elaboration on Art. 12 and sets at two percent the number of voters required to initiate legislative petitions and inspections of administrative affairs.

Recent amendments to Art. 12 and Art. 74 provide that by-laws regarding the levy and collection of local taxes, allotted charges, rents or fees shall not be subject to petition. This is to prevent infringement upon the inherent power of government to tax in order to maintain its existence.

In the case of demands for enactment, amendment, or abolition of legislation, the assembly need not bow to the opinions expressed in the petition, but it must go on record by voting yes or no. Through audits of the city's books and records and inspections of public affairs in general, the public is given ample opportunity to find out how its government is being run, as well as to determine whether charges of incompetency or malfeasance in office are justified.

Section II grants to the people the power to petition for the dissolution of the assembly or to recall individual assemblymen and elected or appointed administrative officials, including members of local independent administrative agencies. Petitions must be signed by at least one-third of the electorate. In order to afford assemblymen and officials a reasonable opportunity to prove themselves, the law states that petitions shall not be presented for one year, excepting appointed officials, where the period is six months.

Mere presentation of a petition does not automatically accomplish the action stated in Chapter V. In the case of assemblymen or elected officials, a public election must be held, with actual recall or dissolution of the assembly effective only after a majority of the voters have given their consent.

However, recall elections do not determine a successor to the position in question. A second election must be held to elect a new mayor or governor (Arts. 83, 63). In the case of assemblymen, a new election occurs only

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if the number of vacancies in the election district concerned totals one-sixth, or if no election districts exist, one sixth of the total number of seats in the assembly (Art. 62).

Recently, a recall election in Yamaguchi resulted in a tie vote. Under Art. 83, the recall was termed unsuccessful.

Appointed officials are not recalled through the election process, but only when a quorum of two-thirds of the assembly consents by a vote of three-quarters of its members.

A recent ruling states that names on petitions shall not be questioned if accompanied by the individual's seal.

Vigilance should be exercised to insure that coercion, bribery, cajolery, or misrepresentation of the truth are not used to obtain signatures. The people should also be discouraged from following the Japanese custom of signing things just as a gesture of courtesy, without realizing the content or purpose of what they are signing.

The public should be educated on the proper use of petitions. They should not be resorted to merely because of difference in opinion or disagreement with policy. Regular elections should decide such issues. Petitions should be regarded rather as a means of removing officials or assemblymen because of actual incompetence or dishonesty or, in extreme cases, because they have taken measures likely to result in great harm - possibly irreparable damage - to the community.

It is essential that the people refrain from abuse of the recall device, since it results in frequent upsets in the continuity of policy and makes for instability of government. This effect has not gone unnoticed by subversive elements, who are attempting to use the recall to disrupt governmental processes and discredit the present form of local government in the eyes of the Japanese people.

Flying Captive Balloons For Advertising Purposes. - Reference SCAPIN 1017, subject, Amendment to Memorandum on 'Commercial and Civil Aviation', dated 12 June 1946, SCAP states that the term aircraft includes captive balloons.

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Legality of Activities by Anti-Tax Payment Democratization Federation. - Activities of the various Anti-Tax Federations are well known to teams. This article points out the methods and tactics which the federation uses in violation of Japanese laws, as well as what legal action can be taken to counteract their program.

The legal and government officer at Gifu MG took action and thereby set a pattern that could well be followed in other prefectures when the problem arises. After the first mass demonstrations against tax officers were held, the legal and government officer called a conference to discuss the situation and determine a course of action. The procurator, the National Rural Police chief, the chiefs of the tax offices, the commanding officer and the tax surveillance officer of the team met in the first conference. The procurator was reluctant to take any action as he felt no convictions could be obtained. A second conference was called the following week and the procurator then felt he could bring a case under the Public Accountants Law as well as under the Criminal Code. Two days later the procurator ordered the closing of 13 league offices and arrested 5 of the leaders. At the time of the arrests, search warrants were issued. The homes and offices were searched and evidence found of expense accounts, league membership applications, etc. Seven hearings were held, and during them red flags were displayed and songs were sung - except at the last one. All the leaders were convicted. One received the maximum of 1 year; one received 8 months and the others were given suspended sentences. Recent information received from the legal and government officer indicates that this action has proven so successful that there has been no recurrence of organized anti-tax activities.

The plan of action outlined above is an excellent one to follow, being based on actual cases that have been successfully concluded. Investigation into the applicable Japanese laws discloses that heavier sentences could be levied by bringing charges under the Income Tax Law (see below). While the action under the Public Accountants Law carries a sentence up to one year, the feature which gives the procurator the right to order the offices closed as a violation of the Income Tax Law, is very effective and should not be minimized.

In the average case, the charges can include a violation of all three of the following provisions of Japanese laws:

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1. The Certified Public Accountants Law, No. 103, found on page 6 of the 6 July 1948 Gazette, Chapter 8. This provides for penalties of over one year and up to 10,000 yen fine.

2. The original Income Tax Law No. 67 of 17 March 1900, as amended by Laws No. 11 of 1904, No. 8 of 1908, No. 9 of 1944, Nos. 29 and 142 of 1947, and No. 107 of 1948. Article 22 covers interference with tax collections, and is the basis for charges in the average case.

"Whoever, if he is liable to pay national tax, does not report a standard of taxation of national tax, or makes a false report, or instigates not to collect or pay national tax shall be liable to imprisonment with hard work for not more than three years or to fine of not more than ¥200,000.

"Whoever makes a taxpayer of national tax not report a declaration which is a duty of taxpayers, or makes him report a false declaration, or assaults or threatens for the purpose of making one not collect or not pay national tax shall be liable to the same."

This article is specific on the question of taxes and provides for penalties up to 3 years and not more than ¥200,000. It should be sufficient in itself, in the average case. Advising taxpayers orally or in writing, or by handbills or posters, not to pay their taxes, or to assault and threaten the tax officials, is clearly a violation of this section.

3. The Criminal Code, Law No. 45 of 1907, as amended by Laws No. 77 of 1921, No. 61 of 1941, and No. 124 of 1947. It is particularly applicable to the assault or threatening feature of the type of activities disclosed in the reports. The pertinent provision is Article 95 of the law:

"Whoever assaults or threatens public officials in the execution of their duties shall be liable to imprisonment or to imprisonment with hard labor for not more than 3 years.

"Whoever assaults or threatens public officials for the purpose of making them take or not take a disposition or making them retire from public office, shall be liable to the same."

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It is believed that in those prefectures and cities in which the anti-tax organizations are active to the extent of actual interference with the execution of the tax laws, satisfactory results will be obtained if a conference of the interested officials is called and the procurators are given the above citations for their consideration.

Reinstatement of Purged Special Higher Policemen. - The municipal police force of Susami, Wakayama prefecture, hired a former member of the special higher police. A Japanese citizen, knowing that this party was purged, wrote a letter of complaint. The complainant was correct about the purge, but he did not know that this man as well as others had been reinstated on an eligible list.

Special higher police were purged under SCAPIN 93 (4 October 1945). Widespread publicity was given to this directive, so the average Japanese knows about it. However, the FEC memorandum, dated 13 June 1947, authorized the police bureau to reinstate former special higher police who had served less than one year. Apparently little general publicity has been given to this memo, although officers have applied and been reinstated under its provisions. The individual in this particular case was reinstated in a letter from the police bureau, dated 25 September 1947, which makes his employment legal in spite of the 1945 purge.

It should be noted that merely finding an individual's name on a purge list is not conclusive. You must make sure that the name on the list refers to the suspect individual and not another person of the same name. The Japanese have their share of "Mr. Smiths".

Teacher Refuses to Vacate Room. - The problem of a school teacher who refused to vacate his room in a school billet after dismissal was presented at the legal and government officers conference in November by the Akita officer. SCAP legislation and Justice Division speakers requested a detailed report from the team. According to this report both the procurator and the civil judge agreed that an immediate eviction order could not be granted. The case would have to follow the usual channels of a civil suit for eviction, which will take about one year to conclude. The procurator says that no criminal action can be taken until after the civil suit is completed.

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According to Japanese laws, the judge and procurator are correct. No distinction is made between tenancy in private dwellings and public buildings even though, as it seems in the case, tenancy would depend on continued employment.

SEE ALSO:

1. Consistency of Team Policy (Administration)
2. Political Activities in Secondary Schools - Comments from the Field (Civil Education)
3. Better Government Leagues
Town Meeting of the Air - Comments from the Field (Civil Information)
4. Life Picturama (Civil Information)
5. Use of Firearms by Japanese Nationals (Economics)

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Warrants of Search, Seizure and Arrest. - The Attorney General's Office of the Japanese government and the Director General of the National Rural Police have dispatched to their respective organizations a ruling concerning the procedure for obtaining warrants of search, seizure, and arrest. Copies are being dispatched to all MG regions and teams. The police of local autonomous bodies will be informed by the National Rural Police. The Supreme Court has been informed and will advise lower courts. The instructions are based upon Article 193 of the New Code of Criminal Procedure (Law No. 131 of 1948).

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Fire Defense Statistics. - The Law of Fire Defense Organization, Articles 4(c) and 22, provides for the collection of fire defense statistics by the National Fire Defense Board, whose offices are in Tokyo. These reports are to be submitted by mayors, through the governor, to the board in a manner which it prescribes. The board requires the reports within the first twenty days of each month, as it must submit statistics to GHQ, SCAP, on the twentieth. Lately the reports to SCAP have been incomplete because some governors failed to present their reports to the board within the required time.

Income Tax Law Problems. - Since the publication of the article on "Legality of Activities by the Anti-tax Payment Democratization Federations" in Military Government Bulletin, volume 1, number 6, of 5 January 1949, a question warranting further comment has been raised by Kanto Military Government Region. It was pointed out that in spite of the provisions contained in article 22 of the original Income Tax Law No. 67 of 1900, many procurators are refusing to prosecute for failure of a taxpayer to make a return as provided in the law.

This headquarters has checked the question and is of the opinion that article 22 cannot be made a basis of prosecution in the following two types of cases: (1) When the tax office has made an assessment against the taxpayer; (2) When the taxpayer pays his taxes through an association authorized to collect and pay taxes. The Japanese legal reasoning behind these exceptions is that in either case the taxpayer cannot be said to have intentionally violated the return provision of the law.

An equally important provision of the Income Tax Law is the requirement that no prosecution shall be brought by any procurator against a taxpayer for a violation of the Income Tax Law without first receiving an authorization from the Ministry of Finance.

It must be borne in mind that none of the above three limitations in any way affects the right to bring the type of action described in the 5 January 1949 bulletin. The article was concerned with action against a group of people organized to interfere with the collection of taxes. In many cases the parties arrested were not taxpayers themselves. The offense involved was not failure of the individual defendants to make returns, but rather their participation in an organized effort to impede the collection of taxes by the tax officials.

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