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Encl. No. 4 to
Tokyo's No. 616
Sept. 17, 1948

(Translation)

STATEMENT BY CHIEF CABINET SECRETARY TOMABECHI

(August 13, 1948, 1:00 P.M.)

Concerning protection of welfare of national public office workers, the Government has especial concern as mentioned in the previous statement. Accordingly, the following notices have been sent to each Ministry and Board:

Excepting cases where specifically provided in Ordinance No. 201, it is a matter of course that, pending necessary enactment in the revised National Public Service Law, benefits legally granted to the public office workers in the past concerning their health, safety, welfare, rest and retirement will have continued legal validity.

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吉木地官房長官談（昭三、八、一三后一時）：

国家公務員の福利の保護については、先の臨時に関心を有しているところである。

依つて左記の旨、念のため各省廳に通報した。

記

政令第二〇一号に別段の定めある場合を除き、健康、安全、厚生、休憩、退職に関し、従来の法律に基き職員に與えられている恩典は、国家公務員法の改正によつて所要の規定が設けられるまでの間は、その効力が認められることは勿論である。

総理廳

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UNCLASSIFIED

Enclosure No. 5 to Despatch No. 616 dated September 17, 1948 from the Office of the Political Adviser for Japan, Tokyo, on the subject, "Official Statements Concerning Revision of National Public Service Law".

(COPY)

(Translation)

A STATEMENT BY THE ATTORNEY GENERAL - SEPTEMBER 3, 1948

(Published in all papers of Sept. 4, 1948)

Doubts have recently been expressed in certain quarters as to the constitutionality of the "Cabinet Ordinance concerning a temporary measure based upon the SCAP letter dated July 22, 1948 addressed to the Prime Minister". (Cabinet Ordinance No. 201, 1948). In order to clarify such a misunderstanding, it was decided at the Cabinet meeting held today to communicate the government view concerning the said Ordinance to internal organizations of various Ministries. Below is given the gist of the government view.

Question: The present Ordinance is based upon "Orders (or Ordinances - by translator) to be issued consequent upon the acceptance of the Potsdam Declaration" (Imperial Ordinance No. 542, 1945). This Imperial Ordinance lost validity by virture of the "law concerning the validity, etc., of the provisions of Orders (Ordinances) in force at the time of coming into effect of the Japanese Constitution" (Act No. 72, 1947). (See Appendix - by translator). Has not the said Imperial Ordinance, therefore, been naturally invalid since December 31, 1947?

Reply: The effect of Imperial Ordinance No. 542 has nothing to do with Act No. 72. The said Law No. 72 provides validity of provisions of ordinances issued without taking into account the will of the Diet on matters which require legislation under the new Constitution. Imperial Ordinance No. 542 is the "Imperial Ordinance to take the place of law" in conformity with Article 8 of the old Constitution, and was approved by the Diet. It is clear, therefore, that the said Imperial Ordinance has validity as law, and is not to be considered as an ordinance mentioned in Act No. 72.

Question: As Imperial Ordinance No. 542 delegates to ordinances almost without limitation what should be provided by law under the Constitution. Therefore, is not this Imperial Ordinance unconstitutional, and consequently invalid?

Reply

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Reply: Judging from the spirit of independence of three powers provided in the Constitution, it is interpreted that legislative power should not be delegated unconditionally to administrative organs. Imperial Ordinance No. 542, however, delegates to Ordinances only when necessary to execute matters demanded by SCAP: it is not, therefore, a blanket delegation. It is necessary in this connection to consider the special position in which Japan is placed. According to the Surrender Documents dated September 2, 1945, "the sovereign power of the Emperor and the Japanese Government is placed under limitation of SCAP who takes appropriate steps to execute matters provided therein". It is also clearly provided that the Emperor and Japanese Government or its successors should issue all necessary orders and take necessary measures to be demanded by SCAP or by the specified representatives of the Allied Powers. Thus there is national obligation to execute matters demanded by SCAP promptly and faithfully. In this case, if a demand requires legislation, it is proper for the government to take procedure for enacting law. Such a step, however, cannot sometimes be taken on account of the lack of time or other reasons, depending upon the nature of a demand. In such a case, the act of delegation is taken in the form of this Imperial Ordinance approved by the Diet. Naturally orders are issued by means of this delegation for the purpose of executing national duty to enforce specified matters based upon a concrete demand of SCAP. This does not constitute infringement upon legislative power by the arbitrary will of administrative organs. Thus this Ordinance is substantially effective under the new Constitution.

Question: As the letter of SCAP addressed to the Prime Minister July 22, 1948 cannot be interpreted as a demand provided in Imperial Ordinance No. 542, is not the present Cabinet Ordinance unlawful?

Reply: There is no set form in the so-called requests from SCAP. A request is determined by interpreting the will expressed by SCAP, and not by the form of a letter or otherwise. The present Cabinet Ordinance was issued by the government after a careful examination of the letter, and after ascertaining the intention of GHQ. Needless to say, it is a lawful measure based upon Imperial Ordinance No. 542.

It may be added here that Chairman Sebald stated at the Allied Council for Japan held August 28:

> "The SUPREME COMMANDER confined himself to a broad statement of the basic principles involved and intentionally phrased the letter as a suggestion rather than a directive, in order to encourage the Japanese Government to exercise its own initiative and thought in developing and implementing details, and leave it entirely free to question provisions deemed unacceptable to it. The Japanese ordinance is an interim measure designed to maintain the status quo until the Diet meets next month to consider and act upon implementing legislation, subject of course to scrutiny to insure against the distortion of any of the principles enunciated in the letter".

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Some appear to say this and that, taking one or two terminologies used in the above statement. A careful examination of the context as a whole reveals that the purport of the statement made by Chairman Sebald indicates that the fundamental principles themselves are a demand of SCAP toward the Japanese Government.

Appendix

Excerpt of law concerning validity, etc., of provisions of Orders in force at the time of coming into effect of the Japanese Constitution (Act No. 72, 1947)

Article 1. Provisions of ordinances in force at the time of coming into effect of the Japanese Constitution, dealing with matters to be provided by law, shall have the same effect as law until December 31, 1947.

Article 1 (2). The provisions of the preceding article shall not exercise any influence upon the effect of Ordinances promulgated in accordance with Imperial Ordinance No. 542, 1945.

Orders to be issued subsequent upon the acceptance of the Potsdam Declaration (Imperial Ordinance No. 542, 1945)

Subsequent upon the acceptance of the Potsdam Declaration, the government may issue orders or provide necessary punishment, when considered specially necessary in executing matters at the demand of SCAP.

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Statement by Attorney General
Sept. 3, 1948

法相談

[redacted]談（二三、九、三）

さきに、公布施行された「昭和二十三年七月二十二日附内閣総理大臣宛連合國最高司令官書簡に基く臨時措置に関する政令」（昭和二十三年政令第二百一号）に関し、最近一部において、憲法との関係等について、疑義が表明されているので、政府は、かかる誤解を一掃するため、本日の閣議で、本政令に関する政府の見解を各省廳部内に通達することとした。その要点は左の通りである。

問　今回の政令は、「ポツダム宣言の受諾に伴い発する命令に関する件」（昭和二十年勅令第五百四十二号）に基くものであるが、この勅令は、「日本國憲法施行の際現に効力を有する命令の規定の効力等に関する法律」（昭和二十二年法律第七十二号）によつて、その効力の存続が認められていないから、昭和二十二年十二月三十一日限り

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で当然効力を失つたのではないか。

答　勅令第五百四十二号の効力は、法律第七十二号と全く関係がない。同法は旧憲法下において、議会の意思が加わることなく発せられた命令で、新憲法によれば法律を以て定めらるべき事項を規定しているものゝ効力を定めたものである。しかるに勅令第五百四十二号は、旧憲法第八條の規定に基く「法律に代るべき勅令」であつて、議会の承諾を得たものであるから、完全に確定の法律としての効力を生じたものでゝ、同法にいう命令でないことは、極めて明瞭である。

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問　勅令第五百四十二号は、憲法上法律を以て規定すべき事項を、殆んど無制限に命令に委任しているから、憲法は違反し無效ではないか。

答　憲法の三權分立の精神から考えて立法權を行政機關に白紙委任することは許されないものと解せられているが、勅令第五百四十二号は連合國最高司令官のなす要求に係る事項を實施するために特に必要がある場合に限つて命令に委任しているもので、單純な包括委任ではない。而してこれについては、わが國が現在置かれている特殊の地位を考える必要があるのであつて、昭和二十年九月二日の降伏文書によれば、「天皇及び日本國政府の國家統治の權限は本條項を實施するため適當と認める措置をとる連合國最高司令官の制限の下に置かれ」又「天皇、日本國政府及びその官又はその他特定の連合國代表者が要求することあるべき一切の命令を發し且つかかる一切の措置を執ること」が明かに規定され、連

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合國最高司令官の要求は、そのまゝ、迅速且つ誠実に履行すべき國家的義務が存する。この場合要求の内容が法律制定の手續をとることを要する事項であれば、國會によつて法律制定の手續をとるが、要求の内容によつては、時間的事由等により、それが不可能な場合もあるので、國會の承諾を得たこの勅令において委任の措置がなされている のである。從つてこの委任による命令は、連合國最高司令官の具体的な要求に係る特定の事項を実施すべき國家的義務を履行するためのもので、行政機関の恣意により立法権を侵すことにはならない。從つてこの勅令は新憲法の下においても、実体的に有効である。

問　昭和二十三年七月二十二日附内閣総理大臣宛連合國最高司令官の書簡は、勅令第五百四十二号にいう要求とはいえないから、今回の政令は違法ではないか。

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答　連合國最高司令官のいわゆる要求は、別にその形式が一定しているわけではなく、その要求であるか否かは一に同司令官の表示された意思の解釈できまり、書簡であるか否かによつて決せられるものではない。今回の政令は、政府において、右書簡の内容を充分に検討し、且つ司令部の意向を確めた上、発せられたもので、勅令第五百四十二号に基く適法なものであることはいうまでもない。

なお、去る八月二十八日の対日理事会の席上において、シーボルド議長は、司令部発表の原文によれば、「総司令官は基本原則を総括的に記述するに止め、日本政府を励まして、細目の具体化及び実施をその発意と見解に基いて処理せしめ、且つ日本政府が受諾困難と思われる條項について自由に質問を許すために、ことさらに書簡をデイレクテヴというよりは示唆と名づけた。日本の政令は来月開かれる國会が審議制定するまでの狀態を維持するための中間的措置である。國会は立法するに当り、書簡に記載された原則を歪曲すること

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とを許されないことは勿論である。」と述べた。

右発言の片言隻句をとらえてとかくの論をしている向もあるようであるが、右発言全体を仔細に検討すれば、ジーボルト講義の趣旨は基本原則そのものか、総司令官の日本政府に対する要求であることを示しているものと云うべきである。

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参考條文

日本國憲法施行の際現に効力を有する命令の規定の効力に関する法律（抄）（昭和二十二年法律第七二号）

○第一條　日本國憲法施行の際現に効力を有する命令の規定で、法律を以て規定すべき事項を規定するものは、昭和二十二年十二月三十一日まで法律と同一の効力を有するものとする。

○第一條の二　前條の規定は、昭和二十年勅令第五百四十二号に基き発せられた命令の効力に影響を及ぼすものではない。

ポツダム宣言ノ受諾ニ伴ヒ発スル命令ニ関スル件（昭和二〇年勅令第五四二号）

○政府ハ「ポツダム」宣言ノ受諾ニ伴ヒ聯合國最高司令官ノ為ス要求ニ係ル事項ヲ実施スル為特ニ必要アル場合ニ於テハ命令ヲ以テ所要ノ定ヲ為シ及必要ナル罰則ヲ設クルコトヲ得

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ELUCIDATION BY ATTORNEY GENERAL

(Approved by Cabinet decision September 3, 1948)

I

The validity of Cabinet Ordinance No. 201 is questioned in certain quarters on the contention that Imperial Ordinance No. 542, 1945, upon which the said Cabinet Ordinance is based, is invalid in itself. Act No. 72, 1947, provides that "Provisions of ordinances, effective at the time of coming into operation of the Japanese Constitution, and which are to be provided by law, have the same effect as law until December 31, 1947" (Art. 1). The same Act further provides that "Ordinances issued in conformity with the provisions of Imperial Ordinance No. 542, and effective at the time of coming into operation of the Constitution, continue to be effective". (Art. 1 (2)). It is claimed that neither of these provisions touch the question of validity of Imperial ordinance No. 542 itself, and that no legal steps have been taken up to this time to make the Imperial Ordinance in question legally effective.

First of all, it is a very error to try to judge the validity of Imperial Ordinance No. 542 in the light of Act 72. The new Constitution does not mean the abrogation of the old Constitution. The former is the amendment of the latter. As no change is involved in the nature of the State before and after the revision of the Constitution, the laws and regulations promulgated under the old Constitution are inherited by the new Constitution, and remain effective under the new Constitution. No doubt exists on this point, especially in the light of the provisions of Art. 98 of the Constitution. What is the purport of Act No. 72 then? It lies in the fact that orders, issued without taking the will of the Diet under the old Constitution (these orders were heretofore called independent orders), and regulating matters to be provided by law, should be changed into laws by legislative means. Consequently Act No. 72 does not take up laws enacted under the old Constitution. This is the reason why the House of Representatives Election Law, the Labor Union Law and other innumerable laws enacted under the old Constitution remain in force until now.

Though the Ordinance issued consequent upon the acceptance of the Potsdam Declaration bears a serial number of Imperial Ordinance, it is the "Imperial Ordinance to take the place of law", issued in conformity with Art. 8 of the old Constitution, as everyone knows. As this Ordinance was presented to the 89th Session of the Diet and duly passed thereby, it had complete validity as law under the old Constitution. This is evident from the fact that emergency imperial ordinances were revised or abrogated by law in the past. It is clear that Imperial Ordinance No. 542 which had validity as law under the old Constitution remains effective as law under the new Constitution, without taking special legislative procedure, as in the case of many other laws. Act No. 72 did not specify this Emergency Imperial Ordinance, because the case was too natural.

II. Some

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II

Some claim that, even if Imperial Ordinance No. 542, upon which the present Cabinet Ordinance is based, is identical with law, this Ordinance delegates to orders almost without limit what are to be provided by law from the Constitutional point of view. This Imperial Ordinance, therefore, they claim, infringes upon the Constitution, and stands void as an unconstitutional law under Art. 98 of the Constitution. The present Cabinet Ordinance based upon this Imperial Ordinance is also void, they conclude.

It is true that independence of three powers is provided in the Constitution itself, and that blanket delegation of legislative power to administrative organs is unconstitutional Imperial Ordinance No. 542, however, does not give simple and blanket delegation, as it is limited only to times which it is considered specially necessary to execute specified matters at the demand of SCAP consequent upon the acceptance of the Potsdam Declaration. It has the appearance of a blanket delegation in that these specified matters assume concrete forms in future. For this, the international situation in which Japan finds itself at present should be considered. The surrender documents signed September 2, 1945, provides that "The Emperor, The Japanese Government and their successors (to) carry out the provisions of the Potsdam Declaration in good faith, and (to) issue whatever orders and take whatever action may be required by the Supreme Commander for the Allied Powers or by any other designated representative of the Allied Powers for the purpose of giving effect to that Declaration" and that "The authority of the Emperor and the Japanese Government to rule the state shall be subject to the Supreme Commander for the Allied Powers who will take such steps as he deems proper to effectuate these terms of surrender. It was also clarified in the initial occupation policy of the U. S. after surrender that "SCAP exercises his power through various organs of the Japanese Government including the Emperor, as long as the American objectives are satisfactorily expedited." In other words, when SCAP demands certain measures be taken to execute terms of surrender, there is no option for us to chose. Only national obligation exists to execute such demands promptly and faithfully. In this case, though legislative procedure is to be taken if a concrete demand requires legislation, emergency steps are required, depending upon the nature of a demand. Or in certain cases, legislative procedure cannot be taken for some reasons. To meet such cases, a way is open to issue orders by means of delegation. Such an order is issued only when considered necessary to execute specified matters at a demand of SCAP. Herein lies the special character of delegation, and a reason that legislative power and independence of three powers are not violated. Thus Imperial Ordinance No. 542 continues in substance to remain effective under the new Constitution. There is not the slightest doubt as to the validity of the present Cabinet Ordinance No. 201 issued on the basis of this Imperial Ordinance.

III

Another argument exists. Even if Imperial Ordinance No. 542 is valid under the new Constitution in form and substance, the present

Cabinet

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Cabinet Ordinance is based upon the letter from SCAP addressed to the Prime Minister under the date of July 22, 1948. This letter cannot be considered as the so-called "demand" of SCAP prescribed in the said Imperial Ordinance. Therefore this Ordinance in conformity with the said Imperial Ordinance is unconstitutional.

Generally speaking, there is no set form in the so-called "demand" of SCAP. Whether it is a "demand" or not depends upon interpretation of the will expressed by SCAP, and not upon whether it is a letter or not. The present Cabinet Ordinance was issued after a careful examination of the said letter, and after ascertaining the intention of GHQ. That this Cabinet Ordinance is based upon Imperial Ordinance No. 542 and lawful is beyond question.

It may be added here that Chairman Sebald stated at the Allied Council for Japan held August 28:

> "The SUPREME COMMANDER confined himself to a broad statement of the basic principles involved and intentionally phrased the letter as a suggestion rather than a directive, in order to encourage the Japanese Government to exercise its own initiative and thought in developing and implementing details, and leave it entirely free to question provisions deemed unacceptable to it. The Japanese ordinance is an interim measure designed to maintain the status quo until the Diet meets next month to consider and act upon implementing legislation, subject of course to scrutiny to insure against the distortion of any of the principles enunciated in the letter".

Some appear to say this and that, taking one or two terminologies used in the above statement. A careful examination of the text as a whole reveals that the purport of the statement made by Chairman Sebald indicates that the fundamental principles themselves are a demand of SCAP toward the Japanese Government.

In every point described above there is not a slightest doubt as to the validity of the Cabinet Ordinance in question.

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Elucidation by attorney General
Sept. 3, 1948

一 法務廳長官説明

昭和二十三年政令第二百一号の効力について（二三、九、三）閣議了解

去る七月三十一日附をもつて、昭和二十三年七月二十二日附内閣總理大臣宛連合國最高司令官書簡に基く臨時措置に關する政令（昭和二十三年政令第二百一号）が公布され、即日施行された。この政令は、政府職員の労働運動について規定したものであるが、最近一部に、この政令の効力に疑問があるとの見解が表明されているようである。これは、素朴な誤解に出発しているもので特に問題とする必要はないが、事柄の性質上かような議論によつて惑わされる人々があつては遺憾であるから、ここに論者の掲げる諸点を中心にして、疑問を一掃しておきたい。

一 論点の一つとして、今回の政令は、ポツダム宣言の受諾に伴い発する命令に關する件（昭和二十年勅令第五百四十二号）に基づくも

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のであるが、この勅令は、現在既に効力がないから、これに基づく政令も当然無効であるということがいわれている。その理由として は、日本國憲法施行の際現に効力を有する命令の効力等に関する法律（昭和二十二年法律第七十二号）により、「日本國憲法施行の際現に効力を有する命令の規定で法律を以て規定すべき事項を規定するものは、昭和二十二年十二月三十一日まで法律と同一の効力を有するもの」とされ（第一條）、又、勅令第五百四十二号に基き発せられた命令で憲法施行の際において有効なものは、依然として効力を存続することが定められている（第一條の二）が、そのいづれによつても、勅令第五百四十二号自身の効力には何等触れるところがなく、これを今日有効をものとする法的措置は、全然講ぜられていないというのである。

然しながら、勅令第五百四十二号の効力を法律第七十二号で判断

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しようとするのが、そもそも誤りなのである。新憲法は旧憲法の歴止ではなくその改正であり、いわんや憲法改正の前後にわたつて國家の同一性には變更がないのであるから旧憲法下の法令が原則として新憲法下において有効に存続することは何人も疑わないところであり、このことは、憲法第九十八條の規定に徴しても明らかである。然らば法律第七十二号の主眼点は何であるかと云うと、旧憲法下において議会の意思が加わることなくして発せられた命令（従來独立命令などと呼ばれていたようなもの）で、新憲法によれば法律をもつて定めらるべき事項を規定しているものは一の時期までに、國会の議決によつて法律に改められなければならないことを定めたことに在る。従つて法律第七十二号は旧憲法下において制定された法律については、問題にしていない。さればこそ、

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衆議院議員選挙法や、労働組合法など旧憲法時代の無数の法律が現在有効に存続しているわけである。

問題のポツダム宣言の受諾に伴い発する命令に関する件は、勅令の番号が附せられてはいるが、これは、何人も知るように、旧憲法第八條の規定に基く一法律に代るべき勅令であつて、第八十九帝國議会に提出され、その承諾を得たものであるから、旧憲法時代既に完全に確定の法律としての効力を生じたものである。このことは、従來緊急勅令の改正及び廃止が法律によつてなされたことによつても明らかである。從つて、旧憲法下において、既に法律としての効力を有する勅令第五百四十二号が他の一般の法律と同様新憲法下においても特別の立法措置を講ずるまでもなく、法律としての効力を有することは、明らかであり、法律第七十二号で特にこの緊急勅令のことに触れていないのも、事があまりに当然であるからである。

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二　今回の政令の根拠規程である勅令第五百四十二号は、法律と同一だとしても、この勅令の内容が、憲法上法律をもつて規定すべき事項を、殆んど無制限に命令に譲つているものであるから、実体的に憲法に違反し、従つて憲法第九十八條の規定により憲法の條規に反する法律として、その効力を有せず、これに基く今回の政令も亦、無効であるとする論である。

なるほど、一般に三権の分立は、憲法自らが定めるところであつて、立法権を廣く行政機関に白紙で委任し、國會の議決を要しないものとすることは、憲法に牴触するものとして許されないものとされている。然しながら、勅令第五百四十二号は、ポツダム宣言の受諾に伴い連合國最高司令官のなす要求に係る事項という特定の事項を実施するため特に必要がある場合に限定されているところに単純な包括委任ではない所以があるのであつて、その特定の事項が將來において具体性を充足される点において包括委任的外觀を呈

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している。これについては、まづわが國が現在置かれている國際的地位を顧みる必要がある。昭和二十年九月二日署名された降伏文書には、天皇、日本國政府及びその後継者が、「ポツダム」宣言の條項を誠実に履行すること並びに右宣言を実施するため連合國最高司令官又はその他特定の連合國代表者が要求することあるべき一切の命令を発し且つかかる一切の措置を執ること」、「天皇及び日本國政府の國家統治の權限は、本降伏條項を実施するため適当と認める措置をとる連合國最高司令官の制限の下に置かれる」ことが定めてあり、降伏後における米國の初期の對日方針では、「最高司令官は、米國の目的達成を滿足に促進する限りにおいては、天皇を含む日本政府機関及び諸機関を通じてその權力を行使す」べきことが明かにされている。即ち、連合國最高司令官が降伏條項を実施するため適当と認める措置を要求してきた場合には、これを取捨する余地はなく、たゞ迅速且つ誠実に履行すべき國家的義務が存在するのみである。この場合、具体的な要求の内容が法律を要する事項

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であれば國會によつて法律制定の手續がとらるべきであるけれども、要求の性質によつては、緊急を要するものもあり、或は又、その他の條件によつて、法律制定の手續を踏むことが不可能な場合もあるから、あらかじめ委任による命令制定の途が設けられたのであつて、この委任による命令は、常に、連合國最高司令官の具体的な要求に係る特定の事項を実施するためにのみ発せられることになるところに委任の個別的性格があり、又、その故にこそ行政機関が、ほしいままに立法権を侵害し、三権の分立をみたすことにはならない理由があるのである。勅令第五百四十二号は、斯くて、実体的にも新憲法の下に有効に存續しているものであり、これに基く今回の政令第二百一号の効力についても、毫末の疑はないわけである。

三　勅令第五百四十二号が新憲法の下において、形式的にも、実体的にも有効だとしても、今回の政令は、昭和二十三年七月二十二日附内閣総理大臣宛連合國最高司令官の書簡に基くものであり、この書

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簡は、同勅令にいわゆる要求とはいえないから、同勅令に基いてこの政令を制定したことは違法であるという論がある。

元來連合國最高司令官のいわゆる要求は、別に一定した形式においてなされるものと限られているものではない。その要求であるか否かは、同司令官の表示された意思の解釈によつて定まるのであつて、それが書簡であるか否かによつて決せられるものではない。今回の政令は、政府において右の書簡の内容を充分検討し、且つ、司令部の意向を確かめた上発せられたのであつて、この政令が、勅令第五百四十二号に基く適法なものであることは云うまでもない。

なお、去る八月二十八日の對日理事會の席上において、シーボルト議長は、司令部発表の原文によれば、「総司令官は、基本原則を総括的に記述するに止め、日本政府を励まして細目の具体化及び実施をその発意と見解に基いて処理せしめ、且つ、日本政府が受諾困難と思われる條項について自由に質問を許すために、ことさらに書

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前もデモレクラシーというよりは示唆と名づけた。日本の政令は来月開かれる国会が審議制定する迄の状態を維持するための中間的措置である。国会は立法するに当り書簡に記載された原則を不正曲することと許されないことは勿論である。」と述べた。右発言の片言隻句をとらえてとかくの論をしている向もあるようであるが、右発言全体を仔細に検討すれば、シーボルト議長の趣旨は基本原則そのものが総司令官の日本政府に對する要求であることを示していると言うべきである。

以上いずれの点においても、今回の政令の効力について何等の疑のないことは明瞭である。

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THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA
UNITED STATES POLITICAL ADVISER
FOR JAPAN

ACTION
is assigned to

No. 623

UNCLASSIFIED

Tokyo, September 21, 1948.

Subject: General MacArthur's reply to charges by Ambassador Panyushkin on the Rights of Government Workers.

The Honorable
The Secretary of State,
Washington.

Sir:

In order that the Department's records may be complete regarding recent SCAP announcements on the subject of the rights of government workers, I have the honor to forward herewith five copies of a special release made on September 17, 1948 in which General MacArthur replies to the charges of Ambassador Panyushkin as published in Washington on September 16, 1948.

Respectfully yours,

W. J. Sebald

Enclosures:
6 copies of September 17, 1948 release by Gen. MacArthur

Original and hectograph to Department

804.4
AHaden:gm

894.017/9-2148

DECLASSIFIED E.O. 11652, Sec 3(E) and 5(D) or (E) NND# 760050

Enclosure to Despatch no. 623 dated September 21, 1948 from USPOLAD, Tokyo, on the subject, "General MacArthur's Reply to Charges by Ambassador Panyushkin on the Rights of Government Workers".

GENERAL HEADQUARTERS
FAR EAST COMMAND
Public Information Office

Immediate Release: 17 September 1948

General MacArthur today brushed off as baseless charges made yesterday by the Soviet Ambassador in Washington that his policies with respect to the responsibility of public servants were in violation of controlling Allied policy including the Potsdam Declaration but took occasion to comment as follows upon certain aspects of the situation in Japan:

"No segment of Japanese society has been afforded more liberal gains since the surrender than has Japanese labor. It enjoys greater privileges and protection here than in many democratic countries. Its main potential danger lies in its absorption and ultimate destruction by communists who seek to exploit it to spread disorder, anarchy and revolution. Indeed were the concept of communism to prevail here, Japanese labor would be first to feel its completely totalitarian suppression and control, and the trade union movement would perish to be replaced by the oligarchic control of a handful of self-appointed masters. The liberty of the worker would disappear and labor would become merely a commodity. It was not the purpose of the Potsdam terms nor will the Supreme Commander permit such conditions to develop in occupied Japan.

"Perhaps the most unsuccessful effort made anywhere by world wide propaganda to instil communistic principles has been in Japan. Here concepts leading to disorder, discontent and ultimate chaos have made little headway. Despite frantic communistic efforts to achieve the contrary, Japan continues calm, stable and well ordered. The Communists and those who adhere to their cause thus have a growing sense of frustration at their failure in Japan. If they had their way they would repeat here the deplorable state of affairs which they have brought about in certain unhappy European centers.

"There is a deep and natural resentment throughout Japan at what is generally regarded by all Japanese as a basic disregard of human and moral values in the retention in Russia after more than three years following surrender of half a million Japanese prisoners employed under shocking conditions of forced servitude in works designed to increase the Soviet war potential. This, despite the solemn undertaking entered into by the Allied Powers in Clause 9 of the Potsdam Declaration offered as a condition to the Japanese surrender, which reads as follows: 'The Japanese military forces, after being completely disarmed, shall be permitted to return to their homes with the opportunity to lead peaceful and productive lives.'

"There is an old oriental proverb, equally understood by the West as by the East, which says there can be 'no greater hypocrisy than to fail to practice what you preach."

-0-

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CONFIDENTIAL

Dc/R

September 23, 1948

MEMORANDUM FOR THE U. S. MEMBER, FAR EASTERN COMMISSION

Subject: Policy on Japanese Government Workers (FEC-318)

The United States Government considers the policy decision proposed by the Soviet Representative on the above subject at the meeting of the Commission on September 16, 1948 to be based on a totally erroneous interpretation of the facts with which it purports to deal, and therefore finds it wholly unacceptable. Furthermore, at a time when legislation is being drafted for submission to the Diet and review by SCAP, your Government regards extended consideration by the Commission of policy with respect to the rights and duties of Japanese Government workers to be inappropriate and undesirable.

It is therefore the view of your Government that discussion of this subject by the Commission should be limited as much as is feasible, and that the policy decision proposed by the Soviet Representative should be brought to as early a vote as is compatible with your concurrent duties as Chairman.

To this end, there is attached herewith a statement of the position of your Government for use in your capacity as United States Member. The specific comment in this statement is directed only to certain remarks made by the Soviet Representative at the last meeting of the Commission, and does not deal with other views which have been or may be expressed by interested Governments in consideration of this subject.

In the light of the foregoing explanation of the purpose and limited scope of the attached statement, it is requested that its substance be presented to the Commission on an opportune occasion at an early stage of the discussion of this subject.

(sgn) Charles E. Saltzman

Charles E. Saltzman
Assistant Secretary

A true copy of the signed original

Attachment
Statement

O:PPClaxton:OJFRay:br
9/22/48

(NA) Allison | L/P Snow | EP Barnett | POS/J Schuler | O Claxton

CONFIDENTIAL

894.017/9-2348
CS/A
3/07

DECLASSIFIED E.O. 11652, Sec 3(E) and 5(D) or (E) NND# 760050

Statement of United States Position on Policy
Decision Proposed by the Soviet Representative

I do not wish to take up the time of this Commission with restatements of the position of my Government on the question of the rights and duties of Japanese Government workers. My Government's considered position is as set forth in the statement by Secretary of the Army Royall, which was released to the press on September 2. The text of this statement has been circulated to members of the Commission, as have other pertinent documents on this subject, including General MacArthur's letter to Prime Minister Ashida, the interim ordinance issued by the Japanese Government, and the minutes of the Allied Council meeting on August 28, at which the views of various interested countries were expressed.

In the opinion of my Government, the temporary character of the interim ordinance of the Japanese Government and the fact that permanent legislation is now in preparation for submission to the Diet and review by SCAP, make it unprofitable for the Commission to engage at this time in an extended consideration of this complex subject. There is, however, a policy decision before the Commission which was proposed by the Soviet Member at the last meeting of the Commission. My Government regards this proposal as based on ~~a totally~~ erroneous interpretation of the facts with which it ~~purports to~~ deals, and finds it ~~wholly~~ unacceptable. I am, however, impelled to comment on certain statements made by the Soviet Ambassador at the meeting.

You will recall that Secretary Royall concluded his press release with the following statement:

"The Department of the Army and other interested Government agencies are currently reviewing the Interim Ordinance from the point of view of Allied policy; and along with General MacArthur, the Supreme Commander, will closely scutinize the proposed Japanese legislation to ensure that such legislation as may be adopted by the Japanese Diet does not impair the basic objectives of Occupation policy for the emergence of a democratic, stable and peace-loving Japanese nation and the development and operation of democratic trade unions."

The Soviet Ambassador has expressed the view that there is an inconsistency between this statement and Mr. Royall's preceding statement that, "The recommendations made in General MacArthur's letter, as we understand them, do not in any way traverse or conflict with any FEC labor policies." I fail to see any inconsistency in these two statements. The language of General MacArthur's letter was appropriately general rather than specific, in order that there might be wide latitude in the consideration by the Japanese Government of the proposed revision of the National Public Service legislation. In the course of such consideration, it is entirely possible that the Japanese Government may introduce comprehensive legislation containing some provisions at variance with the broad principles set forth in the General's letter. It is the normal duty of the Supreme Commander

to

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DECLASSIFIED E.O. 11652, Sec 3(E) and 5(D) or (E) NND# 760050

to review all legislation adopted by the Japanese Diet to ensure that it does not impair in any respect the basic objectives of occupation policy.

The Soviet Ambassador also commented on my remark at the last meeting that besides the legal problems involved in the National Public Service Law, General MacArthur has a responsibility to ensure that the peace and order of the occupied area under his command are not destroyed. The Ambassador interpreted this remark to mean that in my opinion the Supreme Commander may have acted extralegally, and alleged that "as a result of General MacArthur's letter disorders occurred in Japan". My Government cannot accept either of the Ambassador's contentions. My remarks on that occasion merely underlined the overall and indisputably legal responsibility of the Supreme Commander to prevent a disastrous strike which would imperil Japan's economic structure.

It will be recalled that twice in the last 18 months SCAP has been obliged to prevent the occurrence of strikes led by the Government transportation and communications workers. In the light of this past experience, my Government considers entirely appropriate the Supreme Commander's recent and timely action recommending that the Japanese Government effect a definitive and lasting clarification of the rights of Government workers. Until such clarification is made and embodied in law, the recurrence of labor disputes involving Government workers is likely to continue to jeopardize the security and objectives of the occupation.

The Japanese Government is now engaged in seeking a solution to this problem. The solution which it proposes will be subject to review by SCAP. I have no further observations to make at this time ~~and am prepared, as the United States Representative, for an immediate vote on the policy decision proposed by the Soviet Representative.~~

FE:NA:MGreen:m;/br
O:JFRay:mwc:br

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DECLASSIFIED E.O. 11652, Sec 3(E) and 5(D) or (E) NND# 760050

CONFIDENTIAL
DRAFT

MEMORANDUM TO THE UNITED STATES MEMBER, FAR EASTERN COMMISSION

Subject: Policy on Japanese Government Workers (FEC-318)

The United States Government considers the policy decision proposed by the Soviet Representative on the above subject at the meeting of the Commission on September 16, 1948 to be based on a totally erroneous interpretation of the facts with which it purports to deal, and therefore finds it wholly unacceptable. Furthermore, at a time when legislation is being drafted for submission to the Diet and review by SCAP, your Government regards extended consideration by the Commission of ~~occupation~~ policy with respect to the rights and duties of Japanese Government workers to be inappropriate and undesirable.

It is therefore the view of your Government that discussion of this subject by the Commission should be limited as much as is feasible, and that the policy decision proposed by the Soviet Representative should be brought to as early a vote as is compatible with your concurrent duties as Chairman.

To this end, there is attached herewith a statement of the position of your Government for use in your capacity as United States Member. The specific comment in this statement is directed only to certain remarks made by the Soviet Representative at the last meeting of the Commission, and does not deal with other views which have been or may be expressed by interested Governments in consideration of this subject ~~to date~~.

In the light of the foregoing explanation of the purpose and limited scope of the attached statement, it is requested that its substance be presented to the Commission on an opportune occasion at an early stage of the discussion of this subject.

C. E. Saltzman
Assistant Secretary

FE:NA:~~MacMurray~~
:AMcAmmon
O:JFRay,Jr:mwc 9/22/48

NA (Allison) | L/P (Snow) | EE (Barnett) | POS/J (Schuler) | O (Wayne)

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DECLASSIFIED E.O. 11652, Sec 3(E) and 5(D) or (E) NND# 760050

D R A F T

Statement of United States Position on Policy
Decision Proposed by the Soviet Representative

I do not wish to take up the time of this Commission with restatements of the position of my Government on the question of the rights and duties of Japanese Government workers. My Government's considered position is as set forth in the statement by Secretary of the Army Royall, which was released to the press on September 2. The text of this statement has been circulated to members of the Commission, as have other pertinent documents on this subject, including General MacArthur's letter to Prime Minister Ashida, the interim ordinance issued by the Japanese Government, and the minutes of the Allied Council meeting on August 28, at which the views of various interested countries were expressed.

In the opinion of my Government, the temporary character of the interim ordinance of the Japanese Government and the fact that permanent legislation is now in preparation for submission to the Diet and review by SCAP, make it unprofitable for the Commission to engage at this time in an extended consideration of this complex subject. There is, however, a policy decision before the Commission which was proposed by the Soviet Member at the last meeting of the Commission. My Government regards this proposal as based on a totally erroneous interpretation of the facts with which it purports to deal, and finds it wholly unacceptable. ~~Therefore,~~ I am, however, impelled to make ~~my further~~ comment/ ~~will be directed to~~ on certain statements by the Soviet Ambassador at that meeting.

You will recall that Secretary Royall concluded his press release with the following statement:

"The Department of the Army and other interested Government agencies are currently reviewing the Interim Ordinance from the point of view of Allied policy; and along with General MacArthur, the Supreme Commander, will closely scrutinize the proposed Japanese legislation to ensure that such legislation as may be adopted by the Japanese Diet does not impair the basic objectives of Occupation policy for the emergence of a democratic, stable and peace-loving Japanese nation and the development

and

DECLASSIFIED E.O. 11652, Sec 3(E) and 5(D) or (E) NND# 760050

and operation of democratic trade unions."

The Soviet Ambassador has expressed the view that there is an inconsistency between this statement and Mr. Royall's preceding statement that, "The recommendations made in General MacArthur's letter, as we understand them, do not in any way traverse or conflict with any FEC labor policies." I fail to see any inconsistency in these two statements. The language of General MacArthur's letter was appropriately general rather than specific, in order that there might be wide latitude in the consideration by the Japanese Government of the proposed revision of the National Public Service legislation. In the course of such consideration, it is entirely possible that the Japanese Government may introduce comprehensive legislation containing some provisions at variance with the broad principles set forth in the General's letter. It is the normal duty of the Supreme Commander to review all legislation adopted by the Japanese Diet to ensure that it does not impair in any respect the basic objectives of occupation policy.

The Soviet Ambassador also commented on my remark at the last meeting that besides the legal problems involved in the National Public Service Law, General MacArthur has a responsibility to ensure that the peace and order of the occupied area under his command are not destroyed. The Ambassador interpreted this remark to mean that in my opinion the Supreme Commander may have acted extralegally, and alleged that "as a result of General MacArthur's letter disorders occurred in Japan". My Government cannot accept either of the Ambassador's contentions. My remarks on that occasion merely underlined the overall and indisputably legal responsibility of the Supreme Commander to prevent a disastrous strike which would imperil Japan's economic structure.

It will be

DECLASSIFIED E.O. 11652, Sec 3(E) and 5(D) or (E) NND# 760050

It will be recalled that twice in the last 18 months SCAP has been obliged to prevent the occurrence of strikes led by the Government transportation and communications workers. In the light of this past experience, my Government considers ~~it~~ entirely appropriate ~~that~~ the Supreme Commander's recent ~~ly took~~ and timely action ~~to~~ recommend ing that the Japanese Government effect a definitive and lasting clarification of the rights of Government workers. Until such clarification is made and embodied in law, the recurrence of labor disputes involving Government workers is likely to continue to jeopardize the security and objectives of the occupation.

The Japanese Government is now engaged in seeking a solution to this problem. The solution which ~~is~~ proposed will be subject to review by SCAP. I have no further observations to make at this time and am prepared, as the United States Representative, for an immediate vote on the policy decision proposed by the Soviet Representative.

FE:NA:MGreen:mp
O:JFRay,Jr:mwc

DECLASSIFIED E.O. 11652, Sec 3(E) and 5(D) or (E) NND# 760050

DEPARTMENT OF STATE

THE UNDER SECRETARY

October 4

Mr. Butterworth:

Mr. Lovett would appreciate it if you would draft an acknowledgment to this letter for him.

G. Schmokpft

B

DECLASSIFIED E.O. 11652, Sec 3(E) and 5(D) or (E) NND# 760050

FE: Mr. Butterworth

UNITED STATES CIVIL SERVICE COMMISSION
WASHINGTON 25, D. C.

ADDRESS ONLY
"CIVIL SERVICE COMMISSION"
IN YOUR REPLY REFER TO
FILE FP:VT
AND DATE OF THIS LETTER

Office of FAR EASTERN AFFAIRS OCT 5 1948 Department of State

October 4, 1948

Honorable Robert A. Lovett
Undersecretary of State
Department of State
Washington 25, D. C.

UNDER SECRETARY OCT 4 1948 DEPARTMENT OF STATE

Reply sent 10/16/48 Br

894.017/10-448

Dear Mr. Lovett:

The draft of cablegram to General MacArthur (prepared in the Department of the Army) concerning the proposed National Public Service Law, together with contemplated National Railway Corporation Law and National Negotiations Law for Public Corporations in Japan, has come to my attention. I believe that the civil service policy expressed in the proposed legislation, and the suggestions made in the cablegram, concerning collective bargaining for government employees, is entirely out of line with the policy of the United States Government in its own country, and I raise the question whether we should approve anything that is contrary to our own policy.

The relationship to his employer of a person working for the government is entirely different from that of a person working for a private employer who makes a profit on his wages. In the government service there is no question of profit or competition between employers, and for that reason there is no temptation to reduce wages and lower working conditions to the point of exploitation. In this respect a public employee is in a protected position. As a matter of fact, the proposed National Public Service Law would protect employees against disadvantageous administrative action to a much greater extent than is granted to government employees of the United States.

In view of the foregoing I question the appropriateness as a civil service matter of granting the right of collective bargaining to any employees of the regular civil service as well as to employees of government corporations.

Sincerely yours,

Frances Perkins
Commissioner

CS/V

894.017/10-448 FILED OCT 14 1948

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CONFIDENTIAL

October 6, 1948

THROUGH: U - Mr. Lovett
S/S
FE - Mr. Butterworth

Japanese Government Workers' Rights

Reference is made to Miss Frances Perkins' letter to you of October 4, 1948 (Tab A), in which she took marked exception to the Civil Service policy expressed in the proposed Japanese national public service legislation, approved by General MacArthur, and in the draft cable on this same subject to General MacArthur prepared in the Department of the Army. In accordance with your request I have drafted for your signature the attached acknowledgment (Tab B) to Miss Perkins' letter. This draft letter has been approved by Mr. Saltzman.

In supplementing what I mentioned to you Monday on the phone, I am taking this occasion to review very briefly the background of the controversy over Japanese government workers' rights and to enclose a draft cable to General MacArthur (Tab C), prepared by the interested offices of this Department, which sets forth the position which it is recommended that the U.S. Government should forthwith take on this question.

In July, 1948, an imminent nation-wide strike by Japanese government workers prompted SCAP to write a letter to Prime Minister Ashida recommending that the Japanese Government ~~should~~ completely revise its Public Service Law. SCAP recommended to Prime Minister Ashida that all Japanese government workers be denied the right to strike and the right of collective bargaining, with the exception that collective bargaining rights of a non-coercive nature ~~should~~ be retained by government railway workers and the employees of the government's salt, camphor and tobacco monopolies, provided these government enterprises were formed into public corporations. The Japanese Cabinet forthwith promulgated an interim ordinance giving immediate effect to General MacArthur's recommendations. This ordinance is to remain in force until such time as the revised National Public Service Law, the National Railway Corporation Law and the National Negotiations Law for Public Corporations in Japan are adopted by the Japanese Diet, presumably sometime this autumn. Meanwhile, the Japanese Government, in close collaboration with SCAP, has drafted revised public

service

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service legislation, and SCAP has forwarded the text of this draft legislation by cable to the U.S. Government for its comments[1].

The interested offices of the State Department (O, L, E, POS and FE) have carefully examined the draft legislation, and, after consulting the Department of the Army and the Department of Labor, propose that the above-mentioned cable (Tab C) be immediately sent to General MacArthur as an expression of this Government's views. It should be emphasized that the position taken by the State Department in this cable does not, in my opinion, conflict with the provisions made in General MacArthur's letter to Prime Minister Ashida and does not bring into dispute any public statement which General MacArthur has personally made. Furthermore, the position proposed by the State Department sets a middle course between the views of US organized labor and the Labor Department on the one hand, and the Civil Service Commission and, to a lesser extent the Army Department on the other. Your approval of this cable is requested.

It should be pointed out that neither the State Department nor its representative in Japan, Mr. Sebald, (Acting Political Adviser to General MacArthur), were consulted by SCAP or by his Headquarters in the development of the SCAP position leading up to the sending of General MacArthur's letter to Prime Minister Ashida. Moreover, the State Department was not consulted prior to the special meeting of the Allied Council on August 28 which was convened by General MacArthur to discuss the question of Japanese government workers' rights, despite the fact that Mr. Sebald represents the US on the Allied Council. Mr. Sebald has subsequently informed me that he was given only six hours by General MacArthur to prepare his position for

the Allied

1/ It is interesting to note that the originator and drafter of most of the Public Service Law in Japan has been SCAP's adviser, Mr. Blaine Hoover, President of the Civil Service Assembly for the U.S. and Canada and former official of the Civil Service Commission. Mr. Hoover has long taken the precise view on the scope and nature of the civil service in Japan which is expressed in Miss Perkins' letter. Mr. Hoover is reported to have left Tokyo by air for Washington on or about September 29.

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the Allied Council meeting and was accordingly compelled to adopt verbatim the policy line already drawn up by SCAP Headquarters.

FE:NA:MGreen:lt

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CONFIDENTIAL

DEPARTMENT OF STATE DRAFT

SCAP TOKYO JAPAN

1. Reurad Z-24321, Cabinet's amendments to the National Public Service Law, together with contemplated National Railway Corporation Law, Public Corporation Law for Tobacco and other Monopolies, and National Negotiation Law for Public Corporations, have been carefully examined here by Departments of Army, State, and Labor. These measures should strengthen the foundations of a democratic and efficient public service which will ~~thereby~~ uphold the integrity and dignity of the new Japanese Government without reinstating the evils of the old bureaucratic system. Your action to prevent strikes by government workers regarded as timely for reasons you have cited. While all agree with general purpose proposed legislation, are cognizant of the delicate situation existing as described urad C-63093 and in concluding paragraph Z-24321, and desire to assist and support you in reaching a practical settlement of this difficult problem in a manner appropriate to conditions in Japan and to the satisfactory conduct of our foreign relations in general, we desire you consider following comments and conclusions as expression of U.S. policy interest in this problem.

2. As you know, virtually all friendly FEC nations, while willing to acquiesce in the interpretation that the FEC policy decision 045/5, "Principles for Japanese Trade Unions", transmitted as JCS directive, Serial 63, does not fully apply to all government employees, have stated through diplomatic channels and otherwise the view that it should apply at least to industrial workers in government employment. This view is also held by important American labor leaders who serve in an advisory relationship to the Department of Labor. For

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your strictly confidential information, the contrary view that JCS Serial 63 has no bearing on government employees is not repeat not regarded by the Department of State as capable of successful defense against mounting attacks by friendly countries in the FEC, except through unilateral use of the defensive veto by the U.S. member. We are sure you will concur in our earnest desire to avoid such a development. We believe that broad general support for the legislation would probably be forthcoming from these governments if the legislation does not conflict with an interpretation which we can tacitly accept, that the terms of JCS 63 should apply to industrial workers employed by the government. This tacitly accepted interpretation would be consonant with pertinent occupation usage prior to the issuance of the Cabinet Ordinance of July 31, does not in our opinion conflict with the terms of your letter to Premier Ashida, nor so far as we can determine, bring into dispute any statement which you have personally made public.

3. The right to strike is denied to all government employees in the laws contemplated for enactment with your approval under the present regime of control. Under any interpretation of ~~SWNCC~~ JCS 63, such enactment would be consistent with FEC policy if you made a finding as Supreme Commander that you consider that strikes and other work stoppages on the part of any and all classes of government employees would "directly prejudice the objectives and needs of the occupation". If you made such a finding, it should obviate the

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claim that JCS 63 (para 5) does apply, without changing the results you are seeking. Such a finding could be included in any statement you might make prior to the enactment of the legislation or at the time of its approval by you.

4. The right of collective bargaining, in the sense of including the coercive power of the strike threat, is likewise denied to all government employees in contemplated legislation. This denial is felt to be necessary to meet conditions in Japan, to be desirable as a matter of policy, and to be fully defensible by this Government with the support of friendly countries, against any contrary views. For the same reasons and with only moderately diminished generality of anticipated support. we concur in the view that collective bargaining in the second and distinct sense of not repeat not including the coercive power of the strike threat, has application only to limited categories of government employees. The central issue in the controversy which we are concerned to avoid is over the scope of application of the right of collective bargaining in the second sense to various categories of government employees.

5. It appears that Railway and Government monopoly workers will be adequately provided for under the contemplated legislation, although the National Public Service Law does not by its terms clearly state whether or to what extent they are excluded from its provisions. We feel that the proposed National Public Service Law should clarify this.

6. It is believed, however, on basis U.S. contacts with representatives friendly governments, that they will argue that the proposed legislation is deficient regarding its provisions for industrial employees who are in the government service but outside the scope of the proposed Railway and Government

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Monopoly Corporation Laws. Such employees would include those in maintenance, construction, custodial service, government plants and communications workers other than postal. In accordance with their contention that JCS 63 applies to such employees, they would claim that the employees should have not only the right to organize and join employee associations but also (under Section 4 of JCS 63) to negotiate through such associations regarding terms and conditions of employment and have recourse to mediation and arbitration machinery when industrial disputes cannot be settled by negotiation. Proposed Japanese legislation evidently does not give such employees full rights of collective bargaining in the second sense described in para 4 above (right of negotiation in proposed Japanese law is "solely in the sense of presenting grievances and making and discussing recommendations") nor does it provide mediation and arbitration machinery, both of which are provided for in the case of similar workers in the public corporations. Concession of these rights to industrial employees of the Government, who have enjoyed them until recently should, in our opinion, broaden the basis of Japanese political support for the proposed legislation; conversely, permanent withdrawal of these rights would give the Communists grounds for effective propaganda in Japan and elsewhere in the world, and would weaken the influence of anti-Communist labor leaders in Japan (Section 2, para 1, your Z-24286 of Sept 27).

7. We consider the provisions of the proposed National Public Service legislation, which permit employees the right to form or join employee organizations and to present grievances and negotiate through representatives with the proper authorities, to be desirable as a matter of policy. Concern

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has been expressed over those sections of Articles 96 and 101 which limit employee representatives to persons in the service who can perform such activities solely "on an occasional or intermittent basis requiring only a minor portion of an employee's time", as being too limiting and not providing adequate opportunity for resppnsible conduct of the affairs of these organizations. We understand fully the abuses which have occurred in this connection and your reasons for this provision. It is felt, however, that the quoted passage should be deleted and adequate rules prescribed which would include appropriate safeguards of the inherent rights of employees.

8. Because of the peculiar nature of their functions as guardians of the publid safety and order, which is recognized in general practice elsewhere, we fully concur in and expect no objection to the exclusion from the provisions of JCS 63 of the police, fire, coast guard, penal institutions, etc. services. No exception has been taken to such exclusions as provided in previous Japanese legislation.

9. The proposed National Public Service Law does not and, in our opinion, should make clear whether and to what extent it will be applicable to prefectural or local government employees, such as teachers.

10. Last sub-para of Article 1 of National Public Service Law implies that National Personnel Authority can take action by rules which would seem to nullify provisions of the law itself. This may be due to a mis-translation. Clarification of the rule-making powers of the Authority appears essential to insure appropriate control of the Authority by the Cabinet and/or the Diet.

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11. In connection with the terms of the proposed "National Negotiation Law for Public Corporations", which we believe are excellent, concern has been felt here regarding "possible penal punishment" for employees resorting to "acts of dispute". Urad C-63093 cites U.S. legislation which prescribes extreme punishment as "forfeiture of Civil Service Status", etc.

12. We assume that the additional legislation with respect to public corporations will be enacted substantially simultaneously with the National Public Service Law and that your approval of National Public Service Law would be contingent upon the passage of the other laws. Please advise if otherwise.

13. We would appreciate information at your convenience as to the significance of the 1951 dates which appear in various places throughout the proposed legislation.

14. In considering the above comments, your attention is called to the fact that the U.S. Delegation to the U.N. Assembly has just requested full background information covering all issues and positions taken by the various FEC countries on the controversy in question. If, as is probable, the Soviets make a propaganda issue of this question in the Assembly, it is of particular importance to the U.S. Delegation that it have the ~~xxxx~~ support of as many countries as possible. With this in mind, it is most expedient that the views and interests of friendly FEC countries on this problem continue to receive our close consideration.

15. Finally, we wish to repeat that all interested agencies of this Government believe you are achieving gratifying progress toward providing a lasting solution to a problem which has increasingly menaced political and economic stability in Japan.

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Form DS-10 6-1-45 Department of State

REFERENCE SLIP

Date 10/8/77

To: Mr Clayton

☐	Advise	☐	Note & Return
☐	Approve & Return	☐	Note & File
☐	As You Requested	☐	Per Telephone Talk
☐	Attention	☐	Previous Correspon.
☐	Attach File	☐	Priority Action
☐	Comment & Return	☐	Reconsider
☐	Consider	☐	Recommend Action
☐	Copying	☐	Record
☐	Correct	☐	Reply
☐	File	☐	Return to Sender
☐	Follow-up	☐	Rewrite
☐	Hold	☐	Signature Required
☐	Initials Needed	☐	See Me
☐	Investigate & Report	☐	Take Action
☐	Instruct	☐	Transfer
☐	Justify	☐	Type
☐	Keep Me Advised	☐	Verify
☐	Legal Matter	☐	Reply for Signature of
☐	Memo Required		
☐	Not Interested		
☐	Note & Destroy		
☐	Note & Forward		

REMARKS:

Phil — you may be sick of this, but here's a clean copy if needed before the Army version gets distributed

From Ray - O - 4219

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Dc/R

CONFIDENTIAL

FINAL APPROVED DRAFT

October 8, 1948

SCAP TOKYO JAPAN

1. Reurad Z-24321, Cabinet's amendments to the National Public Service Law, together with contemplated National Railway Corporation Law, Public Corporation Law for Tobacco and other Monopolies, and National Negotiation Law for Public Corporations, have been carefully examined here by Departments of Army, State, and Labor. These measures should strengthen the foundations of a democratic and efficient public service which will uphold the integrity and dignity of the new Japanese Government without reinstating the evils of the old bureaucratic system. Your action to prevent strikes by government workers regarded as timely for reasons you have cited. While all agree with general purpose proposed legislation, are cognizant of the delicate situation existing as described urad C-63093 and inconcluding paragraph Z-24321, and desire to assist and support you in reaching a practical settlement of this difficult problem in a manner appropriate to conditions in Japan and to the satisfactory conduct of our foreign relations in general, we desire you consider following comments (except where ascribed to FEC countries or to others) as expression of U.S. policy/~~&~~ interests in this problem.

2. As you know, virtually all friendly FEC nations, while willing to acquiesce in the interpretation that the FEC policy decision 045/5, "Principles for Japanese Trade Unions", transmitted as JCS directive, Serial 63, does not fully apply to all government employees, have stated through diplomatic channels and otherwise the view that it should apply at least to industrial workers in government employment. For your strictly confidential information,

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the contrary view that JCS Serial 63 has no bearing on government employees is opposed by so many FEC countries that it is not repeat not regarded by the Department of State as capable of successful defense except through unilateral use of the defensive veto by the U.S. member. We are sure you will concur in our earnest desire to avoid such a development. We believe that broad general support for the legislation would probably be forthcoming from these governments if the legislation does not conflict with the interpretation that the terms of JCS 63 should apply at least to industrial workers employed by the government. This interpretation would be consonant with pertinent occupation usage prior to the issuance of the Cabinet Ordinance of July 31, does not in our opinion conflict with the terms of your letter to Premier Ashida, nor so far as we can determine, bring into dispute any statement which you have personally made public. Solution along these lines would, we believe, meet the objections of such nations and at the same time avoid the necessity for our acquiescence in their interpretation of JCS 63.

3. The right to strike is denied to all government employees in the laws contemplated for enactment. Under any interpretation of JCS 63, such enactment would be consistent with FEC policy if you made a finding as Supreme Commander that you consider that strikes and other work stoppages on the part of any and all classes of government employees would "directly prejudice the objectives and needs of the occupation". If you made such a finding, it should obviate the claim that JCS 63 (para 5) has been violated by the no-strike provision, without changing the results you are seeking. Such a finding could be included in any statement you might make prior to the enactment of the legislation or at the time of its approval by you (without, of course, it being necessary for you to mention JCS 63).

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(Addition to paragraph 3 by Secretary Royall)

It would be implicit in such a finding that your approval of absolute denial of the right to strike under proposed legislation is based on present occupation conditions and does not necessarily prejudge this question for the future.

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4. The right of collective bargaining, in the sense of including the coercive power of the strike threat, is likewise denied to all government employees in contemplated legislation. This denial is felt to be necessary to meet conditions in Japan, to be desirable as a matter of policy, and to be fully defensible by this Government with the support of friendly countries, against any contrary views. For the same reasons and with only moderately diminished generality of anticipated support, we feel that collective bargaining, in a second and distinct sense of not repeat not including the coercive power of the strike threat, has application only to certain categories of government employees. The central issue in the controversy which we are concerned to avoid is over the scope of application of the right of collective bargaining in the second sense to various categories of government employees, which is discussed below.

5. It appears that Railway and Government monopoly workers will be adequately provided for under the contemplated legislation, although the National Public Service Law does not by its terms clearly state whether or to what extent they are excluded from its provisions. We feel that the proposed National Public Service Law should clarify this.

6. It is believed, however, on basis U.S. contacts with representatives friendly governments, that they will argue that the proposed legislation is deficient regarding its provisions for industrial employees who are in the government service but outside the scope of the proposed Railway and Government Monopoly Corporation Laws. Such employees would include those in maintenance, construction, custodial services, government plants and communications workers other than postal. In accordance with their contention that JCS 63 applies to

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such employees, they would claim that such employees should have not only the right to organize and join employee associations but also (under Section 4 of JCS 63) to negotiate through such associations regarding terms and conditions of employment and have recourse to mediation and arbitration machinery when industrial disputes cannot be settled by negotiation. Proposed Japanese legislation evidently does not give such employees full rights of collective bargaining in the second sense described in para 4 above (right of negotiation in proposed Japanese law is "solely in the sense of presenting grievances and making and discussing recommendations") nor does it provide mediation and arbitration machinery, both of which are to be provided for in the case of similar workers in the public corporations. Although we are fully aware of the practical difficulties inherent in giving such rights to these employees under present conditions in Japan, concession of these rights to industrial employees of the Government, who have enjoyed them until recently, should, in our opinion, broaden the basis of Japanese political support for the proposed legislation; conversely, permanent withdrawal of these rights would enable the Communists to propagandize this effectively in Japan and elsewhere in the world, and might weaken the influence of anti-Communist labor leaders in Japan (Section 2, para 1, your Z-24286 of Sept 27).

7. We understand that the provisions of the proposed National Public Service legislation recognize the rights of employees to form or join lawful employee organizations of their own choosing and to present grievances and negotiate through representatives (see para 8 below) with the proper authorities. We consider such provisions desirable as a matter of policy. In this connection, we believe we can successfully defend the limitation of rights for ordinary

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civil service employees to those stated in the first sentence of this paragraph. However, for your information, in light of the views expressed by some friendly FEC countries and by U.S. labor, you might want to consider further extension of collective bargaining rights and mediation and arbitration machinery provisions for ordinary civil service employees. In view of the fact that this extension goes beyond U.S. practice, it is recommended only if you decide that it would be advantageous, when conditions in Japan are considered.

8. Concern has been expressed over those sections of Articles 98 and 101 which limit employee representatives to those "from among persons in the service", who can perform such activities solely "on an occasional or intermittent basis requiring only a minor portion of an employee's time", as being too limiting and not providing adequate opportunity for responsible conduct of the affairs of these organizations. We understand fully the abuses which have occurred in this connection and your reasons for these provisions. It is felt, however, that the quoted passages should be deleted and provision made in the law for adequate representation either by employees or by others of their choosing; at the same time conferring upon the rule-making authority the power by regulations to prevent abuses of these rights.

9. Because of the peculiar nature of their functions as guardians of the public safety and order, which is recognized in general practice elsewhere, we fully concur in and expect no objection from other nations regarding provisions of proposed law relating to the police, fire, coast guard, penal institutions, etc. services. No exception has been taken to such provisions in previous Japanese legislation. We understand these provisions would not prevent such employees from joining mutual aid and similar benevolent societies.

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10. The proposed National Public Service Law does not, but in our opinion should, make clear whether and to what extent it will be applicable to prefectural or local government employees, such as teachers.

11. Last sub-para of Article 1 of National Public Service Law implies that National Personnel Authority can take action by rules which would seem to nullify provisions of the law itself. This may be due to a mis-translation. Clarification of this sub-paragraph appears essential to insure appropriate control of the Authority by the Cabinet and/or the Diet.

12. The terms of the proposed "National Negotiation Law for Public Corporations" appear to us to be excellent. However, question has been raised regarding "possible penal punishment" for employees resorting to "acts of dispute". U.S. legislation cited in urad C-63093 provides "forfeiture of Civil Service Status", etc. as maximum penalty for such acts.

13. We assume that the additional legislation with respect to public corporations will be enacted substantially simultaneously with the National Public Service Law and that your approval of National Public Service Law would be contingent upon the passage of the other laws. Please advise if otherwise.

14. We would appreciate information at your convenience as to the significance of the 1951 dates which appear in various places throughout the proposed legislation.

15. For your information in considering the above, the U.S. Delegation to the U.N. Assembly, in anticipation of possible presentation of this subject to Committee No. 2 of the U.N. General Assembly by another country, has just requested full background information covering all issues and positions taken

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by the various FEC countries on the controversy in question. If, as is probable, the Soviets make a propaganda issue of this question in the Assembly, it is of particular importance to the U.S. Delegation that it have the support of as many countries as possible. With this in mind, it is most expedient that the views and interests of friendly FEC countries on this problem continue to receive our close consideration.

16. This matter is receiving continuing close attention here. Your prompt reply to our last cable is greatly appreciated. Request you keep us informed of developments, including any material changes in this law and drafts of related proposed legislation when available.

17. Finally, we wish to repeat that all interested agencies of this Government believe you are achieving gratifying progress toward providing a lasting solution to a problem which has increasingly menaced political and economic stability in Japan.

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Draft FE

CONFIDENTIAL

OCT 6 1948

894.017/10-448

In reply refer to
NA

My dear Miss Perkins:

I have read with interest your letter of October 4 in which you take exception to the civil service policy expressed in the proposed Japanese National Public Service Law, the National Railway Corporation Law, the National Negotiations Law for Public Corporations in Japan, as well as in the draft cable to General MacArthur prepared in the Department of the Army. Copies of your letter have been circulated to the officers of the Department working on this problem, who have taken into consideration your views on this problem as expressed in your letter and by your representative in recent consultations among the interested agencies of the Government.

The State Department must, of course, determine its position on the rights of Japanese government workers not only on the basis of civil service practices in this country but on the basis of developments in Japan and on the basis of our international relations, particularly with the other democratic countries associated with the United States in the Allied occupation of Japan.

I am enclosing for your information a draft cable to SCAP on this problem which this Department is transmitting to the Department of the Army with the request that it be sent to SCAP today through Army channels. While this cable does not follow your suggestion for the withholding of collective bargaining rights from all government workers, I trust you will appreciate from a reading of the cable

the reasons

CS/V

The Honorable
Frances Perkins,
Commissioner,
United States Civil Service Commission,
Washington 25, D. C.

CONFIDENTIAL

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the reasons why this Department favors the retention of collective bargaining rights of a non-coercive nature by industrial workers employed by the Japanese Government.

Sincerely yours,

(Sgn) Robert A. Lovett

Acting Secretary

A true copy of the signed original.

Enclosure:

Draft cable to SCAP.

FE:NA:MGreen/pm
10/6/48

S/S
OCT 6 1948

DECLASSIFIED E.O. 11652, Sec 3(E) and 5(D) or (E) NND# 760050

Dc/R

STANDARD FORM NO. 64

CONFIDENTIAL

Office Memorandum • UNITED STATES GOVERNMENT

TO : U - Mr. Lovett
THROUGH: S/S
FROM : FE - Mr. Butterworth WWB GHM
SUBJECT: Japanese Government Workers' Rights

DATE: October 6, 1948

NE
894.017/10-448

Reference is made to Miss Frances Perkins' letter to you of October 4, 1948 (Tab A), in which she took marked exception to the Civil Service policy expressed in the proposed Japanese national public service legislation, approved by General MacArthur, and in the draft cable on this same subject to General MacArthur prepared in the Department of the Army. In accordance with your request I have drafted for your signature the attached acknowledgment (Tab B) to Miss Perkins' letter. This draft letter has been approved by Mr. Saltzman.

In supplementing what I mentioned to you Monday on the phone, I am taking this occasion to review very briefly the background of the controversy over Japanese government workers' rights and to enclose a draft cable to General MacArthur (Tab C), prepared by the interested offices of this Department, which sets forth the position which it is recommended that the U.S. Government should forthwith take on this question.

In July, 1948, an imminent nation-wide strike by Japanese government workers prompted SCAP to write a letter to Prime Minister Ashida recommending that the Japanese Government should completely revise its Public Service Law. SCAP recommended to Prime Minister Ashida that all Japanese government workers be denied the right to strike and the right of collective bargaining, with the exception that collective bargaining rights of a non-coercive nature should be retained by government railway workers and the employees of the government's salt, camphor and tobacco monopolies, provided these government enterprises were formed into public corporations. The Japanese Cabinet forthwith promulgated an interim ordinance giving immediate effect to General MacArthur's recommendations. This ordinance is to remain in force until such time as the revised National Public Service Law, the National Railway Corporation Law and the National Negotiations Law for Public Corporations in Japan are adopted by the Japanese Diet, presumably sometime this autumn. Meanwhile, the Japanese Government, in close collaboration with SCAP, has drafted revised public

service

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OCT 28 1948

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service legislation, and SCAP has forwarded the text of this draft legislation by cable to the U.S. Government for its comments[1].

The interested offices of the State Department (O, L, E, POS and FE) have carefully examined the draft legislation, and, after consulting the Department of the Army and the Department of Labor, propose that the above-mentioned cable (Tab C) be immediately sent to General MacArthur as an expression of this Government's views. It should be emphasized that the position taken by the State Department in this cable does not, in my opinion, conflict with the provisions made in General MacArthur's letter to Prime Minister Ashida and does not bring into dispute any public statement which General MacArthur has personally made. Furthermore, the position proposed by the State Department sets a middle course between the views of US organized labor and the Labor Department on the one hand, and the Civil Service Commission and, to a lesser extent, the Army Department on the other. Your approval of this cable is requested.

It should be pointed out that neither the State Department nor its representative in Japan, Mr. Sebald, (Acting Political Adviser to General MacArthur), were consulted by SCAP or by his Headquarters in the development of the SCAP position leading up to the sending of General MacArthur's letter to Prime Minister Ashida. Moreover, the State Department was not consulted prior to the special meeting of the Allied Council on August 28 which was convened by General MacArthur to discuss the question of Japanese government workers' rights, despite the fact that Mr. Sebald represents the US on the Allied Council. Mr. Sebald has subsequently informed me that he was given only six hours by General MacArthur to prepare his position for

the Allied

1/ It is interesting to note that the originator and drafter of most of the Public Service Law in Japan has been SCAP's adviser, Mr. Blaine Hoover, President of the Civil Service Assembly for the U.S. and Canada and former official of the Civil Service Commission. Mr. Hoover has long taken the precise view on the scope and nature of the civil service in Japan which is expressed in Miss Perkins' letter. Mr. Hoover is reported to have left Tokyo by air for Washington on or about September 29.

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the Allied Council meeting and was accordingly compelled to adopt verbatim the policy line already drawn up by SCAP Headquarters.

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Acting Secretary of State

ACTION
is assigned to

no action required mq (NA)

LEGAL ADVISER
DEC 3 - 1948
DEPARTMENT OF STATE
OCT 25 1948
DIVISION OF
NORTHEAST ASIAN AFFAIRS
OCT 2 5 1948
DEPARTMENT OF STATE

The Honorable

The Secretary of the Army

My dear Mr. Secretary:

With reference to the proposed National Public Service legislation in Japan, we feel that in at least two items it is necessary to give precise instructions to General MacArthur as a matter of United States policy. The right of government employees to join lawful and non-subversive organizations of their own choosing and to be represented by persons of their own choosing should be clearly recognized in the law.

In the case of the communication workers, we believe that to the extent possible they should be given the same rights of collective bargaining extended to railway workers. In view of the fact, however, that the structure of the communications industry in Japan is different from our own where postal employees are part of the Federal service and the communications industry is privately owned, we appreciate that SCAP will have to have considerable leeway in implementing this policy. We want to make it clear, however, that we do not expect these workers in Japan to have any rights which go beyond the rights of equivalent workers in this country.

I should like to point out that the workers of the Bonneville Power Administration enjoy full rights of collective bargaining even though the Administration is an integral part of the Department of the Interior.

Yours very truly,

SIGNED: JOHN W. [illegible]

Acting Secretary of Labor

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7-18-46

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Washington

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6734

OCT 29 1948

SCAP

TOKYO. 377

Acting
For Political Adviser.

Request you airmail urgently two copies official English text latest draft revision National Public Service Law as published by Japanese Government, together with notation its exact status as Ashida Cabinet draft or otherwise.

~~Upon receipt this will be reproduced and distributed here to SCAP members without reference to SCAP radio 2 dated 2 September 48.~~

LOVETT
Acting

(CSH)

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Dr:JFRay,Jr:mwc
10/29/48

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United States Political Adviser
for Japan

Tokyo, November 1, 1948.

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DEPARTMENT OF STATE
1948 NOV 4 PM
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Subject: Developments in Connection with the National Public Service Law.

The Honorable
The Secretary of State,
Washington.

Sir:

I have the honor to refer to this Mission's despatch No. 623 dated September 21, 1948, and previous despatches, concerning revision of the Japanese National Public Service Law, and to report recent developments in this matter.

The Minister of Labor in the new YOSHIDA Cabinet, MASUDA Kaneshichi, is reported to have told the press on October 19 that the draft bill amending the National Public Service Law would be revised, probably within the framework of amendments made by the previous Government, and that it was unlikely that the Democratic Liberal Party would introduce a revision bill of its own. Another official statement was made on October 26 by Mr. ASAKAI Koichiro, Director General of the Central Liaison and Coordination Office, to the effect that the Government would proceed with revision of the bill along the lines laid down by the Ashida Cabinet. The draft agreed on by the three parties participating in the late Ashida Government is reported to authorize government employees to negotiate for the purpose of bettering their conditions of work and for the solution of questions of compensation, but is said to prohibit any collective agreement. This stipulation rather surprisingly, was inserted at the request of former Labor Minister KATO Kanju. It is believed that the new Prime Minister may wish to revise this portion of the draft bill with a view to eliminating the authorization to negotiate. The Government Section of this Headquarters, however, is not favorably inclined toward a further narrowing of the permissive features of the draft and desires to prevent the bureaucratic elements of the Government from bringing about any further alterations to the employees' disadvantage.

The sole organ for accommodating complaints of workers of whatever category in the National Government is now the Temporary National Personnel Authority, which the draft bill will convert into the National Personnel Commission. It is expected, however, that various bills now under study to establish the railways and the tobacco and salt and other government monopolies as public corporations will make special privision for settlement of complaints on the part of their own workers.

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The wave of job desertions which began in August and which were concentrated for the most part in the government railways, post office, and other enterprises, organized by the Railway Workers' Union and the National Communications Workers' Union, abated considerably after the interview of DOBASHI Kazuyoshi, Chairman of the National Communications Workers' Union, with the deputy chief of the Government Section of this Headquarters on September 10. The statement of the deputy chief of the Government Section warning Mr. DOBASHI that instigation of job desertions or other steps resembling strike action is considered liable to criminal prosecution was directed at the decision of the Central Committee of the National Communications Workers' Union in early September to adopt a "struggle policy" to be carried out through desertion of jobs and other means available to communications workers. Moreover, on September 8 the Government Railway Workers' Union Headquarters had issued a directive to all locals to prevent their members from deserting their places of work in defiance of the National Public Service Ordinance.

Although, following these events, the number of job desertions diminished considerably, the police authorities had already arrested and continued to arrest government employees deserting their places of work. By October 18 a total of 1,776 warrants of arrest had been issued throughout Japan, and 949 arrests had been made of which three-fourths involved members of the Government Railway Workers' Union. A table showing, as of October 18, 1948, the number of desertions, warrants issued, arrests made, warrants outstanding, releases from arrest and persons who had returned to their posts by October 18, according to union membership, is enclosed.

Respectfully yours,

W. J. Sebald

Enclosure:

Copy of Report regarding number of workers who left posts in violation of Cabinet Ordinance Relating to Public Service Law, as of October 18, 1948.

Original and hectograph to Department

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A true copy of the signed original

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Enclosure to Despatch No. 702 dated November 1, 1948 from the Office of the United States Political Adviser, Japan, Tokyo, entitled "Developments in Connection with the National Public Service Law".

(COPY)

REPORT

Re: Number of Those Who Left Posts in Violation of Cabinet Ordinance Relating to Public Service Law

(As of October 18. 1948)

October 21, 1948

CLASSIFICATION	1. THOSE WHO LEFT POSTS	2. THOSE FOR WHOM WARRANTS OF ARREST ISSUED	3. THOSE WHO WERE ARRESTED	4. THOSE WHO WERE NOT YET ARRESTED	5. THOSE WHO WERE RELEASED	6. THOSE WHO RETURNED TO POSTS
GRWU*(KOKUTETSU)	1,787	1,381	723	538	144	442
NCWU*(ZENTEI)	427	383	217	173	6	41
Total	2,214	1,764	940	711	150	483
OTHERS	12	12	9	3		
Grand Total	2,226	1,776	949	714	150	483

*GRWU--Government Railway Workers Union; NCWU--National Communications Workers Union.

Sources: Metropolitan Police Board.
Report Made by KK.

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DEPARTMENT OF STATE

Memorandum of Conversation

DATE: November 24, 1948

SUBJECT: UK Position on National Public Service Law Before Japanese Diet.

PARTICIPANTS: Mr. H. A. Graves, British Embassy
O - Mr. Claxton
NA- Mr. Green
POS-Mr. Schuler

COPIES TO: O - Mr. Saltzman
NA - Mr. Bishop
FE - Mr. Allison
E - Mr. Barnett
ILH- Mr. Sullivan
O - Mr. Ray

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At the meeting of the Far Eastern Commission on Wednesday, November 24, Mr. Graves read the attached statement, noting that Article 98 of the National Public Service Law does not provide a means whereby Japanese civil servants who might have grievances regarding their conditions of employment would have access to independent arbitration machinery, and stating that His Majesty's Government would regret the enactment of any permanent legislation which failed to provide for independent arbitration machinery.

Following the meeting I mentioned to him that we had understood from Mr. Ford that the UK did not plan to make any statement on the labor legislation. He said that was correct because his Government was relying on the representations which had been made directly to the State Department and on the statement made by Mr. Bevin to Secretary Marshall to persuade the United States to take action deemed desirable by the UK. He said it appeared evident that the U. S. had not taken such action and that his Government felt it necessary to take a position in the Commission.

I stated that I was not clear from the statement made by Mr. Bevin or by Mr. Graves whether the UK view that independent arbitration was essential presupposed the right of government employees to enter into a collective bargaining agreement with the government. He did not answer this question categorically but indicated his understanding that the main interest of the UK was that the ordinary government workers had the right of collective presentation of views and grievances and that if an accommodation could not be reached with the government-employer, then there should be arbitration machinery independent of the Government to hear the views or grievances and to render decision which sould be binding on the Government, subject to preliminary review. He stated that the arrangement by which the National Public

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Public Service Authority heard such grievances through its own review agency did not represent the kind of impartial arbitration which his Government felt necessary.

He said he had also been instructed to make certain comments regarding the proposed legislation dealing with workers in government enterprises but that he had not done so since the legislation had just been received by the FEC Secretariat and was not yet circulated to the Commission.

Mr. Green inquired of Mr. Graves what action he thought his Government would wish to take should the Japanese Diet adopt the pending legislation unchanged. He indicated that his Government would probably accept this conclusion with some expression of regret.

Mr. Graves stated that he had already seen the revision to Paragraph 98 (which has just yesterday been received by the State Department) and that it is even less satisfactory than the former Paragraph 98 which was circulated to the Commission.

He said that in addition to the statement before the FEC his Government had asked him to make another representation to the State Department and that he planned to do so on Friday or Monday. Feeling that the matter might become one of considerable importance I suggested that he come to see Mr. Butterworth or Mr. Saltzman.

Attachment
cpy statement re Para 98

O:PPClaxton:br

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I should like to make a short comment on FEC 267/1 and 2, that is the paper dealing with the proposed revision of the National Public Service Law.

My Governmant have examined the revised draft and have paid particular attention to Article 98. On the information available it does not appear to us that there is any provision in the draft whereby Japanese civil servants, who might have grievances regarding conditions of their employment, would have access, in the last resort, to independent arbitration machinery.

Our understanding of the regulations governing the submission of grievances is that the National Personnel Authority would itself determine questions of compensation and other matters affecting civil servants, and that appeals would be decided by that Authority instead of by an independent body.

His Majesty's Government in the United Kingdom would regret the enactment of any permanent legislation which failed to provide for independent arbitration machinery.

I do not propose, Mr. Chairman, to comment on the proposed legislation relative to other workers in government enterprises but my Government will no doubt instruct me to make observations when there is a little more information available as to the underlying intentions of the relevant legislation.

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8-13-46 DEPARTMENT OF STATE
DIVISION OF COMMUNICATIONS AND RECORDS

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The enclosures purportedly accompanying this despatch were not received with the despatch. The enclosures, when received, will be routed to you.

J A Little
Facilities Branch DC

Date 12-28-48

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o, December 9, 1948

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1948 DEC 22 AM 9 4

The Honorable
The Secretary of State,
Washington.

Sir:

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I have the honor to refer to this Mission's despatch No. 465 of July 24, 1948, concerning the Supreme Commander's letter of July 22 to former Premier ASHIDA Hitoshi directing revision of the National Public Service Law primarily for the purpose of prohibiting strikes among government workers, and to a number of subsequent despatches on this subject.

On November 30, 1948 the National Diet passed the government's bill revising the Public Service Law. Concurrent with passage of the bill, the Supreme Commander issued a public statement on December 1 relative
1/ to the legislation, five copies of which are enclosed. According to this statement, the Japanese public service has been elevated to a new dignity and has been assured against the invasion of licentious minority pressures. The Supreme Commander's statement, affirming that the new legislation has no bearing on the rights of labor engaged in private enterprises, denied that it is a negation of fundamental workers' rights in the trade union movement. As in his letter of July 22 to the Prime Minister, the Supreme Commander again noted that the principles involved in this legislation are in conformity with the views of President Roosevelt with the significant exception that the new Public Service Law embodies the principles of collective bargaining for the employees of public corporations. Striking at determined communist opposition to revision of the law, the Supreme Commander declared:

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ACTION
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THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

United States Political Adviser
for Japan

Tokyo, December 9, 1948

No. 774

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RECEIVED
DEPARTMENT OF STATE
1948 DEC 22 AM 9 46

Subject: Political Repercussion of Revision of National Public Service Law.

The Honorable
The Secretary of State,
Washington.

Sir:

I have the honor to refer to this Mission's despatch No. 465 of July 24, 1948, concerning the Supreme Commander's letter of July 22 to former Premier ASHIDA Hitoshi directing revision of the National Public Service Law primarily for the purpose of prohibiting strikes among government workers, and to a number of subsequent despatches on this subject.

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It is a strange political and social phenomenon that many of those very employees for whom this wise and advanced legislation is designed to relieve and protect remain under the spell of a thoroughly discredited leadership whose ultimate goal is retrogression rather than progress, discord and confusion rather than harmony and stability.

The new legislation, in the Supreme Commander's view, is therefore "a victory for those who seek the integrity of representative government over those who would leave government easy prey to minority subjugation".

2/ Five copies of the text in Japanese and English translation of the bill for amending the National Public Service Law are enclosed with this despatch. The printed (Japanese) and mimeographed (English) texts are the form in which the bill was introduced in the Diet on November 11. Revisions in the text made in the course of the Diet's deliberations on the bill are indicated in ink in the Japanese text and in the English translation.

The revision of the Public Service Law as initiated by the Supreme Commander's letter of July 22 has been the occasion of heated controversy in Japanese political and labor circles. On receipt of the Supreme Commander's letter, the Japanese Government (then headed by Dr. Ashida) issued a Cabinet Ordinance on July 30 which prohibited further strikes and labor agitation by government workers pending formal revision of the Public Service Law by the National Diet. The use of a Cabinet Ordinance to implement the Supreme Commander's letter as a temporary measure having the force of law until legislation could be passed provoked strong opposition from communists and labor leaders who contested the constitutionality of such a procedure. The Japan Communist Party spearheaded this opposition through party agitators among leftist labor unions and through the organization of a front group called the Democracy Protection League (Minshu-shugi Yogo Remmei). During August and September efforts were made to foment nation-wide strikes and walkouts among government workers, with special attention directed at the government railway workers. In an effort to circumvent the Cabinet Ordinance, "job desertion" tactics keynoted this labor agitation. Government railway workers, particularly in Hokkaido, deserted their posts in such large numbers that it appeared for a time that railway traffic would be seriously curtailed.

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The Japanese Government, however, realized that it enjoyed SCAP support in enforcing the Cabinet Ordinance, and began large-scale arrests of job deserters and communist agitators among railway workers. These large-scale arrests, including several prominent communist party members, soon broke the back of the job desertion movement, but such tactics only intensified communist opposition to revision of the Public Service Law.

On October 6 the Ashida Cabinet resigned because of implication of Cabinet members in the Showa Denko scandal. Mr. YOSHIDA Shigeru, head of the Democratic Liberal Party and former Prime Minister, was elected by the Diet to form a new government on October 14. The new Yoshida Cabinet found revision of the Public Service Law a priority order of business. Although Prime Minister Yoshida and his conservative party were in full accord with the purpose of revising the Public Service Law, the manner in which the Prime Minister was confronted with this problem has unquestionably proved costly from the political standpoint.

Mr. Yoshida was elected to the premiership after a triangular conflict in the Diet among the three major parties, none of which enjoys a majority in the Lower House. Although he has the advantage of heading a single party cabinet in contrast to the previous coalition governments, his position on the basis of his election by the Diet is a tenuous one. Mr. Yoshida and his party advisers are convinced that a new general election will assure the Democratic Liberal Party a far stronger position in the Lower House if not a clear-cut majority. They have been convinced, however, that the election must be held as soon as possible before Mr. Yoshida suffers any decline in prestige. It was therefore important, from the Democratic Liberal Party's standpoint, that the Yoshida Cabinet effect an early dissolution of the Diet and have a general election as soon as possible.

In addition to the constitutional question which rose over the Cabinet's right to effect dissolution under Article 7 of the Constitution, the Yoshida Government was saddled with the task of meeting the Supreme Commander's desire for early revision of the National Public Service Law. It was therefore necessary to abandon plans to dissolve the Diet and to proceed with revision of the law. This disadvantageous and somewhat embarrassing situation has been exploited by the opposition parties, and the delay incurred in securing passage of the amendments to the Public Service Law may prove politically costly to the Yoshida Cabinet when a general election is finally held.

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The bill for amending the Public Service Law was introduced in the Diet on November 11. The most significant political development in the course of deliberations on the amendments was the Social Democratic Party's final decision to withdraw its support of the bill. When the Ashida Cabinet first began drafting a bill, the Social Democratic Party pledged its support, although at a later date considerable opposition developed within the party as to the manner in which the bill treated the matter of collective bargaining by government workers. Finally, however, the party under Mr. KATAYAMA Tetsu's leadership decided to oppose the bill on the eve of the vote.

The passage of the bill amending the National Public Service Law on November 30 has been received with mixed feelings by the Japanese public. It has been difficult for many Japanese to consider the bill independently of the political bickering which characterized the Diet session at which it was passed. For example, the influential Tokyo Asahi in its issue of December 2 referred to the "disgusting" session of the Diet which could do nothing without "the advice and aid of General Headquarters". Although the session of the Diet could be viewed as a success in that the amendments to the Public Service Law were finally passed, Hochi Shimbun referred most contemptuously to the political jockeying between the government and the opposition parties, all of whom appeared to have ignored completely the purpose for which the session was called. Particularly undesirable in the view of this paper was the controversy over the matter of dissolution, an issue which was only settled through the "good offices" of General Headquarters. This paper blamed the government for unnecessarily irritating the opposition by Mr. Yoshida's refusal to give an administrative speech and his "inconsistent" attitude toward submitting a budget at the session. According to Mainichi Shimbun, in an editorial on December 2, the session was "marked throughout by moves of the various parties aiming solely at their own interests and strategy and showing no sign of prudent deliberation on important bills". This paper also took the Socialists to task for violating their pledge to support revision of the National Public Service Law.

Throughout newspaper comment on the subject, the significance of the bill is somewhat lost in general discussion of the character of the Diet session and the tactics of the government and opposition parties.

Most conservative sentiment, however, is strongly in favor of the revised legislation as a device to curb radical labor excesses and assure the stability of the public service. In this sense, the Supreme Commander's

statement

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statement of December 1 received as much if not more praise than the bill itself. Mainichi in its issue of December 2 regarded the Supreme Commander's statement as "most opportune" in view of the misunderstanding and false impressions which have arisen in connection with revision of the Public Service Law. The paper subtly intimated that the Supreme Commander's statement was of more importance than the revised legislation.

While most sentiment appears favorable toward the amended Public Service Law, the Japan Communist Party has launched a vigorous campaign for the repeal of its recent revision. The December 2 issue of Akahata condemned the revised law as a measure sponsored by "monopoly capital" which runs counter to the "democratization of this country". The communist daily charged that the revision violates the spirit of the Potsdam Declaration and tramples under foot the sixteen principles relating to labor unions advocated by the Far Eastern Commission. The workers of Japan, therefore, should "join hands to counterattack the offensive of their enemies" who have attempted to disarm them by this legislation so that "foreign capital may be introduced and greedy exploitation by monopoly capital exercised".

At the same time, Akahata did not neglect the significance of the Social Democratic Party's eleventh hour defection, which is described as "most sneaky" and obviously motivated by "fear of the wrath of labor". The failure of the Social Democratic Party to support the bill has apparently embarrassed the communists who unquestionably hope to take over leadership of all opposition to the revision movement. As early as August, through the organization of the Democracy Protection League, the communists had already moved to assume this leadership. Now, however, the Japan Communist Party finds itself faced with a powerful rival.

The Socialists' position as opponents of the bill is, however, an awkward one. Although Mr. Katayama had originally pledged his party to support revision of the law, opposition, particularly within the left wing, gradually increased as party leaders began to realize the extent to which labor is opposed to the revision. With the communists the only political party categorically opposed to the bill, the Social Democratic Party found itself in the position of possibly alienating much of its labor support. It is very likely, therefore, that the Japan Communist Party's determined and vigorous opposition to the revision of the law forced the hand of the Social Democratic Party. It is doubtful, however,

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if the communists originally intended to have such a reaction take place, While the communists may claim credit for forcing the Socialists to oppose the bill, they must also reckon with a Social Democratic effort to capitalize on its opposition in future appeals for labor support.

With one major party on record as opposed to the revision of the National Public Service Law, this question will undoubtedly become an important issue in the coming general election. At the same time, the position taken by the Social Democratic Party tends to bring its left-wing members much closer to the communist party, notwithstanding the uncomplimentary manner in which the communists have criticized the action of the Social Democratic Party as a whole. Already reports indicate that in some of the local districts, particularly in Aomori Prefecture, communist and socialist leaders are beginning to work together for the coming election campaigns.

For the immediate future it appears that controversy over revision of the Public Service Law will bring about considerable realignment in the political field. Leftist political leaders fully realize the extent to which organized labor, particularly the powerful National Congress of Industrial Unions, opposed revision of the Public Service Law. The "labor vote" has become a recognized political potential in postwar Japan, which the leftist parties cannot afford to ignore. The Social Democratic Party, composed of heterogeneous elements ranging from liberal to radical, has never been a cohesive, well-knit political body. It has suffered serious internal dissension among its complex elements and recent bolting of malcontent groups has threatened to break up the party. The inconsistent action concerning revision of the Public Service Law has further intensified the internal pressure which threatens to disrupt the party. In order to bid successfully for labor support, it now appears that the Social Democratic Party will either be radically reorganized or be disbanded and rebuilt as an entirely new party around its more leftist leadership.

The Japan Communist Party, on the other hand, enjoys a consistent, clear-cut record with respect to its opposition to revision of the Public Service Law. How vigorously the communist party intends to make the law's revision a political issue in the coming election can be seen by Mr. DOBASHI Kazuyoshi's formal joining of the party on December 6 in order to run for the Diet as a communist candidate. (This Mission's A-242 of December 7, 1948 incorrectly reported Mr. Dobashi as head of the National Congress of Industrial Unions. Mr. KAN Makoto is chairman of the Central Executive Committee of the NCIU). As head

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of the All-Japan Communication Workers Union, Mr. Dobashi has already waged a determined campaign against revision of the Public Service Law in the name of organized labor. He has become more identified with this opposition than any other public figure.

Communist leadership in the fight against revision, now strengthened by Mr. Dobashi's entry into the election contest as the most powerful labor leader in Japan, will unquestionably force the Social Democratic Party to attempt more positive action. But if this party is unable to reconcile its internal conflicts, it may very likely disintegrate completely. In view of this possibility, the appearance of the new Labor-Farmer Party (Rodosha Nomin To), organized by Mr. KURODA Hisao and other left-wingers who deserted the Social Democratic Party, is of significance, for there is increasing recognition of the need for a real labor party.

The controversy over the National Public Service Law has strengthened the position of the conservatives. The Democratic Party regards Mr. Katayama's withdrawal of support for revision of the Public Service Law as unwarranted betrayal of a pledge. The basis of the coalition between the Social Democratic and Democratic parties, which made possible the Katayama and Ashida cabinets, has probably been undermined beyond repair. How far this will stimulate cooperation between the Democratic Party and Prime Minister Yoshida's Democratic Liberal Party, or assist the movement for the creation of a new conservative party remains conjectural, but such a coalition or merger is being seriously considered.

The conservative forces have also secured, through the revision of the National Public Service Law, a powerful weapon to combat the communists. By protecting the public service from strikes and other forms of labor agitation, the ability of the communists to attack conservative cabinets by labor strife in the government service has been nullified. While the communists will unquestionably develop other tactics to utilize government service personnel, they have lost what has heretofore been their most powerful device for bringing direct pressure on the government - a general strike of government workers.

Respectfully yours,

W. J. Sebald

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Enclosures:

1. Press Release, December 1, 1948.

2. Japanese text and English translation of bill for amending National Public Service Law.

detached for interim files

Original and hectograph to Department.

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DEC 29 1948

United States Political Adviser
for Japan

Tokyo, December 9, 1948

No. 774

CONFIDENTIAL

(For Department Use Only)

Subject: Political Repercussion of Revision of National Public Service Law.

The Honorable
The Secretary of State,
Washington.

Sir:

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In addition to the constitutional question which rose over the Cabinet's right to effect dissolution under Article 7 of the Constitution, the Yoshida Government was saddled with the task of meeting the Supreme Commander's desire for early revision of the National Public Service Law. It was therefore necessary to abandon plans to dissolve the Diet and to proceed with revision of the law. This disadvantageous and somewhat embarrassing situation has been exploited by the opposition parties, and the delay incurred in securing passage of the amendments to the Public Service Law may prove politically costly to the Yoshida Cabinet when a general election is finally held.

The

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The bill for amending the Public Service Law was introduced in the Diet on November 11. The most significant political development in the course of deliberations on the amendments was the Social Democratic Party's final decision to withdraw its support of the bill. When the Ashida Cabinet first began drafting a bill, the Social Democratic Party pledged its support, although at a later date considerable opposition developed within the party as to the manner in which the bill treated the matter of collective bargaining by government workers. Finally, however, the party under Mr. KATAYAMA Tetsu's leadership decided to oppose the bill on the eve of the vote.

The passage of the bill amending the National Public Service Law on November 30 has been received with mixed feelings by the Japanese public. It has been difficult for many Japanese to consider the bill independently of the political bickering which characterized the Diet session at which it was passed. For example, the influential Tokyo Asahi in its issue of December 2 referred to the "disgusting" session of the Diet which could do nothing without "the advice and aid of General Headquarters". Although the session of the Diet could be viewed as a success in that the amendments to the Public Service Law were finally passed, Hochi Shimbun referred most contemptuously to the political jockeying between the government and the opposition parties, all of whom appeared to have ignored completely the purpose for which the session was called. Particularly undesirable in the view of this paper was the controversy over the matter of dissolution, an issue which was only settled through the "good offices" of General Headquarters. This paper blamed the government for unnecessarily irritating the opposition by Mr. Yoshida's refusal to give an administrative speech and his "inconsistent" attitude toward submitting a budget at the session. According to Mainichi Shimbun, in an editorial on December 2, the session was "marked throughout by moves of the various parties aiming solely at their own interests and strategy and showing no sign of prudent deliberation on important bills". This paper also took the Socialists to task for violating their pledge to support revision of the National Public Service Law.

Throughout newspaper comment on the subject, the significance of the bill is somewhat lost in general discussion of the character of the Diet session and the tactics of the government and opposition parties.

Most conservative sentiment, however, is strongly in favor of the revised legislation as a device to curb radical labor excesses and assure the stability of the public service. In this sense, the Supreme Commander's

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statement of December 1 received as much if not more praise than the bill itself. Mainichi in its issue of December 2 regarded the Supreme Commander's statement as "most opportune" in view of the misunderstanding and false impressions which have arisen in connection with revision of the Public Service Law. The paper subtly intimated that the Supreme Commander's statement was of more importance than the revised legislation.

While most sentiment appears favorable toward the amended Public Service Law, the Japan Communist Party has launched a vigorous campaign for the repeal of its recent revision. The December 2 issue of Akahata condemned the revised law as a measure sponsored by "monopoly capital" which runs counter to the "democratization of this country". The communist daily charged that the revision violates the spirit of the Potsdam Declaration and tramples under foot the sixteen principles relating to labor unions advocated by the Far Eastern Commission. The workers of Japan, therefore, should "join hands to counterattack the offensive of their enemies" who have attempted to disarm them by this legislation so that "foreign capital may be introduced and greedy exploitation by monopoly capital exercised".

At the same time, Akahata did not neglect the significance of the Social Democratic Party's eleventh hour defection, which is described as "most sneaky" and obviously motivated by "fear of the wrath of labor". The failure of the Social Democratic Party to support the bill has apparently embarrassed the communists who unquestionably hope to take over leadership of all opposition to the revision movement. As early as August, through the organization of the Democracy Protection League, the communists had already moved to assume this leadership. Now, however, the Japan Communist Party finds itself faced with a powerful rival.

The Socialists' position as opponents of the bill is, however, an awkward one. Although Mr. Katayama had originally pledged his party to support revision of the law, opposition, particularly within the left wing, gradually increased as party leaders began to realize the extent to which labor is opposed to the revision. With the communists the only political party categorically opposed to the bill, the Social Democratic Party found itself in the position of possibly alienating much of its labor support. It is very likely, therefore, that the Japan Communist Party's determined and vigorous opposition to the revision of the law forced the hand of the Social Democratic Party. It is doubtful, however,

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if the communists originally intended to have such a reaction take place, While the communists may claim credit for forcing the Socialists to oppose the bill, they must also reckon with a Social Democratic effort to capitalize on its opposition in future appeals for labor support.

With one major party on record as opposed to the revision of the National Public Service Law, this question will undoubtedly become an important issue in the coming general election. At the same time, the position taken by the Social Democratic Party tends to bring its left-wing members much closer to the communist party, notwithstanding the uncomplimentary manner in which the communists have criticized the action of the Social Democratic Party as a whole. Already reports indicate that in some of the local districts, particularly in Aomori Prefecture, communist and socialist leaders are beginning to work together for the coming election campaigns.

For the immediate future it appears that controversy over revision of the Public Service Law will bring about considerable realignment in the political field. Leftist political leaders fully realize the extent to which organized labor, particularly the powerful National Congress of Industrial Unions, opposed revision of the Public Service Law. The "labor vote" has become a recognized political potential in postwar Japan, which the leftist parties cannot afford to ignore. The Social Democratic Party, composed of heterogeneous elements ranging from liberal to radical, has never been a cohesive, well-knit political body. It has suffered serious internal dissension among its complex elements and recent bolting of malcontent groups has threatened to break up the party. The inconsistent action concerning revision of the Public Service Law has further intensified the internal pressure which threatens to disrupt the party. In order to bid successfully for labor support, it now appears that the Social Democratic Party will either be radically reorganized or be disbanded and rebuilt as an entirely new party around its more leftist leadership.

The Japan Communist Party, on the other hand, enjoys a consistent, clear-cut record with respect to its opposition to revision of the Public Service Law. How vigorously the communist party intends to make the law's revision a political issue in the coming election can be seen by Mr. DOBASHI Kazuyoshi's formal joining of the party on December 6 in order to run for the Diet as a communist candidate. (This Mission's A-242 of December 7, 1948 incorrectly reported Mr. Dobashi as head of the National Congress of Industrial Unions. Mr. KAN Makoto is chairman of the Central Executive Committee of the NCIU). As head

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of the All-Japan Communication Workers Union, Mr. Dobashi has already waged a determined campaign against revision of the Public Service Law in the name of organized labor. He has become more identified with this opposition than any other public figure.

Communist leadership in the fight against revision, now strengthened by Mr. Dobashi's entry into the election contest as the most powerful labor leader in Japan, will unquestionably force the Social Democratic Party to attempt more positive action. But if this party is unable to reconcile its internal conflicts, it may very likely disintegrate completely. In view of this possibility, the appearance of the new Labor-Farmer Party (Rodosha Nomin To), organized by Mr. KURODA Hisao and other left-wingers who deserted the Social Democratic Party, is of significance, for there is increasing recognition of the need for a real labor party.

The controversy over the National Public Service Law has strengthened the position of the conservatives. The Democratic Party regards Mr. Katayama's withdrawal of support for revision of the Public Service Law as unwarranted betrayal of a pledge. The basis of the coalition between the Social Democratic and Democratic parties, which made possible the Katayama and Ashida cabinets, has probably been undermined beyond repair. How far this will stimulate cooperation between the Democratic Party and Prime Minister Yoshida's Democratic Liberal Party, or assist the movement for the creation of a new conservative party remains conjectural, but such a coalition or merger is being seriously considered.

The conservative forces have also secured, through the revision of the National Public Service Law, a powerful weapon to combat the communists. By protecting the public service from strikes and other forms of labor agitation, the ability of the communists to attack conservative cabinets by labor strife in the government service has been nullified. While the communists will unquestionably develop other tactics to utilize government service personnel, they have lost what has heretofore been their most powerful device for bringing direct pressure on the government - a general strike of government workers.

Respectfully yours,

W. J. Sebald

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Enclosures:

1. Press Release, December 1, 1948.

2. Japanese text and English translation of bill for amending National Public Service Law.

Original and hectograph to Department.

A true copy of the signed original

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INCOMING AIRGRAM

DEPARTMENT OF STATE DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

6.

DIVISION OF NORTHEAST ASIAN AFFAIRS SEP 30 1949 DEPARTMENT OF STATE

AIRGRAM 5105

Action Assigned to NA FROM: USPOLAD, Tokyo.

Action Taken no action Date of mailing: September 24, 1949.

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ACTION:
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----------Recd: Sept. 30, 1949; 10:48 a.

Secretary of State, Date of Action Oct 1, '49

Washington. Action Office Symbol NA

Name of Officer Wilson

A-245, September 23, 1949. Direction to DC/R file

On September 17, 1949, the National Personnel Authority announced a ruling (Rule 14-7) clarifying the scope of political activity from which civil servants are banned by Article 102 of the National Public Service Law. This article provides that public officials cannot solicit or receive subscriptions or benefits for any political party or for any political purpose, or engage in any political activities other than exercising the franchise. Article 102 also provides that government officials cannot run for public office or be officers or advisers to any political party.

The new ruling by the National Personnel Authority, effective from September 19, covers all civil servants except part-time employees such as advisers, consultants, or committee men, and applies to any political activity in "non-work hours". Political activity is specifically listed under seventeen categories. The ruling prohibits public servants from participating in the formation of political parties or organizations. While a government official may become a member of a political party, he cannot participate in any political membership drive. Officials are also prohibited from publishing, editing, or distributing political party publications; they are also barred from supporting or opposing candidates for public office or from participating in campaigns to collect signatures for the recall of a public official or the dissolution of local assemblies.

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FILED OCT 7 1949

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Other activities prohibited by the new ruling include organizing political demonstrations, making political speeches, displaying political posters, presenting dramas with political implications, distributing or making political badges or flags or wearing such insignia during working hours.

Persons convicted of violating these regulations are liable to imprisonment up to three years and fines up to Yen 100,000.

President ASAI Kiyoshi, President of the National Personnel Authority, in a statement to the press pointed out that the Constitution provides that all public officials are servants of the whole community and not of any group thereof (Article 15). Any political activity on behalf of a particular political group or party places public servants in a position "inconsistent with their own standing as servants of the whole community". Accordingly, the scope of Article 102 of the National Public Service Law has been clarified "with a view to enhancing the confidence of the people in government employees by clarifying their impartial position as public servants of the whole community".

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